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WELCOME AND OFFICIAL OPENING

Professor Richard W Harding
Director
Australian Institute of Criminology

Welcome to the National Conference on Child Abuse. As most of you will know, this is the second of a two-part conference on violence in the family, convened by the Institute at the request of the government. The first part, on domestic violence, took place in mid-November 1985.

That conference was a much bigger affair than this one. Because of that fact, because also it came first chronologically, because the Attorney himself was available to open it, some participants and potential participants have expressed the feeling that this second conference is somehow a poor relation, indicative of the government's or the Institute's view that child abuse is somehow a less important problem than domestic violence. To put the record straight, therefore, I want to quote directly from my opening remarks on that occasion, remarks made in the presence of the Attorney and endorsed by him in his own speech.

> The Institute's first thought in planning was that a single conference should be held embracing the two main aspects of violence in the family: spouse abuse and child abuse. This seemed attractive for two main reasons. First, an outstandingly successful conference convened by the Institute, and in particular Dr Jocelynne Scutt, in November 1979 had taken that form. Second, it was our impression that, nevertheless, workers in these two areas were now not communicating very effectively with each other and that a unified conference might do something to break down barriers.
>
> However, as planning progressed and as we continued to consult widely with concerned groups, it became apparent that both official and grass-roots workers believed that the range and complexity of problems to be tackled in each area is still so substantial that a full week's deliberations are necessary for each. So the conference was split. The child abuse component will be held in the week beginning 3 February 1986. This first part of the dual conference is immensely important. But I want to put it on record, Mr Deputy Prime Mininster, that we have two immensly important problems, or rather

> two aspects of the single problem of violence in the family, which are qualitatively on a par. The child abuse conference will likewise be organised so as to attain a new informational plateau, identify issues and priorities and bring forth recommendations. At the completion of the two conferences, the government will have received comprehensive advice and information to enable it to develop criminal justice and social welfare policies and criteria for resource allocation which are finely attuned to present and future need.

As it is apparent from that, the domestic violence conference was intended to be an action conference, one leading to the development of views as to necessary legal or administrative changes, improved or innovative services and the allocation of further resources. This conference has the same objective. For that reason the program contains, each day, a session for the development of resolutions which can be drawn together and finalised during the last afternoon. If the time allocated seems likely to be insufficient, the organiser - Mr Ron Snashall - will adapt the program to your wishes.

At the end of the conference, these resolutions will be drawn together and forwarded to all principal departments and agencies, both Commonwealth and state. They can then be considered as a total package in conjunction with those arising out of the domestic violence conference. The Institute does not consider that its responsibilities cease at that point. After the lapse of an appropriate time, I shall be asking these same bodies to indicate what specific actions have been taken pursuant to these resolutions. This, in turn, will be the subject of a further report to participants in each of the conferences. It should become part of the public record who has taken the deliberations of participants seriously and who has not.

There is one further matter to which I would like to avert. In August of this year, the Sixth International Congress on Child Abuse and Neglect will take place in Sydney. This is a follow-up to a similar congress held two years ago in Montreal. That congress has rather different objectives from this one; its emphasis was international, comparative and scientific, whilst this one's is national and action-orientated. There can be no possible conflict between the two. The target audiences and the very audience sizes - 1,500 at Sydney as opposed to 80 here - serve to underline this fact. Doubtless, some delegates who are here today will also be attending the Sydney congress.

Yet I mention this because the Institute has been subjected by the organising committee of that congress to some quite improper pressure to cancel this conference. We have resisted this

pressure. We reject as parochial and complacent the view that Australia can afford to wait any longer before attempting to identify national problems and develop national approaches in this area. I do not speculate as to what motives may have lain behind this pressure. What I do know is that this conference is timely as well as very important, just as the Sydney conference in its different way will be timely and very important. It is inappropriate for any group which genuinely is concerned about the gravity of this problem to be trying to muzzle any other group having the same concern. In doing so, they forget the victims - children - and think primarily of their own self-importance. I trust that the organisers of the Sydney congress will be as ready to learn and profit from our deliberations as will departments, agencies, voluntary bodies, counsellors, court workers, crisis centre staff and so on throughout Australia. The Institute certainly wishes every success to the Sydney congress.

It is now my pleasure and duty, on behalf of the government and the Institute, to welcome you to this conference and formally to declare it open.

INTRODUCTION

Ms Jan Carter
Consultant
Perth W.A.

There have been other Australian conferences on child abuse and its related themes of child protection and prevention before. However, the conference held at the Australian Institute of Criminology in February 1986 was an important landmark in child protection matters in Australia. Not only were representatives present from the disciplines traditionally associated with child protection: the law, medicine, social welfare, and police, but the largest group at this conference were women workers from women's refuges and sexual assault referral centres across the country. The papers which follow outline the thinking of the traditional disciplines in child protection matters. But the written record will not capture the importance of new perspectives aired in discussion: the conflict between the conventional textbook wisdom and the experiential understanding put forward by women at the conference who had reached their position from personal pain, experience and conviction. This introduction, then will try to reflect the informal themes of the conference for those who were not there.

The aim of the conference was to review services across Australia for child abuse and to examine the types of resources needed nationally, so that this advice might be conveyed to the federal government. In fact, the balance necessary to pursue this type of analysis was not forthcoming from the conference because almost entirely, the participants were preoccupied with a matter which has obtained official recognition in Australia only recently: the problem of child sexual abuse. When comparing the agenda of Canberra 1986 with that of the two previous national conferences, Perth 1975, and Brisbane 1981, the content of this conference showed a marked difference. Whereas the earlier conferences had concentrated on child physical abuse, the conference of Canberra 1986 was preoccupied with the difficulties that the recognition of child sexual abuse has placed on the legal, welfare, medical and community agencies.

The agenda was declared during the first session of the conference where Professor Peter Boss from Monash University introduced the history of child abuse in Australia, mainly by pointing to landmarks of government intervention by legislation and services from the mid 1960s until the end of the 1970s. This was the period when most states in Australia acknowledged the existence of child abuse, some legislated by developing systems of mandatory notification; most set up special services to deal

with the problem and all considered the issue of liaison and co-ordination between government agencies. However, Professor Boss's analysis stopped short of the 1980s, and the 'discovery' of child sexual abuse. Although women's groups at the conference suggested that no history of child protection in Australia could be written without recent reference to the efforts of the women's movement to persuade politicians and government services to take the matter of child sexual abuse - or child rape- seriously, no-one drew attention to the fact that early legislation in most states in Australia for child protection was also related to the work of women. Child welfare reform and child protection matters were priorities on the agenda of the early feminists; that the states have had child protection legislation at all throughout this century extends from the dedicated work of early Australian feminists such as Catherine Helen Spence in South Australia, and Women's Service Guild in Western Australia. So, historically, it is legitimate to view the child protection movement in Australia from a feminist perspective.

What did the experience of women present at this conference contribute to our understanding of child sexual abuse, or child rape? First, child rape was seen to stem from the distribution of power in our community which affects the status, behaviour and experiences of men and women. In our community, women - and girl children - are most likely to be the victims of violence because our social structures endow men rather than women with power. There was a second premise, that the safety of women and children should be a vital consideration, paramount at all times, and third, that men need to take responsibility for their own behaviour and to change themselves and their values.

We heard accounts from those who had suffered child sexual abuse themselves; we also heard papers presented from men and women who worked with children and who attempted to present the child's experience. Both these types of contribution gave the conference heightened sensitivity and concern for the way in which problems of pain and suffering were approached in such a public forum. The familiar professional perspective of neutralising painful topics, of labelling social problems, so that they could be dealt with 'out there', of objectifying deviance was challenged severely. Those who spoke of past child sexual abuse were insistent that the cycle of child abuse could be broken. As one woman (who preferred to be called a survivor) said 'For the first fifteen years of my life my parents abused me emotionally, physically and sexually. This memory was repressed until my early fifties when I received professional care. Having now been helped I want to share with other abused people and their helpers, how I came to terms with the fear, pain and devastating affects of my childhood, and particularly the belief that I was of no value'.

There were clashes of opinion between those with first hand experience of being abused and those whose understanding came through the route of their professional discipline. This clash

was not surprising; being a survivor of child sexual abuse carries with it a powerful stigma in our society. Survivors not only carry the pain of the past, but a consciousness of the traumas of other women in the present.

For the rest, those who approach the matter second hand, nevertheless, bear what Goffman has called a 'courtesy stigma'. The rejection of our knowledge and norms by survivors was painful. On the other hand, survivors may overlook the penalties incurred for undertaking society's 'dirty work' by the second group: many professionals who work in the field of child protection have made sacrifices, and have foresworn greener and easier pastures; the type of income earned in the private sector; the career ladder.

One difference in opinion concerned the worth of the therapeutic approach for both perpetrators and victims of child sexual abuse. Tania Black from South Australia talked about the Sexual Assault Referral Centre in Adelaide which deals with children during a medical assessment following sexual assault. Discussing her aim to have children leaving her unit feeling good about themselves, she said: 'involvement with child sexual abuse is difficult, frustrating and stressful work; however, it can also be immensely rewarding to have a previously sad child leaving the assessment feeling less helpless and looking happy. The medical assessment must do no harm and can help children to feel good about themselves'. However, others disputed the legitimacy of the medical assessment as a tool, on the basis that all professional interventions are tools of an inhibitory power system, based on coercion through the use of professional status and distance.

If one wanted to summarise the problems which emerged from discussions of child sexual abuse, it could be said that there were problems about the territory: ('who "owns" child sexual abuse?') about the question of punishment for child sexual abuse ('are perpetrators responsible?') and whether treatment should be available for perpetrators, either in their own right or as part of a family system ('do they deserve it?'). Although there was considerable difference of opinion on these subjects there was one problem on which there seemed to be complete unanimity between all parties at the conference. This was the present apparent lack of competence of a major social institution, the Family Court, to sufficiently protect children coming before the court.

The Family Court has power to make orders relating to the 'welfare' of the child of a marriage. As Moira Raynor and Sally Beasley said, '"Welfare" is an umbrella word which covers everything touching the physical, moral, or intellectual life of a child, including education, housing, medical treatment, social or sporting attendances and access'. The welfare of the child is said to be the paramount consideration of the Family Court, viz

the Family Law Act Section 64 (1)(a). Section 43C of the Act requires the court to have 'The need to protect the rights of children and to promote their welfare'. Raynor and Beasley commented: 'It is difficult to establish allegations of child abuse, particularly child sexual abuse. This is especially so in interim applications where there has been no full hearing. Lawyers will recommend to parties that they should not raise the allegation of sexual or other abuse of children at all where they are unable to provide independent corroboration'.

Other conference participants drew attention to the difficulty which exists over the matter of access. A paper by Julie Stewart, of the Women's Legal Resources Centre in Sydney analysed cases from Family Court Law Reports, indicating that some children were at risk during access periods because of the possibility of child sexual abuse. Perhaps the consensus of these dilemmas led to the conference passing resolutions about family law matters. A recommended change to the Family Law Act advocated that not only should the court be able to consider the welfare of the child as paramount, but that the Family Court 'shall have regard to its obligation to protect the child from physical, sexual or emotional abuse and/or neglect, or the risk thereof'.

Several papers at the conference drew attention to difficulties faced by expert witnesses appearing in child abuse matters, where the tactics of counsel meant that expert witnesses were denigrated personally under cross examination. There were recommendations to develop training strategies for expert witnesses. Similarly there was disagreement that Family Court Counsellors should be required to disclose allegations of child abuse to state authorities, but the conference recommended that such information should be included in court reports if abuse was suspected or alleged.

That perennial of child abuse conferences, the question of mandatory reporting and registers was discussed. At present all states have legislation concerning mandatory reporting excepting Victoria and Western Australia. Absence of mandatory reporting was seen to be a hinderance to developing a national data base and to offer a greater probability of child protection by ensuring reporting. But those opposed saw mandatory reporting as futile in the absence of extensive high quality services (including preventative services); as a potential barrier to encouraging self reporting by parents and others, and as part of a general thrust towards viewing child abuse within a punitive rather than a 'helping' framework. This matter was not really resolved.

A paper from South Australia drew our attention to coverage of child abuse in the media. In discussing the development of reporting of child protection in the United Kingdom throughout

the 1970s, Sally MacGregor from the Children's Interest Bureau analysed some of the tragic cases subject to official inquiries in the U.K. beginning with Maree Colwell (1974) and ending with Jasmine Beckford (1985). (For a detailed account of the cases received by official inquiries see DHSS 1982.)

In the absence of any documented inquiries into case management by welfare departments in Australia other than the case of Paul Montcalm in N.S.W., the media's role in raising consciousness about child abuse and in initiating social and legal reform through campaigns was recognised. But it was agreed that the press could collude with the abuse of children by not taking their rights to safety seriously; by intrusive or insensitive reporting; or by insisting that public services could always save the lives of children.

In Australia the conference noted that there seems to be much less public concern about the death of children in touch with official services than in the United Kingdom. Other than the inquiry into the death of Paul Montcalm, in New South Wales, there have been no open enquiries or public reports instigated by Australian governments into the deaths of children. Does this mean that Australians are more casual about the price placed on the life of their children? As Dingwall, Eckelar and Murray (1983) say: 'How much freedom is a child's life worth?'

Prevention had an airing. At first glance the idea of prevention of child abuse seemed as straight forward and uncontestable as motherhood, or vegemite. It might be one of the few concepts in the social care of children on which professionals might be expected to agree: no one wants to see small children damaged or endangered. But, as the conference discovered, there is a major difficulty about talking about prevention. Disagreements expose the lack of a common professional language and differing views about the way Australian society organises itself. Without a common frame of reference and a consensus on the organisation of the community, calls for prevention are purely rhetorical. While the strategies to be used in prevention are constantly disputed, little progress will be made. A follow up conference needs to look at this matter.

In addition, in child protection, there is a further confusion which the conference itself demonstrated. We make simultaneous calls for more policies and practices for prevention as well as protection. Thus the federal and state governments are faced with what appear to be contradictory demands for more protection (more public intervention into the family by increased compulsory regulation and surveillance of parenting) at the same time as there are calls for increased incentives for parents to improve their family life and more support services, particularly child care). (Carter, 1983)

The most interesting development of the conference was the emergence of a new perspective, the feminist, which has now been placed firmly in the centre of Australian thinking about child protection. Ten years ago, at the Perth conference I suggested that 'failure to recognise a different way of thinking about a problem is at the bottom of many professional disputes and understanding. Most approaches to the management of child abuse can be identified in terms of ... beliefs. The first belief, the legal model, holds that when violent parents commit criminal acts, they should be answerable to society for their offences. Second, the medical model, defines the problem scientifically and sees the main job as diagnosing and treating physical symptoms. Third, the social welfare model, view the problem in human terms. Some suggest that the major difficulty resides within the personalities of violent parents, while the minority locate the major problems of parents or violence within the structure of the society'. Ten years later, a fourth model needs to be considered, the feminist model. Not only does this provide a powerful explanation for abuse, as well as tools for intervention, with victims; but in some states this perspective has been placed firmly at the centre of the political agenda. There are still unresolved issues. Is the feminist approach to child protection really arguing for an alliance with those who adhere to the legal model and who wish to punish perpetrators for reasons of vengance or deterrence? Do women need to reconsider whether meeting violence with the further violence of punishment is consistent?

At the time of writing the federal government has had no formal remit for child protection issues, although some programmes have been funded under the Family Support Scheme of the Office of Child Care. The federal government has, however, programs which relate to domestic violence, women via its refuge program (SAP -Sheltered Accommodation Programme). It was argued at the conference that it was no longer possible, from either a theoretical or a practical perspective to separate the problems of violence to adult women and female children. If Canberra is to continue to fund programmes for abused women, how can it avoid the problem of abused children? The federal government's potential future involvement in child protection matters deserves further exploration.

At the end of the conference, participants were asked to comment on their experiences. It is inevitable that such a mixed group of participants would produce conflict, with an intellectual collision between a phalanx of senior, mainstream, professionals and a group of women attending the conference with a 'single issue' interest. Yet 'meeting and mixing with people with other points of view' was the most frequently mentioned way in which the conference was reported by participants to be most helpful. And in the future, more people wanted more small groups and workshops.

It is important that the momentum of this conference is maintained, that the new perspectives are clarified and refined and that the emerging national agenda of this debate be debated again. What Australia does about its sexually abused children may indeed be the test of the way in which a civilised western society protects the 'seed corn of its future'.

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HISTORY OF CHILD ABUSE IN AUSTRALIA

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What we now refer to as child abuse and neglect, or child maltreatment, is essentially adult behaviour towards children which is socially disapproved of, either in a general or some particular sense. As such, whilst the behaviour of adults towards children may have changed for the better in some countries in recent times, in some particulars some adults have always behaved abominably, but in some societies and at some times such behaviour was condoned or ignored. At times whole societies could be found behaving abominably towards children, and that was considered right and proper. Thus ancient societies of the Romano Greek era, indeed long before too, thought it right and proper to expose new born infants to the elements, a test of survival to ensure only the fittest survived. Alternatively, female infants were killed off as unwanted in a male-oriented society. (Those of you who saw the recent series on television 'I Claudius' will recall Ceasar's mother wishing aloud that Claudius could have been exposed at infancy.) Similarly, foot bindings of female infants to ensure much prized dainty feet in adulthood was banned in China only a relatively short time ago. (Radbill, 1974)

In more recent times we can point to recorded brutality toward children in the industrialising communities of the nineteenth century. There is ample literature of American and United Kingdom history on that subject and for that period. Justification for beastly behaviour had shifted somewhat from the survival of the fittest of previous eras to that of 'patria potestas' the right of the father to his child as property to do with as he wished, so flogging and starving, even killing a child, was argued by legal counsel to be justifiable behaviour of a father towards his child (Graveson, 1957)

It was against such a general background that groups of social reformers launched their campaigns against cruelty and neglect of children in the industrialising countries. Specific, enforceable legislation on what we now term child abuse did not appear until the second half of the nineteenth century, commencing in America and the United Kingdom at about the same time, and reaching Australia in 1894 with the formation of what we now call the Children's Protection Society in Victoria. There was of course spirited campaign against child abuse, or more properly, in favour of child protection during the second part of the

nineteenth century in Australia. The history of this campaign, covering the whole of Australia as distinct from its several states, remains to be written. We do get glimpses of it here and there. In Victoria, which I am more familiar with, I can quote from Donna Jaggs work which contributed to the 1974 Report of the Committee of Inquiry into Child Care Services in Victoria:

> Records indicate that from about 1860 to the war, child welfare was the subject of a highly vocal, creative concern. This concern was based on a child-centred protective-reformist philosophy and resulted both in changes in the state's sphere of activity and in expansion of voluntary philanthropy.

Some forms of child protection legislation in fact appeared in Australia more than a century ago, but the specific, child protection/child abuse reforms belong to a much more recent age. In fact, there is a big gap in this field during the inter-war period and indeed well up to the 1960s. It is only really the last twenty five years that have seen a revival of interest specifically centering on child abuse, and once again the impetus for this came from overseas, notably the U.S.A.. There is now literature on these recent developments and I would like to deal with the history of events for these recent years, albeit superficially, first by briefly recounting the U.S.A. experience and then our own Australian one.

In 1875, an American child, Mary Ellen became a cause celebre. (Boss, 1980). Mary Ellen had been ill-treated by foster parents and in the absence of suitable laws under which to proceed for her protection her case was taken up by the Society for the Prevention of Cruelty to Animals on the grounds that a child should have rights at least equivalent to an animal. The case did not succeed but enough sensation was created over the anomaly that some child protection legislation followed in the U.S.A. The next important event which sparked off the recent round of concern and subsequent development came in the mid 1940s with the work of a group of paediatric radiologists in American hospitals who were diagnosing a series of long-bone fractures of, as they put it, 'unspecific origin' on their x-ray photographs of children brought into hospital. John Caffey and his co-workers took these discoveries further and by and by other radiologists around the country joined the debate in medical journals. Eventually the cause was taken up by a group of eminent paediatricians and psychologists, notably C.H. Kempe and his wife Ruth Kempe and Ray Helfer. They organised a special medical seminar at Denver in 1961 and Kempe coined the title of the phenomenon of what we now call child abuse, as the 'battered baby' syndrome, (Kempe quotes Ambrose Tardieu, a Parisian doctor who coined the battered child syndrome in 1868) deliberately so as to arouse emotional response from the non-medical public (Kempe and Kempe, 1978). There then followed a series of books

and reports and we may say that from that date on child abuse was rediscovered. It took a further thirteen years before the American federal government passed its first, special piece of legislation (1974) which by dint of offering financial grants to the fifty states, ensured that there should be a network of minimum level services in the country. East state has since then developed on different lines but at least the Act ensures that there are basically similar components across the states. The Act also set up a National Study Centre in Child Abuse in Washington from which, amongst other things, has come an excellent incidence study which for the first time, has demonstrated the size of the problem (roughly 1:100 cases reported per annum) (U.S.A. Department of Health and Human Services, 1981).

There are a few points to make about the American experience:

- It was the medical profession which took the front stage in the rediscovery of child abuse.
- Initially, the problem was seen as a problem of psychologically disturbed parents.
- The cases concentrated on young infants.
- It took the patient build-up of empirical data over a number of years to knock down the walls of public indifference.

In Australia we too may take our case from the 1960s. There was one Australian doctor who contributed to the child abuse debate in America with an article to a medical journal in 1955. But it looks as though, historically, that our native debate took off as a result of the American wave which reached us some time in the early 1960s. Of the six states, it was Tasmania, South Australia and Western Australia which took the first initiatives, though if we count open concern rather than action then probably Victoria ranks first. In Victoria, its then police surgeon, John Birrell and his brother Bob, a paediatrician, wrote of the 'baby battering' syndrome in the medical press, and their medical colleague, Dora Bialestock a medical practitioner, employed by the Victorian Health Department committed the offence, unpardonable in a government bureaucracy of criticising her own and fellow departments of professional blindness, for not seeing the presence of child abuse right in their midst. That was in the mid 1960s (Wurfel and Maxwell, 1965, Birrell and Birrell, 1966). It did lead however, to the setting up of a governmental interdepartmental committee under the auspices of the Chief Secretary and the Ministry of Health in 1968, but little action stemmed from that and things did not really get going in Victoria until the advent of a Health Department sponsoring Child Maltreatment Workshop in 1975, which reported in 1976 (Victorian Department of Health, 1976).

South Australia was arguably the first state to launch into taking initiatives in child abuse. One of the first contributions to the resurgent debate in Australia was made by two South Australian physicians, L.J. Wurful and G.M. Maxwell, who wrote what was probably the very first Australian article on child abuse, in 1965. This sparked off a more general interest and in 1968 the South Australian Social Welfare Advisory Council made a report to the S.A. Minister of Social Welfare following its investigation into child abuse in the State (Community Welfare Advisory Committee, 1976). Some of its recommendations were subsequently incorporated into the Children's Protection Act 1969 which was later merged with the current series of Community Welfare Acts. An early provision in the original legislation was the compulsory notification of child abuse cases by medical practitioners, but that requirement did not work at all well; only about twenty cases a year being reported between 1972-74.

Largely as a result of lack of progress in combating child abuse, a further report was made by the Community Welfare Advisory Committee into Non-Accidental Injury to Children, to the Minister of Community Welfare in 1976. This report then formed the basis for amendments to the Community Welfare Act, which were brought into effect in 1977. The report formed an important document, since it sought to unravel the intricate skein of social, economic, and individual origins of the child abuse problem, thus getting away from the uni-casual theories of child abuse that had featured in the early American literature.

Like the other states, Tasmania's interest in child abuse as a community problem began in the late 1960s in the wake of the emerging debate in the professional literature. The first result of this concern was the appointment at state government level of an advisory panel in 1971 to manage all reported cases. The state Attorney-General's department was made responsible on the grounds that this would avoid the reputed rivalry between doctors and social workers. The advisory committee however did not live up to its promise and special legislation, the Child Protection Act 1974 was passed and the later amending Acts now form the basic legislation for child protection. It is worth noting that the Child Protection Act set up the Child Protection Assessment Board, which was a separate autonomous body responsible for receiving notifications and investigating and monitoring cases. It is unique as a child protection model in Australia.

In Queensland, the Department of Children's Services first set up some specific facilities to deal with child abuse, as early as 1970. This comprised largely the establishment of liaisons with the major children's hospitals. The functions associated with these liaisons were subsequently expanded and culminated in the official establishment of a Child Protection Unit and the creation of regionally based SCAN teams, committees of an inter-professional nature on abuse and neglect. Special legislation

however did not follow until 1978 which provided for compulsory notification of abuse cases by medical practitioners.

In New South Wales following a detailed survey into battered children which was carried out by what was then the Department of Youth, Ethnic and Community Affairs activity in the child abuse field was first stepped up in 1975. The Department of Youth and Community Services then followed up with the beginnings of a child abuse service with district-based officers being given duty statements for the work and 'at-risk' committees being formed. The Child Welfare (Amd) Act 1977, like Queensland's Act, made it compulsory for medical practitioners initially, and other persons later, to notify the Director of Community Welfare Services, of suspected or actual child abuse cases. The 1977 legislation also resulted in the setting up of the first Child Life Protection Unit in Sydney, at 'Montrose' one of the departments residential child care establishments.

Finally in this brief round up, Western Australia's contribution to the reawakened interest in child abuse dates at least from 1968, largely due to a case of an abused child, who had been subject of adoption arranged by the Department of Community Welfare. This led to administrative strengthening of liaison between the Department of Community Welfare and the Princess Margaret Hospital in Perth, to strengthen the co-ordinating machinery on suspected cases of child abuse. In 1968, the first child life protection unit was set up under the Department of Community Welfare (but no legislation ensued) and in 1974 came the establishment of a Parents Help Centre, one of the first preventive/supportive programs of its kind.

Western Australia took the lead in planning and hosting the first Australian conference on the battered child in 1975, which did much to arouse public awareness and spurred further action by the other states (Proceedings (1975) First Australian National Conference on the Battered Child, Perth).

Since those early initiatives of the 1960s and 1970s, each state has built up its services, backed by special legislation in most states.

Perhaps a few summarising comments are in order. Each state has developed its own approaches and systems for dealing with child abuse. The Commonwealth government has been conspicuous by its silence. It has not taken the lead as its counterpart has in U.S.A. or U.K. Child abuse is strictly a state matter in Australia.

Whilst much of the initial drive came from the medical profession, more recently the community welfare services have developed influence and control. Child abuse management follows more of a social than a medical model.

There is still a lack of an Australian wide picture of what services there are, and the size of the problem. Description of the range and size of services is lacking as is a national data base, despite efforts to create one.

There is now recognition that child abuse is a complex problem, partly arising from socioeconomic factors and hence not capable of solution through localised efforts, however, ameliorating efforts today are a great improvement on former such efforts.

In conclusion, the past twenty years or so have shown a much greater awareness of an old problem and a greater desire to tackle it. This has required the sustained efforts of more than one generation of professionals from many discipline areas.

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WHO OWNS CHILD SEXUAL ABUSE?

Mrs Sharyn Butt
A.C.T.

When I chose 'Who Owns Child Sexual Abuse' as the title of this paper in early September last year, I had intended focusing my presentation on an expose of the different ways of conceptualising child sexual abuse: as a crime, as a child welfare or mental health problem, or as the end product of familial or broader societal factors associated with the linking of sexuality and aggression in our culture, and power imbalances between the sexes and between the generations.

During the National Conference on Domestic Violence held by the Institute at the Canberra Rex Hotel last November, I was struck by the relevance of this title to the territorial attitudes of competing groups. The lines of battle were drawn, with 'grass-roots' practitioners on one side, and academics and theorists on the other. Throughout the week of the conference, pleas were made by attendees and several presenters (notably Barbara Younger and Helen Long) to drop unhelpful labels such as survivor, refuge worker, academic and bureaucrat. Tensions between practitioners and theorists used up precious conference time and energy, but by the end of the week, a productive dialogue was developing and some consensus was emerging.

Being the first of the presenters at this conference who was present in November, I now take the opportunity to renew that appeal for a truce. I noted displays of possessiveness and territoriality in conversations and communications with child sexual abuse workers while I was conducting my research last year. This conference is a continuation of the Institute's work on family violence, and 1986 has been declared The Year of Peace. Let us begin with a semblance of the unity engendered in November 1985.

Child sexual abuse is such an emotive subject that academics and theoreticians can no more easily lay aside their biases than can grass-roots workers. But progress in our understanding of the sexual abuse of children- how best to curb it in our society, and to assist victims - is dependent on the vigilance of all involved for distortions of perception that personal experience can cause. We can help each other minimise that risk. During the next half hour I will present an overview of the variety of ways child sexual abuse is conceptualised, and the treatment models which derive from these conceptualisations. In this climate of uncertainty as to which of the plethora of treatment models is most suitable for an agency to adopt, or which is most appropriate for a particular case of child sexual abuse, I will

review my study of Canberra's workers' attitudes to, and their handling of, child sexual abuse cases. But before launching into the variety of treatment models, I would like to comment briefly on the relationship between reported child sexual abuse and its actual incidence.

Child sexual abuse is notoriously under-reported; American estimates put the proportion of reported cases at between 10 and 25 per cent, with estimates of reporting rates for intrafamilial child sexual abuse as low as 2 per cent. In Australia, where reporting of child sexual abuse is not mandatory in every state, one might expect an even lower rate of reporting. But it has become apparent that a different picture of the sexual abuse of children emerges, depending on the source of one's data, be it reported child sexual abuse or large-scale surveys of non-clinical populations.

The picture which has dominated the literature until recently, gleaned from studies of reported child sexual abuse (i.e., clinical studies) heavily implicates fathers and father figures. For example, in a recent American survey of cases reported to a sexual assault clinic, 42 per cent of offenders were fathers or father figures; other relatives made up a further 12 per cent; non-relatives known to the child (neighbours, family friends and other authority figures) made up 33 per cent; and only 13 per cent of the child victims were assaulted by strangers. Child sexual abuse reported to Australian sexual assault centres usually replicates this distribution.

In contrast, surveys of non-clinical populations show that abuse by fathers and step-fathers constitutes no more than 7 per cent or 8 percent of all abuse cases. Abuse by other family members ranges from 16 per cent - 42 per cent of all cases. Acquaintances of the child make up 32 per cent to 60 per cent of offenders, and strangers abuse children substantially less often than either family members or persons known to the child.

One might expect the results of the non-clinical surveys to give a more accurate reflection of the distribution of the relationship of offenders to victims. If the picture obtained from surveys of non-clinical populations is indeed more accurate, one might ask why so many more girls reporting their fathers (step-fathers etc) abuse, or conversely, who so few girls report their brothers, uncles and grandfathers? I have found no more than speculative answers in the literature, and I would be very happy to hear comments from the floor during the discussion time.

THE MAJOR TREATMENT APPROACHES

An historical review of the establishment of services for child victims of sexual assault has shown that at various times, child sexual abuse has been seen as a form of mental illness, a crime, or (particularly in the case of incest) a symptom of family dysfunction. More recently, broader societal values and socialisation practices have been mooted as responsible for child sexual abuse. This fundamental dilemma over what is child sexual abuse may lead workers to be more influenced by intrinsic attitudes and personal understanding of life events than by theory or professional experience, especially in a problem area that is emotionally charged and potentially threatening to one's basic values and sense of order. The difficulties inherent in such concepts as 'prosecuting an illness', 'treating a crime', or applying both strategies to a 'family problem' are still being grappled with, and these orientations are reflected in the underlying assumptions of the various treatment models. The variety of philosophies about the nature and handling of child sexual abuse has resulted in a proliferation of treatment programs, each containing specialised components, to deal with various aspects of this problem. Indeed, by 1981, more than 300 programs were operating throughout the U.S.A. specifically designed to treat intrafamilial child sexual abuse. This multitude of treatment programs can be grouped into four major types, representatives of which can be found throughout Australia.

The medical-psychiatric model, defining the offender as 'the problem', centres treatment around the offender: usually a multi-modal approach which aims to reduce their undesired sexual behaviour and increase desired sexual behaviour, using a combination of behavioural and cognitive techniques. Sexual therapy and marital therapy may form part of the treatment program, which is individualised and intensive, and generally long-term. Usually some external 'incentive' is required, such as the threat of family break-up, loss of job, or gaol. Success rates vary, but therapists need support and a variety of other interests and types of clients to sustain working with this difficult clientele.

Dysfunctional family models locate the causes of child sexual abuse in the early experiences of parents in their families of origin: experiences such as emotional deprivation and perhaps physical or sexual abuse, which equip them poorly for the roles of parent and spouse. The fathers are often dictatorial and the mothers are seen as weak and ineffectual. A daughter - often the eldest - takes over increasing amounts of the housework and child care responsibilities until she is mothering her parents.

Treatment is humanistic and family centred, with the explicit goal of rehabilitating the family. Therapy focuses on having the parents accept responsibility for the incest, re-defining family roles, strengthening the mother-daughter bond while reinforcing generational boundaries, and marital work with the couple. It is concurrently with the family, using groups for therapy and support after initial individual and dyad therapy. Results are reported as good when treatment is aligned with the criminal justice system as it is in Giarretto's program and others modelled after it.

Feminist family therapy models place less emphasis on rehabilitation of the family, and stress treatment of the negative consequences of the incest for the victim. Bearing in mind the responsibility of parents and the loyalty dynamics in families, these models stress the accountability of the father for the occurrence of the incest, while avoiding scapegoating. Short-term, structured group treatment, aimed only at the victim, preferably employs two female therapists. With group support and the option of individual treatment sessions, the victim is helped to rebuild her life, and after working through her 'traumatic neurosis', ideally to recontact her father and build a more healthy relationship with him.

Socioenvironmental models seek to locate the causes of child sexual abuse in the society rather than in individuals or families. A basic assumption of this orientation is that individual behaviour reflects the beliefs and values of the wider society, internalised in the course of formal and informal socialisation. Thus, rather than identifying abnormal fathers as the problem in incest, the society which condones and justifies violence and patriarchal ownership as measures of interpersonal control is seen as being at fault. Such an orientation results in a greater emphasis on preventative rather than rehabilitative objectives. Short-term strategies are aimed at protecting the child by removing the father rather than the child from the home; but the long-term, educative objectives aim at raising the consciousness of women and children to their ability and right to control their own bodies and their lives. Within this orientation lies a strong opposition to professional 'ownership' of social problems such as child sexual abuse: a belief in the enforcement of individual rights by methods not entailing excessive state intervention. Rather, the strengthening of natural social networks and community promotion of improved parenting skills are seen as preferable to intervention by legal authorities or professional 'experts'.

PROFESSIONAL ATTITUDES TO CHILD SEXUAL ABUSE

Few independent evaluations of these alternative treatment models have been undertaken, Kroth's 1979 study of the efficacy of Giarretto's program in California, being the most well known. Certainly nothing is known of the relative contribution of specific components to the efficacy of any treatment program. This lack of validation must add to the confusion of workers who cannot be sure that the approach adopted is the most helpful or appropriate. Throughout the U.S.A. professionals are frustrated and concerned about the lack of uniformity in handling cases, the conflict amongst agencies, and the inept hanlding of cases by inexperienced workers. The situation is similar in Australia, but on a smaller scale. As long ago as 1980, Warren Simmons claimed that the lack of clarity of roles for workers in different agencies was so constant in N.S.W. that it was becoming boring. Five years later, it would seem from my research in Canberra, that the problem lies more in poorly co-ordinated services and lack of interagency collaboration than in disagreements amongst workers from different agencies over the proper approach to handling child sexual abuse. Anecdotal remarks come from various sources, but little systematic evidence has been collected on how professionals and agencies are responding to the problem.

AIMS OF THIS STUDY

In a study which involved interviewing sixty workers from agencies throughout Canberra, I examined the relative influence of a worker's attitudes, amount of experience and knowledge of child sexual abuse in case management. Workers from schools, community health centres, police, the welfare department, mental health teams and an assortment of community agencies made up the sample. Since worker behaviour is influenced by the wider climate of interagency disagreements and tensions, this study also aimed to investigate the patterns of collaboration between agencies in Canberra, and the differences in their philosophies which shape policy and handling of child sexual abuse. A satisfactory instrument for assessing a worker's attitudes to child sexual abuse had not yet been developed. Previous American studies suggested comparing a worker's usual case management with his or her responses to vignettes depicting sexually abusive situations with children, so that one could infer attitudes from worker behaviour. A set of six vignettes of situations which might be considered sexually abusive had been developed by a welfare training officer (Sandra Heilpern), and with her approval, I used these vignettes. I also hoped to measure attitudes more directly from workers' responses to twelve statements incorporating myths about child sexual abuse.

Using the vignettes and the controversial statements, I had two measures of workers' attitudes to child sexual abuse. When workers rated a vignette as abusive, they were asked about the interventions they would recommend, and the goals of these interventions. I could then compare the interventions they recommended in hypothetical abusive situations with their reports of how they intervened in the sexual abuse cases they had handled at work.

Because the roles of workers in the six agencies differ, and because they tend to see different types of cases (for example, the police are more likely to see cases of abuse by someone outside the family), I developed an 'involvement index' incorporating a combination of a worker's experience with child sexual abuse cases and his or her usual role in case management. Using the involvement index, I could compare worker's time and energy investment in child sexual abuse cases, regardless of the role prescription in their particular work setting.

Based on the results of a similar American study, I hypothesised that:

1. Police would be more punitive, and less therapeutic than workers from other agencies.

2. Lack of collaboration from police would be pronounced in a climate of interagency distrust.

3. Each agency would have a proportion of workers with 'low' and with 'high' involvement.

4. Workers with high involvement would be less likely to intervene in a hasty, ill-considered manner.

5. Workers would be fairly knowledgeable about child sexual abuse, but being informed may not preclude the holding of contradictory attitudes and myths.

RESULTS

Of the six vignettes, only two were consistently rated as abusive by the majority of the sixty workers. I therefore concentrated my analysis of recommended interventions on these two hypothetical situations. Workers could recommend any number of the following interventions:

- Interview the mother
- Interview the child
- Interview the alleged Perpetrator
- Interview the family
- Report to police

- Report to the Child Abuse Committee, or the Child Life Protection Unit.
- A home visit.
- A physical examination of the child.
- A psychiatric evaluation of the child.
- A psychiatric evaluation of the family.

When I looked at the interventions recommended by each agency, I found that workers from all agencies recommended more interventions in the more abusive hypothetical situation, with police recommending more interventions than workers from any other agency. So my first hypothesis - that police would be less 'therapeutic' in their orientation than workers from other agencies - was not supported. School personnel recommended fewer interventions than other workers, and welfare workers not only recommended a lot of interventions, they also recommended doing things that most other workers did not mention, such as making a home visit and reporting to the police. All workers were more likely to recommend reporting to the Child Life Protection Unit or the Child Abuse Committee than to the Police.

The questions about the goals of intervention indicated a reluctance to press charges in workers from all agencies, except welfare. Three quarters of welfare workers thought charges should be brought against the grandfather when less than a third of all the other workers recommended pressing charge against him. When asked whether they would recommend removing the child or the offender from the home, to ensure that the abuse stopped, I found that removing the abused child was a most unpopular strategy amongst these Canberran workers. In this situation where the mother had remarried and wanted this marriage to work, more than half of the workers still recommended that the stepfather should have to leave the family, and the proportion recommending that every effort should be made to keep the family toegher was quite low, only 23 per cent. Thus, child sexual abuse workers from agencies throughout Canberra are in agreement in their preference to remove the offender rather than the child, and give the child's best interests higher priority than preserving the family unit. For most workers, pressing charges against the offender takes low priority, though many workers were at pains to stress that their reluctance to involve the law stemmed from procedural problems for children in court, and the difficulties in successfully prosecuting, under our present laws, rather than from support for the decriminalisation of incest. Given their responsibility for child protection, it seems appropriate that welfare workers recommend prosecution of child molesters more than other workers.

Thus, there appear to be few barriers to interagency collaboration in Canberra, in that the philosophies of different agencies, inferred from the goals of their recommended interventions, coincide.

When workers were ranked according to their experience with, and their time and energy investment in child sexual abuse, every agency had some workers in the high involvement group. And this study found support for the notion that the more involved, experienced worker exercises more caution and discretion before intervening in a situation where child sexual abuse is suspected. In fact, workers in the high involvement group were much less likely to rate the hypothetical situation as abusive, from the information given; but having rated a situation as abusive, they recommended more interventions than did their less experienced colleagues.

The importance of theoretical models seemed minimal in these workers' handling of cases, as most of this sample of professionals stressed understanding the uniqueness of each case, rather than looking for commonalities. From responses to the controversial statements, it appears that workers are uncertain and ambivalent about the role of the mother in incest, but they are almost unanimous in placing responsibility for the incest squarely on the perpetrator's shoulders, and are sensitive to the pressures and dilemmas facing other family members.

Thus, in this sample of child sexual abuse worker from various professions and agencies, the similarities in their objectives in case management, and strategies to achieve them, are more striking than are their differences. What appears more problematic is the rift that is evident between theory and practice. Given the situation of so many untested, alternative treatment models, it is not surprising that most workers operate from an action-oriented, pragmatic mode. There is an urgent need for controlled, evaluative studies of the various treatment programs, with many features of the abusive situation noted, and long-term follow up, to relieve some of the pressure on workers in this high 'burn-out' field. If workers united in this goal, I am sure we would see less defensiveness and territoriality.

DEFINITIONS OF EMOTIONAL ABUSE

Jan Carter
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Some of you may know of the fascinating account of childhood in the bush: Albert Facey's celebrated autobiography: A Fortunate Life. This recalls his childhood experiences after his mother deserted him and his father died of typhoid on the Western Australian goldfields (Facey, 1981). He went to live with his grandmother and uncle in 1902, but his uncle's hopes of achieving 'rags to riches' during the goldrushes of the 1890s failed. So the family left their hessian house and went to take up land for farming, near Narrogin. The income from the farm was so poor that Albert, then aged eight, was sent away from home to work by his well-intentioned and loving grandmother, who, nevertheless, informed him that his absence would be helpful for the family, as he would be one less mouth to feed.

The boy's job was a heavy one and he worked seven days a week from early in the morning until after dark. As a farm labourer, he was fed and housed, but he earned no money, had no new clothes and was sometimes badly treated. At Christmas, when he was nine years old, he was horsewhipped into unconsciousness after pouring alcohol into the pig trough, to protect the men on the farm from becoming drunk and violent. When he recovered from the serious bodily injuries caused by this beating, he decided to escape from his employers. He had no shoes, so he made covers for his feet from wheat bags and set out to walk under cover of the night on the long, hungry walk to find his grandmother. She expressed indignation at the cruelty he had suffered, but nevertheless, she sent him out to work on another farm.

Albert's experiences as a child labourer, his harsh and rejecting treatment by adults and the lack of attention to his emotional and educational needs by his well-intentioned relatives, are today seen as signs of a grossly deficient upbringing. Yet, by his own account, the abused and exploited young Albert appears to have grown into a reasonable, concerned and loving adult. If Albert Facey, or others whose upbringing was violent, rejecting or neglectful were children today, questions would be raised about the adequacy of their environment and current statutory provisions would allow the state to intervene, if necessary, coercively, through the courts. These provisions are now taken for granted in most western communities, although many children in the so-called Third World still live as labourers to survive, and are subject to adult rejection and brutality and to emotional and educational deprivation. Exploitation of such children is not far removed from the conditions in which some children of the poor survived in the Australian community, only a matter of two or three generations ago.

DISCOVERY OF CHILDHOOD

The belief that children should be protected from abuse and exploitation is recent. In fact, a number of scholars have argued that childhood itself is a relatively recent invention. One of the most prominent, the French scholar, Phillipe Aries, believes that the 'discovery' of childhood as a special phase of existence in the seventeenth century was bound up with a new interest in education for the young. Once children began to be educated, the function of the family changed from being mainly a matter of material and economic arrangements to dealing in sentiment, affection, and nurture of its members, including children. Thus in the seventeenth century, children stopped dressing as miniature adults and started going to school instead of being apprenticed to work at early ages. The supervision of children's behaviour also began to be more carefully regulated. Aries believes the creation of childhood was confined intitially to the upper middle classes, but that the new conception of childhood gradually percolated to other social strata. (Aries, 1973).

The speed with which the 'discovery' of childhood became commonplace at all levels of society is a matter of scholarly dispute (Grylls, 1978). However, social accounts of late nineteenth and early twentieth century childhoods in Australia indicate that the better off a family was, the less adult responsibility was borne by a child and the longer a family could afford to keep children in a state of dependence on the family (Carter, 1981). Oral history accounts indicate that Albert Facey's experiences as a child labourer, his harsh and rejecting treatment by adults and the lack of attention to his educational and emotional needs, were typical of the period.

All this implies that the economic and social conditions of a community might make a considerable difference to the recognition and length of childhood and thus to the treatment of children. This hypothesis can be tested out on communities in general and on families in particular. If a society or family is poor, childhood is less likely to be defined as a segregated period of life, protected from adult anxieties and responsibilities. Childhood is also likely to be shorter for children of poorer circumstances, because poor children are generally forced onto the labour market much earlier. So, childhood, as an extended period of dependence and nurture is a recent invention and is still modified by culture and class.

THE STATE AND THE FAMILY

Nevertheless, had Albert Facey been born in the 1980s, his life would have been different. What state interventions might have been made to his life were he a child today? First, his mother, who had deserted him as a child to remarry, may not have done so.

Her second husband refused to support her children, and she had remarried for the time-honoured reason of having a meal-ticket for herself. Today, allowances for supporting parents are available, so Mrs Facey may not have felt under the same economic pressure to remarry and Albert might have stayed with his mother.

If Mrs Facey still abandoned the young Albert, leaving him to be taken in by his elderly grandmother, the government today would have had the right to question the old lady's competence to offer Albert an adequate home. It may have supported her to be able to do this more comfortably, or it might have taken Albert to the Children's Court which may have made him a ward. It is unlikely that Albert would have escaped attendance at school, nor would his brutal treatment as a juvenile, at the hands of his employers have gone unremarked. If he were illtreated by adults today, the state's protective children's services may have certainly intervened. Special legislation, courts and professional services now exist to protect a child from illtreatment and neglect.

Thus, one of the marked developments of the twentieth century has been the intervention of the state into the previously private world of the family. Beginning in the nineteenth century with laws regulating the employment of children and when with the compulsory provisions for primary schooling, most western governments have completely re-allocated the boundary between the family and the outside world. In his book, Family Law and Social Policy, John Eekelaar (1978) has suggested that the state has taken up three broadly distinguishable stances, or functions, in relation to policies for the family: supportive, adjustive, and protective functions. I would add a fourth, the preventative function.

First, the supportive function, is of course, seen in the various income maintenance schemes sponsored by government which are intended to slightly discriminate in favour of families. The adjustive policy of the state comes into play when a family unit disintegrates; the state takes it on itself to regulate the procedures of separation and divorce as they relate to the care of children and to property. Third, in this century the state also has developed a protective policy towards its weaker members, seen most unambiguously in relation to the care of children and permitting coercive intervention at the expense of the family privacy and autonomy if certain harms affect its members. Fourth, the nature and extent of preventative policies is probably the most controversial and volatile dimension of government intervention into the family. Preventative family policies potentially conflict with, or complement, the other policies in relation to the family. Several states now have preventative legislation which, in theory, enables the state to,

for example 'promote family welfare' ... 'prevent the disruption of families' and 'provide assistance' .. when the welfare of any family is threatened or in jeopardy, as well as to encourage the development of the greatest possible degree of service ... at the local level and to emphasise preventative measures (for example, W.A. Community Welfare, 1972). In practice, this type of essentially voluntary and promotional legislation for the family is set alongside the essentially coercive and residual protective policies of the state for children.

PROFESSIONALISM AND LEGISLATION

The protective function of the state in relation to the family is subsequently exercised via two main agencies: the Children's Courts and those statutory organisations such as state departments of Welfare Children's Protection Services which work to legislative mandates. The basic legislative remits of child protection have not much changed from the beginning of the century. However, recent professional expansion into child protection has introduced new concepts; concepts which have provided new difficulties in interpreting the protective legislation.

The first difficult concept is that of children's needs. Although the phrase 'children's needs' is often invoked they are surprisingly, rarely defined. An imprecise set of ideas, children's needs usually seems to mean the particular conditions specific to an age group which are thought to be required for normal or healthy development. Michael Rutter (1981), in a critical analysis of the qualities said to be needed for normal development indicates that the solutions are seen in mothers. A child is thought to need good mothering which involves some (or perhaps all, the combinations are unknown), of these qualities: a loving relationship; a strong attachment (usually but not exclusively), to the mothering person; a continuous relationship unbroken by permanent disruption; a stimulating interaction; and (controversially), an exclusive relationship with one person. A catalogue of other needs pertinent to normal or healthy child development would be endless, but some which have received research attention are: the necessity for harmonious family relationships; the stimulus of perceptual and linguistic experiences in order to develop language and intellect; play with other children and with parents; food; discipline; all are thought to be important, even though the right mix is unknown. Some components are thought to be vital to critical periods; others to have more transient than lasting impacts. However, even this catalogue of needs neglects many important issues. What is the role of fathers, or siblings? What about the development of children in settings outside the classic nuclear family? Are all children equally at risk, and vulnerable to the lack of good mothering, or are some more resilient than others?

A second difficult concept in this area is that of risk? In saying that A or B is at risk, researchers and practitioners have been taken with the vulnerability of children rather than their resilience, despite the Albert Faceys in our midst. Three suppositions, about early childhood experience and children's needs, seem to be fundamental to thinking about risk and vulnerability in children.

The basic idea is that the environment in early years exerts a disproportionate and irreversible effect on a developing organism The contentions are: (1) the consequences of early experiences are thought to be irreversible: (2) that the events of childhood experience are causally related to adult behaviour; and (3) that the direction of impact is one way, solely from parent to child (Benjamin, 1980). Over the past decade, research has suggested that no real evidence supports these assumptions (Clarke and Clarke, 1976). Others have drawn attention to resilience in the young child and suggested that the view of the young child as helpless, and totally dependent, is particularly the view of western psychologists. (Kagan, 1976a).

A third key concept, aside from those of need and risk, is that of rights. Children's needs are in fact often expressed as children's rights and one expression might be found in the United Nations Declaration about the Rights of the Child. Statements of children's rights are usually maximal expectations, citing conditions under which the child should live so as to procure an optimal happiness and adjustment. It is difficult to specify who should meet these maximal needs, if parents are unable to do so. The state would have a large job on its hands if it intervened in every family where a child was not receiving treatment in accord with the United Nations Declaration.

In exploring the subject of children's needs and children's rights, the writer, Paul Goodman, (1971) has pointed out some of the contradictions of the positions taken up by champions of children's needs and rights. On the one hand, some take the point of view (as the United National charter does) that children should be given special protections; precisely because they are children and have special needs, they require certain special conditions, such as a stable upbringing to enhance their development. On the other hand, the very same people often argue that children are competent to make adult decisions and should be given all the legal rights given to adults; the vote, ability to enter into contracts and so on, thus implying that special protection is <u>not</u> needed.

Clearly then, the concept of children's rights requires come clarification. One approach used by the American philosopher Houlgate, (1980) is to view children's rights as claims. The child (the right holder) has the right to claim certain rights

from the parent (the duty bearer). If the duty bearer does not come up with the specified 'goods', the child may exercise his right in the courts to extract rights, if necessary, by coercion.

The critical question is of course, what kind of claims can a child make? Houlgate suggests that there are positive claim rights (that is, rights to parent's actions) and negative claim rights (a right to a parent's forebearances or omissions). From looking at child protective legislation, it is difficult to see whether the child can claim the right to protection from psychological suffering. A negative claim such as the right, not to have to suffer physical illtreatment is prohibited clearly enough, but the right of proscribing psychological illtreatment is not apparent. At present, psychological illtreatment is not specifically prohibited in law, although there are more general statutes which proscribe illtreatment in general. The closest prohibition in existing Australian legislation is probably that contained within the amendments to the South Australian Community Welfare Act (1980) where the child appears to have a negative claim right, if he or she suffers mental injury. ('A guardian has maltreated or neglected the child to the extent that he has suffered, or is likely to suffer, physical or mental injury'.)

But more usually, the child's claim in the emotional, psychological, or mental field is not so much prohibited as expressed as a rather vague positive claim. For example, under the Victorian and U.K. children's legislation, a child has a claim right to a proper development. (A child may be brought before a juvenile court if his proper development is being avoidably prevented or neglected). This suggests that the child has a positive claim right to some kind of proper development, but this again is very vague, particularly given the lack of consensus about what constitutes proper development. Nor does it indicate a specific duty holder, whether parent, guardian or caretaker, an issue which will be discussed later.

A great deal has been written in recent years by some authorities who wish to make a child's positive claim right to psychological wellbeing more explicit. For example, it has been recommended that the state use its protective function for 'children who are denied normal experiences that produce feeling of being loved, wanted, secure and worthy'. The problem we face is whether parents should be expected by law to avoid inflicting psychological suffering on their children, and also to foster their good (i.e. development, health, or welfare), or whether compulsion does more harm than good.

The problem is that practitioners have poor agreement on both recognising emotional abuse and spelling out the criteria of the typical case. I carried out a study of the views of twenty eight

practitioners in Western Australia in 1982: psychiatrists /psychologists and social workers suggested that emotional abuse can be recognised by almost any negative trait which a practitioner does not view as normal behaviour, or normal attitudes on the part of parent, or child. Clearly this is a position of extreme subjectivity and cannot be regarded as very satisfactory. This study produced an almost identical outcome to an American investigation on the same issue of emotional abuse. In both the Australian and American studies the reported characteristics of parent and child behaviour constituted the equivalent of textbooks of child and adult psychopathology! (Lourie, 1978).

What the practitioners are concerned about were excesses of negative experiences of children and lack of positive experiences. Amongst parental attitudes and behaviour associated with emotional abuse, negative behaviour such as verbal humiliation, criticism, or ridicule were key components. For others the key components of emotional abuse was the absence of positive strokes [sic] from parent to child, that is a lack of 'affirming' behaviour which would reinforce the worth of the child. Lack of affection, attacks of self-esteem and the 'failure to thrive syndrome' were also mentioned, but so were a further twenty characteristics.

A few felt that verbal attacks had to be deliberate to constitute emotional abuse, whilst others stressed that attacks had to be persistent, (rather than fluctuating or episodic) and long-term (rather than short-term). But in essence, the fundamental components of emotional abuse were detected in the parents' attitude to, or behaviour towards the child.

So far I have indicated that child rearing expectations, standards and practices have changed dramatically over a relatively short period, and that bringing up children may have altered from a primary consideration of the child's obligations to the parent, to that of the parents' contribution to the child's needs. I have outlined practitioners' assumptions about bringing up children which imply that there are distinguishable differences between inappropriate and appropriate parental punishments; between normal and abnormal parental discipline and between unrealistic and realistic parental expectations of children's behaviour.

Part of the problem is that professionals and parents have markedly different views on how to bring up children. This rather simple issue is usually overlooked. In the age of the experts, practitioners tend to see themselves as reflecting, or conveying, parent opinion, but, other types of consumer studies have shown sharp dichotomies between professional and consumer views.

CONFLICT OF PERSPECTIVES BETWEEN PROFESSIONAL AND CONSUMER:

In 1983, I asked a group of forty women attending a child care centre questions about bringing up children and what kind of everyday discipline and punishment they had practised in the past fortnight. Then I compared this with the professional views already outlined. Practitioner and parent views about child management differed considerably; by and large professionals espoused what might be termed a consensus model of parenting. This 'consensus model' of parenthood promoted extensive communication, as a solution to problems, thought relationships should flourish under agreements and negotiations, (even if this at times involves some hard bargaining), favoured participation, settling disputes by reason and by careful negotiation. This was the favoured view of the professionals.

However, a different model - the adversarial model of parenting - was favoured by the parents. The rules of this model were those of conflict. Each side, parent and child, played it to win and a gain for one side meant a zero sum loss for the other. Hierarchies and recourse to power were means of settling disputes. This model was a very different one to that espoused by the professionals.

Several recent writers have indicated that it is rather easier for professionals to set standards of child rearing than it is for parents to adhere to them. John Bowlby has made the obvious but overlooked point that children often behave differently with other people (particularly professionals) than they do with parents and that the emotional context of parenthood (in contrast to the popular stereotype) is inherently stressful. (Bowlby, 1979). Or as Martin and Kadushin (1981) have put it, in the context of looking at incidents of physical abuse:

> It is difficult for someone not affectively tied to the child - like the worker - to appreciate the intensity of feelings of pain and/or shame aroused by what appears to the observer to be rather inconsequential behaviour. To say that the behaviour elicits an 'inappropriate' or 'excessive' response is the assessment made by a neutral observer not affectively connected with the child and not being subjected to the actual pressures of the child's behaviour. It is a normative statement made at some distance removed in time, place and emotionality from the behaviour as it impacts on the parent. To the parent, the same behaviour may be perceived as considerably more aversive and provocative.

> The parental role requires continuing exposure to aversive stimuli without the possibility of removing oneself from impact. One can leave a job that is aversive; terminate contact with an acquaintance who annoys us; divorce a spouse who provokes anger. Parents cannot divorce a child, or terminate the relationship.
>
> Parents cannot ignore the child's behaviour; they cannot opt out of dealing with it, or walk away from from the situation. They cannot easily negotiate compromise or conciliation with the child, particularly the younger child. They are locked into the necessity of dealing with recurring aversive situations requiring their continuing response.

So some of the problems in labelling emotional abuse can be traced to different outlooks held by some parents and some practitioners in philosophies of child raising. The implication of this is that it is not easy to divide the parent population into two categories, those who emotionally abuse and/or neglect their children, and those who do not. Definitions of emotional abuse need to be related to define social purposes, not constructed in arbitrary isolation. The most relevant social purposes detected so far appear to be:

(i) Definitions which can be used as a basis for coercive legal intervention: and

(ii) Definitions which provide a basis for voluntary professional services to parents and children.

To take the subject of legal definitions first, it was suggested that a distinction was made between negative and positive claim rights for children. It was pointed out that children have vague positive rights under the provisions of some legislation to proper development. These positive rights are often argued by recourse to the child's special needs.

Yet once the matter of meeting the child's needs becomes a positive claim right, in law, there is no limit to potential state intervention. The professional literature in social, paediatrics, psychology, and child psychiatry attests to the fact that parental capacity and children's needs do not coincide. Children's needs are as yet unquantified and insufficiently qualified by age, class or culture, and the tendency is for experts to impose their own biases, usually subjective, about the way that children's needs should be met.

So, should the state use compulsory intervention if it considers a child is unlikely to have his or her needs met by the natural parents? A further issue is the assumption that professionals

and courts can predict the future of a child by reference to the child's current experience. I have already referred to Albert Facey. I am reminded of a current example, a case which goes to court next week where the three month old baby of a mother who has past mental breakdowns and lives an invidualistic and eccentric life faces care and protection proceedings for the baby. The psychiatric nursing report says: ' In my opinion, Sarah is at risk if she stays in Jane's care. My main concern is for Jane's emotional and intellectual future development ... without a stimulating loving environment, her future intellectual development will be less than optimal ...'.

Arguments that the parents' behaviour predicts the child's status as an adult require closer examination. Whilst it is accurate that many adult samples of deviants contain instances of childhood disturbances and deprivation, it does not follow that all adult deviants had deviant childhoods. Nor do we know much about those persons with disturbed or deviant childhoods who are normal as adults. By definition, these people do not turn up in psychiatric, criminal or welfare samples. (Phillip Adams, the writer, argues what is probably an extreme position. After reporting his childhood characterised by extreme rejection and deprivation, he says: "I'm bloody glad that I had such a hideous childhood ... my obsession with death gave me an unusual insight ... my talent is for survival, and because I had to articulate my own dilemma, I tend to think fairly freely and I think accurately about the nature of relationships' (Lane, 1979). Theories about the prediction of potential from generation to generation are at an extremely primitive stage.

Although it is beyond the scope of this paper to explore this problem, many of these contradictions emerge from a fifth assumption, that which assumes that compulsory state intervention, into the care of children is based on the principles of benevolence. Yet, one of the issues emerging from studies in social policy in the past ten years, has been the view that the state cannot be relied on to demonstrate benevolence to those in its care (McColter and Onam 1981; Bolton, et al., 1981). There has been a swing back to demands that the state support principles of justice in child welfare rather than interventions based on benevolence. Certainly the evidence is that the state's capacity in providing for the 'needs' of children 'at risk' in the 'long term' is deficient. As studies of children in care indicate, fostering or institutional care is often unstable and discontinuous. This is, of course, not to say that state care does not work for individual children, but overall, as a system, state care fails.

So if state intervention is not a solution and is part of the problem, should there be restriction on the states capacity to coercively act for the needs of children? My view is that government should look for methods other than coercion; i.e. preventative programs of persuasion and incentive to extend the positive claims of children and therefore their needs. But

having said that, there is a case that a child should have a negative claim right for extreme psychological suffering. So if the state is to concentrate on meeting the negative claim rights of children, what definition may guide its interests for the purpose of taking legal action on the problem of emotional abuse?

> Emotional abuse is repetitive psychological illtreatment or mental cruelty to a child, which causes a child avoidable suffering and which is inflicted continuously and deliberately by a parent or any other caretaker.

Under this formulation, the child has a right not to be psychologically illtreated, or subjected to cruelty, or to suffer avoidable psychological harm. This definition obviates the need to distinguish between abuse and neglect, and covers a spectrum of acts of commission and omission from the active to the passive. Psychological illtreatment, or mental cruelty, cannot be precisely defined any more than physical illtreatment, but this definition may offer a bench mark against which to test the extreme forms of emotional abuse (Carter 1983).

This definition suggests minimal intervention. But, professionals and researchers in their everyday work are geared towards maximal intervention, to extending the positive claim rights of children by expanding definitions of their needs. So in my view, a separate definition needs to cover the activities of large numbers of practitioners consulted voluntarily by parents about problems of emotional abuse. Child psychiatry clinics, family welfare agencies, agencies for handicapped children and children's hospitals recruit their clientele in a voluntary fashion (and, of course, so do many child protection services, most of the time). A separate set of guidelines allow practitioners to continue to influence voluntarily what they consider to be the upper limits of parenting, by raising standards and improving parental skills. One set of definitions, developed by James Gargarino attempts to achieve this. He uses concepts drawn from development psychology and centres his definition of emotional abuse around the question of competence. Emotional abuse is, to Garbarino, 'deliberate behaviour which seriously undermines the development of competence' (1981). He describes behaviour patterns from which parents should be steered away:

I Punishment of behaviour such as smiling, mobility, exploration, vocalisation and manipulation of objects.

II Discouraging caregiver-infant bonding.

III Punishment of self-esteem.

IV Punishing interpersonal skills necessary for adequate performance in nonfamilial contexts such as schools, peer groups.

Garbarino insists that all these parental behaviours constitute emotional abuse but they do not meet the test I have suggested, of repetitive psychological illtreatment or mental cruelty. What I am arguing is that emotional abuse is a difficult concept, difficult to define and fraught with unfairness in its application. It is not useful as a legal category, for which a definition orientated to defining mental suffering is more appropriate. Concepts of children's needs; the nature of risk; the question of who should meet the claims for children's rights; their accuracy of prediction and the assumption that state intervention is benevolent are all problematic issues which cannot be resolved at present.

Albert Facey died a few years ago in his nineties. During his lifetime, remarkable and positive changes have taken place in the treatment of children in the Australian community. Have these changes been achieved by the protection achieved by children's law, the courts and welfare departments statutory provisions, or have these changes been wrought by the post war insights into children's development and needs achieved by professionals? Or are the changes due to the improved standard of living of Australian children when compared with the vast majority at the turn of the century or those in the third world toady? Or the insight of committed work of dedicated lobbyists from the aboriginal, poverty and feminist group?

There is no one simple answer to this question, but in offering Australian children a happy childhood free from emotional abuse we can also assess how far we have to go.

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CHILD SEXUAL ASSAULT PREVENTION PROGRAMS: IMPLICATIONS OF THEIR INTRODUCTION TO AUSTRALIA

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The recognition of child sexual assault as a significant social problem is a relatively new phenomenon. In fact many people are still arguing about this very recognition. However, the figures speak for themselves. Child sexual assault is being reported at ever increasing rates throughout Australia. This development began in our country several years ago and has in N.S.W. reached such proportions that services of both government and non-government sectors are unable to meet the demand. A brief glance at the figures of one service to children (Westmead Sexual Assault Centre) reveals that in 1983 (January to December) eighty-eight children were seen but in 1985, 373 were seen in the twelve month period.

The impact of the rise in reporting has had effects on all services providing a service to children by the youth and community services, police or generalist health and welfare agencies. Political activity has resulted from victim services in particular demanding greater recognition of the problem and lobbying government to commit funds for a range of services.

Part of the process to raise community awareness and lobby for resources in N.S.W. were two campaigns held in 1984. The 'No one ever deserves to be raped' campaign organised by the Womens Co-ordination Unit of the N.S.W. Premiers' Department though tailored primarily to awareness about adult rape, generated a volume of material and comment about women's childhood experiences of sexual assault. In fact the information gained from this campaign added weight to the need for the establishment of the Child Sexual Task Force.

Several months later the highly successful "Breaking the Silence' campaign organised by Women Against Incest, forced public attention particularly onto the issue of incest.

These specific campaigns were an adjunct to the less public work of many committed individuals and organisations who as early as 1980 were actively encouraging public discussion of child sexual assault. Women's Health Centres, Sexual Assault Centres, Rape Crisis Centres, Refuges and Women's Legal Resource Centre were particularly involved in this process in New South Wales.

It is within this context of spiralling reporting of child sexual assault and increased public awareness, that several questions beg to be answered. The two crucial and pressing questions for most people are why does child sexual assault occur and what can we do to prevent it occurring?

The development of child sexual assault prevention programs is one attempt to address the second concern. This paper will seek to place the development of child sexual assault prevention programs into context, and will demonstrate our support of the principles of child sexual assault education while advocating a cautionary haste in the introduction of programs to Australian schools.

The paper is divided into two sections. The first section will begin by defining what child sexual assault prevention programs are. The goals and objectives of three American programs will be discussed to highlight issues gained from their experience over several years. The programs discussed in some detail are the: Illusion Theatre Child Sexual Abuse Prevention Project from Minnesota; Child Assault Prevention Project (CAPP) California; and the Personal Safety Curriculum used in Connecticut schools. This discussion will examine structural organisation as well as the philosophical underpinning of the programs.

Some observations will be made about the process and historical context in which these programs have developed. The conclusion of this section will draw together some of the operating principles which our American colleagues have found beneficial in the effective implementation of the programs.

The second half of the paper will critically examine the broad range of support in Australia for prevention education. The premises of the various groups that support prevention education will be analysed. This analysis will be related to the possible messages to be given to children.

The wave of concern about child assault began in America several years before Australia. This resulted in the growth of a range of services to children and their families which we are yet to develop; Treatment services are one aspect of this. Treatment service is tertiary prevention which is important because it can help minimise the long-term effects of the sexual assault. Secondary prevention on the other hand, involves intervention to stop an assault occurring. This involves the early identification of a problem and the learning of skills to stop an assault. Child sexual assault prevention programs are therefore secondary prevention.

Primary prevention programs attempt to identify and change the societal beliefs, values and norms which perpetrate sexual abuse and exploitation. One of these areas is the power structure in our society which sets up males as more powerful than females;

Caucasians as more powerful than people of other colour; and adults as more powerful than children (Illusion Theatre, 1983). It is crucial that we are all very clear about where secondary and primary prevention differ as this has direct bearing on the goals of the program and the expectations of the workers involved.

Child sexual assault prevention programs focus their attention on helping children to learn skills of self-protection and self-assertion. They are predicted on several assumptions: firstly, that sexual assault of children is so prevalent, all children need to be made aware of it. Secondly, that if children are made aware of sexual assault and taught effective methods of managing potentially exploitative situations, the assault is either less likely to occur or it will be reported more quickly. The third assumption is that the method of preventing the high incidence of sexual assault is to focus on potential victims. This assumption has several disadvantages. Responsibility for the prevention of a sexual assault is placed squarely on the shoulders of the individual, in this case the child and by implication the offender's responsibility in diminished. This is an issue which will be discussed further in the second section

Prevention programs can be offered to children of all ages from pre-school through to eighteen years. The programs come in a variety of forms from structured lesson plans over many weeks to a one off session or a video and class discussion. They may be presented as part of another school course, or an information session at a youth group. The programs are many and varied and are prevalent in many school districts throughout U.S.A. and parts of Canada. Depending on the philosophical base of the program they may be totally centred on imparting information about child sexual assault or this aspect may be dealt with as part of a range of abusive situations children need to know about.

Let us now move on to some of the principles of prevention programs. As you will see when I discuss the three particular programs there is a certain variation between them. However, there are a number of principles which all have in common. These are:

1. Children have a right to exist in non-abusive environments.

2. Children should be made aware of the need for strategies to achieve personal safety.

3. Children should be taught that sexual assault is not their fault.

4. Children need to learn to identify and utilise supportive networks within families, schools and the community.

5. Children need to be made aware of the existence of sexual assault and be taught strategies for avoiding this situation.

6. Children who have been sexually assaulted need to know they are not responsible for the assault, they are not alone, and there other adults who will help them.

These principles reflect the belief that children do have rights which should be adhered to. The notion of children's rights is therefore inherent to the concept of prevention education.

The first program I wish to discuss is the Illusion Theatre Sexual Abuse Prevention Program which is based in Minneapolis, Minnesota.

The program originated in 1977 in the Hennepin County Attorney's Office when Illusion Theatre collaborated with sexual assault services to create Touch, a prevention play for children. The program outgrew the prosecution focus of the Attorney's office and in 1980 became part of Illusion Theatre as the Applied Theatre Program. This program is unique in its collaborative approach between theatre and social services to teach prevention. In 1983 Illusion Theatre was selected by the National Centre for the Prevention and Control of Rape as an exemplary state-of-the-art sexual abuse prevention program.

The philosophy of this program is as follows:

- Educating children about sexual abuse is safety: personal body safety.

- Parents often need assistance to communicate this material in a comfortable and non-threatening manner.

- Children can handle balanced and clear information if adults can handle giving it to them. Children need to know sexual abuse is important to talk about and ask questions about.

- Children need to know proper names for all body parts.

- Children need to be empowered with the knowledge that they can trust their own feelings and senses. When confronted with a confusing or potentially abusive situation, body signals such as discomfort can alert them.

- Children need to know that they can say 'no' to unwanted touch whether the touch is by someone they know or someone they do not know.

- Children have a right to be protected by adults and ask for help from their parents or others when needed.

- Children need to be assured they can break secrets when someone is being hurt by the secret.

- When an assault is not prevented, the on-going effects and trauma may be minimised by emphasising that sexual abuse is not the victim's fault, that the victim is not alone and that there are people who care and are able to help.

- Keeping children ignorant is keeping them vulnerable.

- Most sexual abuse occurs not by force, but by trickery, manipulation and misuse of authority.

- Children seldom lie about sexual abuse; we need to believe children.

- A prevention program that teaches awareness and skills is only a short-term solution. The societal structures that promote and encourage sexual assault and other exploitation need to be addressed. In particular racism and sexism need to be acknowledged and challenged.

Illusion Theatre therefore hopes to prepare, protect and prevent child sexual assault and to raise community awareness about the problem.

The program has three major components: theatrical presentations; the design and implementation of sexual assault prevention curricula; and the training of community and professional staff. The primary concept which Illusion Theatre developed to teach prevention is the Touch Continuum. (The Touch continuum is copyright to Cordelia Anderson Kent and Illusion Theatre Company.)

Touch and how it changes is a confusing area for many adults. As children, few adults had anyone explain different types of touch to them. Instead, many received negative, double, confusing or non-messages about touch. Based on the responses of elementary students, parents, teenagers and professional the continuum is designed with four basic components.

			Nurturing		Confusing		Exploitative			
Lack of	Touch				Touch		Touch			Lack of Touch
touch	1	2	3	4	5	6	7	8	9	10

Lack of touch is included because of the various impacts this deprivation can have on people. Nurturing touch refers to positive expressions of warmth, caring, giving. Most often the receiver of this touch feels they have been given something.

Confusing touch encompasses much of the touch in our society. Touch is confusing when the receiver does not understand or misinterprets the intent or when double messages are perceived between verbal and physical communication. Other factors are if the touch is of an unfamiliar nature or it the touch is in conflict with the attitudes values or morals of the giver and or receiver. A good example that children have given is being pinched on the cheek by a relative and told 'how you've grown'.

Exploitative touch refers to manipulative or forced touch. One of the most extreme examples of exploitative touch is rape. Though most people can think of examples of exploitative touch sexually exploitative touch is often more difficult to name openly (Illision Theatre, 'Personal Safety Curriculum', 1983).

The touch concept was adapted by Illusion Theatre into a theatrical performance aimed at primary school children. The theatre utilises professional actors in all performances. Touch was the first theatrical presentation of Illusion Theatre and since 1977 it has toured throughout the United States and has been seen by over 475,000 people. Before any performance local community networks are identified which can be utilised for any disclosures that occur during or after a performance. Every production involves a moderator who monitors dialogue between audience and actors. This moderator is a person who is a specialist in the area of child sexual assault. Several years ago Touch was made into video using well-known T.V. stars in production.

NO EASY ANSWERS was developed several years later. This production is aimed at teenagers and is also available on video. Both Touch and NO EASY ANSWERS have curricula developed to pursue sexual assault issues with a range of children from primary to high school. Although the purpose of the NO EASY ANSWERS curriculum is sexual abuse prevention the need for a balanced approach in teaching resulted in the program examining the differences between health sexuality and the abusive use of sex. The curriculum contains twenty lesson plans, teachers notes and a series of graded exercises for each lesson. This provides the teacher with a range of exercises to present to students as well as allowing more detailed discussion of an area if deemed appropriate. The topics covered in the lesson plans include: expressions of sexuality, problem solving, assertiveness, sex roles, touch in families, sex offenders, reporting and resources. Both programs have incorporated information from children and teenagers in the formulation of the curricula. This reflects a strong commitment to make the program relevant and alive. All the programs have been piloted and evaluated. Adaptations to the

programs have been made and they have then been presented to moderately and mildly developmentally disabled adults.

Illusion Theatre Child Sexual Abuse prevention program is a creative approach to the provision of prevention education. The theatrical productions are regularly used as a catalyst for community involvement in the issue of child sexual assault. The thoroughness of the program design is to be commended along with the training and support offered to staff who then implement the curricula. The benefits of the collaborative approach between theatre and social services are demonstrated by the creativity of the theatrical presentations and the social service workers recognising the need for adequate planning and preparation of a community to accept the program. The recognition of the need for a child sexual abuse specialist to be an integral part of the production and the delineation of support networks for victims reinforces these benefits.

The Child Assault Prevention Project commonly referred to as CAPP is a different approach to prevention education. CAPP was developed in 1977 by the Child Assault Prevention Project of Women Against Rape in Columbus, Ohio. There is now a national network of over forty chapters throughout U.S.A. The target group for this program is pre-school and primary school age children.

Philosophical underpinnings of this program are similar to others but emphasises that children have the right to be safe, strong and free and need to learn skills to achieve this. The goals of the program are:

1. To empower children to deal effectively with potentially abusive situations.

2. Provide an opportunity for children to talk about and get help in dealing with an existing abusive situation.

3. Teach children particular skills to avoid abusive situations.

Sexual assault in this program is seen as part of a range of abusive situations children must be helped to avoid. The program structure consists of a trained CAPP worker attending a particular school for a one hour presentation and conducting several role plays. Prior to the class involvement CAPP workers run a training session for parents and school personnel.
The training covers: CAPP philosophy, explanation of children's workshops, prevention techniques, identification of the abused child, communication with children and reporting procedures.

The role plays show different assault situations a child might encounter which include: child-to-child assault, an adult stranger to child assault by someone known to the child. Each

role play is done at least twice. The first time, the child (played by CAPP staff) is shown as a victim, the second time the child is shown asserting their rights and no longer being victimised. The children are also taught a special deep bellied yell which they can use in potentially abusive situations to summon assistance. A final role play shows a child talking with and getting help from their teacher or another trusted adult. Some CAPP presentations have been conducted with the assistance of interpreters. Following the presentation CAPP staff remain to allow children to talk with them. If an abusive situation is identified, action is taken to ensure the child receives help. CAPP staff return to the school several weeks later to evaluate the presentation.

The CAPP program like other programs emphasises the need for children to be taught assertion and skills in handling potentially abusive situations. Philosophically and structurally it differs from the other programs discussed. The focus of the program is teaching children skills to handle all abusive situations. While there is no question children are abused in a variety of situations, sexual assault is not given a primary focus. The program structure encourages pre-session training for parents and school personnel which is essential. However the efficacy of the trained CAPP worker coming into a class and conducting a one hour session and then leaving needs attention. The dilemma of this style of program centres on the introduction of specialists in the classroom versus the regular teacher who has an on-going relationship with the children. For children it may be interesting to have outside visitors and for teachers it may be a relief to not feel the responsibility for introducing a difficult subject. However, guest speakers are not around to follow through on issues and the likelihood of issues being picked up by teachers and pursued in other appropriate situations that arise may be reduced. The unusualness of going into a school to talk about a subject such as sexual assault can result in contradictory messages for children. The program seeks to teach them how to talk about abusive situations and learn skills to avoid them. The introduction of an outside speaker may present to children the notion that sexual assault or abuse is not very common and requires special people to talk about it.

The teaching of children of a deep bellied yell that is particularly identifiable is limited in it usefulness. Trainers state the purpose is to teach children to learn to call for help in a way that will not be dismissed as normal noise of children at play. Other children and parents who have also learnt the CAPP yell will know when someone requires assistance. This technique is severely limiting in terms of people's familiarity with the yell. Moreover, it underlying belief in teaching children to respond actively to a potentially abusive situation needs to be explored further.

The Personal Safety Curriculum (Copyright 1983 Geraldine Crisci and Franklin/Hampshire Community Mental Health Centre) was one of six prevention projects funded by the U.S.A. National Centre on Child Abuse and Neglect. The curriculum that resulted is a product of the 'Child Sexual Abuse: Education and Prevention Among Rural and Hispanic Children' project. The project was implemented through the Franklin/Hampshire Community Mental Health Centre in Massachusetts from October 1980-January 1983. The questions facing the project were: can educational materials be developed to aid in the prevention of child sexual abuse? Can programs gain access to School Systems? Will the program work?

The program which had begun in Massachusetts in 1980 had also been piloted in Connecticut where it was being introduced into primary schools in 1984. The philosophy of this program centres on two concepts; firstly, education is the most effective method of prevention. Secondly, through the development of creative problem-solving skills and understanding of the concept of social support systems children will attain the kinds of skills necessary to prevent sexual assault and ensure safety in their lives.

The Personal Safety Curriculum has been developed as a graduated curriculum building on concepts from pre-school through to primary. The program is flexible and can be introduced at any level in the class. The goals of the program are:

1. Children will be able to identify the differences between exploitative and nurturing touch.

2. Know that support systems exist for them through families, friends, school, and community.

3. Identify the most appropriate support system in any unsafe situation.

4. Learn to use various community resources and practice at how to use them step-by-step.

5. Learn ways to handle, resist or avoid unsafe situations through discussion and role play.

6. Learn problem solving skills to generate alternatives for themselves in unsafe situations.

Through introducing a range of structured exercises, discussions, and other activities children are taught the concepts of personal safety. For example, introducing the concept of privacy to pre-schoolers can be achieved by encouraging the children to use private space in the classroom by giving each child a box which no-one else may open or use. With other children this concept

can be explored by a discussion, writing an essay and problem solving where in the room a private space could be built, what it would look like and rules for using the space.

Organisationally this program has learnt from the experience of Illusion Theatre and incorporated several of their structures. The establishment of resource networks is part of the implementation of the program. This group together with teachers and family are all involved in training sessions prior to the program's commencement. This ensures a supportive environment in which the program can operate. This program also utilises the 'touch' concept of Illusion Theatre in its format to explain different types of touch.

Teachers who are a constant figure in the child's life are taught how to implement the program and are then able to adjust it to suit the needs of the children. They are also in an ideal situation to be able to link concepts for the children. The notion of personal safety does not have to then rely completely on structured input. Teachers can establish the groundwork of understanding with their students and reinforce the concepts in other teaching situations which arise.

Weekly sessions or daily mini-activities can be used depending on the development level of the child. Therefore, sessions can be as short as ten minutes or up to forty-five minutes.

Evaluation mechanisms are structured into all training sessions and curriculum concepts. A series of pre and post tests are incorporated into all aspects of the program. For children in grades three to five a series of eleven questions make up the pre and post tests. Some of these include: what could you do if someone is hurting you?, what is a good way to be touched?, is it O.K. for you to say 'no' to a grown-up?, name three people you could tell if somebody was hurting you?

The Personal Safety Curriculum shares many similarities to the other programs discussed and certainly to many other prevention programs. One of its interesting aspects is the focus on providing prevention education to pre-school children. The successful introduction of this program is aided by the attention to careful planning and structuring of the material presented including evaluation mechanisms. It appears from discussion with implementers of this program to have been highly successful and well received by both children and parents. Whether or not the Australian community would react in the same manner is one we need to discuss during this conference.

Having described in some detail three prevention programs I would like to move on to what we can learn from the experience of prevention programs in America.

The development of prevention education in America came as a direct result of concern about the high incidence of child sexual assault. Programs developed in many forms and particularly in the last few years operated in the context of mandatory reporting laws effecting large sections of the community. Support services for victims and their families are constantly utilised in the planning of a prevention program. These are all factors we need to be very aware of before embarking on similar programs in Australia.

The programs discussed in this paper reveal the need for many factors to be considered in order for a prevention program to be successfully accepted. Foremost in all service delivery is planning. Each program has several aspects to its planning process. The establishment of a resource network is a crucial pre-requisite. This involves the identification of existing resources, identifying gaps and the development of service networks. Without this preliminary base the community will remain ill informed, anxious and therefore non-supportive of prevention education. On a service delivery level unless these networks are identified and engaged in supporting the program any child that may require assistance may fall through the system. Child sexual assault is a community responsibility and because of this as many local agencies and groups should be involved in suppporting the efforts. The benefits of this community education go beyond support for the particular program, to raise general understanding about sexual assault.

The identification of the school system as the major focus for teaching prevention education has resulted from schools being able to provide information to all children, the on-going effects of sexual assault are evident in classrooms, and children often turn to teachers with problems. These teachers need support and guidance to assist the child in receiving appropriate help. Returning to our planning process, schools therefore need to be identified and key personnel need to be involved in this process. A particular curriculum needs to be developed and where possible integrated into existing curricula. The delineation of a pilot site is then crucial. If schools are resistant to the program then youth groups are another possible focus.

Training of teachers, parents and resource networks must then be organised and designed. This training is essential and is the lynch-pin of the program gaining community support. The programs discussed in this paper all designed specific training packages with pre and post test evaluation mechanisms.

Parental fears that children will be scared by information about sexual assault have not been supported by the experience of American prevention programs. Programs have found that the presentation of balanced information and skills has empowered children and removed the frightening images that can be created

Most programs reported much greater success when they had developed very clear goals and focused their initial development on a local area. To prevent confusion of a multiplicity of programs and also to engage the local community an Advisory Committee was found to be a useful structure to establish. Decisions about membership should recognise the key people who have influence and knowledge in the community.

Illusion Theatre have found in their nine years of operation that the reason child sexual abuse prevention education efforts falter or fail is not because of lack of support from parents or negative response from the community. The reasons for failure are often less dramatic. They involve:

- Lack of funds.
- Staff burnout.
- Lack of community network (one agency tries to do it all).
- Change or loss of key staff at a vulnerable point in the program's development.
- Internal staff problems.
- Attempts to do too much too soon.
- Growing too fast to stay or fit within the parent organisation.
- Lack of long-range planning.
- Loss of active political or popular support because prevention of child sexual abuse fades as a priority issue.

It has only really been in the last twelve months in Australia that child sexual assault prevention education has started to be taken up, and various programs promoted and trialed. We are still very much at the beginning stages, with no comprehensive Australian programs underway, and only a few American programs being introduced in a fairly experimental and ad hoc way. We do know however, that there is a great deal of interest and support for the concept of prevention education in Australia, and this support represents a wide variety of groups, organisations, and individuals.

Following in the footsteps of the American experience in this area, has many advantages as well as some potential traps. As has already been mentioned the most obvious advantage is the ability to learn from the mistakes and successes of the programs

already in operation in the United States, both from the point of view of content, and of the process of planning implementing and evaluating.

Already major key concepts and themes have been developed, that we can select from and add to and adapt to the Australian context.

There is, however, the potential danger of lifting ready-made programs without undertaking adequate local pre-planning and thinking through of consequences.

As mentioned earlier, most programs in the United States were developed in consultation with local communities and service providers in the area of child sexual assault. We run the risk of introducing programs in an irresponsible fashion if we do so without community involvement and endorsement, and without the necessary back-up service support.

There is another danger in moving too fast to adopt overseas programs. A good deal of time is necessary for personal preparation. Prevention educators need to develop their own clear and specific goals. This involves quite a demanding self education process. General knowledge about child sexual assault is necessary, as well as thorough values clarification about the issues involved.

Without clear and specific goals in mind, and a critical choice of program to meet these, the delivery of information to children will reflect confusion. It is not enough to seize upon prevention education as the 'miracle cure' for child sexual assault, and see it as a quick way of getting rid of it. The education of children about child sexual assault is just one strategy for working towards prevention. It is not 'the answer'.

The widespread support for child sexual assault prevention education reflects many people's hope that it can be stopped. It is one answer to the question 'What can we do?' and all proponents of prevention education must share a common belief that it is not okay for children to be sexually assaulted. However, let us not assume that all supporters of prevention education necessarily share common ideologies about the causes of child sexual assault.

There are many conflicting theories about why children are sexually assaulted. The content of programs will reflect these theories. The range of possible messages to be given to children in an attempt to prevent child sexual assault, will be as diverse as the theories that try to explain it.

Philosophical perspectives on child sexual assault inevitably effect different responses to it, whether it be in the treatment

area for victims, the debate over what should happen to the offenders, or whether it be in the area of prevention education for children.

It would be detrimental to the introduction of thorough, clear and high quality programs to avoid confronting these uncomfortable ideological conflicts. We must make as informed a choice as possible in deciding exactly what we want to teach children, and to what end. We can only do this if we are prepared to examine our own values and attitudes regarding the relationship between adults and children, between men and women, between family members, regarding male and female sexuality and adult and child sexuality. From the basis of this self-knowledge we can be clear and specific about our goals in educating children, and are less likely to inadvertently give them double messages.

I will now take a quick look at three different theoretical perspectives on child sexual assault and try to suggest what messages the proponents of these perspectives might be wanting to convey to children. Obviously I have had to oversimplify these theoretical overviews. In the scope of this paper I cannot do justice to the complexity within, and overlay between some of the theories. Any group or individual may with or without an awareness of it, draw on one or various components of the various theories or philosophies to try to understand why children are sexually assaulted.

The first perspective I will examine is that of the conservative christian pro-family movement. I have drawn my analysis of this position largely from the publication Above Rubies, a magazine representing the views of the Festival of Light, the Right to Life, and Women Who Want to be Women (Campbell, 1984). From my reading I can surmise that according to this world view, the nuclear family is the bastion of christian society. Child sexual assault is a sinful perversion which threatens traditional family roles. It is seen as symptomatic of the spread of aesthetic sexual permissiveness, and disregard for traditional moral values and roles, as encouraged by radicals such as feminists and communists. It is a growing epidemic reflecting the spread of such relatively recent radical ideologies, and the breakdown of christian society. Only through turning to God for help can true healing and forgiveness be found for the victim and the offender.

From the personal account of a believer in this world view and also a victim of incest comes the following quote:

> Despite all the psychiatric and medical help I received, I was never healed but left a severely neurotic and depressive emotional cripple ... the years served only to make the memories more tormenting. But Jesus, who gave me new birth,

> made me a BRAND NEW PERSON. THE OLD ME DIED WHEN I MET HIM and WITH THE OLD ME, YEARS OF AGONY DIED TOO! I can truthfully say that I have never suffered from the agony and hurt of the crime of incest since the day, in total repentance, I gave my heart to Jesus (Campbell, emphasis in original).

The translation of this perspective into educational strategies would logically focus prescription for christian behaviour. Children should be taught the difference between right and wrong, good and bad touch, and be instructed in who to tell if they encounter bad touch. This education would preferably be delivered by the family, with the emphasis on following advice without too much explicit sexual information.

The second perspective I would like to examine in relation to providing an explanation of why children are sexually assaulted is that of humanistic psychology. From this perspective the psychological development of individual offenders is examined to explain abusive behaviour. The commonality of deprivation in known offenders' childhoods is used to predict the potential for abusive behaviour. Offenders are understood to have not actualised their human potential, because of their own unfulfilled basic needs (Maslow, 1968).

Consequently they are seen to be suffering from low self-esteem, lacking the ability to empathise or even perceive others' needs, and to be lacking in self-awareness. Thus offenders can be seen as victims themselves.

The logical strategy for prevention education from the humanistic perspective is a program that begins from the assumption of individual rights to develop anti-victim or self-protective skills. These skills are based on fostering positive self-concepts in the child (e.g. good body image) encouraging the identification and expression of feelings, and providing the child with self-assertion strategies.

In contrast to the strict christian pro-family approach with its emphasis on conformity to divine standards, humanistic prevention education promotes the needs and rights of individuals to exercise self-determination and consequently empowerment.

The final ideology examined is a feminist one, which understands child assault in much the same way as it analyses rape. Feminism explains all sexual assault as being a key strategy by which men as a class dominate women as a class. In relation to child sexual assault, the structure of the nuclear family is seen as a microcosm of the patriarchal society to which it belongs, and as such provides the perfect setting for a father to abuse his legitimised and disproportionate power within the family. At the same time this abuse is seen as intensifying the socialisation

process of girls and boys into limited gender roles, which serve to perpetuate female subordination and male domination (Heinman, 1982).

Feminists argue that although boys as well as girls are sexually assaulted, the long-term learning from this experience is often different. Male child victims may in adulthood choose to become sexual aggressors, whereas female child victims usually become passive and pleasing adults. This is clearly shown by recorded interviews of convicted male sex offenders (Groth, 1983), and clinical and written experiences of adult female incest survivors (Breaking the Silence, 1985). This perceived gender difference has implications for strategies for prevention education. From this understanding, gender responses to child sexual assault must be examined in the curriculum, in order for prevention to be effective.

There is direct conflict of intention for education between the first perspective and the feminist one. Whereas the christian pro-family movement wishes to consolidate the traditional sex role, the women's liberation movement seeks social change through educating children not to be limited by sex role stereotypes. Developing a critical awareness about the links between sexism in society and child sexual assault is a fundamental principle for a feminist prevention education program. This perspective also wishes to incorporate but extend beyond the individualistic empowerment model of humanism, to include in the education of children the concept of the need for group empowerment and structural change in order to stop child sexual assault.

One of the legacies that will be paid for a rushed and ill-prepared child sexual assault prevention program, will be the communication of mixed messages to children. There may be incongruity between the attitudes of the teacher and the content of the program. There may be unclear or contradictory messages within the content. There may be unacknowledged hidden agendas, that are totally counter-productive to the aims of the program. For example:

- Do we want to teach children to fear sex?
- Do we want to teach children they don't have to do things if they don't feel like it?
- Do we want to teach children not to trust their care-givers?
- Do we want to teach children that males are rapists and always will be, and that females are born victims and always will be?
- Do we want to teach children that even though we say it's not their fault, they are still responsible to avoid being sexually assaulted?

Opponents of child sexual assault prevention programs are quick to identify these possible dangers. Supporters of child sexual assault prevention education, therefore, must be particularly clear about the theoretical underpinnings of the programs they endorse and their implications for the messages children receive.

Child sexual assault prevention programs have developed in the last few years as a direct result of the massive increase in reporting of the offence. America has developed a range of programs which have developed in the context of a high level of community awareness and mandatory reporting of most professional groups. This paper has discussed three child sexual assault prevention programs which are only a very small sample of the range in existence. The programs discussed reveal similar goals but vary in philosophical approach and the techniques of imparting information.

There has been widespread support in America for the implementation of programs but this support does not indicate consensus about what children should be taught. Australia is currently attempting to introduce prevention programs in several states. Before this implementation process continues we urge program initiators to: firstly, critically review existing programs both from a philosophical basis as well as content and method of teaching; and secondly, to become aware of child sexual assault and values and attitudes to it; and finally to familiarise oneself with theories that explain child sexual assault. All of these factors need to be built into a detailed planning process.

Planning needs to be long and short-term. Goals need to be clearly delineated. Starting slow and small and piloting the program, is also crucial. Structures need to be developed to oversee the effective introduction of the program and to identify community networks and supports. The program should make sure it does not become isolated from the community.

Training of all relevant staff and the community is also essential for the success of the program. Finally, evaluation mechanisms need to be built into the program. Seizing on the first available material and rushing to teaching children may risk alienating the local community; creating a demand for service that cannot be met; and/or teaching children confused concepts or counter-productive ones.

Child sexual assault prevention programs are an innovative attempt to try and prevent sexual assault. However, they are part of the answer to the problem not the complete solution. Child sexual assault will not be prevented until the societal structures which promote the exploitation of the powerless are challenged and changed.

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THE EVALUATION OF CHILD ABUSE SERVICES

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INTRODUCTION

The aim of this paper is to describe an evaluation case study of child abuse in Queensland and to assess the function of data collection at organisation, state and national levels.

The role of this conference is to canvass the major issues affecting child abuse in Australia and to discuss national initiatives. Evaluation is presented in this paper as an important part of any program or initiative in the child abuse field. Recommendations are made for national initiatives to be made by the Australian Institute of Criminology to develop compatible state registers, a national reporting system and regular policy meetings.

THE MYTH OF CHILD PROTECTION

In establishing evaluation at any level of child abuse intervention we have to first deal with the myth of child protection. While it is encouraging to see welfare agencies and other services devoting increasing numbers of staff and funds to child abuse cases the mere allocation of resources may not necessarily guarantee the safety of children who come to notice.

Unfortunately with the increased media interest and subsequent community pressure on child abuse issues the focus is less on protection than on identifying these children, protecting the parent's rights, and assisting the parents to continue to care for the abused child. In some cases the child is placed in 'care' but many factors determine this decision, including the availability of foster care.

One method of evaluating child abuse services is to look at:

1. The scope of the service in reaching all children who are abused.

2. Effectiveness in protecting children from abuse or reabuse.

3. Effective resource management from multidisciplinary teams, community involvement and other programs.

The use of these indicators removes the natural bias of thinking that because services are increasing the child is being protected. The following case study of child abuse cases in Queensland 1980-83 demonstrates the different perspective that evaluation gives to child abuse services.

THE POLICE ROLE IN CHILD PROTECTION IN QUEENSLAND 1980-83 (Leivesley, 1984)

At the end of 1983 an evaluation of the police child protection role was jointly funded by the Criminology Research Council and the Queensland Police. A sample of 400 cases were taken from the 1,200 on police files for the years 1980-83 and a computer analysis was undertaken to identify the characteristics of the children and their parents and police effectiveness.

Scope

The police role was related to all cases of child abuse reported in the state (1982-83) to the Department of Children's Services and an epidemiological assessment of children theoretically at risk in the state. The estimated number of cases for the state was 7,500 based on a figure of one in 100 children up to the age of 17 being at risk. Epidemiological estimates are made on British studies including those referenced below. Australian epidemiological studies that have been undertaken on small numbers of cases are liable to error (Oliver, 1978; Select Committee on Violence in the Family, 1976-7). In Brisbane there was active investigation by the police in 23 per cent of cases.

Reporting processes were also analysed. Most referrals were secondary ones from the suspected child abuse and neglect teams at the hospitals.

Effectiveness in the Protection of Children

Reabuse could not be directly evaluated from the records so the age of the children coming to police notice was used. Tables 1 & 2 Age and Types of Abuse shows the pattern of age and type of abuse, indicates that 59 per cent of children coming to notice were over the age of two. Apart from some expected high frequencies in girls aged 9-11 who were sexually abused, most children who come to notice over the age of two have been suffering chronic abuse. A pattern of high age ranges suggests that initial reporting is not being successful and these children are coming to notice at an older age when the abuse becomes severe.

TABLE 1

FEMALE CHILDREN X TYPE OF ABUSE X AGE

AGE	NEGLECT	PHYSICAL	SEXUAL	EMOTIONAL	OTHER	TOTAL NO	TOTAL %
1-3 Mths	6	5	0	1	8	20	10
4-11 Mths	6	9	1	2	3	21	11
1-2 Yrs	6	19	2	2	4	33	17
3-5 Yrs	5	12	10	2	1	31	16
6-8 Yrs	3	9	10	2	0	24	12
9-11 Yrs	4	10	14	3	0	31	16
12-14Yrs	5	8	9	1	1	24	12
15-17Yrs	1	2	7	1	1	12	6
Total Known	36	74	53	15	18	196	100
Not Known	2	5	6	1	2	16	-
Total	38	79	59	16	20	212	-
Per Cent	18	37	28	8	9	-	-

TABLE 2

MALE AND FEMALE CHILDREN X TYPE OF ABUSE X AGE

AGE	NEGLECT	PHYSICAL	SEXUAL	EMOTIONAL	OTHER	TOTAL NO	TOTAL %
1-3 Mths	10	12	0	1	15	38	11
4-11 Mths	11	26	1	2	4	44	12
1-2 Yrs	17	32	2	7	8	66	18
3-5 Yrs	20	31	13	6	6	76	21
6-8 Yrs	8	20	11	6	2	47	13
9-11 Yrs	6	18	14	5	1	44	12
12-14Yrs	8	11	10	3	2	34	9
15-17Yrs	1	4	7	2	1	15	4
Total Known	81	154	58	32	39	364	100
Not Known	4	15	6	2	9	36	-
Total	85	169	64	34	48	400	-
Per Cent	21	42	16	9	12	-	-

Effective Resource Management

In Queensland, suspected child abuse and neglect teams have been established in many centres throughout the state with representatives of health, welfare and police departments meeting to make decisions on the future cases coming to notice. These teams have used hospitals as their primary location with children being admitted for assessment. A study of personnel resources in Brisbane showed that the police child abuse unit of sixteen officers was spending 30 person days per month in SCAN team meetings and in each investigation teams of two officers were being used. It was recommended that joint investigations be used with teams of a police officer and a welfare officer to reduce the demand on personnel resources of both services. It was also recommended that the SCAN decision making apparatus be changed.

The recommended teamwork with hospital, police and welfare workers working in immediate decision making teams on each case and using the normal hospital procedures of consultation to make decisions on the future of the child. This halved the manpower requirements in investigation, removed the man/days spent each month in long meetings and ensured that the police investigation time for each case was maximised. To achieve this type of team work joint training of police and welfare workers was also recommended.

NATIONAL AND STATE DATA BASE

The states are at different stages of development in child abuse cases and WELSTAT collections and some state registers of families (where there is suspected child abuse) are at present being used to generate information on child abuse.

Low priorities in funding and administrative difficulties in centralising information on families suspected of child abuse can mean that registers are not necessarily functioning in the way they were intended. There are also concerns amongst welfare personnel for responsibility in labelling families when they are not certain that child abuse is taking place. Therefore, registers based in welfare departments are subject to many different kinds of bias and it is time for a new approach to be instituted so that the safety of the child becomes a foremost consideration in data collection policy.

There is another major problem in the administration of child abuse services by the different agencies. This is the regular consultation at a national level between representatives of the agencies, discussions on the management of information services, evaluation, and the development of any new services to increase child protection. At present we are dependent on conferences such as this one which provide a haphazard contact between service personnel and little opportunity exists for planned discussion by individuals with their counterparts from other

states. Consultation is an important part of the development of the best services possible within Australia for children and we must also bear in mind the supportive functions of such meetings. Personnel in child abuse services suffer from the trauma of exposure to maltreatment and even the death of small children.

There are two recommendations for national and state data collections and one of these involves the Australian Institute of Criminology.

RECOMMENDATION 1:

National and state registers should be constructed and administered through the police with commonwealth funding

This recommendation is based on the following factors:

Registers that are compatible between the states and allow collation at national level require the development of a minimum data set accepted by each state. The collection of information and computing are expensive developments which require commonwealth funding to ensure an equal development within the state and the final compatibility of data for national reporting. To a large degree the WELSTAT collections will provide detailed state information on characteristics of children and their families and the investigations. Registers also provide information collection points as to the characteristics of at risk families. If all states participating in WELSTAT collections also have registers the information should be very similar.

There is also the problem of security of unit records and accountability. Police departments are best placed to ensure security of information with access limited to nominated child abuse organisation personnel. Accountability is only possible within the police department where there is a rigid system of discipline and management of information under the supervision of senior officers.

The problem of security also means that the states should maintain control of the unit records and report their statistics to a national source and this is already happening with WELSTAT collection procedures.

RECOMMENDATION 2

The Australian Institute of Criminology to accept responsibility for:

1. The development of the minimum data set for state collections.

2. National Reporting; and

3. Regular national policy meetings by representatives of child abuse services.

This recommendation suggests a central role for the Australian Institute of Criminology because of the capacity of the Institute to fund relevant research programs which can ensure the full development and evaluation of the proposed data collections and also support the continuing development of child abuse services.

The WELSTAT collections require analysis and additional information from the Departments supplying these statistics to enable full evaluations of programs, including effective resource management indicators. Annual reports on the WELSTAT collections and evaluative studies would extend the present statistical reporting function of the Australian Institute of Criminology.

National policy meetings which allow confidential meetings as well as seminars such as this would also be a natural extension of the national policy role which the Australian Institute of Criminology is at present fulfilling.

To summarise, this paper has reviewed the use of evaluation of child abuse services. Recommendations have also been made for the development of compatible state registers managed by the police and federally funded, and an extension of the Australian Institute of Criminology's role to develop national statistics, evaluate studies, and regular policy meetings.

FIGURE 1
POLICE HOSPITAL SCAN OPERATIONS

DAILY COMMUNICATION WITH PAEDIATRICIAN AND NURSES THROUGH MEDICAL CHARTS AND DISCUSSION

MEDICAL	WELFARE	POLICE
Child Admitted Paediatrics		
SCAN Admission		
	REFERRED TO APPOINTMENT AT HOSPITAL FOR PARENTS WITHIN 24 HOURS OF DIAGNOSIS	WELFARE AND POLICE JOINT INTERVIEW
JOINT INTERVIEWS OF COMPLAINANT CHILD &		PARENTS
	Preliminary Investigation	Preliminary Investigation
	HOME VISIT AND SECOND JOINT INTERVIEW AND ASSESSMENT OF SIBLINGS WITHIN 48 HOURS	
	Referral of Siblings to Outpatients or Inpatients SCAN Admission if Suspected Child Abuse	
Paediatric Report to	Welfare	and Police on Siblings
MEDICAL ACTION PLAN COMBINED	WELFARE ACTION PLAN	POLICE ACTION PLAN
	ACTION PLANS JOINT IMPLEMENTATION	
		12 monthly visits monitoring child when returned to family, including children returned while under a Care and Protection Order
CASE CLOSED ON SCAN REGISTER IF SATISFACTORY		POLICE/DEPARTMENT CHILDREN'S SERVICES REPORT IN 12 MONTHS

MONTHLY HOSPITAL SCAN MEETINGS OF POLICE AND DEPARTMENT OF CHILDREN'S SERVICES AND HOSPITAL WELFARE AND MEDICAL STAFF. ONE HOUR AGENDA FOR POLICY DISCUSSION ON DIFFICULTIES IN ACTION PLANNING AND HALF HOUR OPEN PRESENTATION OF CASES BY DIFFERENT TEAM MEMBERS FOR TEAMS AND INTERESTED HOSPITAL WELFARE, NURSING AND MEDICAL PERSONNEL.

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SUPPORT VERSUS INTERVENTION IN CASES OF CHILD MALTREATMENT: AN EFFICIENT SYSTEM THAT WORKS

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This paper describes the development of a process of early assessment and management of cases of child maltreatment currently being used in Tasmania.

In the context of this paper, 'support' refers to the provision of supportive counselling to the family of a maltreated child without the child having any special legal status. 'Intervention' means that a legal status is sought for the child, usually through the use of child protection legislation. Once the child is the subject of a child protection order then various options of management are available, including removal of the child from the family, counselling of the family with the child remaining in the family, and any other alternative considered acceptable.

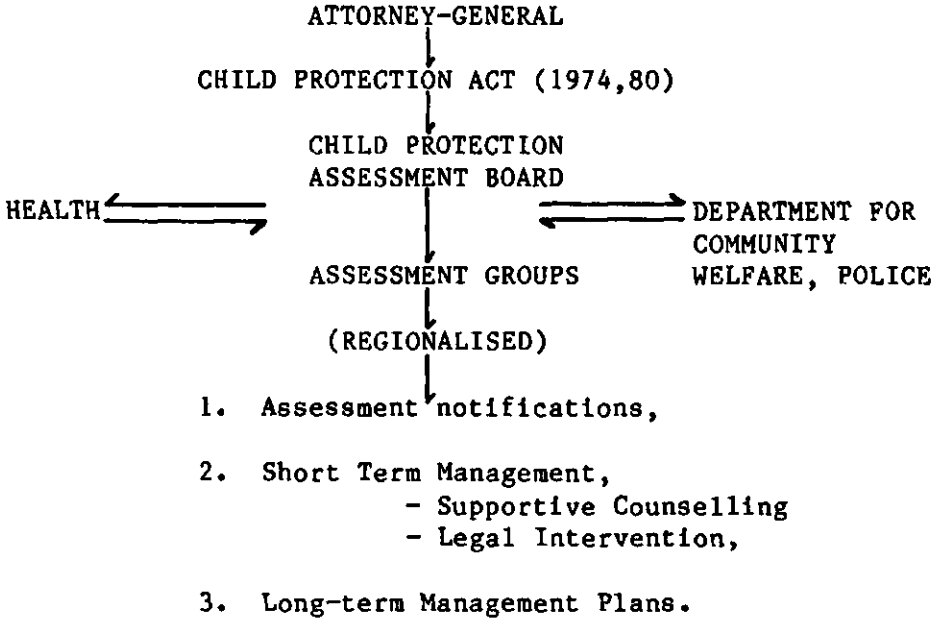
HISTORICAL ASPECTS

In Tasmania, child maltreatment has been the responsibility of the Child Protection Assessment Board since 1974, when the state government introduced the Child Protection Act.

The Child Protection Assessment Board is a statutory Board not connected with the Department for Community Welfare, but responsible directly to the Attorney-General. The composition of the Board is controlled by the Child Protection Act. The Board appoints its own social workers and controls the implementation of the Child Protection Act, including the initiation of legal proceedings on behalf of maltreated children.

The Child Protection Act also empowers the Board to appoint its own committees and by this means the Board discharges its child protection responsibilities. The process of assessment and management used by these committees makes up the body of this paper.

FIGURE 1



The emphasis in the early seventies, an emphasis reflected in most child protection legislation of the time, was on physical maltreatment: 'traditional' child abuse. Thus, a predictable response came from those professionals who were responsible for identification and management of 'child abuse'. The response was usually based on the overt evidence of physical abuse present when the child was first examined by a social worker or other child protection officer and then by a doctor, usually a paediatrician. The action then taken depended very much on the strength of the evidence found at this initial examination. Factors other than the signs of physical injury, for example, the overall level of parenting in the family, were very difficult to measure or to introduce as court evidence. Also, because of the medical model approach, there was potential for resistance from medical personnel involved if there was no significant 'medical evidence' available, that is, if no serious injury was present. The need to extend child protection legislation became obvious as it was realised that children could suffer repeated maltreatment within a family without necessarily showing 'significant or serious physical injury'.

The situation would then remain as it was until significant 'evidence' did become available. Sometimes this evidence was too late in coming.

In the late sixties and early seventies then, 'intervention' was seen as an acceptable response in those situations where traditional physical abuse was considered severe enough. There was, understandably, a heavy reliance on the medical model;

therefore, hospitals, particularly those with children's units, were seen as focal points for child protection services.

The use made of hospitals by child protection agencies in the mid seventies in part reflects this enforced dependency on the medical model.

TABLE 1

SEXUAL AND PHYSICAL MALTREATMENT NOTIFICATIONS AND INVOLVEMENT WITH HOSPITAL UNIT

	Physical Maltreatment	Hospital Involvement	Sexual Maltreatment	Hospital Involvement
June 75-July 76	20	15 (75%)	-	-
June 78-July 79	26	5 (23%)	4	-
June 82-July 83	56	18 (32%)	26	8 (31%)
June 84-July 85	119	26 (22%)	70	33 (47%)

With the establishment of child protection services within the state welfare departments, the method of management of cases of child maltreatment began to change. The shift came about as the various states introduced specific child protection legislation. In each state except Tasmania and more recently Queensland, child protection legislation was part of the state's child welfare act or equivalent. In Tasmania, a separate Child Protection Act was introduced, whilst in Queensland amendments were recently made to the Health Act to require mandatory reporting by medical practitioners.

The introduction of child protection legislation was accompanied by the establishment of a wide range of state-based protection services. These included child protection social workers and a system by which notifications of suspected child maltreatment could be made to the state child protection agency.

At that time, then, maltreated children began to be reported directly to the child protection agency which was part of the state welfare structure. The hospital-based service established previously was still used to provide a medical examination of those children where this was thought necessary. Those children identified as maltreated by the hospital staff or referred to the

hospital as suspected victims of maltreatment by outside agencies tended to be managed within the hospital structure. It is difficult to know how many of these children were not notified to state child protection agencies.

In most states, child protection social workers from the state child protection agency did contribute significantly to the hospital-based child maltreatment units, meeting regularly with the hospital team. Whilst state child protection laws and welfare-based child protection agencies were being established, a plethora of research was reported on all aspects of child maltreatment, not just traditional abuse. One major result of this research was the shift of emphasis away from the medical model to one that was more sociologically based. In effect, maltreating parents were no longer seen as sadistic psychopaths who had no rights over their abused children, but rather as victims of stress, unemployment, poverty and other social stresses, Also, it became clear that many maltreating parents themselves had been victims of serious maltreatment as children.

These three factors then: the establishment of child protection legislation; the setting up of welfare-based Child Protection services; and the plethora of child maltreatment research, contributed to a significant change in the approach to notifications of child maltreatment, seen as a swing away from 'intervention' to the adoption of much more 'supportive counselling'.

In a sense, this was a development in the right direction in that skilled counselling was available to families that previously may have not been offered any help because the 'abuse was not severe enough to warrant intervention'. However, there was a significant risk attached to this changed emphasis. Intervention tended not to be used except in the most severe cases of overt physical abuse, irrespective of how severely the child was being maltreated in other respects. Along with the changed approach to the handling of child maltreatment was a burgeoning in the number of notifications received.

TABLE 2

TOTAL NOTIFICATIONS TO C.P.A.B. IN SOUTHERN TASMANIA COMPARED WITH NUMBERS INVOLVED WITH HOSPITAL UNIT

	TOTAL NOTIFICATIONS	THOSE INVOLVED WITH HOSPITAL UNIT
June 75- July 76	20	12 (60%)
June 78- July 79	30	4 (15%)
June 82- July 83	82	26 (32%)
June 84- July 85	189	59 (31%)

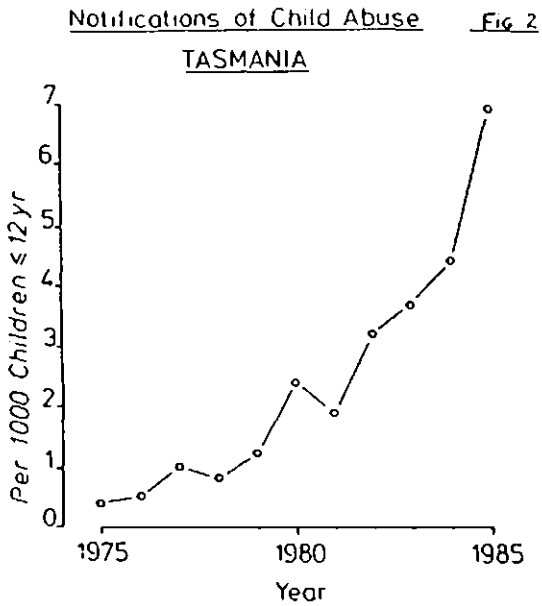


Fig 2

This increase did reflect, to a degree, the presence in the community of previously undetected cases of serious child maltreatment, but in the main it was a manifestation of the growing awareness and concern in all sections of society of the plight of so many children.

Tasmanian figures support the common finding that the increase in notifications came, not from those mandated to report, but from those people closely involved with families in a semi-or non-professional way. There was, and to a lesser degree, there often still is, what a child protection professional regards as significant child maltreatment.

This difference highlighted the range of child maltreatment occurring, in particular, the concept of emotional maltreatment developed. Emotional maltreatment, which is still not properly understood, is always accompanied by physical concomitants when severe. Its acceptance as an entity has helped clarify the emotional effects of any form of maltreatment on a child. It is now clear that with any form of maltreatment, a child also suffers from the effects of the emotional maltreatment which is also present.

Therefore, the overt manifestations of child maltreatment, the reasons for the child being notified are only pointers to the presence of the problem. The true severity of the maltreatment can only be ascertained by a careful assessment of the total situation in which the child lives, as the assessment must take into consideration the child's emotional state and environment as well as the overt signs of maltreatment.

It was with this background in mind that the Child Protection Assessment Board reviewed the technique used in the assessment of children notified as suspected victims of maltreatment. The problems which had to be addressed in formulating a new assessment process were:

(1) How to achieve a better level of assessment of all notifications.

(2) How to increase the effective level of assessment without adding to the social worker care load.

(3) How to incorporate other relevant factors besides the overt evidence of abuse into the assessment process.

(4) How to efficiently link the assessment outcome with the systems designed to provide intervention and support, thus avoiding the involvement of an intermediary agency.

The overall aim was to develop a process which would allow for a more complete assessment as soon as possible after notification, enabling the 'support of intervention' decision to be made early, and facilitating optimal protection of the child and more expeditious counselling for the family. These problems were able to be resolved using the traditional

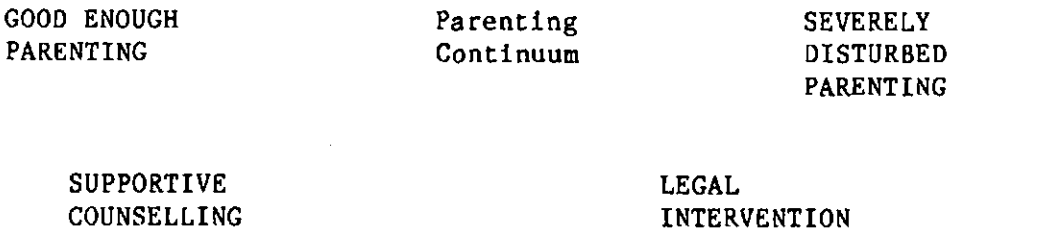
'multidisciplinary' method of assessment which had been used in Tasmania since the introduction of the Child Protection Act in 1974.

The original multidisciplinary assessment teams placed too much responsibility on the social worker, who had to make the majority of the decisions. Whilst the composition of the multidisciplinary team was relatively fixed, the skill and expertise of the various members was quite variable. The social worker's assessment of the situation was only augmented by extra opinion, often that of a paediatrician, when there was overt evidence. Rarely was the child seen by any other professional from the multidisciplinary team. Frequently the decision arrived at by the multidisciplinary group was to 'monitor' the situation by using professionals who were more acceptable to the family than the child protection social worker. This management plan was chosen for reasons already cited, that is, the formulation of the team was only based on the overt evidence of abuse. Such an approach was potentially fraught with danger and effectively ignored the child's right to a protected, emotionally beneficial environment.

Clearly then, to resolve the problems previously mentioned the Board needed a new philosophy. This could only be achieved by completely changing the composition of the assessment team and the method by which it worked. The 'medical model' was replaced by an 'ecological' one which required that a much wider set of factors be considered when a suspected case of maltreatment was being assessed. Basically, child maltreatment was seen as a manifestation of parenting disturbance or a failure in parental adaptation to a particular set of sociological, environmental or family factors.

The main aim of the assessment process became the determination of the level of parenting disturbance or maladaptation. In most cases, the overt evidence of maltreatment would be regarded as the indicator of the need for careful assessment of parenting. The Board considered that an assessment performed with this primary aim would best enable the assessment group to determine whether 'supportive counselling' or 'legal intervention' was the more appropriate form of management. As a general rule, the board considers that where parenting disturbance is assessed as severe then legal intervention is required, whereas if parenting is regarded as 'good enough' but the family is considered to require assistance, then supportive counselling is offered.

FIGURE 3
ASSESSMENT PROCESS



To enable an optimal assessment to be performed on all notifications, a new assessment group needed to be appointed and an objective method of measuring the level of parenting disturbance had needed to be developed.

The prerequisites for members of the assessment group were:

(1) Experience in child maltreatment to the degree that any member could appear as an expert witness in court.

(2) A commitment to the expressed philosophy of the board.

(3) Preparedness to work in a team of similarly committed individuals from different professions with the aim of assessing every case of child maltreatment notified and to reach a management decision by consensus.

The assessment group is now composed of:

- the local child protection social workers
- a state-employed welfare lawyer
- a supervising child welfare officer from the Department for Community Welfare
- a community paediatrician
- a child psychiatrist.

Presently there is no police officer formally appointed to the assessment group, but a senior detective attends the weekly meetings.

THE PROCESS OF ASSESSMENT

The overall aim of the assessment process is to decide what level of parenting disturbance is present within the family of the notified child. The severity of this disturbance is the single most important factor which influences the 'support versus intervention' decision.

There are four components to the assessment procedure:

(1) The initial gathering of relevant general information.

(2) The individual assessment of the child.

(3) The assessment of the parents and family.

(4) The formulation of a management plan.

The Initial Gathering of Relevant Information

Because the C.P.A.B. is an autonomous statutory body, it has to collect information from welfare agencies including the state Department for Community Welfare. This data gathering exercise is similar to that performed by most child protection agencies.

From the nature of the initial notification and the outcome of the immediate gathering of other relevant information, the child protection social worker decides on the next line of action. If there is a strong chance that intervention will be necessary, then the appropriate members of the assessment group are involved, an assessment performed and the consequent recommendation is presented to the C.P.A.B.

If the C.P.A.B. ratifies the recommendation of the assessment group, then the Child Protection Act empowers the board to initiate action on behalf of the child. There is no requirement for the involvement of any other agency; e.g. state welfare agency. When the situation does not appear to warrant intervention, then the notification is discussed at the next weekly meeting of the assessment group and if necessary plans for offering counselling are made.

The Individual Assessment of the Child

As a result of the experience gained in the interviewing of very young victims of sexual maltreatment, this form of assessment is undertaken in every possible situation.

There are three specific areas addressed in the individual assessment of the child: (a) the overt evidence of maltreatment, example, the presence of injury; (b) the emotional state of the child: (c) the child's perception and interpretation of the alleged maltreatment.

This part of the assessment is performed by the most appropriate member(s) of the assessment team, usually the child protection social worker, the child psychiatrist or the paediatrician.

A very good appreciation of the likely disturbance within the family can often be gleaned from this initial contact with the child, particularly if the child is old enough for an interactive interview to be possible.

The Assessment of the Parents and Family

The best opinion can be arrived at when the parents are co-operative and allow a full assessment to be performed. Of course, co-operation is not always forthcoming and the opinion of the assessment group is then largely formulated around the details of the initial notification and the individual assessment of the child. Even with unco-operative parents, a good idea of their functioning can often be obtained. It may be appropriate to interview the family intact when interaction between the various members, including the notified child, may be observed.

It is important to note at this stage that co-operation from parents does not necessarily mean that the assessment group should find 'support' preferable to 'intervention'. One of the major advantages of this form of assessment is that it minimises the effect that one opinion could otherwise have on the overall assessment outcome. This is particularly important when parents are able to over-influence one of the professionals involved in the assessment.

The general factors important in the assessment of maltreating parents are well known. They include the parent's own background, the strength of their own relationship, and so on. One aspect of parental assessment which we find important is the perception the parents have of the needs and rights of their child and how the needs are met and the rights upheld and protected.

The Formulation of a Management Plan

In Tasmania the majority of notifications of suspected child maltreatment are substantiated. At the completion of the assessment process, two options are available to the assessment group, supportive counselling or legal intervention.

With the introduction of the assessment process described, it is not appropriate that monitoring of a child's situation be considered a management option. The basic tenet of the process is that with optimal assessment the risk to a particular notified child can be clearly delineated, thus ensuring that no child is exposed to a continuing high risk situation.

Supportive counselling is recommended when the assessed level of parenting is not severe and the overt evidence of maltreatment to the child is not profound. If serious injury is present, then support is not recommended even if the assessed level of parenting disturbance is not severe. When the decision of the assessment group is to recommend 'support', then referral is made to what is considered the most appropriate agency.

This approach is in line with the philosophy of assessment in that the number of notifications being actively discussed on a weekly basis by the assessment group should be kept to a minimum, without comprising reliability of the method. Also, the effective case load of the child protection social workers can be kept to a reasonably low number.

Legal intervention in a particular situation is recommended to the C.P.B.A. by the assessment group when a severe disturbance in parenting is thought to be present and/or the child has serious overt evidence of maltreatment, for example, injury. The inclusion of the level of parenting disturbance in the discussion leading to the decision to legally intervene is the single most important factor in the assessment process. Once intervention is achieved, initially in the form of a child protection order the state welfare department assumes the dominant role. Continued involvement of the child protection social worker occurs until the final disposition is decided.

To summarise the main differences between the assessment process I have described and that of other systems, which may on first examination appear similar:

(1) The assessment group works in the context of an autonomous Child Protection Act and a C.P.A.B. separate from any outside control.

(2) The assessment group is composed of individuals who are expert in their own right. The group is homogenous in that the members share a common philosophy of and commitment to child maltreatment.

(3) No filtering or notifications occurs through outside agencies. All notifications are assessed by the same process involving the same group of child protection experts.

(4) The C.P.A.B. is empowered to initiate court action on behalf of children when it considers that legal intervention is the best way to ensure the continued protection of the child. When such a decision is made no other assessment or opinion is required as the powers of the board are sufficient. The ability of the board to follow a case from the time of notification to the final long-term management decision is arguably the strongest difference in favour of this structure.

The system of assessment described has been in operation for the past 2 1/2 years.

Most of the early difficulties have been ironed out, but three problem areas remain.

(1) The time commitment. Most of the issues in this area have been resolved. The assessment group meets for 3 1/2 hours per week. The new notifications and the active cases are discussed.

In 1985 the southern assessment group handled 400 cases, but the active case list remained always below forty.

(2) When legal intervention is chosen as the course of action, difficulty has been experienced in presenting that evidence which is not part of the overt manifestations of maltreatment. Some ground has been gained by the use of the experts from the assessment group as witnesses.

There has been some positive response from the courts to the case being presented on behalf of the board by one of the assessment group experts. That is, the expert does not only give his or her own evidence, but the consensus of the assessment group.

To further develop these avenues, the C.P.A.B. has extensively amended the C.P.A. as well as initiating a state Law Reform Inquiry into aspects of child maltreatment and the courts, particularly the presentation of evidence.

(3) The assessment process described requires very tight teamwork amongst the various professionals. We believe that for the system we have developed to achieve its full potential, a police team specifically designed to work as part of our assessment team is required.

PRACTICAL LEGAL DILEMMAS AND CHILD SEXUAL ABUSE

Dr Flora Botica
Children's Hospital
South Australia

Dr Flora Botica of the Adelaide Children's Hospital, South Australia, gave a talk which highlighted some of the dilemmas and current controversies in the field of child sexual abuse.

The major emphasis was on child protection as the bare minimum acting 'in the best interests of the child'. The conflict dynamics involved in the issue were discussed.

CHILDREN IN THE FAMILY COURT: WHOSE BEST INTERESTS?

Moira Rayner
Barrister,
Western Australia Bar Association

Sally Beasley
Counsellor,
Family Court of Western Australia

The basic premise of this paper is that, in proceedings in which adults claim 'interests' over children, the interests of the children and those adults need to be distinguished. If courts simply accept what adults say about the welfare of children, tragic consequences can and sometimes do follow. Parents who 'posses' their children cannot be relied on to assess the children's 'best interests' objectively when their own needs have not been met. Some treat their children as marital property. Some kill them in reality or emotionally.

Where children are involved, for historical reasons there now exists a hotchpotch of services and occupations all claiming to represent the 'best interests' of the children: social workers (independent, or employed by welfare authorities); court counsellors with varying training and backgrounds; probation officers; staff of legal aid bodies; magistrates, judges and legal practitioners; and 'experts' in psychiatry and psychology. All are to some degree jealous of what they see as their 'special' position and knowledge. Some refuse to share that knowledge In K. and K. (FLC 91-009) welfare authorities objected to disclosing documents about allegations of sexual abuse of children by a husband - because, they said, those documents were of a class which in the public interest should not be produced. It would shatter public confidence in confidentiality! In fact, those documents were ordered to be disclosed in the discretion of the court. In Western Australia, however, the provisions of the Welfare and Assistance Act are said absolutely to preclude disclosure to the court of such documents, even in response to a subpoena.

The Family Court has power to make orders relating to the 'welfare' of a child of a marriage. "Welfare' is an umbrella word which covers everything touching the physical, moral or intellectual life of a child including education, housing, medical treatment, whether a child should attend social or sporting events, and even whether a child has 'access' to a non-custodial parent or to other siblings (CCH 15-525). That 'welfare' is said to be the paramount consideration of the Family

Court (Family Law Act S.64(1)(a)). Section 43(c) of the Act requires the court to have regard to: 'the need to protect the rights of children and to promote their welfare'.

In Gillick's case (Gillick v. The West Norfolk and Wisbech Area Health Authority (1985)3 All E.R. 402) the majority of the High Court adopted Lord Denning's view that:

> The common law can and should keep pace with the times ... the legal right of a parent to the custody of a child ends at the 18th birthday; and even up until then it is a dwindling right which the Courts will hesitate to enforce against the wishes of a child, the older he is. It starts with the right of control and ends with advice.

Accordingly, in that case a 'mature' minor was held entitled independently to obtain contraceptive advice in the face of a clear parental prohibition upon its being provided to her. Thus, the House of Lords recognised the reality that a child becomes increasingly independent as he or she grows older, that parental authority shrivels correspondingly, and, accordingly there is no right of absolute parental authority until a fixed age. Instead, parental authorities are recognised only as long as they are needed for the protection of the child: such rights yield to the child's right to make his or her own decisions when they reach 'sufficient understanding and intelligence to be capable of making up his own mind'. See A. and A. (FLC 91-070): a child aged 16 years and 9 months, who had chosen to live with his uncle on the breakdown of the family, sought maintenance and certain other orders enabling him to travel overseas on a school athletic tour, opposed by both parents. It was held that at his age he had the right to pursue a course independent of others including his parents, which right was recognised in section 43 of the Family Law Act and had been recommended in the court counsellor's report.

Something of the same sort is recognised in section 64(1)(b) which requires the court to consider any wishes expressed by a child in guardianship or custody proceedings and to 'give those wishes such weight as the court considers appropriate to the circumstances of the case'. Prior to November 1983, the court was required to give effect to the wishes of a child who had attained the age of 14 years, unless there were 'special circumstances' why it should not do so. Thus, both the common law and the Family Law Act recognise that a child has a right to be heard on matters personal to that child; the 'mature minor' test has been enshrined in both common law and legislation. Nonetheless, courts are still reluctant to give a child that power.

'Children's rights' are a growth industry in academia. There is increasing academic interest in the right of the child to speak on his or her own behalf, independently of the adults caring or

purporting to care for them. Whether or not this 'right' actually exists is in part the subject of this paper. The other is the question as to whether existing statutory methods promote a child's 'best interests' as opposed to the parent's; lawyers; or other preferences.

Section 97(3) of the Family Law Act requires the court to: 'proceed without undue formality, and to endeavour to ensure that the proceedings are not protracted'.

When the Act first came into effect in 1976 lawyers initially thought this meant that the nature of Family Court proceedings had changed from the traditional adversarial model to inquisitional proceedings, where the judge, rather than the parties' advocates, conducted the case. The Act gives the judge power to take the initiative in, for example, seeking a 'welfare' or 'family' report from a court counsellor in proceedings where the welfare of a child is relevant (section 62A(6); to make an order for the separate representation of a child (section 65); and to call any person as a witness (order 30, rile 5(1) Family Law Rules). It looked as though under the new Act a judge was required to play an active part in ascertaining the relevant facts of a case by way of judicial inquiry.

Experience, however, has taught us otherwise. Since the Act came into operation in 1976 the powers of the Court have been continually worn down by judicial pronouncements or inactivity. It is probably true to say that section 97(3) is only a pious statement of good intention: namely, that proceedings should not be caught up in legal formality, technicality, pomposity, or delay (see Dickey, 1985, 83-4).

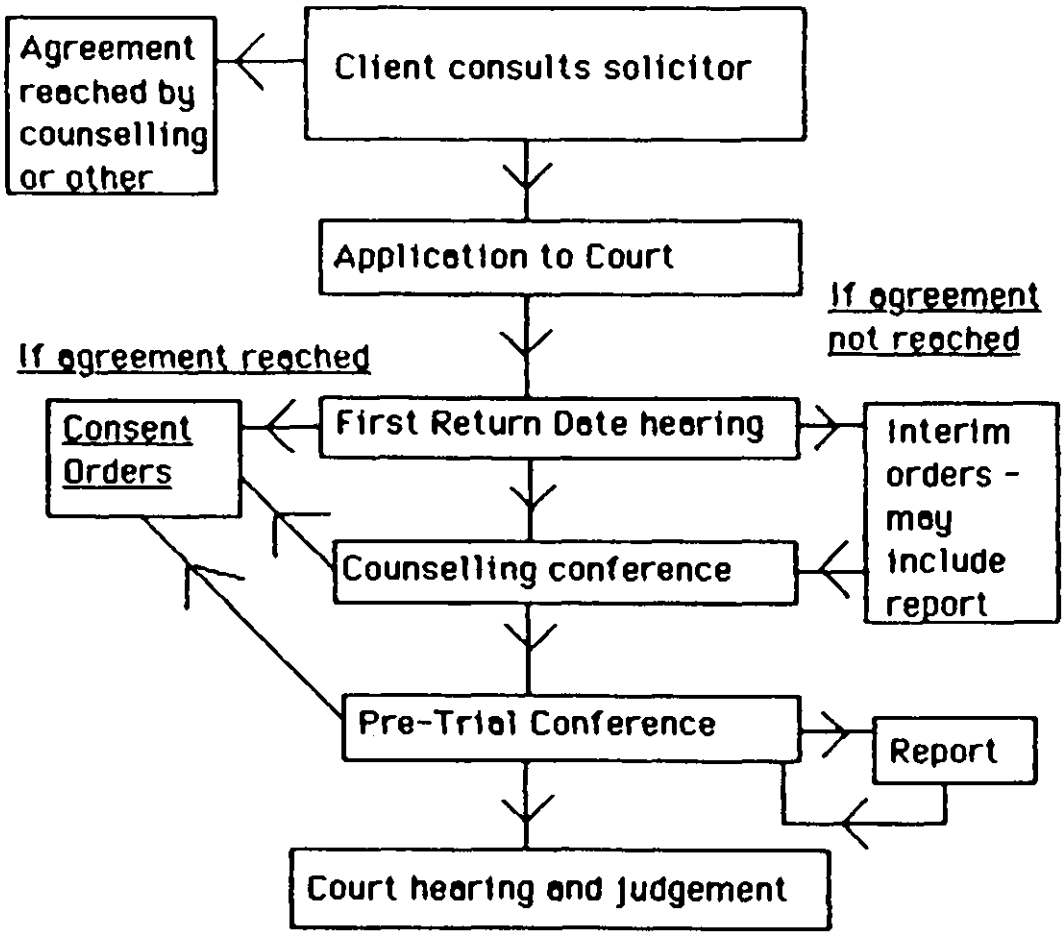
The emphasis of the Family Court is on conciliation, on parents reaching their own agreements in relation to their children. This, of course, implies that the parties are in an equal bargaining position and able to reach true consensus. However, this is not always the case (as Waters (1985) has pointed out) as is apparent both to counsellors and to lawyers representing disempowered adults in court proceedings. In, for example, homes where domestic violence is an element (which is sometimes associated with direct child abuse), the subjects of that violence or abuse are frequently deprived of initiative, self-confidence, and the capacity to make reasoned decisions free of fear. In a home where an abusive father or strong adult resides, 'victims' in the household, including dependent women and children, must deny much of what goes on in the home in order to survive. When the relationship finally breaks down the overpowering feeling is one of relief, and a desire to be rid of the unpleasantness, stress and tension, or fear, caused by the household staying together. Stories of violence are often underplayed by the adults involved, or are not 'heard' by the legal professionals taking instructions for proceedings in the

court. In some cases they are heard, but independent evidence is lacking and so they are not pleaded. Cases of child abuse, accordingly, may tend to be under-reported in the Famly Court.

People can apply to the Family Court for a number of different reasons. Those who apply for a divorce will normally go to a simple divorce hearing. In Western Australia, those who apply for guardianship, custody or access in relation to children go through the process shown in figure 1.

FIGURE 1

FAMILY COURT PROCESS IN W.A.



At the first court hearing (the 'first return date hearing') the couple, if in agreement on all issues, can have consent orders made and exit the court system. If they are not in agreement, the court may make an interim order or orders. These are generally intended only to operate until the matter is finally resolved (either by the parties agreeing or by a court decision): however, the couple do not always continue their applications and interim orders may sometimes persist as a result. If parents do disagree about matters concerning their children, they will normally be ordered to attend a confidential conference with a Family Court counsellor. This conference is aimed at giving them information about the court process, their own and their children's feelings, and their options, and also helping them to negotiate an agreement between themselves if they wish to. Children are not normally included in these conferences, though they have been upon occasion. If the couple reaches an agreement as a result of the counselling conference, they can return to their lawyers and have consent orders, or a deed of agreement, drawn up and filed at court. If not in agreement, the couple will normally go on to a confidential pre-trial conference, a meeting between them and their solicitors and a registrar of the Family Court. This, also, is part of the conciliation method, and the couple may be put under considerable pressure to negotiate and settle their differences. Children are never present in these pre-trial conferences. However, if a report is ordered on children's relationships or wishes, it is often directed at (if by consent) or ordered after the pre-trial conference. Typically, the issue will only go to a defended court hearing (trial) after another pre-trial conference just preceding the date set for the hearing. In terms of numbers of cases which settle, the conciliation method is successful. In the period from January to November 1985, for instance, there were 2,069 applications or counter-applications on guardianship, custody and access in the Western Australian Family Court. During the same period, there were fifty five cases decided by defended hearings. Thus, only about 3 per cent (or less) of cases are finally decided by a judge.

The court usually relies on adversarial procedures and on the facts affecting the welfare of children being brought to its attention by the parties themselves or by their solicitors. For a long time courts have given at least lip service to the idea that the wishes of a child are an important factor to be taken into account in custody and guardianship proceedings. As long ago as 1732 the Court of Chancery inquired into the wishes of a 13 year old girl in relation the issue of her custody, but did so not for the purpose of obtaining the child's consent but for the purpose of determining what was really for the child's welfare. This remains the underlying principle.

The wishes of a child, or independent evidence relating to him or her can be obtained by:

(a) obtaining evidence of a child's wishes under section 64(1)(b)(i.e., a report). It is said (Dickey, 1985, 250) that the age limit of 14 years operative prior to 1983 was unsuccessful because it often had the effect of forcing a child who had attained that age to express a preference for one or other party when he or she did not wish to do so. It was also said to 'enable a scheming child in effect to auction her or his preference to the highest bidder' and to help parties put pressure on a child for a favourable decision. Court counsellors are familiar with parents' attempts to influence children in their favour, ranging from the offer of new bikes or toys to discussion of the contents of affidavits with children, or even to belting a child for expressing a preference to change custody. Section 64 (1A) now makes it quite clear that a child cannot be required to express wishes.

(b) a child giving formal evidence either orally as a witness under order 23 rule 5(5) of the Family Law Rules or by affidavit under order 23, rule 5(6), by leave of the court. This is usually not done.

(c) a child being privately interviewed by a judge in chambers under order 23, rule 5(1). Alternatively, the child can be interviewed by the judge in the court room in the presence of the parties and their lawyers. This has obvious drawbacks for the child involved, and relies to a great degree on the skill of the judge to interpret that evidence. It is generally not used as a method.

(d) hearsay evidence presented by a party or a witness, particularly child psychiatrists or 'experts'.

(e) a child's separate legal representative appointed under section 65. Since November 1983 it has also been possible for a child to be a party to proceedings and hence have his or her own independent legal representative.

In the vast majority of cases, when parents separate, children's wishes and feelings are usually not directly canvassed by the court. It is possible for children to be separately represented; however, the West Australian Legal Aid Commission reports having had six requests to fund separate representation since 1981, of which it granted three. It is interesting - and perhaps of some concern - that, though the court saw even in those few cases a need for separate representation, the Commission exercised an independent discretion on whether to grant it. A child cannot swear an affidavit on his or her own behalf without the leave of the court unless he or she is a part to the proceedings.

There is a fundamental problem, both practically and theoretically, in relation to separate representation. A separate representative appointed under section 65 is not

appointed by the child and cannot be dismissed by the child. He or she also has a confusion of roles, because the child's counsel is appointed as representative of the interests of the child rather than of the child her or himself (Demetriou and Demetriou, FLC 90-102). Accordingly, the child is not a party to the proceedings (Urquhart and Urquhart 91-102) and has no right of appeal against a decision which he or she feels to be against his or her interest. The advocate does not necessarily advance what the child wants but what in his/her/their view is in the best interests of the child, and, in Wotherspoon and Cooper (FLC 91-029), the court said that such a representative is not required to follow the ostensible client's instructions. Though under a duty to put the child's wishes to the court, the advocate can, as he did in that case, request that the court not abide by those wishes if in his opinion it is not in the child's 'best interests' that the child's wishes be granted:

> What the court has to consider is the welfare rather than the mere desires of the child ... because ... as a matter of law if the court is to give effect to the wishes of a child in relation to his future custody it must be satisfied that those wishes are soundly based and founded upon considerations as well thought through as the ability and state of maturity of the child will allow (our emphasis).

The advocate is not seen as a 'conciliator' and is permitted to interview the child, explain his or her role and so forth to the child. However, the courts have said that it is not desirable that the advocate should interview the other parties directly (Lyons and Boseley FLC 90-423).

A separate representative, according to the Family Court, is thus an amalgam of advocate, expert witness and inquisitor. This is a similar role to that given to panels of Guardians ad Litem established in the U.K. under the Children and Young Persons Act 1969 (sections 32A and 32B). The Law Society of the U.K. and the Children's Legal Centre, considered that the confusion of roles would actually undermine the child's right to a 'fair hearing', one might so expect when yet another 'judge' of the child's welfare is introduced into these proceedings.

Sine November 1983, it has been possible for children to make their own applications to the Family Court in relation to their guardianship or custody, or access to them. However, this does not seem to be a frequently used provision. The W.A. Count Counselling Service, which would normally have such cases referred to them at some point, only recall some six or so cases over the last two years. Even if used, the court may require that a 'next friend' of the child be appointed unless it is satisfied that the child understands the nature and possible consequences of the proceedings and is capable of conducting the proceedings on their own behalf, it is thought that:

> It is conceivably possible that an intelligent 10 or 11 year old might well make an application to the court for the appointment of separate representation (CCH Family Law Practice Reporter 23-900).

(One case involving an intelligent 9 year old is known to the writers of this paper.) If the court requires a 'next friend' some person must consent to act in that capacity; if parents are unwilling or refuse to do so there may be substantial difficulties in proceeding.

There is an enormous number of problems involved in the separate or independent legal representation of children. Lawyers interviewing a child will hear only part of the family story, particularly since they are discouraged from interviewing other family members who are involved in the proceedings. They have no criteria to determine a child's 'maturity'. In any event, assessing that maturity when a child is in crisis - as is often the case in court proceedings - is a major difficulty. It may be very difficult to accept a child's verbalisation of his or her wishes as valid evidence, when other means of obtaining that information through skilled interviewing techniques might be more effective. The advocate might not have the skill themselves to interpret what a child's 'welfare' or 'best interests' require. They must be alert to the possibility that by acting for a child independently in a family situation they may alienate the other members of the family and possibly place the child under more stress. If the separate representative for a child relies solely on pleadings put forward by the parents, who are necessarily interested parties to the proceedings, they rely upon facts alleged by those least qualified to apply these facts to the child <u>independently</u>. They may also be pleaded inadequately by the solicitors involved. It appears likely that the parents will not directly raise allegations of child abuse, which can be sought direct from the child victim. However, both authors have had the experience of interviewing children in whose cases we were sure that child abuse was occurring - and where it later proved to be occurring - who responded to direct questions about child abuse with flat denial. No research has been done on what children think about having a 'lawyer of my own' or even whether they expect to be listened to (although some has been done on children's views of reports (Miller, 1986)). However, it will be difficult for a child to trust the person acting on their behalf when that person exercises an independent judgment as to the child's 'best interests' and has their own agenda in the matter. Courts and counsellors complain that separate representatives do not present an independent case on behalf of the child and tend to take a passive role in any proceedings (Preston and Edmonds, 1983). In Western Australia, from the small number of cases -six - identified by the court as requiring separate representation, limited to three by the independent exercise of the Legal Aid Commission's direction, we conclude

that the Act provides only the appearance of a child having the opportunity to take part in proceedings. And even where the provision for separate representation is acted on, it gives only the appearance of giving children a voice in their own affairs.

Family reports - the most common way of bringing children's wishes before the court - are obtained in a variety of circumstances. Though the court can independently seek a welfare ('family') report, normally reports are ordered only if the issue of the child's welfare wishes is raised directly in the proceedings, or if it is requested by the parties. In 1983 and 1984, 303 reports were ordered, in total. During the same period, 3,554 applications were made to the court in guardianship, custody or access. Less then 9 per cent of applications, therefore, resulted in a report being ordered.

When a report is ordered, generally the child (or children) is interviewed by a counsellor. Counsellors in W.A. have tertiary qualifications in the social sciences, but come from a wide variety of work backgrounds. The interview(s) may take place in the child's home, at the counsellor's office, or occasionally in some other place. Sometimes the child is observed with one or both parents and/or with siblings. Sometimes the counsellor also gathers information from the child's teacher, or from an interview with one or both parents. Interview data may not always be reliable in cases of child abuse (Cox and Rutter, 1976) where children are often very defensive. In extreme cases they may refuse to speak about their parents at all, or characterise their relationships with everyone in the family with all-purpose adjectives such as 'good' or 'O.K.'.

Even where child abuse is suspected, the time given by counsellors (or made available to them) in which to prepare the report is limited. Some attempts have been made in Western Australia to introduce independent reports by a social worker or psychologist, on behalf of parties to the proceedings. This has difficulties, of course, since the child must be interviewed on a number of occasions, preferably in the family context. However, children are already hawked by parents from psychologist pillar to psychiatrist post, seeking reports that claim the child's emotional or physical wellbeing to be in danger. Court counsellors' reports, based on brief interviews and limited contact, can easily be attacked by counsel in court. Emotional abuse is difficult to determine, and children can be pressured by parents into telling stories or making claims which are not correct objectively, and which do not reflect the child's true feelings. Recently two children in their early teens complained that prior to their being interviewed as to their wishes their mother had physically assaulted them and threatened them, with severe punishment if they did not state that they wished to live with her. They did so - not surprisingly - and then gave instructions to their father's lawyer to take proceedings on their behalf.

Thomas and Pietropiccolo (1983) studied the relationship between children's expressed wishes in custody disputes and the legal outcome of the custody dispute. They found that 89 per cent of children had a decision made in accordance with their wish. However, the decision was more likely to be in accordance with the child's wish if the child was 12 or over, and if the wish expressed was for no change in the custodial arrangements. Parents agreed on the child's placement in 71 per cent of cases; less than 28 per cent were determined by a judge or magistrate. Beasley (1986) found that 72 per cent of children gained outcomes, in access disputes, which were in accordance with their expressed wishes. This was less likely (63 per cent) where their wish was for no access whatever than where their wish was for regular access (82 per cent). Where their wish was for irregular access, at their request, it was likely to eventuate in 70 per cent of cases. It was noticeable that no child under six gained an outcome in accordance with his or her wishes, and no child over fifteen failed to do so. However, in both cases, this represented a very small number of children. Only 18 per cent of children's cases were determined by a judge or magistrate. Those that were decided by parents were more likely to be decided in accordance with the children's wish.

If the child's wishes are seen to be at all significant in the light of findings such as these, it is of some concern that they are so infrequently sought in proceedings, so that consent orders can be made without any independent evidence of the effect on children's welfare, or of their wishes. Another major difficulty, after a court has in some manner sought independent evidence of a child's 'best interest' and wishes, is persuading the court to act on this evidence. Miller (1986) talked to children who had been interviewed for a report. She found that children wanted greater participation in the decision-making process, and believed that judges were interested in what they had to say and would be influenced by it.

The Family Court tends to regard access as a basic right of the child, and often a parent who wishes to stop access has to prove to the court that access is harmful to the child. The court's attitude may be expressed by Samuels, J: (1977) FLC, 90-284:

> First, the paramount consideration is the welfare of the children. Secondly, prima facie the interests of the children would require that both parents have an opportunity to maintain some communication with them, and to play some role in their education and general training for adult life. Thirdly, the interests of the parent seeking access are relevant and are not to be ignored. Fourthly, to deny access to any parent is a serious step, which may well have grave consequences for the child's future development. Hence, fifthly, an order denying access will be made only in exceptional circumstances and on solid grounds.

It is difficult to establish allegations of child abuse, particularly sexual abuse. This is especially so in interim applications where there has been no full hearing. Lawyers will recommend to parties that they should not raise the allegation of sexual or other abuse of children at all where they are unable to provide independent corroboration. In E. and E. (FLC 90-645), for example, a women and her husband who had obtained custody of the woman's 4 year old niece subsequently alleged that the father had sexually interfered with the child on access occasions. The court held that the child's complaints had been inculcated by the custodial adults, who objected to the father having any access at all. The judge commented:

> That Mrs P. made these unfounded allegations is of crucial significance in determining whether she is a fit and proper person to have custody of the child. If no such thing ever occurred, the whole story must have been invented either by the child herself or by Mrs P. It is quite unlikely that the child herself could have invented these detailed allegations.
>
> ...grave doubts must have arisen whether a woman who is so lacking in balance and discernment and so prone to jump to conclusions adverse to the father, and who is given to such exaggeration, and who had put such matters in the child's mind, was a suitable custodian ... the potential harm resulting to the child from being brought up in a home in which these baseless accusations had been made and persisted in against the father, must be a grave and weighty circumstance in determining the future care and upbringing of the child.

The father then gained custody of his daughter. In a more recent case, Ferrier, J. referred to children's allegations of sexual abuse by their father as:

> Statements ... if actually made by the children, then they were so made as a result of inducement by the mother rather than as an expression of the truth.

Access problems continue, with the father now accusing the mother's husband of having sexually interfered with the children. Child abuse professionals believe the children to have been abused by someone, and, even if they had not been, the questioning and attention about sexual matters in both households is likely to damage the children.

In one unreported decision of the Family Court of Western Australia in 1985, the wife had alleged 'inappropriate sexual

behaviour' by the husband towards their three year old daughter. The husband in part admitted behaviour giving rise to the wife's fears, but claimed the fears were unjustified. The wife had caused his behaviour to be investigated by police (who took no further action) and the Sexual Assault Unit at the local children's hospital. Though a social worker from that hospital was of the opinion that there was a 'reasonable possibility' of sexual misconduct in the form of 'inappropriate sexual play' between father and daughter, the judge was not prepared to find on the evidence before him that the opinion was justified. The wife's claim was for interim custody and for access to be physically supervised by another adult being present; the husband's claim was for interim access, not so supervised. The judge was not prepared to limit access, and said:

> Effectively my finding is the equivalent of the Scottish verdict of 'not proven'. I cannot say on the evidence that is offered as to the negative - that is that there has been no inappropriate sex play with the children. That is still an open question which will ultimately have to be resolved by the Court at a full hearing of the matter when both parties have had the opportunity to give evidence under cross examination.

He ordered that the husband have access from 8.30 am to 6 pm on either Saturday or Sunday. Thus, the Family Court seems to adopt a principle that parents are innocent of any abuse of their children until proven guilty. Given the population statistics on child abuse and child sexual abuse (Finkelhor, 1979), the Family Court's reluctance to suspend access to children may not be in the child's best interests. It might perhaps be more in the best interests of children - and more conductive to their ultimate welfare - to act as if parents were guilty until proven innocent, and to expedite the hearing of matters where abuse is alleged. It should not be forgotten, however, that most cases are not resolved by the Family Court but between parents themselves. Many parents only use the Family Court in order to gain a divorce.

The answer is certainly not more reports, however. While this might enable more children to express their feelings directly to the court, it would create more problems than it solved. Firstly, interview data may not be particularly reliable, and it is doubtful whether children would in all - or even many - cases talk about child abuse if it is present. As previously mentioned, both of us have interviewed several children whom we thought were being abused (and who later turned out to be) who denied abuse when asked directly about it. Secondly, the experience of being interviewed is itself quite stressful for children, particularly when a child is interviewed for more than one report. One child said politely but firmly that she was tired of being interviewed (after three reports) and did not

think the court was taking any notice of her expressed wishes. So why should she talk to another counsellor? Thirdly, the preparation of a report in every contested custody case would lead to the counselling service having a backlog for months or years, as happens in some Family Court registries.

It would be helpful for the counsellors, lawyers and judiciary to be more aware of child abuse, and and more educated about it, in order to carry out more effectively their conciliatory, reporting and judicial functions in such cases. Possibly cases where there is a suspicion of child abuse could involve other people preparing reports, or counsellors preparing fuller ones. Children should also be encouraged and helped to use the provisions for them to apply to the court on their own behalf. The question is, of course, how? It is difficult for a child - particularly one who has been or is abused - to independently approach a court counsellor or lawyer.

RECOMMENDATIONS

1. Obviously further research is needed into:

(a) The circumstances under which the court will - or should - ascertain the views of children, or seek independent evidence of their welfare, during a trial or other proceedings which may involve children.

(b) How children appear to react to the opportunity of expressing their views in court proceedings affecting their welfare.

(c) The most appropriate means of giving children a voice.

(d) What part social workers and court counsellors play at different stages in proceedings, and how they manage to adapt to their different roles as reporters of evidence, interpreters of welfare issues, and as conciliators.

(e) The substance of the evidence court counsellors and other welfare professionals give, and how they are supported or attacked in court.

(f) The effectiveness of 'separate representation' or independent representation of children by lawyers, including:

(i) the style of advocacy adopted on their behalf

(ii) the kinds of arguments they devise and what sort of evidence they adduce in support of these

(iii) how, in fact, they communicate with the Bench and the parties they represent during a trial.

2. There is also a need to clarify the role of Family Court counsellors, and of legal representatives for children, where child abuse is or seems likely to be an element.

3. We need to establish:

(a) Criteria for the desirability of appointing separate representatives for children. The judiciary has only reluctantly adopted the view that a child can and should be involved in proceedings affecting their own welfare, consistent with the 'mature minor' principle accepted in Gillick's case and recognised in the Family Law Act.

(b) Criteria for the courts and for legal representatives to determine the 'maturity' of a child.

(c) Procedure wherein the nature and number of interviews to which a child is subjected are minimised. It may well be that, where child abuse is alleged, is likely, or suspected, that court counsellors should be expected to produce a far more substantial and thorough report than they have the opportunity for at present. This report would aim to adduce evidence of matters affecting a child's welfare and wishes direct to the court in the least traumatic way possible. Court counsellors need to be recognised as having far wider obligations and powers to investigate children's statements and wishes. It may be, for example, that the counsellor should sometimes attend a child's home without notice, to prevent the possibility of pressure being placed on the child beforehand and an unduly 'prepared' child and environment being produced for the counsellor's visit. Sometimes, where child abuse is a serious issue, there results a scramble for jurisdiction between the parties to Family Court proceedings seeking custody and access and welfare authorities seeking protection orders. In W.A., at least, there is no provision for separate representation of the child in the Children's Court, as distinct from 'the welfare' or the parent.

(d) A set of criteria for the selection of persons who are prepared to act as separate representatives of children. A panel of suitably trained and experienced senior lawyers is required, which also means a change in lawyers' view of child representation as being low status.

4. It may be that separate representatives, independent representatives, and court counsellors should be under a duty to report to the court direct a case where it is suspected that child may be the subject of emotional or other abuse. The court should then require additional independent information on the circumstances (Preston and Edwards, 1983). This would, however,

conflict with the legislative and ethical requirements of independent lawyer/client and counsellor/client relationships and may be too high a price to pay.

5. The separate representative's duty towards their client need to be spelt out, as does the client's right to be informed of and have explained to them the effects of court orders and procedures.

6. It may be that courts would be more prepared to order separate representation if the calibre of the advocates, and the contribution made by them to the proceedings, improved dramatically. To that end there need to be additional resources for legal practitioners, both for training, and funding (normally through Legal Aid services) of separate representation. Trained, senior, experienced lawyers need, as a matter of their professional duty, to participate in these training programs to a far greater extent.

It is our view that a child's basic right is to be brought up in a happy and secure home environment, whether of traditional or unconventional nature, and be given the maximum opportunity to become a fully rounded and happy human being as an adult. It is not contrary to these principles to allow a child independent 'rights', even when the child is part of a family, and particularly so in the case of a family which is undergoing massive disruption. We suggest that training and resources given to those involved in making recommendations in adversarial proceedings in the Family Court may go some way towards empowering a child whose 'welfare' is said to be paramount.

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INCEST AND ACCESS: THE FAMILY COURT'S RESPONSE

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PREFACE

The content of this paper is based largely on the observation and research of workers at the Women's Legal Resource Centre in Sydney. The centre has been involved in the problems of incest and access since it commenced operation four years ago. From the casework which involved incestuous sexual assault and the question of access being determined by the Family Court, our experience to date has demonstrated a cause for great concern.

Besides an appalling lack of knowledge and skills amongst professionals who have power within the process of the Family Court in New South Wales, there seems to be a persistent problem with attitudes. These attitudes create a barrier to knowledge and understanding about incest. At this time, it seems to me that it is not simply only a question of law reform but also a question of the need to change counsellors', legal practitioners' and judges' attitudes. The way to change attitudes may be by way of legislative change or a High Court decision or it may be only by intensive education at all levels.

INTRODUCTION

This paper is confined to the issues involved in the Family Court's response to incestuous child sexual assault. Incestuous child sexual assault is defined for the purposes of this paper as any sexual contact imposed on a child by a person in a position of trust and power, specifically a parent, step-parent, de facto step-parent, but usually the father. The paper first addresses the reasons why this behaviour is dealt with in the Family Court at all, when there exists serious criminal sanctions against it; it goes on to identify the theoretical, philosophical and practical problems encountered with Family Law and its practice by judges, Family Court counsellors and legal practitioners, including separate representatives, and by other professionals outside the court whose access to it can be frustrated and whose impact on it is limited.

The paper further sets out the findings of a research project undertaken by the Women's Legal Resources Centre in 1985 which set out to discover precedents amongst reported Family Law cases where perpetrators of sexual abuse were denied access to a child or children because of the abuse. The project also analysed some of the wealth of psychological and sociological studies which

demonstrate the effects of maintaining a relationship which is sexually abusive and exploitative of a child. This paper does not go into the specific findings of that aspect of the research; it assumes a knowledge of the conference of the devastating effects of incest, manifested sometimes while abuse is current but usually in the long term. The paper does however point to the apparent lack of knowledge, skills and training in the area of incest on the part of many professionals working within the Family Court.

WHY THE FAMILY COURT?

Why is it that incest is a Family Court matter? There is a school of thought that suggests that it is a family matter and should be dealt with by way of family law injunctions. Most of us know the difficulties involved in enforcing such orders and in getting the power of arrest attached in cases of domestic violence. But there still is, I believe, a majority view within the community that incestuous sexual abuse is a heinous crime; members of the judiciary have expressed the opinion that it is worse than murder which carries the maximum penalty in all states. Within this majority there is held the complacent belief that this matter is dealt with by the criminal law, which reflects the moral code of the community. In fact in New South Wales, for example, carnal knowledge of a girl under the age of 10 years carries a maximum penalty of life imprisonment and carnal knowledge of a girl under 17 whose relationship to the offender is one of trust and power (i.e., father-daughter, stepfather-stepdaughter, grandfather-granddaughter, teacher-pupil) carries 14 years. The statutes indicate an intention at one time in history to treat the matter seriously.

There have been problems in the Crimes Act which are identified as obstacles to successful prosecution: the definitions of 'carnal knowledge' (which requires penile-vaginal penetration) and 'sexual intercourse' (where consent tends to be in issue), for example, do not take into account the nature of a lot of sexual assaults which are perceived as much as a violation as is penetration; the requirement of corroboration when there is often no medical evidence, no witness other than another child; the question of understanding the meaning of an oath; the delay in making a complaint; the sexual/moral reputation of the complainant. Other obstacles to successful prosecution include the unwillingness and difficulty for child victims to disclose the assaults, to provide the details or the dates; the tendency to recant; the ineptitude in eliciting full statements; the rigorous and sometimes cruel cross-examination of child witnesses; the values and attitudes of police, lawyers judges and jurors. In New South Wales some of these problems are being addressed to increase the possibility of successful prosecutions, but other changes to the legislation will enable an offender to avoid the usual due process and full force of the criminal justice system by opting for treatment, viz the pre-trial diversion of offenders.

Besides the real problems within the criminal justice system, we have seen in New South Wales a tendency to treat less seriously incestuous child sexual assault, demonstrated by police reluctance to charge offenders accused on the basis of evidentiary problems such as the age of the complainant and the lack of evidence of penetration. Police have performed the function of judge and jury and have prejudged the outcomes; they have made no apology for this exercise in discretion, nor for their unwillingness to 'put those little children through the court process'. In failing to improve methods of investigation and collection of evidence and of prosecution or to provide appropriate support for child witnesses or to charge offenders, police effectively condone incestuous child sexual assault particularly of very young children; in contrast, they are more likely to vigorously pursue the investigation of a sexual offender who offends outside the family. Interestingly, 'verbals' and unsigned records of interview are not common police practice in this area.

There has in the past been a policy of reciprocal notification between the Department of Youth and Community Services and the police in cases where child sexual assault is reported. In other words, both agencies should have the same statistics; it seems this system does not obtain that the discretion to notify rests with the individual officer.

Ideally, all allegations of child sexual assault should be notified to the Department of Youth and Community Services and investigated by an experienced, skilled, competent child protection worker who would in turn involve the police. If the police charge the offender, conditions of bail would prohibit the offender contacting the child victim(s). If they do not charge for whatever reasons, the Department of Youth and Community Services can seek orders to protect the child(ren) in the Children's Court. These orders in practice, however, have a limited effect in controlling the offender or restraining the offender from contact with the family.

The legislation and practice in the jurisdiction of the Children's Court also has problems. But of particular significance to this paper is the disinclination of the Department of Youth and Community Services to involve itself in cases where couples are separated. In the first instance, if it is alleged that a child has been sexually assaulted on access and the child is in the custody or care of the non-offending parent, then the child is not considered to be 'at risk', and intervention by the Department of of Youth and Community Services is unlikely. Furthermore, if Family Court access orders exist or proceedings are pending, then intervention by Youth and Community Services is extremely unlikely. It is unclear whether child protection ceases then to be the mandate of the state systems, both welfare and legal, in the event of parties being in dispute over custody or access in the Family Court.

Certainly in practice it seems to be the case that these matters are often dropped like a hot potato by Youth and Community Services and the following explanations have been proffered:

> 'we can't be embroiled in family disputes; we can't be dragged in and used by one side against the other';
>
> 'the child isn't at risk';
>
> 'a federal court order will override an existing state court order';
>
> 'State Attorneys-General have given undertakings to the federal government not to take any action which could frustrate Family Court proceedings or orders'.

Ultimately then many of these cases arrive in the Family Court, either because the couples actually separated on account of the disclosure of the abuse or because a child or children has been sexually abused during access periods, and because there is no other legal option. The court is approached (usually by the mother) for the following reasons:

(i) to gain protection from the court for the child(ren) from further abuse, hoping for injunctions or 'no access' orders;

(ii) because the child does not want to go on access;

(iii) because the child is manifesting symptoms of emotional disturbance, related to access;

(iv) to deprive the offender of the opportunity for sexual gratification from his child(ren);

(v) to punish the offender for what he has done;

(vi) to demonstrate in open court to the offender that the offenders behaviour is not to be tolerated either by the child or the state;

(vii) to mete out serious consequences for the harmful behaviour, that is, no access, in order to teach the offender a lesson, to make them register the community's repugnance of their behaviour;

(viii) because the offender still insists on seeing the child.

When incestuous child sexual assault is disclosed and the Family Court is approached for a remedy, by way of an application to vary or suspend access or to oppose an application for access or custody, or through the Family Court counsellors to find out what

to do, the expressed intention of the mother (in our experience) is usually that the father will never see the child(ren) again and the court will see to it.

THE RESPONSES OF PROFESSIONALS WITHIN THE FAMILY COURT

Family Court Counsellors

Since more is now known about incest, some counsellors are beginning to acknowledge their inadequate responses to it in the past. Some are requesting better training and seeking knowledge themselves by attending conferences and seminars and organising workshops within the court for court staff, including judges. But the Family Court's scarce resources and administrative problems limit what can be done, and attitudes limit the benefits of further training to the enlightened. There is no overall national policy for training and induction of counsellors and no guidelines for appropriate responses. Counsellors are left on their own to deal with the issue in an absence of training, knowledge, support and direction. Their 'professionalism' has always been dear to their hearts and yet mismanagement of incest cases is professionally negligent.

Like most welfare services, the Family Court counselling service has come to serve the interests of the agency (the court) and the state. The function of the service is to encourage parties to agree and to avoid wasting the court's time and resources in litigation; its function is partly to save money.

Because of the service's function having developed in this way, counsellors have sometimes found themselves constrained in their role. The client is the court, not the people who arrive in droves expecting 'counselling'.

The counselling service is an arm of the court; counsellors' duty is to the court. The court represents itself as one of conciliation; counsellors' role is to facilitate conciliation. The spirit of the Family Law Act is one of conciliation with no attention given to fault. They cannot support one party in the negotiation process and they have no investigative powers or resources to deal with these cases.

To take up the notion of conciliation first: conciliation and mediation processes make no sense and are impossible where parties to the dispute are unequal in power and where there can be no compromise. Where a mother states that her child has been sexually abused and the child is to no longer see the father, the father is likely to deny the allegation and pursue a wish to see the child. How can conciliation be appropriate in such a case?

Sometimes a mother will not be quite as frank and may not disclose incest at first. In attempting to cut off access, she will put up other reasons such as alcoholism, poor parenting,

intermittent attendance at designated access times, non-payment of maintenance, etc. Soon learning that access is never denied for such reasons, she realises she has to tell the truth. This is then labelled 'stepping up the allegations'. In many of our cases we have found out that the counsellor concerned has taken a view that the wife is resentful and vindictive and will do anything to get back at the the husband, particularly if she makes allegations of sexual abuse. Too many times there has been a presumption that women lie and are spiteful. We have been told by counsellors that women frequently school their children in lies about incidents of sexual assault. We do not say that this has never happened. If it has, it would be a very disturbed person whose parenting must be questioned. What we do say is that the majority of cases statistically must be genuine. Many of these are met with disbelief and a convenient label to disguise the truth and to save having to face up to the problem. The counsellors' dilemma is resolved by disbelief or by a 'compromise' solution of supervised access. Counsellors observe an emotional, upset and angry mother arguing with the cool, plausible father who denies the preposterous allegations. The mother who is left to cope with the abused child's disturbed, regressive or aggressive behaviour, to clean up the mess the abuser leaves behind, is understandably upset about his persuasive denials which seem to be believed. These issues are not taken into account and the mother may be deemed to be irrational and unco-operative.

Secondly, the no-fault principle is a constraint at law for the court. It is anomalous that incestuous child sexual assault appears to have been substantiated by evidence from experts (psychologists, psychiatrists, and district officers) who have validated the child's disclosure, and that no finding of 'fault' can be made. It seems that a Family Court judge cannot make a finding on the criminality of behaviour. It is not clear why the no-fault concept has been extended from matters of principal relief to matters of ancillary relief. In practice fault permeates evidence before the court and yet judges avoid making findings of fault in their judgements. Judges, with the very wide discretion which they enjoy, make decisions taking into account many factors, placing varying amounts of importance on those factors, based on 'the best interests of the child'. Notwithstanding the abuse, the best interests of the child can be interpreted to include continued contact with his or her father.

The 'best interests of the child' are predetermined by the philosophies of conciliation and the no-fault principle. The court purports to be child-centred but adjudicates disputes in terms of the parties, the two parents and their interests and rights.

The cop-out for the court has been 'supervised access'. Where there is at least suspicion that abuse occurred, where child psychiatrists' expert evidence about the report of child abuse

is hard to shake and hard to ignore, counsellors recommend and judges have been inclined to order supervised access.

Supervision is typically carried out be someone chosen by the offender, for example, his mother, his girlfriend or new wife, all of whom have a considerable vested interest in not believing the allegations of sexual abuse and will, therefore, never really adequately supervise. 'Supervised access' orders seem to absolve the court from further responsibility. For the young child, access perpetuates the fear, insecurity and distrust. And this in the 'best interests' of the child?

Orders for supervised access are either imposed by the judge or one party is coerced into an agreement to such orders.

Coercion occurs in the solicitor's office, before the counsellor in the confidential conference, or before the registrar who now has judicial powers and whose job it is to forestall cases to minimise litigation within the Family Court.

Mandatory reporting of allegations of child sexual assault. Two structural constraints have inhibited the development of expertise in the area of incestuous child sexual assault: Confidentiality and the ascribed power of individual psychologists to divine what is true and what is in the child's best interests.

Confidentiality has been the rationale for failure to notify Y.A.C.S.. Admittedly notification does not necessarily result in appropriate intervention but, without intervention, the abuse is unlikely to be prevented from recurring. While some counsellors have resisted mandatory reporting, others have reported and have lobbied for mandatory reporting. The current position is shifting towards acceptance of mandatory notification to enable 'expert' child protection workers to assess the allegations.

The Lawyers

The dichotomy within the court between the lawyers and the behavioural scientists has been the source of conflict and contradictory practice. At times lawyers trained to be adversaries have been uncomfortable with the principle of conciliation and sceptical about psychology's place in a legal framework. It has been a struggle for the counselling service to gains status in the eyes of lawyers. At other times judges have been content to rely on the reports of counsellors to relieve them of the burden of deciding on the personal affairs of the parties. Family Law has not enjoyed status amongst the legal profession; it isn't real law. In New South Wales law schools, Family Law is not compulsory, yet many young solicitors find themselves cutting their teeth in their first jobs in the Family Court, acting for the poor legal aid client. In 1984-85

legal aid paid to private practitioners cost the Australian Legal Aid Office $40 million ($10.7 million in N.S.W. and $12.5 million in Victoria), mostly for family law proceedings.

The training of lawyers is generally exclusive of social sciences; those lawyers who complete arts-law courses are unlikely to encounter any mention of incest. Psychology, sociology and social work do not touch on it and yet a large number of social and psychological problems can be attributed to a history of incest in individuals, for example, homelessness, drug abuse.

Most professionally trained workers in the family law area are ill-equipped to cope with incest; for the lawyers the problem of poor knowledge is exacerbated by an adherence to legal principles and procedures, a general conservatism. Rarely do we see in these cases a solicitor developing a case using outside agencies and expert witnesses. The tendency has been to simply advise the client that the court will not deny access and that she must agree to supervised access. Even where women have persisted and instructed their solicitors to argue the case, they usually are forced to agree to supervised access and orders are made 'by consent'. How many such orders are made under this sort of duress is unknown, unresearched. Legal costs and the threat of losing legal aid to pursue a matter to a full hearing may be constraints forcing clients to acquiesce to these deals; it is not too unlikely that solicitors consider the amount they will be paid for a certain result in deciding how much work they should put in. Given the current practice in the Family Court in Sydney and Parramatta registries they may be quite correct in advising clients early in the piece that they will have to accept supervised access orders.

What they may fail to foresee, however, is the difficult situation for a mother to defend contempt of court proceedings if she is in breach of orders she entered into by consent. Perhaps lawyers believe supervised access is the solution, and that it works.

Where a case does proceed to a hearing, and a counsellor's report is ordered, there has been a reticence to cross-examine the counsellor. One solicitor said that she would not be inclined to cross-examine a counsellor because she would not want to get him or her off-side. Counsellors' reports, rarely seen by clients, are tendered unchallenged. Lawyers' practice has enabled counsellors to be unaccountable.

The practice not to consult with other agencies, for example, the Department of Youth and Community Services, school counsellors and teachers, limits the proceedings to the narrow focus of the court and its personnel. The lawyer's perspective is itself narrow in that they see themselves as the hired gun who is going to win or lose. Lawyers lose sight of the issue: the child who

has been sexually abused and what it means to have to go on seeing an abuser, having disclosed the abuse. Tactics and legal games, delays, choosing the time to file to avoid a certain judge, deciding what should be and more usually should not go in affidavits are the lawyers' issues. They pride themselves on the ability to remain dispassionate, to be objective. Yet these cases involve more than objective facts. Attitudes and values come into play.

Separate representatives. In New South Wales the current policy of the Australian Legal Aid Office is to provide a salaried solicitor from its office where possible to be the separate representative when it has been ordered, rather than refer out to the private profession. This policy limits the scope and quality of representation which is available to children.

The fact that children are unable to be separately represented except by an order of the court and that representative being retained only with the indulgence of the court further limits the child's access to adequate representation.

The function of separate representatives is to assist the court, to be a fence-sitter, observing the proceedings which are seen to be between the parties. Rarely does the separate representative meet the child, let alone take instructions or investigate on the child's behalf.

Just as supervised access is a mythical notion, so too is separate representation. It implies that the child is party to the proceedings, and mothers have understood that separate representation means that the children have their own mouthpiece. This is not how it works. The Family Law Rules categorically state the limited function of separate representatives. The Full Court in E. and E. (1979) FLC criticised the separate representative for the amount of work she performed ... 'she exceeded her functions'. It found that a separate representative could collect evidence or material for cross-examination and employ expert witnesses, but she should not place herself in the position of witness. Unfortunately, incestuous child sexual assault cases tend to be indeterminate because of lack of evidence; a child's instructions are the more critical in persuading the separate representative to believe the allegations and to seek validation from experts.

Treyvaud J. in Waghorne and Dempster (1984) FLC said that 'the advocate (should) conduct his client's case objectively and without necessarily holding, and certainly not expressing, any personal opinion or view as to the case or any aspect of it'. (Australian Family Law and Practice Reporter, 923-906).

The separate representative should not form opinions and should supposedly suspend his or her values and beliefs. Attitudes and

beliefs about incest and the myths which surround it are major obstacles for adequate separate representation.

In New South Wales, and it possibly occurs in other states, the same Australian Legal Aid Office solicitors who act as separate representatives also assess the merits of the parties' cases for eligibility for a grant of legal aid. This raises questions about ethics and neutrality. Do these solicitors not form an opinion when making a decision to grant or not grant aid?

RESEARCH FINDINGS

In the last half of 1985 research was undertaken at our centre by two final year social work students, Chrissy Ralston and Beverly Duffy. Part of their task was to build up a picture of the effects of incestuous child sexual assault both short-term and long-term; summaries of some studies appear in the full version of this paper. Presumably it is not necessary to describe to this conference effects like bedwetting, acting-out, soiling, nightmares, anorexia nervosa, obesity, withdrawal, depression, anxiety, low self-esteem, low achievement, drug dependence, suicidal tendencies, prostitution, psychosexual problems, child abuse, and so on. Nor is it necessary to explain that the kind of frequency of sexual engagement do not necessarily indicate the likely effects. The degree of effect appears to be dependent upon the child's perception of the violation of his or her body, of him or herself, of the abuse of trust, of the level of trust breached, of the fear of further assaults. At this time, there are no conclusions about how much abuse causes how much damage. What is clear is that any sexual abuse is harmful and that an abuser is likely if not certain to reoffend where there is opportunity. Children know this, even though many adults, professionals in the field, do not.

The primary research undertaken was a search of all cases reported in Australian Family Law Cases (CCH) and Family Law Reports (Butterworths) from 1975 until July, 1985 involving custody and access where incestuous child sexual abuse was alleged. The aim was to find the cases where access had been denied because of sexual abuse.

The following precis of cases show what the practice of the court has been. It could be that they show only the nature of editorial control or court administration policy in the decisions to report cases. Whatever, the reported cases have influenced practice in the Family Court.

The results were quite surprising. There is no case reported to date where access has been suspended, terminated, denied due to a parent's sexual assault of his or her child. Cases were researched to find out what the circumstances were when access was denied; - that is, how bad the problems caused by access were before the court made orders to prevent these problems.

1. Mazur and Mazur (1976) FCL Wood J, Hobart

Access was not compelled because the son (10) did not desire it. The onus was on the parent seeking access to establish that forcing the child against his sustained will is likely to promote his welfare. The judge stressed, however, the right of the daughter to access to her father despite his sexual behaviour towards her (2 Fam 11,311). Further details page 118.

2. Parsons and Puncmon Wood J, Hobart

The child of 5 years and 8 months did not want to see the father. It was ordered that the father no longer have access because of problems that had arisen as a result of access. The nature of the problems was not reported.

3. re K (1982) FCL Treyvaud J, Melbourne

Access was not ordered owing to the children's antipathy to the non-custodial parent. It was held that access will only be ordered where it will promote the child's welfare. There is no principle that access should be denied only in exceptional circumstances.

4. Hughes and Hughes (1980) Baker J, Parramatta

The husband failed to return the child after access. It was held that if the conduct of the non-custodial parent during access periods has the effect of undermining the stability of the relationship between the child and the custodial parent, or a real risk or likelihood that this will happen, or that there is a likelihood or real possibility that orders governing conditions of access will either be flouted or ignored by the non-custodial parent without regard to the effect upon the child or the child's relationship with the custodial parent, then the court must protect the ongoing relationship between the custodial parent and the child, particularly where that relationship is both emotionally stable and environmentally secure, by suspending access or in an appropriate case refusing access altogether.

5. Rossi FRL vol. 6 Fogarty J, Melbourne

It was held that where access imposes real stress and pressure on a child then the right of the non-custodial parent to access should be extinguished, it being subordinate to the welfare of the child.

6. Khamis and Khamis (1978) FLC Evatt CJ, Watson and Ellis
Melbourne

Access was refused; the applicant appealed but it was found that the husband might take the children to the U.S. where a custody order still exists.

7. Watson and Watson FRL (1976) vol.1
Glass, Samuels, and Mahoney JJ,
N.S.W. Court of Appeal

It was held on appeal that before denying access a judge should be satisfied that it is in the interests of the child that access should cease. The husband was found guilty of irrational and violent conduct towards the wife and made threats about the child of a specially atrocious kind. The nature of the threats was not reported.

The above cases do not provide sufficient detail but demonstrate the principles to be applied in granting and refusing access.

The following three cases involve the issue of sexual assault and in the light of the principle of promoting the welfare of the child the decisions are mystifying.

8. In the marriage of D'Agostino 2 FRL (1076-77)
McCall J, Perth

In this case the marriage broke down in March, 1976 as a result of the wife's discovery that the eldest child (at the time of the November, 1976 judgment) had been sexually assaulted on a number of occasions. The father was convicted and fined in the Children's Court in Perth in April, 1976. In June, 1976 an access order was made to the father allowing his 3 1/2 hours' access each Sunday. In November, 1976 the matter came before the court again and part of the judgment is reproduced hereunder:

'The question of custody of the three children is not in dispute. The husband has agreed that the wife should have sole custody of the children and in view of the evidence led before me I think there is no doubt that a custody order should be made. The existing access order has created difficulties. The husband's complaint is that he finds it difficult to comply with the restrictive provision in the existing order, namely that there must be a third person present during the time that he exercises access, and secondly, the wife wishes to have the access changed from the Sundays to Saturdays. She is agreeable to the husband seeing the children provided the restrictive provision remains. Since the order of Brinsden J. there have also been difficulties effecting access. The wife has complained that the husband failed to take the children on one occasion when she had them ready and on another occasion they were reluctant to go

with him. On the other hand, the husband has complained that if he arrived a few minutes late from the appointed time, then the children had been taken out by the wife.

The principal questions to be determined here are whether access should be permitted at all, and if so, when and under what circumstances. The conviction of the husband was admitted by him; however, an affidavit sworn by the eldest daughter upon whom the sexual assault took place was to the effect that the assault was not an isolated act and had occurred on at least three occasions. This was denied by the husband. In these circumstances the wife, in my view rightly, believes that if the children are with the husband alone then there is a real danger that they are in peril. The husband admits to one assault only, and professes repentance and is apologetic for what has happened. But the wife, understandably, is uncertain as to whether the conduct of the husband will be repeated in the future.

In determining a question relating to access of a child the court is directed by section 64(1) of the Family Law Act to regard the welfare of the child as the paramount consideration. In my view this direction would over-rule even the consent of a parent to the other parent enjoying access if, in fact, the court were of the view that the best interests of the child would not be suited by maintaining contact with the other parent. It is accepted at the present time and in the present state of the law that it is in the interests of a child to retain contact with both his parents where the parents are no longer cohabiting, or where the family is no longer functioning as a single unit. Access has in the past on occasions been expressed as being 'no more than the basic right of any parent' (see S. v. S. P.(1962)2 All and R.1, at 3-4). However, in view of the provision in the Family Law Act referred to above, in my view it is more apt to describe the question of access as being 'not so much the question of the father being entitled to his daughter's company, as one of the daughters being entitled to the right to get to know her father, to enjoy his company and to enjoy the benefit which one may at least assume any child would get from being in the company of its father' (per Selby J. in Melean v. Melean (1964) ALR 246, at 248). I would also respectfully agree with the Full Court of the Supreme Court of New South Wales in Cantrill v. Whatman (1969) 15 FLR 10, at 15, where the court sent on to say: 'We think that, prima facie, it is not in the interest of a child that it should be brought up without a father. It would require a strong case indeed to justify a contrary conclusion although, doubtless, there are cases where it may be proper for the court in its discretion to refuse a parent access'.

In a case such as this the court must always have some doubts as to whether access to the children by the father is likely to place the children in some moral danger. I am influenced in the decision I propose to make regarding access by the fact that the wife is now prepared to allow the husband access to the children provided, however, there are appropriate safeguards to ensure that there is not likely to be any repetition of his past conduct. The safeguards that I would therefore require would be the presence of an adult third person at all times when the children are with their father and that at no time is the father to have the children individually. In other words it is my intention that when the father has access to the children they should be together as a group and an adult person accompanying them. In addition, this is an appropriate case in which access should be supervised by a welfare officer. I appreciate that this does not mean that when access is being exercised the welfare officer will be present, nor is he or she required to be so. It is not the intention of this order that the welfare officer is to be the third person present during the enjoyment of access by the father. However, the availability of a welfare officer to whom both the parents (and the children) can turn will provide an additional safeguard to the children being subjected to conduct in the future which would be detrimental to their welfare. In view of the difficulties of implementing access in the past, supervision by a welfare officer may help to provide a repetition of these past difficulties.

As to the times when access should be enjoyed, again there was a disagreement as to whether this should be on Saturdays or Sundays. Present access is on the Saturday afternoon from 12.30 p.m. to 5.30 p.m. The husband's complaint about this was that when he finished working on Saturdays he was accustomed to having a sleep during the afternoon. It was accordingly inconvenient for him to take the children on Saturday, and Sunday was far more convenient. On the other hand, on Sundays the wife took the children to church in the morning and after lunch she took them out to visit friends, and there was apparently a fairly standard routine for the children for most of the day during Sunday. Again, this question must be determined by reference to the best interests of the children and not necessarily to the convenience of the parties. I am not attracted to the submission on behalf of the husband that access on Saturdays would interfere with his afternoon rest. In my view it is more important that the children's normal routine be continued and that therefore it is for the parents to fit in with what is in their best interest. However, it may be that on Sundays the husband is capable, as he said he was, of taking the children to visit friends which would not be possible on

> Saturdays. In these circumstances it seems to me that access should alternate between Saturdays and Sundays. Accordingly the husband is to have access on each alternate Saturday from 1.30 p.m. to 5.30 p.m. and each alternate Sunday from 1.30 p.m. to 5.30 p.m., the access to be enjoyed under the conditions I have outlined above.

Of significance are the judge's comments about the need to have a contact with the father 'in the present state of the law'. In 1986 this is still the present state of the law and it should be amended.

9. P and P (1982) FCL Simpson SJ, Murray and Tonge JJ, Full Court, Sydney

In May, 1980 the couple separated. The wife left to live with and later married Mr L. who was convicted in September, 1980 of the indecent assault of the eldest son in November, 1979. The son was then about 14. The wife had an order for access to the youngest son which stipulated that he could not be brought into the presence of Mr L. unless a female adult was present. The father appealed to exclude Mr L. from access entirely. He was not successful.

From the judgment of Murray J., the following extract illustrates the attitudes of the bench:
'It is also clear on the evidence that the relationship between the parties has continued to be bitter and hostile since the separation. A distressing complication was that in September of 1980, Mr L. was convicted of indecent assault upon the elder son, the latter incident having taken place in November 1979.

I interpose here that in his reasons for judgment his Honour noted that the husband himself had been sexually assaulted when a child of ten years.

In his judgment, his Honour set out findings concerning each of the parties and Mr L. Of the wife, he said: 'I will simply state that on any matters of credit I accept the evidence of the wife. She is sensitive, honest and very concerned about the children. She is accepting of their views and seeks to understand them. But for her association with Mr L. she would be the undoubted and proper custodian of these children'. Of the husband, he went on to say: 'The husband's rigidity and over-reaction creates difficulty and continues to poison the relative relationships. He sees everything in black and white'. Further on, he says of Mr L: 'I consider Mr L. has put his past behind and, as best I can judge, having seen him in the witness box and listened to his evidence, he presents no risk to the child'. On the evidence before his Honour, I am of the view that he was entitled to make those findings.

'It is clear from the welfare officer's report which was in evidence before his Honour that the two older children are hostile towards the wife and Mr L. and that the daughter is fairly protective towards and close to the youngest child. It is also clear that the youngest child has a warm relationship with both parents and there is no evidence that he has any adverse reaction towards Mr L.

'I turn therefore to the only point in issue, that of the question of the exclusion of Mr L. from access. In my view, this was a matter that was well within the ambit of his Honour's discretion. The learned trial judge took account of the realities of the situation and of the fact that the wife has tied her future to that Mr L. He appreciated it would be unrealistic to attempt to remove that gentleman from the ambit of the child's experience. On the other hand, he had also trodden cautiously in a sensitive area by ordering supervision for the child when Mr L. was present. His Honour assessed Mr L. as presenting no risk to the child, as I have already said, and with that finding I see no reason to interfere. If his Honour had not made that finding, then I might have thought differently on the matter.'

However, Tonge J added to this:

'Although I am far from persuaded that his Honour's assessment of the father as rigid and over-reactive is proper or constructive in the circumstances, or that his Honour's finding that the wife was completely unselfish in the circumstances was proper or constructive, it seems to me that is not a test that I can apply in this particular case; nor am I persuaded that had I been at first instance, I would have allowed the access as it has been ordered, but again that is not the test to be applied. It has not in fact been demonstrated that his Honour erred in the exercise of his discretion in formulating the orders that he did. He has recognised the problem of association between the child, the subject of the dispute, and the wife's new husband, and by his orders has taken steps to see that such a problem does not in fact arise.

10. E and E (1978) FCL McGovern J, Adelaide

In the case of E & E, Mr and Mrs P. an uncle and step-aunt, (aged 59 and 58 respectively) sought custody of a child aged 4, then in the custody of the father, after it was revealed that he had sexually assaulted her. Custody was awarded to them, on the basis that the child had a close relationship with them, that she could see her mother, and that the father and his parents with whom he lived were hostile towards Mr & Mrs P. and would make access to child difficult for them.

(The father had boarded with Mr and Mrs P. with the child for 9 months after separating from the wife 4 months earlier. The child lived with Mr & Mrs P. for 2 years, from the age of 2 to 4 years.)

The allegations of sexual interference made by Mr and Mrs P. and Mrs B. (the child's maternal grandmother) were dismissed as either untrue or not relevant. It seems though that the judge believed the father's denials and his parents' assurances that nothing of an indecent nature had taken place:

'I am in no doubt whatever that, for some considerable period before policewoman Mitchell interviewed her, the child had been subjected to rigorous interrogation on the subject of her father's alleged indecent interference with her. I do not accept either of the accounts of Mrs P. as to what transpired or what precisely the child said initially about the matter. Just how much prompting, probing, and suggestion was involved one can only surmise but, for the child to say what she did to the policewoman, I should think it would have been a good deal. Considering the rehashing that I find went on after that, it is little wonder that the child came out with what she must have felt she was expected to tell the policewoman. Another unsatisfactory feature of the evidence on the subject is the manner in which policewoman Mitchell compiled her statement for, without any record of the preliminary stages of the interview, there is no way of telling that she did not prompt the child to say what I accept the child told her.

There is therefore no reliable evidence as to how the child came to say what she said initially to Mr and Mrs P. or to policewoman Mitchell about the matter. Even if there had been, it would be the uncorroborated evidence of a 4 year old child, for it has not been established in any way that there was in fact a tear of the child's posterior fourchette. Moreover, I believe the respondent when he says that nothing of the kind has ever occurred. He has indeed been put in a most compromising position by what has happened. His reactions, however, have been entirely consistent with innocence and I felt that his evidence had the ring of truth about it on the subject. I also accept without question the evidence of his parents to the effect that there was never any suggestion from anything the child said or from any other circumstance of anything of an indecent nature having happened between the respondent and the child. As to how the child came to say anything at all of that nature, I am inclined to think that Mrs P. jumped to a wrong conclusion initially about something the child said and the rest followed from there through part fantasy, part trying to please, part

irrationality on the child's part and a good deal of probing and suggestion on the part of Mr P. By the time it had finished it all added up, in the agitated state that Mrs P. was in, to a fairly convincing case against the respondent.

The issue, therefore, becomes one purely of competing claims for the custody of the child. It is necessary for this to be done despite my previous order in view of the time that has elapsed and the change of circumstances since I made that decision. I dismiss from my mind any suggestion of indecent interference by the respondent towards the child.'

Access was ordered for the father. The father then appealed and custody was restored to him, partly because of Mr and Mrs P's religious prejudices (they were Christadelphian).

No order for access to Mr and Mrs P. was made and Mr and Mrs P. had to pay Mr E.'s costs.

E and E (1979) FCL Asche and Pawley SJJ, Strauss J.
Full Court, Adelaide

'By majority, the fact that Mrs P. made the unfounded allegations was of crucial significance in determining whether she was a fit and proper person to have custody of the child. His Honour should have given consideration to the long and short term effects of leaving the child in the care of such a person.' (FCL 1979: 78,368).

However, Asche SJ said:

'I agree that the appeal should be allowed. I agree with much of what Strauss J says about the facts and his analysis thereof. For my part, however, although I accept that the husband can and must be unequivocally acquitted of any suggestion that he sexually interfered with his daughter, I would not agree with all the strictures placed upon the conduct of Mrs P. It is one thing to make allegations based upon some substratum from which conclusions, albeit incorrect and even biased may be drawn; it is quite another to make deliberate accusations based upon no foundation whatsoever. I do not consider that Mrs P. was guilty of the latter type of behaviour. I am content to accept the assessment of the learned trial judge, who had the advantage of hearing the witnesses, that Mrs P. 'jumped to a wrong conclusion initially about something the child had said'. The learned trial judge made no finding that there had been any deliberate attempt to deceive the court and it does not seem to me that the evidence supports any such suggestion. There may have

been wishful thinking, much tendency to believe the worst and a great deal of partnership. This is not extraordinary in custody cases and I consider that the learned trial judge was the person best fitted to assess the character of the witnesses. It must also be remembered that the P.'s were the people who helped the father with the child when he came to live with them at Renmark, and without their help he would have had great difficulty in caring for the child and working at the same time. There is nothing in the evidence to suggest that when they took in the husband and the child, they were not people of goodwill who generously gave kindness, care and consideration to a child who was at first nothing to them but the child of a boarder. I am not, therefore persuaded as my colleagues are persuaded, that the allegations were concocted by Mrs P. It follows that I am not disposed to consider that her conduct in this respect automatically disqualifies her as a custodian or as a person entitled to access.

I consider that the appeal should be allowed, not on any basis that Mrs P. has proven herself to be an unworthy or unsuitable custodian. I would prefer to base my decision on the wider ground that the alternatives in the case were: to award custody of a 5 year old child to the natural father who on 3 May 1977 was judicially found to be a suitable custodian, who is living with his parents who in the same judgment were judicially found to be suitable persons to assist the father in the upbringing of that child, and who can introduce the child to her extended family at least on the father's side; or to award custody of this 5 year old child to a married couple found to be suitable custodians but being aged 59 and 58 respectively and being, in effect, strangers in blood to the child although somewhat remotely connected since Mrs P. is the wife's aunt. It is necessary also to bear in mind that on 3 May 1977 the learned trial judge for reasons carefully set out and considered, was of the opinion that the welfare of the child demanded that custody be granted to the father. Now since his Honour, in the subsequent application, dismissed from his mind any suggestion of sexual interference of the child by the father, it seems to follow that the only basis upon which he then changed custody was the behaviour of the husband and his mother on the first occasion when the P.'s sought access. I am not inclined to dismiss the conduct of the husband and his mother on that occasion as 'understandable' because of the bitterness between the two families. It is true that specific orders had not been made as to access and that specific undertakings had not been extracted. But the husband and his parents had given to his Honour what his Honour had referred to as an 'unequivocal assurance' that they would co-operate fully

in seeing that the P.'s had liberal access. I consider that in these circumstances, the behaviour of the husband and his mother when Mrs P. went to collect the child in June 1977 was most unfortunate to say the least; and quite outside the spirit of what they had said to his Honour as part of their case to him that they were suitable custodians. I consider that his Honour was entitled to take the view that the husband, at least at that stage, had not the slightest intention of co-operating over access. I consider however, that his Honour gave too much weight to this aspect in his judgment. If he was of opinion that, previously, the husband had been a suitable person to have custody, the recalcitrance of the husband over access on one occasion should not, in my view, have caused his Honour to change the custody order. I would agree that, if it were accepted that access was beneficial to the child, and if it were shown that the party with custody was completely obstinate in refusing access, that could well be a very proper reason for changing custody. For where the Court can be confident that one party will ensure that a child has contact with both parents or parent figures and that the other party will not, then the welfare of the child may well demand that custody be awarded to the person who can ensure a relationship with both sides. But this was only one occasion, albeit an unpleasant occasion, and the first occasion, in which this child was being handed over for access. I consider that the situation could have been met by the fixing of specific times for access and an appropriate warning to the husband that if he failed to co-operate in the future he could be dealt with for contempt and that it might also influence the court to change the custody. In view of the otherwise suitable arrangements which his Honour had previously found for the child's custody to go to the husband, it was a drastic step to use this one and only occasion as a ground for changing custody.'
(One can speculate what was in the trial judge's mind. The Full Court took a very conservative approach.)

In the marriage of Mazur, A and Mazur, P.H. (1976) FLC Wood J. Hobart

In this case there were five children of the marriage. The parents agreed to the father having access to the three younger children, K. P. and N.; the father accepted that the two elder children had no wish to be contact with him. The eldest of the three younger children, K. refused to go on access despite his mother's using physical force.

At the time of the judgment (1976), the children were 16, 14, 10 1/2, almost 10, and the only girl was 6.

Access was ordered for the father to P. and N. and to K. if K. so desires.

The judge noted the father's obsessional behaviour: 'I think that the father has an obsessive desire to have access to this child for a reason which I cannot fathom. At one stage the father said in his evidence 'I can't give up the battle for him'. The extent of his determination is demonstrated by his proposals as to how the matter should be dealt with if the court were to order access to K. and K. were to persist in his refusal. The father's view was that a welfare officer ought to be appointed to supervise access and that the child should be taken by the welfare officer to his father's car on access days where, said the father, having got him in the car, he could pacify him easily, but that if K. ran off then 'He must be run down. I have no choice.'

Of the father's relationship to the two older boys, the judge observed:
'It is convenient here to interpolate and say that the father has never had access to the two elder boys since the parties separated because they have not wanted to see him and he has not corresponded with them or maintained any contact with them, even to the extent of ignoring any observance of their birthdays or sending them Christmas gifts. I thought his attitude to these children demonstrated what I perceived to be the inflexibility of the father and his very determined and judgmental stance in relation to the breakdown of his marriage and the development of his children generally.'

It is possible that the judge formed some conclusions in his mind about the father's mental health. Certainly in cases where access has been denied there seems to be an element of mental instability in the parent seeking access, but access is denied on the grounds of the child's best interests.

In cases of alleged sexual abuse the parent usually presents as perfectly normal.

The following are summaries of cases which are still pending:

1. H.

In this case, the mother had noticed the development of an 'inappropriate' relationship between her husband and her daughter (now 6) prior to separation. The father, however, had regular overnight access for a period of two years before the mother terminated access because of certain behaviours the child had reported and because of a rash on her genitals.

The husband subsequently applied to the court for access. No orders were made pending a decision about supervision. When the matter came before the court a second time, a new judge made orders for access to the paternal grandparents with no conditions.

On the basis of disclosures depicting episodes of gross sexual abuse, the Department of Youth and Community Services instructed the mother not to send her child on access and made an order that the child be kept in a place of safety. Within two days the matter was brought back before the court; the judge threatened both the mother and the district officer with goal for contempt and at the same time dismissed the separate representative.

The father has exhibited a compulsiveness to sexually interact with his daughter. This was witnessed by the Family Court counsellor.

The psychologist who sees the child fortnightly and the district officer presented persuasive evidence to the court about the abuse. The child is now exhibiting great anxiety about access and states that she does not want to have to see her father or her paternal grandparent whose general care for her includes bizarre restrictions.

The matter is set down for hearing in May 1986 for the case in reply, in which it has been foreshadowed that two experts who have not seen the child will give evidence that the child has been suggested.

2. A.
In this case the mother left the home with her two young daughters when she saw her husband attempting intercourse with the four-year old. The Department of Youth and Community Services told her she had to provide access which was carried out at a local Community Welfare office; the district officer was to supervise access but she left the room. The children were abused during such an access period. Bankstown Magistrates' Court made orders for custody to the mother with no access to the father. He has appealed and the indication at present is that he will get access, supervised or unsupervised.

This man is violent: he has stabbed his wife and run over her while abducting the children with the aid of his brother.

The sexual abuse of one of the children included inserting spoons and other objects into her vagina.

3. R.

In this case the husband was convicted of an offence against an 8-year-old girl, a neighbour's child whom he raped. (He pleaded guilty to indecent assault!) In psychiatric assessment for a pre-sentence report, he persuaded the psychiatrist that he was not sexually interested in little boys. The psychiatrist found nothing wrong with the offender aside from below average intelligence. During the period of bail he was unable to live in the family home but on being sentenced to be of good behaviour he returned to the home and began (or recommenced) a sexual relationship with his four-year-old son. He is now quite disturbed and the 12-year-old stepson is extremely withdrawn and will not disclose anything to anyone. Again the Department of Youth and Community Services organised access: the district officer (from the same community welfare office as the case of A.) insisted that it was the law that mothers had to provide access to fathers.

This later became the subject of complaint to the Minister, Mr Frank Walker, who replied giving a personal undertaking that his Department would intervene in the event that the Family Court granted access.

This is set down for hearing in the Family Court in March 1986 and the woman's solicitor has told her she must agree to supervised access. She has changed solicitors.

4. N.

In this case the mother, who lives in Queensland, used to send her young daughter (now 6) by air for school holiday access with her father in South Australia. On one occasion the child became hysterical and would not board the plane. Subsequent Family Court proceedings (for contempt, I believe) in South Australia heard graphic evidence from a child psychiatrist experienced in the field, Dr Flora Botica, that the child had been sexually assaulted frequently by her father during access. Much of the proceedings were spent on cross-examination of the mother about her own traumatic incest experience.

In judgment, the judge appears not to accept that the abuse actually occurred but her position is equivocal. She ordered access, to be supervised by the paternal grandmother from the time of arrival in Adelaide until her departure. The grandmother does not believe that her son has abused the child.

The police in the Juvenile Aid Bureau in Brisbane and the S.C.A.N. (Suspected Child Abuse Network) team took action

in the Children's Court in Brisbane to effectively make the child a 'ward' of the Minister for Children's Services.

The father has pursued the matter through the Family Court on a jurisdictional point. The Family Court judge has found that the Children's Court has the jurisdiction to deal with the case as it now stands and has adjourned the matter pending the Children's Court proceedings, the likely outcome of which is wardship for the child.

The father in this case is a clinical psychologist who works with the disabled.

5. B.

It is not known whether this case is the subject of further Family Court proceedings. In December, 1985 three weeks' school holiday access was ordered for the mother to her two daughters, aged 7 and 8, who had been sexually assaulted by the mother and de facto husband. The sexual assaults were corroborated by medical evidence (an absence of hymen in one girl and a distended hymen in the other) and the Children's Court established a complaint of 'ill-treat'. Orders were made in the Children's Court, but the family Court judge saw fit to ignore them.

CONCLUSIONS

Of great significance is the finding of not one reported case where access was denied to an abuser on the basis of the abuse.

Access should be terminated where incestuous abuse is established by objective evidence and where the child's report of the abuse has been validated. A father who abuses his position of trust and power forfeits the right to be a parent, since such behaviour demonstrates he is no sort of parent. Offenders know what they do and they know that it is wrong, unacceptable to the community and harmful, sometimes painful, to the child. They simply do not care.

Access should not be granted to abusive fathers when they undertake to attend treatment. There is no suitable treatment available in N.S.W. and the U.S. experience makes one cynical about cure.

Access has become a sacred cow. The Court's practice in rarely denying access in any kind of circumstances is in contradiction to Mazur and Mazur (1976) FLC where Wood J found no right of access in a father.

Children's expressed wishes should be carefully and skilfully adduced and interpreted. Children should have advocates who

put their wishes to the court. Children themselves could give evidence in court. It would be no more traumatic than being forced to see abusive fathers. They would feel they have some control over their lives: abused children learn that they have little control over their lives. At present the court's practice, including the separate representatives' disinclination to meet their clients, compounds this.

Supervised Access Centres are not a solution. The state at present actively encourages an abusive relationship and even forces it. The setting up of Supervised Access Centres would be retrograde, like the N.S.W. Pretrial Diversion of Offenders scheme which encourages family reunification. These approaches ignore the fact that harm is perpetuated while anxiety and fear of further abuse exist and that an abuser is always a potential abuser. Families in which sexual abuse has occurred should be dismantled and the state should assist by removing the offender, prohibiting contact with the children, supporting the wife and children and providing ongoing therapy for victims.

A further solution is to make the child a State ward to remove him or her away from the Family Court's jurisdiction. This has happened in Queensland but in N.S.W. there would be no guarantee that a district officer would not encourage and allow the father access.

The Family Court needs guidelines and directions for the management of these cases. Judges' discretion is too wide in terms of a child's best interests and what weight to place on some evidence. Specific directions must be given to qualify discretion in these cases.

Structured discretion can be legislated; the Chief Judge may give certain directions to fellow judges; the court's administrative infrastructures can change to respond appropriately: registrars and counsellors should not deal with such cases, rather they should be a matter for investigation by appropriate child protection services and a matter for judges to adjudicate, having been given direction by legislation, the Chief Judge or by a High Court decision.

The difficulties counsellors face within the administration of the court due to scarce resources and because of the philosophy of the Family Law Act have been acknowledged.

But counsellors should have had the expertise and knowledge to deal with these cases. They have psychology degrees and the literature demonstrating that incest is harmful has been around for some time. They could have been the vanguard of reform in the Family Court's treatment of these cases. They could have been creative and innovative in their advice to abusers and mothers of abused children, in the counselling of children and in their reports and recommendations. Counsellors have had power

but it has been used to perpetuate a practice in the Family Court which is scandalous. Child protection should be a state responsibility.

Judges are legalistic and removed from the issues. They particularly distance themselves from the children they set up for further abuse; these days they rarely or never see them.

Lawyers, albeit closer to the parties, also do not confront the issues.

At all these levels there must be intensive inservice training and ongoing education to change attitudes about families, about access and about incest. It occurs in one in four families, the Family Court is probably dealing with most of them and badly.

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MANDATORY REPORTING: YES OR NO?

Inspector Barbara Oldfield
Victoria Police

Rather than address the for and against in the issue of mandatory reporting I came to this conference with a brief to listen to try to gauge the mood and understanding of the conference in terms of the issues to be addressed, since it was within my knowledge that this type of conference, addressing social issues, has not been something that the A.I.C. has had time to address in the past decade and that most of their forums have been concentrated more on the process of criminology, the areas of criminality, law reform etc. I guess I anticipated that there would be some historical review of the maltreatment in Australia at the commencement of the conference. Professor Peter Boss addressed the issue and gave a brief summary of perhaps, his perception, of the development of the issue or the identification of child maltreatment in Australia. He commenced, to my amazement, at a time when I started working in this field. He made me feel very old. I noted with interest that some participants raised the point that there was a lot left out of his presentation. It occurred to me that even that question did not raise the real question. The real question is that there was almost a century of development in this country left out. In fact, in terms of feminism, we should be looking at Caroline Chisholm and the feminists in the post-federation period if we are looking at the development of social control and regulation of the treatment of children in Australia.

It is very important to look at the historical content in terms of our decision making processes and discussions in terms of social control of children. This is equally applicable in looking at the specific topic of mandatory reporting because we need to ask the questions: 'what form of social control is this?' and 'how did it evolve?', and have a look at our systems of social control within this nation and begin to understand why we have set statutes to make people accept responsibility.

This is a process which has occurred in my bureaucracy over the last ten years and I distinctly recall a day when I presented myself for work and my assistant commissioner came out of his office and said 'We are not winning the war! You people will have to examine the problem: crime is up, the police strength is down. We are not getting anywhere. In fact begin at the beginning'. I was probably cheeky enough to ask 'where was the beginning?' He said '... of civilisation, you fool!'. We did not quite go back that far but we did begin to examine, in terms of policing, our beginnings, our role and our purpose in the community. We had to go back to Greek, Roman and biblical times.

I thought for today's purposes I would give you a brief run down on social control in terms of mandatory reporting. We need to go back to Alfred the Great and look at the structure of sanctions and controls and how we managed communities before bureaucracies. In the times of Alfred the Great the people in the community were responsible for all of the community activity and if one person committed a crime against another person then the whole community was responsible. If one member observed or had knowledge of another citizen committing a crime that person was equally responsible and if they failed to report they were equally punished. Who were they punished by? They were punished by the community who met and passed judgement. Who compensated the victim? The perpetrator. If they were unable (if the community had savagely punished them) then the community was required to compensate the victim.

Then came the industrial revolution and things began to change in terms of social control. The modern phenomena of social mobility, the need to move from within your long established home base to seek work: people were required to move out of that social-hierarchial structure. As a consequence it was very hard to hold citizens accountable for the community; there was a sense of lost community and the anonymity of the individual came to the fore. People abdicated personal and community responsibility for their actions and out of this role arose the function of constable: a job given to someone who was unemployed. People paid others to watch the community while they were at work. This was the first mandatory type of sanction. We mandated people to report to us on the amount of crime in our community. Those are the historical backgrounds to mandatory reporting. It is also the historic basis for that magic word 'accountability'.

The difficulty with this kind of conference is that in the 1980's we have a room full of people who work for various disciplines and professions and we have different basic philosophies. The very notion that a child is the responsibility of the whole community and conduct towards children is a responsibility of the whole community is one which should, in its historical context, be looked at and de-politicised. I have heard it said that this is a Marxist approach. In fact it is a Westminster system approach that dates back to Alfred the Great. It is within the Westminster system that we all operate so we have one thing in common. The second thing we have in common is concern for children and when we begin to debate the issue of whether or not the magic mandatory reporting should be a fact of our lives and a thing that we will accept. This really should be looked at in its historic context.

What do we mean by mandatory reporting? It is really a policy statement. A policy statement that declares an obligation for citizens to accept a responsibility and accountability to report defined maltreatment of children. We have almost come complete circle. If we look in the chapters of history we find that that was the beginning of social control.

In each state in Australia we have some varied approaches to child maltreatment. The original basis of social control in terms of pre-bureaucracy simply meant that we have a universality of responsibility: every citizen accepted responsibility for conduct within the community. We have now coined a new phrase in terms of mandatory reporting and it is that of 'universal reporting'. This simply means every member within the community. In Australia, each state has selected or banded one professional group with that responsibility. Some states have selected the medical profession. Some have suggested that education and some welfare groups need to report. Police, of course, always report as they need to investigate the crimes.

This raises some differences in philosophies that have been voiced during this conference period. We heard statements that 'we should guard against community pressure', we heard statements that reversed that view and said 'we should encourage community pressure'. I think it is important when considering a social control or sanctions such as mandatory reporting that we find some common ground on which to operate. I would postulate two today and I would like to see if we as a group, can agree on the historical development of the social control of mandatory reporting and whether we understand where we are at now. Does anybody dissent from this view?

Participant Response: That's fine if the community is like it was in the past but it is not. It has disintegrated.

We seem to have a polarisation of our professional views in terms of whether child maltreatment is a crime. I seem to hear this week some people perhaps discussing the notion that it is not a crime and I believe there is still a belief amongst some that it is an illness or a welfare matter and yet I hear very strongly that domestic violence is a crime, an assault, an intrusion, a crime. The problem of definitions and languages across professions and interest groups is a difficult one to look at. In terms of language we should have a look at sorts of mandatory reporting issues we have addressed in this state to date: the question that our agenda asks is '... mandatory reporting Yes or No?'

Different varieties of mandatory reporting exist in all the states and I will soon ask you all to join into groups to discuss this. We have mandatory reporting with sanction or without sanction. Are we for this form of social control with sanction? and do we understand what sanction means? We decided to change the law to make that form of restriction or accountability no longer impinge upon ourselves as citizens. 'With sanctions' simply means if you do not report, there is some punishment possible. If we accept mandatory reporting without sanction then it is a policy statement as opposed to law.

There is a growing sense of community nowadays and police forces are aware that there is a need to move back towards community, and put police forces back to a position where they are accountable to the community they serve. We have in fact gone full circle and started to develop community based programs such as neighbourhood watch, safety house, protective behaviours.

I propose to say nothing about the 'Yes' and 'Nos' of mandatory reporting. I would like to hear from others. In Victoria debate has gone on for twenty years still no clear picture emerges.

The issues to be addressed are clear and I will set them out for us to debate:

Mandatory Reporting	Yes
	No
Mandatory Reporting	with sanction?
	without sanction?
Mandatory Reporting by who?	Universal?
	some professional groups?

I hope this talk has provided a clear historical background for you to base your thinking on. The above questions provide the basis for debate.

THE CHILD VICTIM IN CRIMINAL COURT PROCEEDINGS

Paul Byrne
Commissioner
NSW Law Reform Commission

The problem of the child victim in criminal court proceedings must be addressed from three separate perspectives. In the first place it is necessary to look at the procedures for questioning victims in child sexual assault cases. Secondly, it is necessary to consider the way in which that material can and should be used in the preparation for trial and in the procedures which occur before trial. Thirdly, the way in which the evidence of children in sexual assault cases is actually presented in court must be examined. These three areas are naturally interrelated. A change made to the law or practice in any one phase of the criminal process will have an appreciable impact on the other phases nominated.

The topic is one of current interest for three important reasons:

1. The High Court has, in relatively recent times, given judgment in a case where the child victim of an alleged sexual assault was not called as a witness at the trial.(1) The unanimous decision of the court to quash the conviction and enter a judgment of acquittal raises important issues as to the use which should be made of the evidence of children in sexual assualt cases.

2. The report of a task force on child sexual assault established by the New South Wales government was recently published.(2) Some of its proposals have been enacted by legislation.(3) The report raises the question of whether there are additional measures, not expressly supported by the task force, which can be implemented to assist the satisfactory resolution of the problems faced in this sensitive area.

3. The Australian Law Reform Commission has recently published its interim report on the subject of evidence.(4) This vast work makes occasional references to the problem of children giving evidence in court(5) but does not address the specific issue of children giving evidence in sexual assault cases. If its more general recommendations are adopted, this report will have a significant impact.

The High Court decision mentioned in point 1 above underlines, in my view, the need for change. The two reports referred to give some indication of the direction which that change should take.

GENERAL BACKGROUND

When a child makes a complaint that he or she has been sexually assaulted, the usual procedure involves the child having to tell in their own words a wide range of people of the intimate details of the assault. After making the original complaint, the child may be required to relate the same version of events to a police officer and then to a doctor prior to a medical examination. This may be followed by interviews with social workers and with representatives of the Department of Youth and Community Services. If a prosecution follows, the child will be required to explain what happened to the police prosecutor appearing at the committal proceedings and later to the Crown prosecutor who conducts the trial. If the child makes an application for compensation as the victim of a crime,(6) the solicitor and possibly counsel appearing on that application, will need to be told of the events in question. At a later stage there may be interviews with counsellors from the Family Law Court and, if the child is separately represented before that court,(7) with lawyers appearing in those proceedings.

Quite apart from all these interviews, there are the two crucial occasions on which the child must suffer the ordeal of giving evidence in a criminal court. Firstly, at the committal proceedings and secondly, at the actual trial before a judge and jury. Where the allegation is contested, this will usually mean that the child victim is examined and cross-examined. As a result of these procedures, the child must deal with the facts on four separate occasions in court and probably more frequently than that out of court.

It is hardly surprising that many people who are experienced in this field, whether they be lawyers, psychologists or psychiatrists, believe that the criminal process is devastating for a young victim of sexual assault. Children who are required to give evidence in court may ultimately be worse off. As the Report of the Royal Commission into Human Relationships(8) said:

> The legal procedure may do more harm to the child than the original offence and in some cases it may be the only cause of serious upset.

It is difficult to assess with accuracy the degree to which children are affected by the obligation to give evidence, particularly where the person who is placed in jeopardy by that evidence is a close relative or a person who has had a longstanding association with the child. It is plainly clear, however, that the effect upon some children is immediate and profound. The courts are frequently met with the spectacle of young children who are called to give evidence being unable to utter a word. It is widely held that this results from the child's sense of fear and intimidation at the task which he or she is called upon to perform, rather than from a reluctance to make a false complaint.(9) The trauma suffered by young victims

required to give evidence is so seriously regarded that it has led prosecutors to try and conduct cases without calling them as witnesses.

Whilst this has obviously been done with the best interests of the child in mind, it has been held by the High Court tobe more than merely unsatisfactory. It has been declared to be such a fundamental breach of the principle of fairness as to justify quashing the verdict of the jury. In Whitehorn's case(10) the alleged victim was a seven year old girl who had complained that she had been indecently assaulted. She was not called to give evidence by the Crown prosecutor. No satisfactory explanation for the failure to call the girl was put before the High Court. Mr Justice Murphy said:

> The fact that the complainant is a witness satisfies one of the most important rights of an accused, which is, that in the absence of satisfactory cause such as death or incapacity, the accused is to be given the opportunity of testing evidence against him. The right of confrontation is 'one of the fundamental guarantees of life and liberty ... long deemed to be essential for the due protection of life and liberty': see Kirby v United States 174 U.S. 47, at pp.55, 56 (1899). In this case, the child's complaint was given as part of what the policeman said to the applicant during interrogation. The decision not to call the child as a witness deprived the applicant of the right to test the reliability of the complaint and, in this case, whether the complaint was directed at him or another, and whether an offence had been committed by anyone.(11)

Mr Justice Deane said this:

> In the above circumstances, the failure of the Crown to call the child as a witness or to provide some acceptable explanation for not calling her was unfair to the accused. No doubt, prosecuting counsel acted for what appeared to him to be worthy motives: there is no suggestion at all of professional misconduct on his part. The failure to observe the requirements of fairness was not, however, insignificant in the context of the overall trial. To the contrary, it affected the whole course and conduct of the trial and created a situation in which the applicant was denied, without any satisfactory explanation, the opportunity of testing, by cross-examination of a person whom the Crown was prima facie required to call as a witness, the genuineness and reliability of a damning statement by that person of which the Crown led hearsay evidence.(12)

Recognising that the goal of protecting the child victim from the ordeal of court proceedings is a desirable one, there is now a demonstrated need to examine alternative procedures.

It should, nevertheless, be kept firmly in mind that finding solutions to the problems in this area is made difficult by the fact that there is a need to balance two competing claims which are both perfectly legitimate. On the one hand, there is a need to protect an innocent child victim from the ordeal of court proceedings. On the other hand, there is a need to safeguard against the risk that an innocent person accused of child sexual assault will be wrongly convicted because of the shortcomings of criminal procedure, whether in court or out of court.

My basic proposition is that many of the difficulties faced in this area of the criminal law can be solved by improving the techniques used to obtain relevant evidence in child sexual assault cases. The ultimate goal of the criminal process is to establish, by acceptable and reliable means, the truth relating to events which are said to have occurred in the past. The achievement of that goal can be greatly assisted by the use of technology. In this case, a form of technology which is neither completely foreign nor inaccessible. I refer to the videotape recorder. It does not provide, of course, a complete answer. There are other measures which should be considered. The use of videotape does, however, have several identifiable advantages over current procedures for obtaining evidence, preparing for and presenting child sexual assault cases in court.

THE INVESTIGATION STAGE: GATHERING EVIDENCE

The main function of the investigation is to gather evidence to establish the facts. In investigating child sexual assault cases, the ultimate determination of this issue will be made by a jury in a criminal court. Since the nature of the offence is such that there will rarely be any eye witnesses to the events in question, the strength of a prosecution for child sexual assault lies chiefly in the value of the evidence of the child victim. In the first place it must be capable of presentation in court. It must also be understandable, reliable and persuasive. The initial interview with the child is crucial because it will be at that time that the events are fresh in the child's memory. According to one commentator:

> The major weakness in child witnesses, researchers have found, it that they generally remember fewer details about past events than adults do, because they have not yet developed their thinking ability to the point where they can store as many details as adults.(13)

The questioning of child victims should be conducted by people who are specially trained for the task. They should be conscious of the need to have the child tell a complex version of the relevant events in a manner which is free from suggestive influences introduced by the questioner. Their special training handling children in distress should also minimise the suffering for the child.

The use of electronic equipment, preferably videotape, would enable a much more effective technique of questioning. The current procedure of recording a child's statement on a typewriter depends on the police officer questioning the child and awaiting his or her answers. The answers, but not the questions, are then recorded. There are naturally frequent interruptions while this is done. If electronic equipment were used there would be no cause for interruptions. The procedure would be much less traumatic for the child. A further important consequence of this form of recording is that it faithfully records what the child said. This removes the doubts which are often raised about how much of a typewritten statement was the work of the investigating police and how much of it was genuinely contributed by the child, and thereby eliminates one of the main sources of ammunition for defence counsel who seek to challenge the child's evidence as being fabricated or the result of improper suggestion.

Quite apart from the more effective and fairer (from the point of view of the child victim and the accused) method of questioning, the electronic recording of an interview would mean that the child is not required to repeat this process over and over again for the various people who need to be informed of the facts of the case. They would naturally need to ask questions, but the videotape would save the child the agony and humiliation involved in repeating the same versions of events time and time again.

Some of the objections to this proposal are noted in the task force report.(14) They include the need to obtain the child's consent for the recording, the intrusive nature of the procedure, its cost, the fact that the recording might be 'stimulating' if shown to the alleged offender. The task force report concludes with a specific recommendation that audio recording be used at the discretion of officers of the Departments of Youth and Community Services, Health and Police.(15)

In my view, the terms of the recommendation, suggesting audio recording, miss the crucial point which is well made in a submission to the task force from the children's hospital at Camperdown:

> We would strongly endorse the value of making videotapes of victim accounts of abuse. This is particularly pertinent for small children who show through their play what happened. Because their language development is elementary, it is vital that this visual record be made.(16)

To overcome the inhibiting nature of the procedure which would be reduced in any event by using professional counsellors, the interview could be conducted in a comfortably furnished room with concealed microphones so that the child will not feel inhibited.(17)

The question of consent is a remarkable one to raise in this context. Victims of sexual assault aged fourteen or under may be compelled to submit to a medical examination if the child's parents give the doctors their consent.(18) Where the parents do not consent, the child may be deemed to be under the guardianship of the Director General of the Department of Youth and Community Services for a period of up to seventy-two hours.(19) The consent of the child is apparently irrelevant where medical examinations are concerned. They are clearly much more intrusive than a recorded interview. The issue of consent is not particularly important in any event. A child victim who was not prepared to give the prosecution the best evidence available, would be unlikely to be a valuable witness.

THE PREPARATION STAGE: PROCEDURE BEFORE TRIAL

In this stage of the criminal process the important objective is to avoid, so far as is reasonably possible, the need for the child to give evidence in court. There are two separate issues. Firstly, the encouragement of pleas of guilty, and secondly, the amendment of rules relating to the conduct of committal proceedings.

The existence of a videotape recording of the child's complaint should increase the number of guilty pleas and should ensure that these pleas are made at a relatively early stage of proceedings. Some accused people are known to drag the case out because they do not believe that the child has in fact made the complaint which is alleged against them. It is not uncommon to hear 'My child would never say that about me'. A typewritten record of a child's statement is of relatively slight assistance in advising an accused person of the strength of the case for the prosecution. If the accused person could be shown at an early stage a video record of the child's complaint, it may be that more accused people will be satisfied of the strength of the prosecution case and will not continue to challenge the allegation made against them.

Whilst this has the highly desirable consequence that children are not required to give evidence, it should be approached with caution lest such a procedure be seen as pressuring innocent people into pleading guilty to an offence which they did not commit. In my view, the risk that this may occur is much less in cases of child sexual assault. The public distaste for and the condemnation of offenders of this kind is probably more intense than for any other single group. It is hard to imagine a person effectively branding themself a child molester without cause to do so.

In recent times there have been new rules made about the conduct of committal proceedings. In New South Wales a committal order can now be made by a magistrate upon examination of 'the papers' in the case, that is to say, the typewritten statements of witnesses and the relevant documentary material. If the accused person does not wish to cross-examine the makers of the statements, the committal order can be made without requiring the witnesses to appear in court. New Zealand,(20) South Australia(21) and Victoria(22) have gone much further than this. They have introduced legislation which provides that special circumstances need to be established before a complainant in a sexual assault case is required to give oral evidence at committal proceedings. This rule applies generally, to both adults and children who claim to have been sexually assaulted.

One of the important functions of committal proceedings is to inform the accused person of the nature of the case for the prosecution. Committal proceedings are frequently used by accused people to determine whether the case should be fought, in the sense that a plea of not guilty should be entered at trial. This practice can be avoided by the use of procedures before committal which inform the accused person of the strength of the prosecution case at an earlier stage. The videotaped record of the child's statement can be used for this purpose, to avoid committals altogether by encouraging a plea of guilty. I will return to the question of whether it should be necessary for the complainant to appear at committal.

There is a further issue which should be mentioned here, namely the problem of delays in criminal cases. Excessive delay adversely affects the criminal process generally, but it has a particularly serious impact in cases of child sexual assault. The child victim is, in a prolonged prosecution,(23) continually reminded of the facts of a depressing and humiliating experience. The passage of time threatens the accuracy and reliability of evidence. The physical development of the victim from the time of the offence to the time of trial will give a misleading impression of the respective maturity of the parties at the time the offence was committed. All of this implies that special consideration should be given to accelerating the progress of child sexual assault cases through the criminal courts. This was a specific recommendation of the N.S.W. Task Force(24) and it has been acted upon.

THE TRIAL STAGE: PROCEDURE IN COURT

If the allegation is to be contested and a trial conducted, then it must be held in accordance with the fundamental principles of criminal justice. The right of the accused person to have a fair trial must be respected. This does not mean, however, that the legitimate right and interests of the other participants in the trial should be neglected. If I can deal firstly with some of the less contentious issues before I come to the more difficult part of this Paper. In dealing with these I am presuming, as the High Court has stated the law to be, that the child victim will in fact be called as a witness in the trial.

The courtroom atmosphere should be less intimidating. There should be greater flexibility in procedural rules when children are required to give evidence.(25) The wearing of wigs and robes and other aspects of court ceremony should be dispensed with if it thought that they might be likely to intimidate a young child.(26) The courtroom itself should be less intimidating. The child victim should be entitled to be accompanied in court whilst giving evidence. Any suitable person, provided that they are not a witness in the case, could fill this role.(26) The oath or affirmation for children should be simplified so that it truly reflects the nature of the obligations a witness is placed under in a criminal court.(28) This again is a specific recommendation of the task force which has been enacted.(29) The terms of the oath now required to be taken by children under the age of twelve years are:

> I, , promise to tell the truth at all times in this court/document (omit whichever inapplicable).(30)

I now move to the two most controversial issues in this area. Firstly, the nature of evidence which may be admitted in cases of child sexual assault, and secondly, the right of the accused person to be present in court when the child victim is giving evidence. To deal with the second question first, it is in my view legitimate for the accused person to insist on the right to be present in court.(31) In that way they are able to hear the evidence presented against them, are able to instruct the lawyers who are representing them, and are able to feel that they are a participant in their own trial. In my view it would be unconscionable to remove the accused from the courtroom for the period when the complainant is giving evidence. The prejudice created by such a procedure cannot be accurately measured, but there would appear to be a substantial risk that it implies to the jury that the accused is a monster who cannot with safety be allowed to remain in the same room as the child victim. In those circumstances it is hard indeed to argue that the accused person is given the benefit of a fair trial. The legislature and particularly the courts have traditionally kept a close guard

over the influence of prejudice(32) in criminal cases. The continued application of that policy would mean that the proposed exclusion of the accused person would create unfairness.

This does not mean, however, that the accused person has the right of 'eyeball to eyeball'(33) contact with the alleged victim. Courtrooms can be designed, and the relevant seating located, so that the so-called right of confronting the witness is not abused as an opportunity to intimidate or threaten the witness. In my view, there should be no objection to having the child victim seated in a position where she does not have to look directly at the accused person. It should be noted, however, that such precautions will be of no use where a person accused of child sexual assault chooses to represent themself and thus conduct their own cross-examination of the witness.

The final issue which I wish to cover is the admissibility of statements made out of court as evidence in a criminal trial. The current law, in most common law jurisdictions, is that evidence of complaint is admissible in sexual cases.(34) This is a well recognised exception to the rule prohibiting the admission of hearsay evidence.(35) The justification of the exception is said to be that:

> A complaint made as soon as possible after the alleged offence, tends to show consistency and therefore to support the credit of the person who gives evidence of being subjected to a sexual offence.(36)

Evidence of this kind is, however, only admitted where the alleged victim is called as a witness and gives evidence of having made a complaint. Where this is done, the person to whom the complaint was made is entitled to give evidence of it. In the normal course this is done by the witness simply describing what the complainant did and said. As a matter of logic, I see no reason why, if the complaint is recorded on videotape, the tape itself is not admissible. The tape makes a more faithful record of the demeanour of the complainant and the actual wordsused, as well as preserving the inflection and mode of speech. The descriptive powers of an individual, no matter how skilled they may be, can simply never match the accuracy and reliability of a device which records the very events which they are trying to describe. If the general conditions of admissibility of the complaint are satisfied, that is to say, the complaint was reasonably contemporaneous with the event in question and was not induced by suggestion, then in my view an electronically produced record of the complaint should be admissible as evidence. Its admissibility would, of course, be contingent upon the complainant being called as a witness and being liable to cross-examination about the terms of the complaint.

This may represent a change in the current law relating to hearsay, but it is certainly not a radical departure from the principles embodied in that law, nor is it in any sense illogical. We already recognise one significant exception to the hearsay rule in sexual assault cases generally. The special circumstances of child sexual assault cases reveal the need for another, namely that a videotape recording of the complaint made by a child should be admissible as evidence. This would overcome the problem of children being unable to give details of the offence in court. The child would need to give evidence on oath that the videotape evidence is a record of the statement he or she made, and that those statements are the truth.

The proposal above is by no means novel. Some of the states in the USA have developed special rules of a similar kind to deal with the problem of children who are required to give evidence of sexual offences.(37) In 1982 Washington State Legislature enacted a statute which provided an exception to the hearsay rule in child sexual abuse cases. This statute specifically applies only to out-of-court statements made by children under the age of ten. It reads in part:

> A statement made by a child under the age of 10 describing any act of sexual contact performed with or on the child by another, not otherwise admissible by statute or court rule, is admissible in evidence in criminal proceedings in the courts of Washington if:
>
> (1) The Court finds, in a hearing conducted outside the presence of the jury that the time, content, and circumstances of the statement provide sufficient indicia of reliability; and
>
> (2) The child either:
> (a) Testifies at the proceedings; or
> (b) Is unavailable as a witness:
>
> Provided, That when the child is unavailable as a witness, such a statement may be admitted if there is corroborative evidence of the act ...'

It may be that changes of this kind may be expected in this country in the not too distant future. The Australian Law Reform Commission(38) has suggested that where hearsay evidence is the best evidence available and can be shown to have reasonable guarantees of reliability, it should be admissible. If the person who made the statement out of court is available he or she must be called as a witness. The proposal enables oral as well as written hearsay evidence to be received if it was made when the facts were 'fresh' in the memory of the maker. By logical application of the principle embodied in this rule, it would also

allow the videotaped record of a statement to be given in evidence. In the report it is expressly noted:

> The proposal would have the effect that complaints in rape trials which are at present received only as showing the consistency of the matters stated, as long as they were made when the facts were fresh in the memory.

In a dissenting view, Justice Kirby(39) proposes a single broad test that courts be authorised by statute to admit hearsay evidence provided that the following requirements were established:

- Reliability. That the evidence was likely to be reliable.
- Convenience. That the evidence was more probative on the point for which it was offered than any other evidence which the proponent could procure through reasonable efforts.
- Justice. That, balancing the arguments for admission and rejection of the evidence, it would be fair and in the interests of justice to receive the evidence.
- Countervailing Reasons. That there was no countervailing reason of law or public policy that required the rejection of the evidence, such as the rules that require or permit courts to reject even reliable and probative evidence obtained:
  - unfairly or unlawfully;
  - as a result of threats or violence; or
  - in circumstances that would make its admission unsafe.

If either of the views put forward by the Australia Law Reform Commission were adopted, the strict rules of evidence, which operate so harshly in the case of young children, would be significantly relaxed. Such a realistic development, coupled with a more enlightened and contemporary approach to the practice of questioning the victims of sexual assault, would result in a fairer criminal justice system. The benefits of these proposals would be felt by victims and accused people alike.

NOTES

1. Whitehorn v. The Queen (1983) 57 ALJR 809; 49 ALR 448.

2. New South Wales Child Sexual Assault Task Force, (1985) Report to the Hon. Neville Wran, QC, MP

3. See Crime (Child Assault) Amendment Act, 1985 and Cognate Acts.

4. Australian Law Reform Commission, Evidence, 1985, ALRC 26 (Interim).

5. See, for example, paras 242-3.

6. Section 437 Crimes Act (N.S.W.).

7. See Guidelines for Separate Representation of Children, practice note issued by the Chief Judge, Family Court of Australia, set out in Commonwealth Law Bulletin, January 1984, 281.

8. Report of the Royal Commission into Human Relationships, vol. 5 215.

9. See generally J. Tom Morgan 'The Need for a Special Exception to the Hearsay Rule in Child Sexual Abuse Cases', Georgia State Bar Jounral, vol. 21, no. 2, November 1984.

10. Note 1 above.

11. Note 1 above p.810.

12. Note 1 above p.813.

13. Bill Girnder, 'Out of the Mouths of Babes', 5 California Lawyer June 1985, 58.

14. Task Force Report (see note 2 above, p.109).

15. Task Force Report (see note 2 above) Recommendation 20, p.112.

16. Submission from the Children's Hospital, Camperdown, noted in Task Force Report, not 2 above, 108.

17. Morgan (not (9) above p.51.

18. Minors Property and Contracts Act, 1970, s49.

19. Child Welfare Act 1939, see also Task Force Report, note 2, 167.

20. Newsletter of the New Zealand Law Society, November 20, 1985. 1.

21. Justices Act 1921 (SA), s106.

22. See reference in note 20 above. See also National Health and Medical Research Council 'Statement on the Care of the Child Victim of Sexual Abuse', June 1981, at pp87-88.

23. The McMartin Pre-School case in California is an example: seven accused, 208 counts - committed for trial after a preliminary hearing lasting 22 months. Only 15 of the 41 victims gave evidence.

24. Task Force Report, Recommendation 49, 172.

25. National Health and Medical Research Council, note 22 above, at p.88. See also Task Force Report, note 2 above, pp173-4.

26. National Health and Medical Research Council, note 22, 88. Ibid. cf. the Report of the New Zealand Criminal Law Reform Committee 'The Position of Young Witnesses in Cases Involving a Sexual Offence' (January 1977) noted in paper dated 9 July 1984 of Mr Justice Vasta of Supreme Court of Queensland.

27. Task Force Report, Recommendation 54, 177-80.

28. Task Force Report, Recommendation 56, 181-3. See also commentary to Domonic (85) 9 Crim LJ 375.

29. Oaths (Children) Amendment Act 1985.

30. Ibid, s35(3) setting out the Tenth Schedule to the Act.

31. See the Constitution of the United States of America Amendment No. 6, Amendment No. 14.

32. See generally New South Wales Law Reform Commission, Discussion Paper, The Jury in a Criminal Trial, September 1985.

33. See Girdner, note 13 above at p60.

34. Kilby v. The Queen (1973) 129 CLR 460. The Queen v. Lillyman [1896] 2 QB 167.

35. Cross on Evidence, para 10.26; R v. Askew (1981) Crim LR 398.

36. Per Murphy J in Whitehorn v. The Queen, note 1, p810.

37. Morgan, pp53-4.

38. Australian Law Reform Commission, Para 683.

39. Ibid, Para 723.

A PERSONAL STATEMENT TO THE CONFERENCE

Ms Liz Archer
Adelaide Rape Crisis Centre
Norwood S.A.

It has now been three days since this conference began. In all this time no one has stood up and said, 'I am a child rape survivor' and then gone on to evaluate what has been said, or proposed, in view of their experiences.

I find this disturbing considering that, going by statistical evidence, at least one in three women here in this room have been raped - or, as many of you seem to prefer to name it, sexually abused - before we hit puberty.

To me this indicates that here, at this conference, amongst people who are considered to be Australian experts on child rape, it is unsafe for child rape survivors to disclose or to acknowledge our rape.

I am a child rape survivor. I am horrified by some of the beliefs, proposals and philospohies I have heard here at ths conference.

If you were truly working in the best interests of raped children you would not be saying 'It can't be done', you would be saying 'It must be done', and working out ways of changing the legal system.

If you were truly working in the best interests of raped children you would not be talking in terms of serious, and therefore, presumably, non-serious instances of child rape. All instances of child rape are serious and do have damaging effects. Penetration is irrelevant. 'Touching up', 'fiddling with', 'molesting' a child is raping that child.

If you were truly working in the best interests of raped children you would be calling us survivors, not victims.

If you were truly working in the best interests of raped children you would not be talking about 'helping victims' you would be talking about facilitating child rape survivors to empower themselves.

If you were truly working in the best interests of raped children you would not be saying there isn't the money to run that sort of a program, you would be doing everything you could to ensure that money was available.

If you were truly working in the best interest of raped children you would not report a case of child rape unless the survivor expressly wanted that to happen. Rather, you would be working with her in the knowledge that when she felt safe enough to do so, and wanted to do so, she would do so.

At this conference I have heard very, very little about children. I have heard very, very little about the real issues in child rape.

If this is how you people - professional, non-feminist, child rape (or in your terms, child sexual abuse) experts - view child rape then the service you provide for clients/patients/cases/ victims must surely constitute iatrogenic rape.

'PROTECTIVE BEHAVIOURS': THE VICTORIAN COMMUNITY PROGRAM

Sergeant Vicki Brown
Community Policing Squad
Victoria Police

I have no doubt that every person attending this conference is well aware of the existence and significance of child abuse in Australia today. We have heard some statistics already, but there is one I wish to underscore: that derived by the Victoria Police Force based on the reported cases of child sexual abuse in Victoria for 1983, which shows that 83 per cent of all incidents were committed by a trusted friend or family member. I wish to emphasise that these were only of the reported cases. We know from United States research that sexual abuse perpetrated by a friend or family member is less likely to be reported than that resulting from an encounter with a stranger. I have no doubt the proportion of 83 per cent would increase greatly were all cases reported.

This particular statistic highlights an issue that society has chosen largely to ignore. We find it much easier to focus on the danger from strangers: after all, who amongst us knows a stranger? A stranger is a shadowy figure lurking near toilets, wearing a raincoat and brandishing a bag of boiled lollies. No one could possibly know such a person. We find it so easy to warn our children of the dangers inherent in contact with such a person, and we usually deliver our message in a highly negative manner: 'Don't go near public toilets...Don't get into a stranger's car...Don't take lollies from a stranger'...etc. We give the kids a lot of 'don'ts', and that is easy too, after all children are meant to do what they are told, and rules are easier than teaching them to think for themselves. Or are they?

The result of society's attitude to child sexual abuse is that children are equipped with all sorts of rules on avoidance of stranger danger, but no skills to identify abuse coming from someone they know, or at least what to do if a trusted someone violates them. We have approached the whole area of child sexual abuse in the same way as if we taught children road safety by telling them that when they cross the road they should look to the left and look to the right, but only watch out for the bicycles.

Early in 1984 staff from the Research and Development Department of the Victoria Police Force decided to address the issues of child abuse created by the inadequacies of the Stranger-Danger program. A committee was formed with the lengthy title - Crime

Prevention Education Consultancy Group - and members were enlisted from the growing number of professionals, adult victims of child abuse, volunteer organisations and concerned parents who were at that time expressing anxiety about the lack of preventative education for children. This committee decided to review existing programs designed positively to achieve prevention of child abuse, and assess how far these programs go to encompass the breadth of situations in which children are under threat.

Most programs reviewed were specifically aimed at sexual abuse, and whilst all had positive aspects, it was felt none went far enough in addressing all the issues. The committee began to feel frustrated: something was needed, action became imperative, yet no one program appeared to totally encapsulate all the messages it was felt children required to protect themselves. As often happens when things look hopeless, fate lent a hand, and an earlier chance meeting with another interested person from South Australia paid off. A photo copy of a program entitled 'Protective Behaviours' found its way to the committee, and after careful consideration, was warmly accepted by all.

'Protective Behaviours' is an exciting program because it is full of 'do's'! The program addresses all forms of abuse, both physical and psychological. It says there are practical, physical and psychological steps which can create safety and personal support for people. 'Protective Behaviours' shows how an individual can empower her or himself even in the midst of a hostile or dangerous environment.

The program is based on two simple themes: we all have a right to feel safe all the time; and, there is nothing so awful that we can't talk with someone about it.

These themes are not so much taught as internalised - and in this the program again differs from others - it is not a step by step teaching guide, but rather a conceptual framework for empowering the individual.

The program centres on three core concepts:

Safety: The child is encouraged to differentiate between situations when it is okay to feel scared, for example when watching a horror movie, when riding a bike down a hill at break-neck speed, when riding on the roller-coaster etc., and situations when it is not. This concept is passed on to younger children by using their identification of early warning signs, or in other words, becoming aware of their bodily reactions to threatening situations; for instance, the child would be asked to describe which part of his or her body let them know when they were not feeling safe, and this sign might be that they can hear their heart beating loudly in their head, or they might report

that they go weak at the knees. Once the child has identified his or her early warning sign, they will then be able to apply this feeling to an understanding of when they are in an unsafe or dangerous situation. The notion of early warning signs is the second core concept, and the third is that of networking. The idea that victims themselves can have a part in preventing abuse, and that they can effectively get the help they need is integral to the concept of networking. The child is encouraged to identify others to whom he or she can turn for encouragement, assistance, action and other help when they are feeling unsafe. With younger children, the teacher would have them draw the outline of their hand, and in the thumb they would be asked to draw a picture, or to write the initials, of the grown ups at home to whom they could turn. In each other finger of their drawing, they are asked to draw the picture, or write the initials of four other grown ups to whom they could turn. The concept of networking is applicable to professionals involved in the area of preventative education. We all need to identify others to whom we can turn if abuse is disclosed to us. Whilst the network concept places responsibility on the victim to get help, where else can we start if the child itself does not initiate action? I have found that when the Protective Behaviour program is implemented, community awareness of reporting procedures will ensue.

In order for these core concepts to be practised to the greatest effectiveness 'protective behaviours' incorporates five strategies.

Theme Reinforcement: The two themes: We all have a right to be safe all the time, and nothing is so awful we can't talk about it with someone are repeated throughout the program, and ideally, afterwards by way of posters, stickers, etc. These themes can counteract other non-verbal, subtle, and not so subtle victim messages.

Network Review: After the child has identified a personal network of trusted helping adults to whom they can turn if they are not feeling safe, it is essential to review those selected regularly, in order to ensure that the person is available to the child, and that the child still feels safe with that person.

Throughout the program, some children may become aware that something that has been happening to them for some time is in fact an abusive situation. As our statistics show that more than 80 per cent of abuse occurs with adults the child knows, trusts, and is usually dependent on, it is necessary to review the network and encourage the child to remove any person with whom they have detected their early warning signals.

Another strategy is that of one step removed. All problems posed in course sessions are done so in the ' What could you do if...',

or 'Suppose...', or 'What if a friend told you...' form. By using the one step removed strategy in class, a victim of abuse can practise a very effective way of checking out attitudes and getting information. For instance, suppose a person who is being abused decides to take a first step in telling. He or she can do that by saying first 'You know, I have a friend who's having trouble at home'. Judging by the response, the victim can then either reveal that the 'friend' is in fact themself, or if the concern is trivialised or discounted, the victim can move on to another person.

The next strategy, persistence expectations, provides one of the major departures from other programs designed to arrest abuse; most other programs, kids, colouring books, and similar teach children the 'No, go, tell' sequence, that is when faced with abuse, the child says 'No', then must go and tell someone. 'Protective Behaviours' takes this message one step further by recognising that many victims of abuse have gone and told someone and nothing was done. It is not just enough that the child is believed, though often just finding someone to believe the story is difficult in itself. The person selected by the child to receive the disclosure must also take an action to make the child feel safe. By using his or her early warning signs the child alone is the judge of when enough has been done to enable the early warning signs to go away. We must not reinforce victimisation by telling one person who does nothing about the situation, and leaving it at that. The persistence expectation is not just used for children; we need it for ourselves. Our own feelings that 'nothing can be done anyway' is an example of internalising the message that failure is inevitable, the problem insoluble. We, as adults, need to persist with creative stubbornness in our advocacy for non-victimisation.

The fifth strategy is that of protective interrupting. This is the process of stopping someone from self-disclosing in a context that would increase their victimisation. In teaching 'protective behaviours' it is not always possible to ensure that sufficient group confidentiality can be established to provide children with enough protection from gossip. Gossip does not lead to effective intervention, and merely serves to increase a child's jeopardy and our own feelings of powerlessness. Encouraging or even allowing a child to tell too much in a group setting is irresponsible, as well as resulting in increasing the child's feelings of hopelessness, vulnerability and despair. With protective interrupting we are able to put situations into 'one step removed' mode, and if a child should begin to disclose in front of the group, we can interrupt with something like 'you wouldn't feel safe if you told us that, right now I want you to pretend a friend told you that. Later on, after class today you should tell someone if this happening at your house, or to someone you know'.

The 'Protective Behaviours' manual describes various sessions, such as the lost key, verbal abuse, unwanted sexual touches and physical abuse sessions. Each session addresses one aspect of abuse, and provides for the children to brainstorm strategies based upon the two program themes. Another major difference between this and other programs is that in the unwanted sexual touching session, the areas mentioned include the mouth. Most other books, programs and leaflets only describe those areas under the bathing suit as being vulnerable.

These are then the basic components of the 'protective behaviours' program. Each component is integral and essential. To date, many programs have been conducted in South Australia, New South Wales and Victoria with people from all areas of the community. From research in schools, response to these programs has been extremely positive from school staff, parents and the students themselves.

In April 1985, the Crime Prevention Education Consultancy Group, with funding from the Myer Foundation, B.H.P. trust, and assistance from Continental Airlines, brought the American author, Peg Flandreau-West, of the program to Australia. Intensive training sessions were conducted with 160 people in Victoria, and 100 in both South Australia and New South Wales. In Victoria the program is developing using community based groups: those trained comprised teachers, school counsellors, community health workers, police, doctors, clergy and representatives of parent groups. These trainers have returned to their regions and are forming small committees with other trainers. Through their own professional networks they are implementing the program in a variety of different ways. Some groups are commencing the program in one school to provide an example to other schools ion the region. Other groups are beginning with community awareness campaigns to sensitise their communities to the whole area of child abuse, they then intend to provide one answer to the problem by initiating 'Protective Behaviours'.

Another positive aspect of this program is its wider application. 'Protective Behaviours' is being implemented in women's refuges by trained refuge workers. The program is being given to mentally handicapped adults, to children in a Youth Training Centre, and it is hoped in the near future will be trialled in a prison farm with 17-21 year old males.

In order to train someone to teach 'Protective Behaviours', all that is necessary is for the person to assimilate and internalise the themes of the program, and to practise using the strategies. I therefore would train representatives from all different learning environments in the same manner and it is for that person to then interpret the program for their particular audience. The teacher becomes the instrument of the program and breaks it down into teachable chunks directly applicable to the audience they know.

I believe that for the first time in my experience of working with victims of child abuse, I can now offer a positive answer to all those who feel the issues are too overwhelming to ever overcome. There are of course many other facets that need to be addressed, including the question of male/female power relationships, models of therapy for offenders, upgrading of support services, community education in reporting child abuse etc. However, if one views the whole question as a huge mobile, if we move one small piece of that mobile, we can in some way impact on all the other issues.

REFERENCES

Police Life, March 1985, Victorian Police Force, Melbourne.

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THE POLICE ROLE IN CHILD PROTECTION

Detective Sergeant 1/C D.R. Jefferies
presented by Sergeant Annette Pursell
Queensland Police Department

The views expressed in this paper are personal and are not necessarily those of the Queensland Police Department.

I have taken the liberty of changing the title to 'The Police Role in Child Protection' as I believe that this more truly reflects the role not only of the police officer but of the community. It reflects a positive emphasis rather than a negative one and it also reflects the necessity for all involved in this field to be pro-active rather than re-active and this of course includes involvement in the area of prevention, an ideal example of this is the Victoria Police department's 'Protective Behaviour's Program'.

Among the primary functions of a police officer, are the preservation of life, the protection of property, the prevention and detection of offences and the bringing of offenders to justice. When police officers take their oath of office they undertake among other things to fulfil all of these obligations. It is the fulfilment of these primary duties that we are concerned with in this paper. Not just the preservations of life or the right to life but the inherent right of every child to enjoy life protected within our justice system from all illtreatment, maltreatment, neglect or abuse whether physical, sexual or emotional, and of course any other form of exploitation.

The involvement of police in the area of child abuse has generated quite a deal of debate and was one of the factors behind our police department's having an independent evaluation of the police role in Child Protection in 1984. This was carried out with a grant from the Australian Criminology Research Council. This study allowed us to examine our department's involvement in multi-disciplinary Suspected Child Abuse and Neglect (S.C.A.N.) teams and evaluate our effectiveness.

The Queensland Cabinet in 1978 set up a Co-ordinating Committee on Child Abuse which in turn led to the formation of S.C.A.N. teams throughout the state in 1980. A police officer, a medical practitioner and a social worker from the Children's Services Department comprise the core membership of these teams. Police membership of these teams is, I believe, an acknowledgement that we as police do not have all the answers. I think that it also says that perhaps nobody else has all the answers either. In my view it is a recognition that effective child protection can only

be provided by mutual recognition of and respect for the contribution each agency makes to protect abused and neglected children. It is necessary that decisions made by the team take due cognisance of medical and social and legal factors and act in the best interests of the child.

As our commissioner has emphasised, our police department unquestionably believes that the interests of the child victim must be paramount. (Lewis, 1984). Police officers are, by statute, charged with the responsibility of deciding when to prosecute but at the same time they have been provided with discretionary powers to decide when and if a charge should be laid. Police officers should keep in mind the priorities of their responsibility, firstly they must protect the child, secondly they gather evidence for a possible prosecution. When confronted with a case of apparent child abuse, a police officer will not take unilateral action except in an emergency. In most instances prior discussion will take place in the team and with senior officers within the department in relation to proposed police action. As the welfare of the child is paramount there is less immediate need to commence proceedings against the abusers (parents or care givers?) (Duffy, 1980). Whatever the eventual decision, whether to prosecute the offending adult or not, it seems appropriate that the decision be made in concert with plans for the care and assistance of the abused child and other children that may be in the family. To that end it seems the better course for the police officer to delay proceedings against the parent so long as there is not immediate need to take action. This policy has been in operation since 1980 and our Commissioner and other professionals involved in the area have stated that it has operated very successfully.

As a result of police involvement in these S.C.A.N. teams police officers have accepted that they are an integral part of the team. This has encouraged a mutual recognition and respect for the contribution each agency can make in the protection of abused and neglected children.

I see that the police officer who is a core member of the S.C.A.N. team should fulfil the following role in the team:

1. Nominated officers to regularly attend S.C.A.N. meetings and assist in evaluating the degree or risk in each case under discussion.

2. Offer advice to the meeting on the strength/weakness of evidence available.

3. Initial involvement following receipt of complaint or report and conducting investigations in case of:
   (i) Sexual abuse
   (ii) Serious physical injury

4. Have early involvement in cases of:-

(i) Physical abuse where the cause has not been determined by hospital and welfare staff.

(ii) Physical abuse where care giver's account of the abuse appears doubtful or improbable.

(iii) Emotional abuse and neglect. General inquiries should be made to determine causes (this may be a role for Department of Community Services and social workers, but police can assist in interviewing family members, neighbours, schools, other agencies etc.)

5. Initiate court proceedings to:

(a) Protect the child in immediate risk of further physical, sexual, or emotional abuse by removal (of offender or child). This would involve investigation of all aspects of child's life (environment, family, school).

(b) Obtain statements from all persons able to comment on child's situation, particularly professionals co-opted by S.C.A.N. team.

(c) Bring offenders to justice: by court action, or official police caution (available for juveniles or aged pensioners).

6. To arrange any assistance from police resources:

(1) Information (records of previous violence, interstate records etc.)

(2) Protection where violence or intimidation expected or intimidation expected or anticipated from threatening persons.

(3) Assistance requirements of the court re: evidence, court procedures etc.

(4) Training: utilise academy resources for multi-disciplinary training program.

7. To assist in monitoring/support of children and parents:

(a) Police cautions to neglectful or abusing parents, to stress need for co-operation with medical staff and social workers can be later used, as evidence if helping efforts fail to protect children.

(b) Police intervention can be viewed positively by some parents, particularly if conducted with understanding, tact, firmness and encouragement and in co-operation with social work support.

8. To liaise with other police involved in cases under discussion by S.C.A.N. team.

9. To contribute to the social history of cases, by providing relevant information available through police resources.

10. Fundamental duties of members of police force:

(a) Protection and preservation of life and property.

(b) Prevention and detection of offences.

(c) Bringing to justice of offenders.

11. Police role at S.C.A.N. meetings: (personal requirements)

(1) Knowledge of aims of S.C.A.N.

(2) Understanding of other disciplines' role.

(3) Experience in decision making re: court procedures and requirements.

(4) Ability to work effectively in a multi-disciplinary group.

(5) Genuine interest and belief in child protection and understanding of important issues.

(6) No emotional hang-ups re: physical/sexual abuse, perhaps the result of personal bias and judgmental attitudes.

(7) Readiness to co-operate with other professionals in investigations and decision making.

(8) Ability to relate to children and their parents.

(9) Recognition that prosecution of offenders is not the main goal in child protection.

(10) Familiarity with forensic and evidential requirements for proving physical, sexual and emotional abuse and for admissibility in District and Supreme Court Hearings. (Pursell, 1983)

I mentioned earlier that the debate has occurred in relation to who should receive and investigate complaints of child abuse. I think the arguments may best be summarised by quoting from an article by Brian Fraser ('The child and his parents: a delicate balance of rights'). He says the proponents of police departments as the receiving agency in child abuse reports argue that child abuse in serious cases is a crime and that the police are available twenty-four hours a day and seven days a week. Furthermore, these proponents argue that people are accustomed to reporting acts of violence to the police and that police have the unilateral right to enter a home without court permission if they believe that a child is in imminent danger. Opponents, on the other hand, argue that once the parents have been arrested and charged with a crime, it is very unlikely that they will co-operate with the Department of Social Services and begin voluntary treatment.

Furthermore, a successful conviction for child abuse in the criminal court is rare and even if a prosecution is successful, it only addresses the need for retribution and not the issue of treatment. Opponents to police departments being the repository of reports of child abuse also argue that child abuse is a very complex problem and police officers do not have the necessary expertise and training to deal with it. Also, the police are viewed as a punitive agency and this punitive ambience will inhibit abusive parents from seeking help. Opponents also argue that police are not viewed with respect by the other agencies and it is unlikely that a police department would be able to develop a co-operative approach.

In the views of the Illinois Legislative Investigating Commission in their report 'The Child Victim' the heart of the issue seems not to be if law enforcement should be involved, but when. The Commission examined whether or not the mere presence of police has a negative impact on any possible rehabilitation efforts. Contrary to the views of some commentators we could find no evidence during our visit to the other states that police involvement is detrimental. To be sure, some authorities provided examples of police who investigated cases of abuse in an insensitive and incompetent way. But we were also provided examples of social workers who handled investigations just as poorly. More importantly we were given scores of examples of skilled intervention by both police and social workers. The crucial element of success investigations was proper training for both the police and social workers. A critical factor in the success of a child protection program appears to be strong co-operation between the police department and social service agency.

The Commissioner stated that they had seen at first hand that such training and co-operation was possible.

I believe that the Queensland experience demonstrates the correctness of this view and that the concerns expressed have not

been substantiated. It has shown that specially selected and trained police have proved the importance of police involvement in the area of child protection.

Inter-agency co-operation, if it is to succeed, is about respect for each other's ability, sphere of influence and operations. We do not live in a world where everything is in neat compartments. Functions, objectives and responsibilities of agencies always overlap in lesser or greater degrees, and in the criminal justice system, no one agency reigns supreme. Each has statutory obligations and in some cases dual responsibility for action and decision making. In such a climate inter-agency co-operation is essential if effective policies are to be pursued. Moreover, awareness of the communality of our tasks is an essential step towards greater understanding of the problems that confront us in our quest for child protection.

Yet as a police officer, I feel an essential bridge via S.C.A.N. has already been built in inter-agency co-operation; an essential common ground for decision making has been established in an area of overlapping responsibility. This is a first step before any attempt can be made at long term preventive strategies with other agencies and with the community at large. With the creation of S.C.A.N. system we have to some extent pooled our knowledge and resources. Possibly the greatest resource we share is that of information. Certainly if we look with hindsight at the number of tragic instances where children have died as the result of persistent and systematic cruelty we find that in each case, the official enquiry has revealed one factor above all others; the failure of the agencies concerned to communicate effectively with each other.

Here is the curse of confidentiality, the failure of the social worker to give the police officer vital information, the failure of the police officer to trust the social worker sufficiently to give her/her vital information, thus impairing capacity for right judgment. If decisions that are taken are wrong ones, and, for example, a child dies, in the subsequent public outcry all agencies are blamed and all in turn tend to blame each other, thereby engendering further hostility and animosity, and making future exchanges of confidential information, so vitally necessary in such cases, even more difficult.

The Queensland experience following the inception of S.C.A.N. has allowed for the development of joint investigations particularly in the area of sexual abuse investigations. This does not imply that this has been accomplished without problems or that all of these problems have been eliminated. In many respects the main causes of conflict stem from a lack of understanding and acceptance of the roles of team members and a clash of philosophies. In spite of this a great deal of good work has been done and a mutual understanding of goals and roles has led to a situation where a joint investigation of sexual abuse takes place as a matter of course. This enables joint assessment of

the risks to the child: risks both of further sexual abuse as well as of emotional scapegoating. Evidence is gathered that is necessary for both a possible care and protection application in the Children's Court, and a possible criminal charge against the parent or care-giver. Previously valuable evidence often lost owing to professionals not being aware of its importance or in the dangerous practice of inducing admissions with a promise of counselling and return of the child upon an acknowledgement of guilt thus rendering any confessions to police investigating the offence tainted by the inducement. Other cases have occurred where police officers have concentrated on the investigation of the serious sexual offences perpetrated, yet left the child at risk not only of further sexual abuse but to a barrage of emotional abuse not only from both parents but from other siblings 'brain-washed' to see the victims action in speaking out as the cause of 'daddy going to jail' and 'our family being broken up'. Often when the investigation was completed we were left with the child's word against the father and the child, isolated, bewildered and frightened and feeling that everything she had always been told about telling anyone and getting into trouble was correct. I believe that the risk of this occurring now has been diminished and the acceptance of both departments that the interests of the child are paramount has enabled professionals to concentrate on their respective tasks always ensuring firstly that the welfare of the child is protected and the offences committed are investigated.

Instances still come to notice where children remain subject to abuse in spite of all efforts to protect them. I can illustrate this by way of this example. This case highlights many of the difficulties facing professionals in dealing with child sexual abuse. It also is an example of the tragedy of the abused child.

A 14 year old girl, who had been sexually abused by her natural father as a very young child, told her mother that her adopted father had been sexually abusing her. She had previously been interviewed by police and Department of Children's Services at school and denied any abuse. It is of interest to point out here that the senior mistress who permitted our interview without parental knowledge or consent greatly displeased her principal. Through liaison with the local regional education department office, we reassured the principal that the senior mistress had not rendered the school liable for action by the parents.

The child's mother contacted police: she was very angry with her husband, but the anger weakened when he apologised profusely, without admitting anything and begging her to talk to him as he needed her. The child was removed from the home to stay with relatives and was taken into custody on an application for care and protection. Her father was arrested some days later on four charges of incest, one indecently dealing, and three aggravated assaults. The bail conditions ordered that he have no direct or indirect contact with the child. He moved out of the family home; the child was placed with her mother but in the care and

protection of the Department of Children's Services. The child also started a child sexual abuse treatment program with other sexually abused children.

All organised, you would think: a major witness, the child's friend, a 15 year old girl, was sent by her father interstate to avoid further harassment from the offender. The mother embarked on her own diabolical and I believe calculated plan. She played over and over again, Billy Joel's song 'I'm An Innocent Man', the purpose seems two-fold. To torture her daughter and to affirm her own beliefs in her husband's innocence and I believe her own perception of herself as the victim. She told her daughter she would kill herself if he went to jail. The child went to her mother's solicitor and signed a statement withdrawing her allegations. She did not withdraw from the support group and did not retract her complaints there. She ultimately could stand no more at home, and ran away to the Department of Child Services for help and was placed in a loving and supportive foster family.

The child gave evidence for the Prosecution at the Committal with mother glaring at her in the rear of the court, and yelling abuse as she left. By the time of the trial the child's anger at her father was such that she saw the ordeal of court as an opportunity to have him face his responsibilities in law. The group has also prepared for her coping with giving evidence. Unfortunately the child had neglected to tell us that she had written a letter withdrawing her allegations and expressing negative (to put it mildly) feelings towards the police. This letter had never been posted and mother had swooped upon it. The letter was duly produced by the defence on the first day of the trial. Despite our pleas the prosecution saw the child as a dangerous witness and entered a nolle prosequi. The father walked free.

The child is safe from further sexual abuse by her father; she is in care and protection, but the emotional trauma continues. Every time she hears this song she must be constantly reminded of her betrayal by her mother who chose to support her husband rather than her daughter, and who so successfully manipulated the system that the child was also deprived of the justice that she should be able to expect. How can this child ever trust again? She was sexually abused by her natural father, her adoptive father and emotionally abused by her mother and emotionally traumatised by the justice system and the recording industry both of which became instruments of her mother's rejection.

I believe that this case illustrates the necessity for even closer co-operation between workers, closer and continuing assessment of the mother's role then child protection stance, establishing a trust relationship between the child and primary worker at the time of crisis and for this relationship to continue at least for the period that the matter is in the

criminal justice system. I believe that we cannot be complacent at any stage during the investigation and remand periods. All our efforts must be directed to ensuring that the criminal justice system is able to work constructively to prevent the child from becoming a double victim.

There has been an increasing awareness among police that they work in our community with consent and need to be seen as working in and with the community. Police have essential and important roles in child protection that can best be undertaken in a multi-disciplinary team approach to the management of complaints and recognition of risk groups, by promoting and encouraging initiatives in primary prevention, such as public awareness and education, and community involvement and responsibilities. Police fulfil their preventive role and can be encouraged by the degree of commitment and enthusiasm displayed by a caring community that has accepted its responsibility in child protection.

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CHILD ABUSE AND THE MEDIA

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When I was approached by the Institute with a request to present a paper on this subject my first reaction was, 'Why not call on a journalist with a reputation for balanced social welfare reporting?'. In fact, the Institute had asked Anne Deveson my former colleague at the Children's Interests Bureau who, because of other commitments, suggested that I would fit the bill. She did so, I am sure, because the Children's Interests Bureau, which we set up together, has an important statutory function which is 'to increase public awareness of the rights of children, and of matters relating to the welfare of children, by the dissemination of information or by any other means the Bureau thinks appropriate'.(1) There was no question in our minds that this meant a good working relationship with the media which we proceeded to work at. Therefore, this request to talk about a particular area of social concern - child abuse and the media - gives the opportunity for a little reflection.

'Child Abuse and the Media' what visions does that title conjure up? I must confess that for me it was primarily the vivid dramatic imagery presented by headlines informing us that another child has died because of abuse: a demise assisted by the inaction of professionals. I was in England during the latter half of 1985 when the media analysed the circumstances surrounding the death of four year old Jasmine Beckford while she was in 'state care', an event to which I shall refer in more detail later in this paper. I followed with interest the various reports in the press and on television and subsequently the reactions of British social workers whose esteem at present must be an all time low.

But these are the tragedies likely to capture the public eye and imagination. I paused for reflection: in what ways do child abuse and the media interrelate? A number of possibilities sprang to mind:

(1) The media as a reporter of events: human interest stories, legislation that has been passed, research that has been published, conference proceedings such as this, a new book launched;

(2) The media as an initiator of action by a public campaign and/or as an investigator of an issue of public importance. In this role the media can and does encourage, indeed demand, social and legal reform;

(3) The media as an educative medium: a giver of factual information presented to a given audience in a well thought-out way. I imagine that it is in this context that many in this audience consider the value of the media;

(4) The media as an abuser of children; after all the concept of child abuse has long departed from the realm of the purely physical and now encompasses emotional, sexual and institutional facets. Could not the media be accused of abusing the rights of children, however, unintentionally, by intrusive and insensitive reporting? An idea worth exploring.

Thus, armed with these random thoughts the content of the paper began to take a more definite shape.

The history of child abuse as a media issue makes fascinating reading and I examined the process in two countries: the United States and the Britain. In both the media 'discovery' of the problem was connected with cases which captured the public imagination and tugged at heart strings: that of Mary Ellen in 1874 and in England the death of Maria Colwell in January 1973. 'The agenda-setting function of the media' is succinctly analysed by Barbara Nelson.(2) She shows how what was initially a charity concern became a major social welfare issue. Nelson attributes this to several processes:

(1) the link between professional and mass media - research articles and studies and medical press releases - more research engendered more press coverage, etc;

(2) child abuse as an issue was both narrowed and broadened, that is, i.e. it encompassed more than one definition allowing specialist study and it became linked to other social concerns, such as law reform and domestic violence; and

(3) the growing appeal of human interest stories.

Nelson emphasises the critical importance of crossing the bridge between research reports and the mass circulation news outlets. She attributes the rediscovery of child abuse in the U.S. media after a long period of silence following Mary Ellen's case to the reporting of Henry Kempe's famous article 'The Battered Child Syndrome'. This opened the floodgate and resulted in extensive professional research and media comment. The bridge was well and truly crossed and television soapies and popular magazines embraced the topic. The inter-relationship between research - mass media circulation and human interest stories probably explains why interest in child abuse has not waned and shows no signs of doing so. The impact of the women's movement has also led to increased awareness via media reporting of the extent of child sexual abuse.

Just as the fate of Mary Ellen made an impact on the American media so did the death of Maria Colwell in January 1973 make a similar one in England. In his book The Politics of Child Abuse Nigel Parton analyses the social reaction to Maria Colwell's death and the circumstances which combined to make the physical abuse of children a major media, political and social issue. However, there is a difference in the way the Colwell case caught media attention. Her actual death did not receive much publicity; it was the subsequent inquiry ordered by the Department of Health and Social Security. Parton examines how this occurred and looks at how Dr Kempe's research had an impact on a group of professionals who became known as the 'Tunbridge Wells Study Group'. Under the chairmanship of one Dr Franklin, who wrote an article in the British Medical Journal voicing his concerns about children at risk, the group organised a conference with heavy representation from the Department of Health and Social Security on 15 and 18 May 1973. Several days later an inquiry into Maria Colwell's death was announced; its aim was to look 'into the care and supervision provided by local authorities and other agencies in relation to Maria Colwell and the co-ordination between them'.(4)

The resulting inquiry, which was the first of a number, illustrated how the media can, when it adopts and pursues a matter of perceived public importance, initiate important social and legal changes and in this respect the critical role of the media as an investigator and exposer of government shortcomings cannot be ignored. The Colwell inquiry report put the boot into social workers in no uncertain fashion. Their mistakes and errors of judgment were there for the world to see with the Times taking a leading role in this process of exposure. The response of social workers was understandably defensive - they felt pilloried - they were the scape goats on whom collective scorn had been heaped.

Before returning to this question of social worker sensitivities to such media scrutiny of their work I pose the question: does the end justify the means? In fact, the Colwell inquiry revealed a number of shortcomings in social work practice, administration and process.

The Sunday Times called for action in the form of swifter co-ordinated action to prevent child abuse, statutory notification of abuse cases, new legal rights for children and independent representation, more money for agencies and help for parents and a greater willingness to terminate parental rights.(5) The inquiry report came at a time when there had been several cases of children being returned to natural parents after years in foster care and debate about 'the blood tie' and children's versus parent's rights is introduced. The message is clear: Maria Colwell would be alive today if the authorities had not held the conviction that the blood tie had to dominate all other

considerations. There were calls for more specialisation and less generalisation in social work practice and for a Child Advocate and Children's Rights Law.

Some of the Sunday Times demands for change were implemented and one can argue that media coverage did influence policy makers. Foster parents were given more statutory rights; children can now be separately represented in care proceedings resulting from abuse and the provision of a guardian ad litem to protect the child's interests in care proceedings is common practice in some local authorities. Guidelines on procedures were distributed by the Department of Health and Social Security; the local authority responsible for Maria's supervision responded by improving its internal communications and inter agency liaison and a new counselling service for parents was established.(6)

After Maria Colwell there were to be other inquiries into the deaths by abuse or neglect of children in state care. (In Australia there has been one well published inquiry, that of Paul Montcalm in New South Wales in 1982). The Times(7) in a comment on 27 July 1985 entitled 'Catalogue of Failure in Infant Abuse Deaths', written in the wake of the death of Tyra Henry stated:

> From Maria Colwell, the seven year old girl battered to death by her stepfather in 1973, to the inquiries into the deaths of Tyra Henry and Jasmine Beckford, there has now been more than twenty public and formal inquiries into deaths from child abuse since 1973. The litany includes Darryn Clarke, Paul Brown, Lisa Godfrey and Karen Spencer, but the Department of Health said yesterday it had no plans to issue fresh guidelines to social workers on ways to prevent child abuse cases.
>
> From the list of inquiries the same factors emerge time and again in the failures that led to children's deaths; communication breakdowns between social workers or other departments and agencies, failures to review cases regularly and comprehensively, and misunderstanding of the job of other professionals.
>
> The government is, however, reviewing how inquiries into cases where death or serious injury has occurred should be launched.
>
> Lambeth's own internal inquiry into the events surrounding the death of Tyra Henry revealed a series of shortcomings.

> It highlighted: too much attention paid to the problems of Tyra's mother and too little attention to the safety of the child; lack of co-ordination between the social workers on the case and failure of the co-ordinator to read the minutes of successive case conferences about Tyra.

The portrayal by the media of the hapless social workers involved in these tragedies and welfare departments generally is not flattering. The media comment page in Social Work Today(8) quoted some of the press comments after Tyra Henry's father was gaoled for life for her murder; one of the most direct being the Express which wrote: 'BORN - November 1982 DIED - August 1984, MURDERED by her father. LET DOWN by social workers'.

The reputable BBC current affairs program 'Panorama', in the wake of Jasmine Beckford's death, devoted an entire program to this event, as did the Listener in an article entitled 'Death of a Child in Care', thus bringing another dimension to the media debate, that of the responsibilities of statutory authorities to adequately care for and protect the children in their care. 'The Death of Jasmine Beckford' wrote Margaret Jay, who was responsible for both programs, 'was peculiarly disturbing because she was in care when she was killed ...'. Jay concludes her article by asking whether the recommendations for reform likely to arise from this latest inquiry will be implemented: 'Will this one fall on deaf ears?' she asks, or 'will the horrible circumstances of Jasmine Beckford's life and death finally focus public attention on the need for change?.(9)

As a professional who has in a sense been on both sides of the fence, as a social worker experienced in assessing abusing families, and now as a member of the only statutory children's rights group in Australia, I found both the above media presentations balanced and fair. After all the children, who are subject to the sometimes dubious decisions of their legal caretakers, have most to lose, however painful it is for professionals to be criticised. Social workers' opinions generally of the 'Panorama' program were defensive. It had pre-empted the inquiry (which had yet to report) said the General Secretary of the British Association of Social Workers, it had ignored staffing and other resource pressures, and was 'an inadequate piece of journalism'.(10) Reviewing the program Lynn Eaton wrote 'Panorama' managed to pin the blame fair and square on the two social workers, bending over backwards to protect the rights and freedom of the parents rather than to protect the safety of the child ... It is the picture painted by 'Panorama' which will remain with the public'.(11) One social worker viewer wrote that her own conclusion from seeing the program was 'that if the lack of clear policies regarding case conferences etc. is widespread, then it is a marvel that there are not more tragedies'.(12)

In the examples quoted we see the media acting in a dual role: as an advocate for children who have been abused by parents (or caretakers) and/or by 'the system', and as an exposer of professional and agency malpractice and poor organisation. 'The test that would save battered babies' wrote Daily Mail reporter Mary Kenny following the 'Panorama' programs is the question 'What is in the child's best interest? She continued: 'Never mind reforming society. Never mind acting as psychologist to the damaged personality of parents. Never mind the fashionable politics about race and class or ideology. The first, last and perennial test should be - what is in the child's best interest?(13)

The end result of the Jasmine Beckford death and the media publicity surrounding it has been some serious soul searching on the part of social workers about responsibility and accountability; both in the front-line and at management level. The Department of Health and Social Security has produced new draft procedures on the handling of child abuse investigations,(14) the British Association of Social Workers have produced their own which have taken two years to prepare and were initiated in the wake of earlier tragedies.(15) A further 'spin off' has been an increased focus on children's rights as the primary concern of professionals and judges involved in child abuse cases. Social workers involved in the supervision of Jasmine Beckford and their managers were severely censured by the panel of inquiry which reported late last year. I conclude this debate with a final quote from the January edition of Childright, a journal of law and policy affecting children and written in the wake of the inquiry into Jasmine Beckford's death. 'What the members of the Jasmine Beckford Panel of Inquiry failed to perceive is that the attitude of social workers and others involved with the Beckford family was typical of many people working with children. Jasmine's invisibility was a particularly bad example of the invisibility of children generally in our society. The questions that have to be asked are why we fail to see children, why we do not give them the time and attention that we would automatically give to an adult.(16)

Whatever ones view of the media and its reporting of child abuse and whatever the motivation for such reporting (moral guardian, conscience pricker, advocate) I believe that by and large it fulfils a valuable function. It is a sad fact of life that sometimes the only way to make those in positions of power and authority sit up and take action is when an issue 'goes public'.

For there is another string to the media's bow: that of investigative journalism, often based on an approach by a member of the public frustrated by trying to negotiate government bureaucracies. Sometimes the grievances are legitimate and sometimes not but airing the topic can throw light on the decision-making processes within government departments and initiate constructive change. Two such examples of a valid use

of the press to initiate action in children's interests occurred last year in Australia: one was in South Australia, the other in Victoria.

In the former the Advertiser conducted an investigation into the alleged abuse of a little girl in a licensed family day care home about which suspicions had been reported two years earlier.(17) The matter was investigated - inconclusively - and the day care contract was terminated by mutual agreement although teenagers continued to be placed there under a different scheme. What followed were a number of approaches, made by a family friend of the abused child's mother, to various people in authority about the risk to any child placed in a home when allegations of sexual abuse had been made. Senior politicians and public servants including two ombudsmen were contacted and informed of this concern.

Dissatisfied with the response the family friend contacted the media. Vigorous correspondence followed the actual report, questions in the House and editorial comment. One writer, under the heading 'Injustices uncovered by Lifting the Veil of Bureaucracy'(18) wrote: 'It is indeed ironic to know that in spite of all the highly educated, specialised, well-paid judges, lawyers, policeman and politicians, which we the tax-payers finance to protect our interests as law abiding citizens, we sometimes have to rely on the dedicated and inquisitive journalists of a newspaper to ensure that justice is done'. The Advertiser must have felt gratified - the publicity surrounding the incident had the desired effect - the home had its licence revoked.

In December last year the Age featured several articles under the heading 'Children Trapped in Welfare' which essentially asked the question 'What is being done to stop wards of the state getting trapped in the welfare system?(19)

This too resulted in a number of letters to the editor but it remains to be seen whether any real changes occur. Yet both these examples show how the media has expanded its agenda in reporting child abuse to include censure of the state for not fulfilling its obligations to the children in its care, either temporarily or permanently. Just as professionals have broadened the definition of child abuse so has the media.

So far in this paper we have examined how the media has created an urgency about child abuse and responded to the urgency of others. We have seen how the media can influence social policy and put specific professional groups under scrutiny. Freedom of the press is a valued privilege but one may ask Quis custodiet custodes? Does the media in its way contribute to the abuse of children by its reporting? Does not press freedom also demand a corresponding degree of responsibility and accountability?

Such questions have already been discussed by the Children's Interests Bureau which received very early in its history a request to investigate 'the right of the media to identify a child (photograph) causing him (sic) unnecessary stress. Abuse of a child's right to privacy, particularly when caught up in circumstances beyond his or her control (such as custody disputes) is a matter of concern to the Bureau.(20) The opportunities to take issue with the press (and complaints to the Australian Press Council only apply to print media) are few as are penalties for improper journalism. The Bureau has attempted to redress this by developing and maintaining good communication with the media by taking up examples of media abuses immediately they occur.

We believe that the media need us as a source of balanced comment and expert information as much as we need them to canvass important matters affecting the welfare of children on our behalf. We (the Bureau) have generally met with excellent co-operation and the result is often a more balanced analysis of complex social welfare issues. Nowhere is this more essential than in tackling the problem of child abuse and it is in the area of information and education that the media really does come into its own. The final part of this paper will, therefore, concentrate on this positive aspect of the media's interest in child abuse.

The critical importance of information and education in understanding and preventing child abuse is emphasised in the literature. For many people articles, television and radio programs are their only source of information on the subject(21) and some of those who have suffered abuse respond to media discussions and approach those services which can assist them. Task forces set up in two states, New South Wales and South Australia, have supported use of the media in education and as a source of information. At the same time each has pointed out how the media can portray sex roles and family life in a distorted way and portray children in advertisements as pseudo adults. They have also pinpointed the benefits of the Australian Broadcasting Act as far as children's television is concerned and restrictions which make the subject of child sexual abuse difficult to include.

Thus, while there is general agreement that media is a vital medium through which information can be transmitted, there also needs to be analysis as to <u>how</u> this can be done. There is no shortage of constructive and creative ideas.(22) There is also a willingness by media to co-operate with professionals and to present information responsibly. The South Australian Task Force on Child Sexual Abuse was asked by one television channel for advice on how to go about screening messages on the subject of child sexual abuse or incorporate it into drama scripts.(23) Media personnel need access to the knowledge and experience of

people who work with abused children, if their programs are to be effective and the content suitable for children at different stages of development.

However, one has to be alert to the dangers of what has been described as 'over enthusiastic consciousness raising' and the fine balance that has to be found between assisting children not to be passive in the face of adult assault and eroding their trust in adults completely. There is also the danger - and I have seen this happen - of a little knowledge being a dangerous thing and some adults, presented with a list of possible symptoms have worried themselves sick quite unnecessarily.(24) Clearly, this shows the need for balanced and full reporting and discussion, not bits and pieces, often taken out of context which confuse rather than assist. Some newspapers, such as the Age take a more responsible approach than others, preferring rational debate to sensational coverage. The South Australian task force has proposed that a media ethics committee be established with representatives from the relevant professions and the media. This could help to avoid pitfalls such as those which I have described.

In this paper I have tried to identify the various ways in which the media is influenced by the increased research knowledge and discussion about child abuse and how in turn it has run with the subject and influenced policy makers in a number of ways. It is not the purpose of this paper to discuss the morality or otherwise of some of the methods adopted. The critical issue is whether, by their interest and exposure, the media helps obtain a better deal for children. I certainly hope it does.

NOTES

1. Section 26 (3)(a) Community Welfare Act 1972 South Australia

2. See B.J. Nelson, Making An Issue of Child Abuse; Political Agenda Setting For Social Problems (University of Chicago Press 1984)

3. Nigel Parton, The Politics of Child Abuse (MacMillan 1985) pp. 69-99.

4. Op.cit. p.77

5. Op.cit. p.95

6. Ann Schearer, 'Tragedies Revisited - The Legacy of Maria Colwell', Social Work Today Volume 10, No. 19 (9.1.79) pp. 12-19.

7. The Times, 27.7.1985.

8. Social Work Today, Volume 16, No. 47 (5.8.11985) p. 10.

9. The Listener, 17.10.1985.

10. Social Work Today, Volume 17, No. 8 (21.10.85) p. 2.

11. Ibid. p.10.

12. Social Work Today, Volume 17, No. 11 (11.11.1985) p.16.

13. Daily Mail, 15.10.1985.

14. See 'Who Should Carry the Care?', Community Care, No. 568 (27.6.1985), pp.26-27.

15. The Management of Child Abuse, (British Association of Social Workers Guidelines).

16. Childright: A Bulletin of Law and Policy Affecting Children and Young People In England and Wales, January 1986, p.2.

17. The Advertiser, 8.8.1985.

18. The Advertiser, 10.8.1985.

19. The Age, 11.12.1985.

20. For more detailed discussion see S.N. Castell-McGregor and Anne Deveson, 'Children's Rights and The Media' in Media Information Australia, August 1985, pp. 52-54.

21. David Gil's U.S. survey in 1965 found that 72% of respondents learned about child abuse from newspapers, 56.7% from television and 22.7% from magazines - D. Gil, Violence Against Children, 1970, Harvard University Press. Dr H. Winfieldand S.N. Castell-McGregor reporting on the experience and views of general practitioners on the subject of child sexual abuse (to be published shortly) found that 60.1% of their sample (193 were surveyed) learned about it from the media. This was much higher than information gained from any other source such as reading or post-graduate training.

22. See for example: 'The Communication Industries - Television, Newspapers and Magazines. 1978, (The Report of a National Conference of Representatives from Government, Media and the Academic Community).

23. For an excellent example of how this can be done successfully see 'Telling Tots The Truth', 18.1.1986, New Zealand Listener.

24. Nicholas Tucker expands on this point in 'A Panic Over Child Abuse', New Society, 18.10.1985, pp.96-98..

KIDS IN CRISIS:- FROM THE POINT OF VIEW OF A REFUGE

Ms Loreen Kelly, Ms Mary Barker,
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N.S.W. Women's Refuge Collective

A women's refuge aims to meet the needs of women and their dependent children in crisis situations generated primarily by domestic violence and other social and economic circumstances which make present living conditions intolerable.

There are forty-five funded refuges in N.S.W., bound together by a set of guidelines that were worked out by women's refuges and the Department of Youth and Community Services, the state funding body. The philosophical base of refuges is to help guide women to be more self-determining, gain self-esteem and more positive direction in their lives. All women and children have a right to a life free from abuse.

In 1984, 6,949 children were residents in N.S.W. Women's refuges; 13 per cent of these children were under 2; 35 per cent between 2 and 4; 30 per cent between 5 and 9; 21 per cent over 10. The 1984-85 women's N.S.W. Refuge statistics show that 24 per cent of these children are physically abused and 7 per cent sexually abused. This is the tip of the iceberg and refuge workers would estimate the figures to be much higher. Every refuge, except the single women's refuge, provide some form of child care. Refuge workers acknowledge/believe that children have rights, including the right to be loved and cared for in an environment free of abuse of any kind. Children can and do accurately describe what has happened, or is happening to them when they feel safe enough to do so. Children can come from diverse backgrounds with various levels of understanding about the world in which they live. Children become victims of physical and sexual assault in a society that is organised around relationships that are characterised by power and powerlessness. Child sexual assault is a common occurrence and is not restricted to any one age, socioeconomic, racial or geographical group. All of these points are stated in the report of the N.S.W. Child Sexual Assault Task Force, March 1985.

Refuge workers believe that one of the reasons they come into contact with so many instances of child sexual and physical abuse is that the safe environment a refuge offers, and the trust built between children and workers, allows them to talk often for the first time of the abuse they have suffered. This is also true of most of the women who use refuges.

As the Task Force found:

> Tertiary qualifications are not necessary to the development of a skilled response. As the work carried out by Women's Refuges and non-government agencies such as Dympna House amply demonstrates, a worker with a commitment to the area can develop skills. This is especially true of workers who have also been victims of child sexual assault.

As previously stated children of all ages are residents of refuges. The situations they come from are diverse but include:

- children who have witnessed violence to their mother and experience violence to themselves;
- children who have suffered chronic homelessness and unstable living conditions;
- separation from the other parent, home, their possessions, pets, school, friends and relatives;
- children of drug addicts and alcoholics;
- different cultural backgrounds;
- poverty which includes lack of nutrition, clothing, bad health.

AREA OF CRISIS

Life in a Refuge for a Child

Though the refuge provides a place of safety, life in a refuge can be extremely difficult, traumatic and stressful for the child. A child is immediately deprived of all things familiar and thrown into the chaos of communal living. Deprived of privacy and space, there is no such thing as the privilege of your own room and the room is often shared with another family.

The other family may be of an entirely different background, be it race, values or with children of older or younger age groups. Children are in such crisis and stress that more than ever they require their own space and privacy. The total lack of privacy puts extra pressure on mother, siblings, the whole household and causes great frustration. Childcare workers realise childrens needs, but the lack of separate childcare area prevents these needs being met.

With a 'no locks' policy in most refuges, children find it difficult to find a place to cry with mum, tell her the highlights or the hurts of the day. It is difficult for spontaneous discussion about what is happening to their lives or

their future. There is little opportunity for comfort and reassurance without some other child popping in to see what is happening.

The privacy or lack of it causes problems in bathroom areas. Children often want privacy in this area more than adults, and generally tease each other unmercifully.

Kitchens are a normal space for children to be with their mother, but the refuge with its no larger than normal size can be a war zone at meal times. The 'no kids in the kitchen' rule never quite works, and for adults and children getting meals can be one of the angriest and most frustrating parts of the day.

Childcare areas range from adequate to almost non-existent in refuges and can have the same dynamics as the household. As always, lack of space causes more stress than any other factor.

Inner city refuges, in particular, have little or no yard space and for the sanity of the refuge population have quite separate childcare facilities at other locations. This can work quite well, especially for an exhausted stressed mother, but in reality can cause trauma for a child. The child often needs to be in sight of mum for at least a week if not longer. The strange environment and people, the limits and discipline of child care often are too much for children when their lives and all that is familiar is disrupted. The fear of losing their mother is paramount to small children and no treat or fun time can persuade them to leave her until they feel safe.

Isolation is a problem in which child care workers find a lot of work is needed to compensate for what the child has left behind. Friends, school, pets, toys, activities and sometimes dad. These basic needs of children have to be established again and a lot of encouragement is required to get children to look at finding these things for themselves.

The dangers families fear often isolate children completely from any previous association, even their best friend and often relatives. The fear of being found by a violent father is a very real and terrifying fact of life for many children.

Different cultures can be disadvantaged in the refuge. Due to the ever present stress factor most women and children are not prepared to look at their racism. The degree of racism varies but most children from different cultures suffer discrimination and can be made to feel quite miserable just because they do some things differently.

The problem of racism is addressed with children by childcare workers. There is still hurt and anger suffered by children who are the brunt of racist attitudes, but awareness is raised and space is made for children of other cultures to do their own

thing. Most refuges have a policy of employment that sees a multicultural group of workers as essential to promoting the understanding of people of other cultures.

Discipline is hard to establish in the refuge without depriving a child of everyday freedoms they have a right to expect. Children can run wild, they soon discover (some immediately) their mothers do not have the same controls as at home. Due to her stress and the new environment she cannot take control of a situation as she would normally be able to. This can cause a battle of wills and the mother can well be in danger of losing this battle. There will be friction, fights and tantrums. The child often going too far and losing control. The childcare worker often has to intervene leaving the mother feeling powerless and a failure, and the child fully aware of their mother's inability to cope. The child will often resort to behaviour not usually normal for it, and a mother may not see that this is part of her child's stress. It may be that inappropriate punishment is given when a talk and a cuddle may have been what was required.

Different standards of discipline and acceptable behaviour can cause much resentment in children, for example, 'I don't care what others are allowed to do' does not work at all in the refuge environment. When every mother and most children are swearing, it's very unfair when one child is deprived of a special treat because of their swearing.

Corporal punishment is frowned upon in refuges as with other mothers hitting other children. Real alternatives have to be offered to mothers and support to carry through with these alternatives. An effort to get all mothers to decide on limits and punishment must be undertaken. These rules have to be the same as far as possible for all children in residence. Consistency is essential, if this is achieved children feel better and they accept the refuge limits more readily.

Childcare meetings for children can often help overcome the 'it's not fair' feeling. Meetings can be run by children which allow them to express their views and decide what is fair for them, come to mutual agreement about behaviour and punishment and police themselves. When allowed to decide some of their own rules for the house it can help join them together and promote a greater interest in how a refuge works and why. Children often complain of not belonging, of not being important. Involving children in decisions and in making rules can alleviate this problem and a sense of being part of the household is achieved.

Health is an area of great concern in a refuge. Because of stress, asthma is common for many children after coming to the refuge. They often suffer bronchitis or colds that will not clear. Children experience headaches, migraines, re-occurring pains, diarrhoea, and vomiting, nightmares, bed wetting, bad

moods, withdrawal tantrums, hysteria, though not physical illness are equally damaging. There are minor health hazards attributable to communal living such as head lice, scabies and impetigo.

Many children are in need of immediate medical attention when they arrive at the refuge. They have obvious signs of physical abuse. Many children lack nourishment and have not been provided with adequate food for some time. These are children with not so obvious physical damage. Children on drugs and children with disabilities that may never have been attended to; mentally disturbed children and children who are not coping with the stress in their lives will be given assistance within and outside the refuge so they may gain some peace in their lives.

Life for children in a refuge is not paradise, but is as the name implies, a haven from the atrocities that are inflicted upon them in their everyday lives. The refuge is likely to be for some children the only safe place.

The Mother

Women in the refuge face the same sort of problems as the children. They are also in crisis and desperately trying to hold the family together. A mother's crisis has different ways of affecting her children and can manifest itself in various ways often adding to the trauma for children.

Sometimes because of stress, depression or a temporary inability to cope, children may feel rejected by who is now the only stable person in their life. Other times a mother may turn to her children for support and become 'clingy', demanding or over-dependent. This can greatly add to the stress for any child at any age, as they often feel responsible for the entire family unit.

A mother may lack understanding about what her child is feeling. It may never have been explained to a child why they are in the refuge and what will happen in the future. Children have been told by their mothers such things as, 'Daddy is at work', 'We're on holiday'. Children know that something is very wrong and avoiding the truth leaves them feeling insecure, confused and frightened. Children also feel that they are just not important enough to be informed of what is going on.

Children often hear over and over again about their own mother's abuse and the abuse of the other mothers in the house. Women do not always realise the tension this talking causes in children. There is no escaping or release from the past pains for many.

From time to time a child's basic physical needs may be ignored. There are times when patterns and routines are broken. Meals are

irregular and not eaten together, general care such as bathing and dressing is disrupted, discipline becomes confusing and inconsistent: all of these adding to their feeling of desertion.

Children are trying to understand and deal with their own feelings, particularly their feelings towards their mothers. They experience hate and anger. There are discipline problems and the bulk of interaction in families can be very negative. Children become abusive, demanding and often out of control adding to feelings of not being safe.

There are children who feel the weight and responsibility of supporting their mother. We have heard children being told, 'You've all I've got now', 'Now you're the man of the house you have to take care of us'. Children take all this very seriously and the weight of all this responsibility is just too much to bear.

Children's reactions include becoming clingy, reacting hysterically when their mother is out of sight. As everything else in their life has disappeared how can they be really sure their mother will still be around.

All this is very destructive for children and they often blame themselves and feel intense guilt. They believe it is their fault the family had to leave as they feel they are the cause of fights and violence. Sometimes women only leave after a child is abused. This is even more evident in the case of incest.

For some children when their need for love and affection is greatest, this reassurance is denied them. Sometimes this is only a temporary state of affairs but there are many children who have never had the nurturing they need. Some mothers have never had any nurturing themselves, and simply do not know how to show these feelings to their children. Many children search constantly for the approval and affection they rarely receive.

The Father

Children in a refuge have mixed feelings about their fathers. They sometimes worry about him, 'Who's looking after Dad?', 'Who's cooking for him?'. They can care for and miss their father, often experiencing incredible guilt about their feelings and believing they have no right to talk about them, or their father. Children also feel great anger towards their fathers. Some have elaborate fantasies of killing or maiming him. In any case access can extend and complicate any of these feelings children have.

Children are very aware when there is cause for real fear of their fathers. They know when doors are locked and they are

forbidden to go outside or leave the yard. They know when to fear for their own life and for their mother's life. Many children have been verbally and physically threatened, sometimes required to pass the threats onto their mother. They know the disappointment of unfulfilled promises of a father, who's going to 'make changes', 'never abuse again'. They know the confusion and guilt of bribes, and blackmail, they know the power this adult has over their lives, they know what fear is.

Children Going to School from the Refuge

Many difficulties arise for these children. Most have had frequent changes in schools so are behind other children their age. They miss many days of the school year when the mother is fleeing or seeking a new home. They are often teased and called refugees. They worry that they may be snatched from school. Often they are regarded as transients, so miss the special programs of help that they need in areas of speech, health, reading and numeracy. Usually they are disadvantaged and ill at ease by not having uniformms and equipment because of their mother's poverty.

SPECIAL NEEDS CHILDREN

Adolescents

Adolescents have particular problems of their own coping with refuge life. Adolescents are the most misunderstood, uncared for people in the refuge. Though we don't really believe that, they do, and so a lot of energy and time is needed to persuade them that they are important and we really do care about what is happening to them. This can be a frustrating exercise as there often are grounds for them feeling used and in some ways abused by other residents of the refuge. Mothers tend to see the adolescent as a convenient baby sitter, and it is not unusual for this age group to spend quite a deal of time minding other peoples children.

Young mothers with small children often are quite unrealistic in their expectations of the adolescent. It is as if there is no room for children over the age of six and if they have to be there they should not have any special needs. Adolescent children should not play loud music, use the phone, argue with each other, want to stay up after smaller children go to bed, or use the bathroom when somebody else wants it. An adolescent in a refuge should respect everyone, smile all the time, willingly do chores for everyone, and take the blame for every toddler that escapes the confines of the yard. The adolescent must be responsible at all times, make the decisions a mother cannot and generally be a tower of strength whenever required.

The need for separate childcare for adolescents is not always seen as fair or necessary. Mothers often complain when smaller children are sent out of the childcare area to allow time for adolescents to play records, have discussion groups, or just sit around. Adolescents rarely get equal time but are realistic about the demands of younger children and often assist with activities for them. They settle for less time for themselves if some effort is shown in using time for their needs only.

Adolescents have very definite views about what is happening in their lives. They need space and time to air these views, to get alternative ideas and positive information with realistic suggestions on how they can protect themselves.

Adolescents do not want to go to school. It can be one of the hardest areas for them to cope with. They have no friends, they have no uniform, no books or any of the usual gear that they would normally have. Everyone at the school knows about them, they are teased, bashed or ignored. Teachers do not like them, and though this is part of their excuse not to attend school there may be some truth to such a statement. Because they are refuge children they can be discriminated against.

Adolescents are usually in conflict with their mothers. This is very stressful and often leads to regular threats of punishment. They become resentful and their anger can manifest itself in violent behaviour, rudeness, disobedience and sullenness. One to one attention is given as often as possible to help get problems back into perspective and try to get the adolescent to acknowledge that everyone has a difficult time in the refuge.

Their normal social life is important to them and they have expectations of it continuing. They have trouble accepting that they cannot do many things that were usual prior to the refuge. They often refuse to see that it may be dangerous, it costs too much money, or child care workers cannot taxi them to every event they wish to attend. Adolescents can be extremely selfish and pressure their mother unrealistically until they give way. Many abuse and sometimes use violence if they do not succeed.

Adolescents often refuse to discuss anything with their mother. They may have a lack of respect for her opinions and see her as powerless in controlling her own life. This can lead a child-care worker into an area where the danger is that an adolescent will listen to the workers' opinions and use them to goad their mother. This can set up resentment and a sense of added failure for the mother and an opportunity for the adolescent to pit mother against childcare worker whenever possible The adolescent needs to know his or her limits, and understand that childcare provides friendship and support but does not replace a mother.

Adolescents have all the problems of other children and a lot more. They demand their own time and it's important that all

refuge workers and mothers realise they have a right to it. It is about time that experts and youth and community service departments acknowledge childcare workers are not just babysitting pre-schoolers but are skilled in working with stressed children of all ages.

Boys in Women's Refuges

The problems encountered with boys living in women's refuges have some distinct features. When they have been living with a violent father, they are often confused, angry and disturbed. They may have to reconcile seeing their father, their role model, bashing and hurting their mother. This is particularly confusing if the father is admired and loved by the boy.

The boys react to this confusing situation in many ways. They may act 'macho', hit their siblings and other children in the refuge and at school, they become very destructive and they may verbally and physically attack the mother. Even if they do not get on with their father, if they see their role model 'getting away' with violence, they may see this as acceptable behaviour and so continue in this way in the refuge.

Girls in Refuges

Even though childcare in refuges is integrated, girls have different responses to boys in the refuge environment.

Girls behaviour echoes the powerlessness of the mother. Childcare workers work hard to challenge their perceptions of role models, we introduce them to positive self-image as girls, and continually challenge their submissive roles, or even when they adopt 'stereotypical' female attitudes we point out where these attitudes are coming from and often are their first introduction to a positive idea of girls and women. We encourage them to not confine their notions of play etc. to traditional female areas.

Country Children in Women's Refuges

Country children, especially ones coming from a farm, usually find themselves in a strange and bewildering place.

They have left their home and the animals they love and a lifestyle where they could roam and be by themselves. They sometimes are angry and blame their mother because she has taken all this away from them. They often put lots of pressure on the mother to return, which causes friction in the family and adds to the overall stress. They feel at a loose end without their bikes or pony, their chores with other animals on the farm. Their outlook on life and their value systems are often at variance with those children who have acquired the sophistication of the city. This increases their sense of disharmony and feelings of alienation.

Alternatively, the boys may react the other way by becoming overly protective of the mother, that is, they become the man of the family and try to take on responsibility that they cannot cope with.

Sexually Assaulted Children

We believe up to 90 per cent of children using a refuge would have suffered some form of sexual abuse. This is a stark fact that refuge workers face on a daily basis. Refuge workers almost live with these children for up to four months and are often the first people a child will choose to disclose this abuse to.

Research has shown us that children do not lie about sexual abuse. They often understate what has happened to them. Childcare workers in particular cannot ignore these children but they often have to work unsupported and with little or no training. They are not recognised as having any 'expertise' but are often the only real support for many children.

Age is no barrier for the crimes committed by the sexual molester of children. This fact makes it essential that childcare workers have training available to them to enable them to assist any child of any age. The child that cannot verbalise is at a disadvantage and workers must be aware of behaviour signs.

All children should be believed. They should be taught protective behaviour and given knowledge of their rights. Most refuges attempt to teach children what they can in this area. The child coming to the refuge often feels to blame for mum leaving home. The child often expresses regret for disclosing and denying what has happened to them.

A mother often does not want to believe her child and questions her motives for telling these stories. A mother's doubts creates turmoil and trauma for a child. Every child wants their mother to believe them and a threat of rejection is more than they can cope with.

They see their mothers often as their only care giver and protector. The only person who will love them. Their great need for their mother's love manifests itself in quite desperate behaviour when they feel it is being withheld. It is not unusual for a child to inflict physical injury upon themself.

If a child is rejected by her mother all support and legal action is taken. This is distressing for all concerned as there are no satisfactory alternatives for a mother's care. There is no solace for the child's abandonment.

There are difficulties placing incest victims in foster care and where placements are found it can be a very dangerous area for those children. They are placed often as not with families who

have no idea of the problems incest victims face and are not equipped to deal with their needs. A childcare worker can be faced with attempting to reassure a child that it may be okay but there is no other alternative for them.

The truth is essential, there are no magic solutions. Children know this and often wait for promises to be broken and prove their lack of trust in adults is well founded. The incest victim has lived a life of lies and needs no more adults offering false promises.

Sexually assaulted children are under stress when they arrive at a refuge and this is added to by the stepstaken to make them safe and to stop abuse. Childcare workers will support children through all steps taken and search for outside services to assist them.

Sexually assaulted children are at a disadvantage at school, besides the normal problems of being a 'refuge kid' they have secrets to keep and yet have to try very hard to function normally. With Youth and Community Services (Y.A.C.S.) interviewing at school, having time away for court or counselling they are a target of curiosity. Rumours can fly and life is made very difficult for them. Their behaviour is attacked and schools give very little sympathy for the child acting out its anger even when they have been made aware of what is happening for the child.

The lack of counselling for sexually assaulted children is appalling. There are not enough counsellors skilled in this area, or they still use old values when seeing children. It is not seen as essential for counselling by some, and the 'nice girl' versus the 'not so nice' girl still can be seen as being used as a guide to whether or not to provide counselling.

Refuge workers can be desperate enough to take up the counselling role if a child does not have adequate support. In the long term this is not satisfactory. Time available is limited. Distance once the child has left the refuge can end support. There will be other children to help and above all the refuge worker knows the damage of unfulfilled promises so is wary of over committing herself. Children who are victims of sexual assault need workers that understand their behaviour. They need workers who will not opt out when rules are broken.

These children can be in control of the household, dictating the highs and lows by their own moods. They are violent to other children and often adults. They are destructive to themselves and other people's property. Tantrums, anger and hate are everyday events. Some children withdraw, and will not talk or participate in any activity in the house. Any behaviour is possible and they add stress to their lives themselves constantly.

Many residents (as with the general community) have no understanding of what has happened and is occurring for the sexually assaulted child.

They would prefer her to be sent away and often suggest it. There should be some 'special' place. There will be questions about the truth of the assault. Other children in residence will be curious and want to know details. Their sense of rejection continues and their feeling of not being normal manifests itself continually. No child can live with these experiences and gain any confidence or life skills without true caring and patience; where is it?

Aboriginal Children

Aboriginal children from country areas have many special difficulties, as well as suffering the traumas experienced by all children who are forced to flee to a refuge. As well as suffering separation from home and pets, they must leave a whole community of friends and relatives, which formed such a very important part of their life.

Their natural shyness is a further disadvantage to living in a refuge and mixing with white children, who sometimes verbally put them down because of their colour. They often withdraw to their room where they feel safe. This also adds to the stress of the mother.

These children usually come from outback rural areas where there have been no work opportunities for years. They feel ill at ease because they have no decent clothes.

They are prone to sores having lived in areas where there is a lack of fresh fruit and green vegetables.

Most have lives as part of a wide community where they could roam freely. To come to an urban environment with all the added restrictions puts further pressure on the mother and kids. Whereas before the mother could relax knowing her children would be safe playing with cousins and friends, she suddenly faces criticism if the children are not under her eye at all times. In an Aboriginal community older children are accepted as minders for younger children but this is frowned upon in a white society. Aboriginal children in a refuge find themselves living with people who often scorn their beliefs that are part of their life; for example, their trust in natural remedies, their belief in spirits and their ideas on diet.

This increases their feelings of alienation in the refuge. Aboriginal children coming to the city are alienated straight away. There are a multitude of things one could say about the disadvantages felt by Aboriginal children within the refuge but at least refuges work to try and overcome them even if the rest of society will take no responsibility.

Disabled

Refuges do not really have facilities for physically disabled children. Often this means they have to be sent somewhere else. This can be very traumatic, given that there has already been the separation from familiar things. The separation from the mother and siblings can set children back years emotionally. They really feel their difference from the rest of the family and feel rejected. It is very hard on the mother to cope with this and often rather than face the separation she will go back to an abusive situation. They are also subject to other children's cruelty and lack of understanding about disability and can be subject to very cruel intolerance. Being different from the other children can make the child frustrated and angry and their behaviour can become unbearable to the mother and difficult for workers. Patience and tolerance have to be taught to all residents. The situation does not arise very often because as stated often refuges have no disabled access or facilities. This goes for all handicaps.

Drug and Alcohol

Children of drug addicts are severely disadvantaged. One of the major areas is nutrition. When we say drug addiction we do not just mean heroin. We mean all those prescribed 'mother's little helpers' like serepax and valium. Because of the false states the drugs create in the user, often this is passed on to the child in that they have no sense of reality. The ups and downs of the mother/father/de factos moods can cause the child to adopt the same behaviour even though they are not under the influence of any chemical. Many children themselves are drug addicts in that they have been given medication that they have subsequently become addicted to and cannot function normally without. For instance, baby panadol that is given to help baby sleep and then the next thing the baby will not go to sleep unless it has its dose of panadol. There are many accidental overdoses when parents do not understand the amounts that are safe and in one night can give more than a baby can deal with. Many children who have continual headaches also are addicted to painkillers and some cannot even face school unless they have taken their headache tablets.

Children of drug addicts are used to being lied to, their parents being 'out of it' and not responsible in a crisis. They know not to rely on adults and not to trust them. The continual lying about the parents' state means often the children have no grasp on what truth is. They cannot even distinguish what a lie is because this has been their model of behaviour. They are often neglected in ways that prevent them from growing up verbally, physically and definitely emotionally. Workers often have a difficult time getting these children to admit to any misbehaviour. They do not recognise they have done anything wrong. They refuse to accept authority or discipline because

they have no respect. Often they have to lie for their mothers. There is always the chance that the child will imitate the behaviour and taken an overdose of mum's pills. Many children have seen their parents overdosed and always live with the fear that their parent is going to die.

They often have been subject to disrupted sleeping patterns, warped junkie friends of parents and no special treats as all the money is needed for drugs. Some children have never had a birthday or Christmas present. They miss out on school activities and always feel they can't tell anyone of the behaviour of their parents.

These children need a lot of affirmation and to be able to build up trust with other adults if they are in any way going to develop a healthier attitude to society.

Children of alcoholics experience a lot of the same problems. Often they display characteristics of an alcoholic. There is a lot of abuse associated with alcohol. Dad comes home drunk every Friday night and beats up mum and the children. It can be a normal situation for these children.

At the refuge we insist on detox and A.A. or N.A. meetings for the mother. Often when a mother has gone through this it can be the most difficult time in the relationship between mother and child. She needs to express her anger and pain and often the child thinks mum would be better off having a drink or a pill to calm her down. The drug mentality goes very deep and this also is an intensive working situation with the victims of this kind of abuse.

Migrant

Many migrant children are caught between two worlds. The new values of their Australian friends, school, etc. and the battle within the family to maintain their culture. Children carry the burden of interpreting for their mother and have to go over and over the story of the situation which can be very distressing. Often they are called stupid and have to put up with 'cultural-ism'. Often the values of their culture are difficult for other children to understand, for example, their eating habits, religion and often their closer ties with their mothers. All refuges aim to have multicultural workers to help these children. Often the children put the greatest pressure to bear on the mother to go home because they feel so alienated within the refuge.

CONCLUSION

All workers in the field of child abuse feel frustrated at the position children are placed in in society. Children in refuges are special needs groups and should be treated accordingly.

The distressing circumstances that lead to a child being a resident of a refuge give rise to a wide range of behavioural, educational and health problems. If the child comes from a sexual assault situation it can add enormously to their problems in all areas.

With incest, especially violent incest, the child is in a 'no win' situation. She or he is the one to feel guilt and shame. They feel responsible for the family disruption. They may have no support from their mother or other siblings and feel rejected within the family unit. They need long term sympathetic counselling and support. In the refuge, often these children, because of their feelings of shame and guilt find it hard to play in normal leisure activities. These children need one to one counselling and in overcrowded and underfunded refuges often this is impossible. In a sense all children in the refuge are from risk situations.

Each childcare worker deals with approximately 100 children a year which is probably a greater number than any other worker working with children. A childcare worker plays an essential and vital role in preserving the child's needs, self-esteem, identity and generally acts as the advocate on behalf of the child in the refuge environment. Child support workers are more than babysitters and increasingly as children's suffering becomes more apparent, special care and one-to-one work is essential and should be funded.

Trying to seek this kind of support in the broader community is nearly impossible. We could cite numerous accounts of this but one that comes to mind quite recently when we sent one of our residents and her child to a highly qualified child psychologist so bound in conservatism saying to the child 'when mummy gets herself together the child would automatically follow so there wasn't really any need for her to see her'. Apart from the fact that we interpret this as her not recognising the child as a separate individual with her own reactions and feelings, there was no attempt to find out what the child herself had been through in the relationship, where in fact she had been abused separately, locked up and witness to her mother being slashed with a knife. It is a common experience for refuge workers to have qualified people in this area being completely incompetent at the grass roots level.

Because refuge childcare is unique, a wide range of services need to be provided including:

1. Individual work to facilitate relationships between children and mothers.

2. One to one counselling. Counselling and support of incest victims, victims of physical and sexual assault. Within the refuges at the moment this cannot be coped with adequately

due to lack of funding, not having sufficient staff and the general lack of understanding by government of the needs of children within the refuge especially children from abusive situations.

3. Daily programs of preschool activities and basic daily care. This injects a much needed element of routine and stability into the child's life.

4. School age children receive help and care in tutoring, counselling, group activities and outings.

5. Referral and liaison with Y.A.C.S. schools and community groups ensuring that the special needs of these children are recognised and met.

6. Fostering better mothering skills in a non-threatening atmosphere.

7. Special work with migrant and Aboriginal children.

8. Outings and excursions and holidays for resident and ex-resident children, giving the children the benefit of new learning experiences.

9. Follow-up ex-resident care and support. These single parent families are living way below the poverty line and because of associated problems the children still require our attention.

10. Accompanying children to court.

11. Arranging foster care.

12. Nutrition and health information.

13. Active involvement on community committees, for example, Children at Risk, Women Against Incest.

14. Attending conferences, workshops and in-service training, resource sharing and submission writing.

The functions of childcare within the refuge is to take children out of overcrowded situations and give them the opportunity to do different child centred activities, visit places, be involved with other children, develop independence from their mothers and to relate to other adults who are interested in their ideas and problems. It also allows children to work through the crisis which brought them to the refuge by talking to sympathetic understanding workers whom they can trust and by acting out responses to life situations through productive play.

Women's refuges provide a unique service and are desperately underfunded in services to children. Children in refuges have been observers of domestic violence, drug addiction, alcoholism and sexual perversions. They are victims and survivors of child abuse and incest. Their need to overcome these traumas are very great and at the moment the whole society is negligent in doing anything about it. Refuges try to provide non-judgemental, supportive workers who are aware of different child rearing practices and try to encourage non-sexist, non-racist, non-violent attitudes and behaviour. This is going against practically everything they learn through school, television and other media. The worker numbers in refuges to assist children is desperately inadequate.

The N.S.W. Women's Refuge Childcare guidelines state that the role of childcare in refuges is to provide a non-institutionalised environment which is conducive to the emotional and physical well-being and development of all children in the refuge setting. That children are an integral part of the refuge and their views should be listened to and taken into account.

Children in refuges have needs that differ from those of the children in a family situation because:

(a) they are in a crisis because of a family breakdown

(b) often they have been witness to physical and sexual violence

(c) family structure is difficult to maintain under refuge conditions

(d) children display differing responses to their situation

(e) a mother under stress is not always in a position to given her children increased support.

The legal position of workers re children when the mother is temporarily absent is defined in the Child Welfare Act 1939. Refuge workers have no legal rights to the child without its mother but they do have responsibilities and a duty to care for such a child. When workers have been entrusted with the care of a child or children by a mother, the workers do not have to hand that child over to any other person unless that person can produce evidence of a greater legal right to the child/children, for example, court order or warrant.

Refuges can have up to thirty or more children of varying age groups all living in a communal situation, often for the first time. To try and provide for the needs of all the children is very difficult. We need more funding to be able to adequately provide proper care for each child in the refuge and ex-resident

children. The burden on the workers at the refuge is very great. Because of the varying age group mixes in any one day you can be dealing with a distressed fourteen year old, a very sick nine month old baby, a biting two year old, a nine year old victim of sexual assault. Childcare workers in refuges have to be super caring and patient individuals. Each child has their own problem, each needs special care and attention.

It is only now that the issues refuges have been raising for years, and generally being ignored for, in relation to child abuse (that is physical, sexual and emotional) are starting to become more recognised by the larger community. No matter how much people resent the escalation of welfare spending, there are great needs of many women and children that will have to be met if anyone is serious about showing real concern for abused children and want to do something constructive about it. Welfare is the necessary opposite to the few privileged rich and to the futile waste in government spending for example, defence, and the dreadful inequality of sharing of the world's resources. The number of single women supporting children is growing at an alarming rate. The incidence of violence is increasing. The incidence of violence to women and children is increasing. It is not just enough to change the law without providing the services to follow up those changes. The number of children already experiencing great disadvantage is huge. It is increasing all the time. Many of the children we work with have such deep attitudes of distrust, hatred, violence and a non-identification with society that they can only become the adults their parent/parents were.

It is often perceived that children are not aware of what is going on around them. A survey done by the Victorian women's refuges in 1982 found that of children living in the refuge, 93.3 per cent knew that their parents were not getting on (de facto situations are included). All of these children had heard arguments or had experienced violence in their parents' relationships. Seventy five per cent of the children felt that arguments, physical violence and the fathers/de factos irresponsibility had been sufficient reason for leaving. Out of the 85 per cent who had some explanation of what had happened only 58.3 per cent had discussed the situation with one or both parents. Many children have never had an opportunity to discuss their relationship with their mother.

They have never considered her position in society of her status as a woman. Discussion can bring an awareness of their needs and develop some respect for her decisions.

No matter what the individual situation children need a lot of care and attention. They need training in life skills, knowledge that can help them survive, or give them alternatives when suffering abuse. A refuge can be a little step often to a more positive approach to the understanding of a child's needs. Childcare workers offer children time, space, individual

attention, credibility, confidentiality and friendship. This can be a new experience for many children and can establish trust with an adult which has been missing in their lives. Due to contact with other women and children, they begin to realise they are not 'the only one' from violent and abusive situations.

Children also have the opportunity to learn about other peoples' lives and backgrounds, differences in culture and religion and differences in attitudes and customs. Hopefully this will lead to an increase in understanding and tolerance from the children. They leave the refuge again. A refuge can be contacted at practically any time and we never turn our back on any child.

We feel that at present that is a great lack of services that help children from situations of abuse and that the government services are completely inadequate and understaffed. The law is inefficient and generally we feel a lot has to be done to change this.

DYMPNA HOUSE: AN ANALYSIS OF A COMMUNITY BASED INCEST CENTRE

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Dympna House is Australia's first and only community based incest centre. As a community based agency, Dympna House makes a unique contribution in the struggle to overcome child sexual assault.

This paper is divided into three broad developmental sections:

1. How Dympna House came to be.
2. What we do at Dympna House.
3. Where to from here?

1. HOW DYMPNA HOUSE CAME TO BE

In this section we shall look at the history of Dympna House's development, examine various therapeutic theories about incest and their implications; ending with Dympna House's theory of incest.

In the late 1970s it was becoming very obvious to many women within women's services and in government agencies that service provision for incestuously abused people was very sparse in view of the need presented by many women and girls at such places as women's refuges, community health centres, rape crisis centres and youth refuges.

As more and more women and girls began to present to the various women's services, the agencies that have historically dealt with incestuous abuse, the departments of youth and community services, family therapy agencies, and hospital social work departments, etc. began to employ women whose ideas about the position of women in the family often differed from the conventional wisdom of their chosen profession, as did their notions of appropriate intervention. The tendency for official intervention procedures to implicitly blame mother and/or daughter (e.g. by classifying the mother as incompetent and placing her children in care, by classifying the girl as 'uncontrollable') and the immense difficulty of mounting a successful prosecution of the offender presented a continual frustration to feminists attempting to support the mother and daughter through the trauma of incestuous abuse.

While feminist workers in the field were grappling with this growing sense of frustration and their lack of knowledge other developments were contributing to the willingness of women and

girls to disclose and seek help. Throughout the late 1970s and early 1980s campaigns around domestic violence and rape, particularly rape in marriage, had made strong inroads into the assumptions about the husband's property rights over his wife, and into the mysogynist assertion that women 'asked for it'; it was becoming evident to the whole community that sexual domination and violence from the man to woman was relatively common in the family. The tendency for women to privatise and internalise these experiences as guilt and self-loathing was gradually being reversed, a reversal that was beginning to extend to incest victims as well.

By 1981-82 it was becoming evident that incest was such a widespread practice, and that its effects upon victims were so damaging that some specific action was required to equip workers with knowledge and skills and to draw more public attention to the issue. Workers from various women's services began to meet to discuss their perceptions of family dynamics, counselling methods and intervention procedures; the issue was raised at the Women's Refuges State Conference and at general forums like the Women and Labour Conference. For feminist workers events like the Australasian Conference on Child Abuse presented opportunities to challenge the common assumptions about incest and its treatment. Liverpool Women's Health Centre along with some western region women's refuges discussed the possibility of a phone in survey for the region, as a demonstration of need to confirm their suspicions about the incidence of abuse; while it was generally agreed to be a good idea none of the services could rally sufficient resources to sponsor such a survey. Instead they decided to concentrate on improving their knowledge about incestuous abuse and began to investigate the way that other services were dealing with the problem. Some sexual assault centres were by this time running groups for rape victims that included some incest victims but it was becoming clear that the experience and its effects was significantly different from that of extra-familial rape. The need for a specific service was becoming clear.

The first meeting of Women Against Incest (W.A.I.) was convened in February 1983 with women from Leichhardt and Liverpool Women's Health Centres, Redbank House and the Women's Legal Resources Centre. Within the first few months of operation the group expanded to include women from women's refuges, youth refuges, sexual assault centres, the Department of Youth and Community Services, the Bureau of Crime Statistics, and the Third World Women's Group.

By September 1983 the W.A.I. campaign began to receive requests for speaking engagements; two all-day workshops were organised to share and consolidate the knowledge of collective members. A six month grant for the establishment of a specialist incest centre was approved through the Federal Government's wage pause scheme. The establishment of a specialist centre was considered

a crucial prerequisite for the conduct of the survey, so that thorough crisis intervention and long term counselling could be offered to the women and girls who rang. A house was eventually found and leased through the Emergency Accommodation Unit. The centre was named Dympna House after a twelfth century saint, martyred by her father upon her refusal to marry him. Five workers were recruited and a training program was organised, based on the expertise built up in the W.A.I. collective over its eight months of existence; the program covered counselling skills, group work skills, the dynamics of incest, legal and departmental procedures in current cases, and considerations of race and class, both within the collective and between workers and service users.

Dympna House opened for referrals in mid February 1984, almost exactly a year after the first meeting of Women Against Incest. Of the 380 women and girls who rang during the phone in survey, seventy requested counselling and approximately fifty continued in the program after the initial contact. Only a small number of current cases emerged during the phone in but the intense publicity associated with it soon brought current case referrals from other services and from the mothers and children themselves, along with many more adult victims. It became evident very soon after opening that the demand for Dympna House's service greatly outstripped its limited resources.

Since that time Dympna House has evolved. These changes will be chronicled in section 2.

Incest and the incest taboo have been written about by many people but for the purpose of this paper we have divided the therapeutic literature into three major divisions: the psychiatric, the family dysfunctional, and the psychological. Each of these perspectives shall be separately outlined and briefly examined. It should, however, be noted that the boundaries between them are somewhat arbitrary.

Finally we shall examine the feminist perspective on incest.

THE PSYCHIATRIC LITERATURE

Of all the incest literature, the psychiatric studies owe the most explicit debt to Freudian theory; specifically to Freud's writings upon infantile and childhood sexuality and the Oedipus complex. However, with a few exceptions the psychiatric literature has made very selective use of Freud's writings on these matters to focus attention on the 'seductive child' and the 'pathological mother', or to dismiss reports of incest as infantile fantasy.

Freud in his early therapeutic work found that a startling number of his woman patients attributed their neurosis of hysteria to childhood sexual abuse at the hands of an adult. Freud initially

took them at their word and in his paper entitled 'The Etiology of Hysteria', published in 1896 he proposed a direct causal relationship between actual sexual traumas experienced in childhood and later psychic damage sustained by an adult. However, in 1905 Freud retracted his theory on the etiology of hysteria on the basis that childhood seduction could not be such a common occurrence and was rather a recurrent feminine fantasy. While Freud's proposition in 'The Etiology of Hysteria' had been received with great hostility by his colleagues, his theory of infantile fantasy of seduction was more acceptable and dominated the psychiatric literature on the subject of incest from the turn of the century until the late 1960s.

Thus, in the early psychiatric literature it is commonly asserted that firstly, actual incest is an extremely rare phenomenon although allegations of incest may be common. This approach to incest considers that all female children develop a sexual attraction for their fathers - the Oedipus Complex' - as a normal stage in their development. This attraction in the course of healthy growth and development will be resolved. As a result of this female children fantasise about sexual contact with their fathers and that these fantasies explain the majority of accounts of father-daughter sexual contact. When incest has actually occurred in its rare instances, the child usually has instigated it in order to actualise her desires, that is 'the seductive daughter'.

In other instances the mother colludes in the incest by offering her daughter to her husband (the child's father) in order to resolve her own unresolved Oedipal complex, that is 'the pathological mother'. The incestuous act itself is, in the opinion of these writers, always precipitated by the mother's abandonment of husband and daughter.

Over the last ten years psychiatry has begun to revise some of its notions concerning incest, most particularly the assertion that it is a rare and exotic phenomenon. The overall effect of these developments on the literature has been a new focus on the medical presentation of incest to promote its recognition by psychiatrists and staff. However, this acknowledgement of high incidence has not been accompanied by a revision of the broad psychiatric assumptions about the etiology of incest. The mother and child are still the objects of scrutiny in theoretical studies; it is evident that the literature has perpetuated Freud's unwillingness to examine the drives of incestuous fathers and has found an expedient solution in its preoccupation with the mother and child.

FAMILY DYSFUNCTION LITERATURE

The notion of the dysfunctional family is a widely held explanation for the existence of incest. Variations on the theme of family dysfunction can be found in a wide range of medical,

sociological, social work and therapeutic literature both in relation to the causes of incest and to treatment methods.

The theory of family dysfunction developed during the late 1940s as an offshoot of family psychiatry. Family psychiatry is distinguished from classical psychiatry by its treatment of the family as a single entity, rather than a concern for individual psyches of family members. Instead of a concern for individual pathology it proposed that the family as a unit could be pathological and that abnormal behaviour was a symptom of overall current family maladjustment. So within this framework the occurrence of incest within a family is not regarded as a problem in itself; it is only a problem insofar as it signifies a 'deeper' underlying pathology.

The typical dysfunctional incestuous family is one where in the 'normal' family hierarchies based on age and sex have broken down. This breakdown takes a threefold form; firstly, the mother is dysfunctional as a wife, insofar as she fails to meet her husband's sexual demands and/or pursues interests outside the home.

Secondly, the mother is dysfunctional as a mother; the mother who does not want sex with her husband and pursues interests outside the home is also the mother who fails to give adequate nurturance to her children. Thirdly, the mother, and the father, also are dysfunctional as adults and parents. Both mother and father are accused of seeking to turn their child into their parent and themselves becoming like children. All the family dysfunction literature notes that the daughters seem to have inordinate responsibility for housework, childcare, etc., along with her 'wifely duties' towards her father.

The family dysfunction literature regards these pathological family relationships as the therapeutic issue, while the actual occurrence of incest is a secondary manifestation, a symptom. Incest is treated in some of this literature as a functional system serving to hold together a family whose internal relationships are so abnormal as to be otherwise completely unstable. The treatment implications which flow from this framework are as follows: If incest is only a symptom of dysfunction rather than the real 'problem' its occurrence is of secondary importance to the therapist. The appropriate focus for therapy should be the family dynamics rather than the current or historical fact of sexual activity. The sexual activity may be incidental to inverted and confused relations ... and even when the sexual activity ceases the disordered relations may continue. Within this framework a concentration on the incest may act as a red herring and impede treatment; the first step in this treatment is to persuade all family members to admit to equal responsibility in their participation in 'age and sex inappropriate roles'. A concentration on the act of incest may lead to an 'unfair' emphasis upon the fathers responsibility.

Correct treatment then involves all family members acknowledging their responsibility and with the help of the therapist realigning their behaviour into more appropriate 'gender and generational roles', and thus becoming the functional family.

Given the normative concerns of this form of therapy the 'cured' or 'functional' family is one where the man retains the same authority, the woman is concerned only with her maternal, domestic and sexual duties and the child's welfare is still accepted as being the sole responsibility of the mother.

THE PSYCHOLOGICAL LITERATURE

The psychological literature on incest differs from the psychoanalytic and family dysfunctional perspectives in that it tends to take the father, rather than the mother and daughter, as its objects of study. There is a simple reason for this difference; psychologists encounter incest mostly when performing compulsory evaluations on convicted offenders, either at the point of prosecution or during imprisonment. The purpose of such evaluations is to supply court, prison or psychiatric institutions with a 'profile' of the offender for the purposes of classification and treatment. The psychological literature adopts one of two approaches; either it is concerned to demonstrate the existence of a specific 'incestuous personality' that is, a series of fixed personality traits in the offender that explains their actions and what differentiates them from other types of sex offenders; or it attempts to find subclassifications within the group of incestuous fathers that indicate a variety of motives.

The first approach proceeds via comparative studies of incest offenders with other types of sex offenders, for example, paedophiles, exhibitionists or rapists, and occasional comparisons of incestuous with 'normal' fathers. Among the studies that have 'made use of personality tests and personal histories, a fairly strong agreement emerges on several characteristics. Groth (1979) and Meiselman (1981) and Gebhard et al., (1965) corroborate a background of chaotic family life and emotional deprivation possibly including sexual abuse. Interestingly enough, Meiselman and several other studies describe the outstanding characteristics of incestuous fathers as their tendency to exercise an unusual degree of dominance over their families. Meiselman describes a range of domination patterns. At the one extreme is the father who is sociopathic and is treating his family as objects to fulfil his desires. At the other extreme is the father who seems to be overinvested in his family and seeks to control all aspects of their lives. Another commonly reported personality trait is that of paranoic rationalisation and the attribution of blame to others rather than themself.

As previously noted, the psychological literature also differentiates between types of incestuous fathers. Groth distinguishes two major types of offender, the fixated and the regressive. The fixated offender, due to abnormal psychological development has from adolescence been sexually attracted primarily or exclusively to significantly younger persons. The regressive offender generally has normal sexual orientation (ie to adult women) but has adopted incestuous relations as a response to some acute form of stress. It is in the notion of regression under stress that the significance of the 'incestuous personality' is fully realised; the incestuous personality, socially introverted, overinvested in his family, suffering from feelings of 'phallic inadequacy', is driven to resolve his personality problems in an actual incestuous act when some form of stress, be it economic, emotional or physical, accentuates his particular inadequacies or so disorients him that his normal impulse control is impaired.

Whilst the psychological literature provides us with further information about incest offenders, the offender is studied as though he exists in a social vacuum, as an isolated individual, rather than a being in relation to others, specifically a father/man in relation to his family.

THE FEMINIST LITERATURE

The feminist objection to the three perspectives discussed above relates to the systematic misrecognition and displacement of the power relationships involved in incestuous abuse; the psychiatric and family dysfunction literature by apportioning responsibility and agency to mother and daughter and the psychological literature by divorcing the fathers actions from any social context. The first two virtually represent the experience of incest from the fathers position, while the third cannot provide an adequate strategy to address the ambiguities of incestuous abuse; however, all three perspectives maintain the status quo of patriarchy.

Patriarchy is the world view that seeks to create and maintain male control over females, that is, it is a system of male supremacy. In contemporary society, men as a class dominate women as a class. This dominance is maintained by men's organisation of and control over, the structural systems that constitute the society we exist in ie the health, legal, welfare, educational, economic, judicial, religious and familial systems.

In addition, the way these systems function is primarily determined by patriarchal beliefs and values, that is, male hegemony, which is the basic assumption that men's perception of reality is the only one. Woman is viewed as adjunct, secondary, an object for male manipulation. The mechanics of male supremacy are buffeted by the cross currents of social class and cultural differences, which further compound all power relationships.

Feminist analysis of incest has been concerned to present the experience of incest from the position of mother and daughter, to understand the family dynamics of incest as the playing out of a power relationship and to look at the connection between this power relationship and the broader operation of patriarchy.

The starting point for feminist writing on incest has necessarily been the experience of the incest victim herself. This experience has been presented and utilised in a variety of different ways;

1. First person accounts;
2. Theoretical propositions; and
3. Survey style questionnaires.

Judith Herman places emphasis on the relationship between the 'normal' and the incestuous family, attributing the high incidence of incest to the power that all fathers exercise in the family, but particularly where the father is overly domineering. 'If ... the taboo on father-daughter incest is relatively weak in a patriarchal family system, we might expect violations of the taboo to occur most frequently in families characterised by extreme paternal dominance. These fathers frequently endeavour to secure their dominant position by socially isolating the members of the family from the world outside ... the seduction of daughters is an abuse which is inherent in a father dominated family system (Herman and Hirschman, 1981). The family can be viewed as the basic structural unit upon which other systems are overlaid. Within the family unit, father is socially sanctioned as the power broker and maintains control over wife and children.

Ward and Herman also emphasise the powerlessness of the mother within this particular family configuration. The powerlessness which may eventually lead to deny her daughters disclosure or to blame her daughter for the incest. 'Mothers have many reasons for not being able to 'see' or 'hear' incest. No woman ... has any information on which to base belief in such an event. All the cultural baggage about marriage, motherhood and 'happy families' contains absolutely no information about the possible need to protect children from men within the family ... For many women there is also a very real economic imperative. At the moment of disclosure she must choose whom to believe. Most women are dependent on their husbands incomes ... Another reason why so many mothers repress stories of sexual harrassment from their daughters: such stories touch all women in terms of their own suppressed childhood memories, and in terms of our lifelong existence as potential rape victims' (Ward, 1984)

Despite all these mitigating factors, many mothers do act to protect their daughters in any way they can. However, the existence of 'collusive' mothers is undeniable; Herman accounts for this by describing the extreme oppression of many mothers in the incestuous family. 'More than the average wife and mother she is extremely dependent upon and subservient to her husband.

She may have a physical or emotional disability which makes the prospect of independent survival quite impractical. Rather than provoke her husband's anger or risk his desertion, she will capitulate. If the price of maintaining the marriage includes the sexual sacrifice of her daughter she will raise no effective objections ... Maternal collusion in incest, when it occurs, is a measure of maternal powerlessness.' (Herman, 1982). The collusive mother maintains the incest secret and fails to act for the same reasons that the daughter does; both mother and daughter are powerless vis-a-vis the father.

Women who collude with the value systems of patriarchal society do so as a personal survival strategy. Such women attach themselves to the trappings of male privilege, protection and security, however, conditional, unstable and vicarious it may be. This collusion is not from a position of real power or real choice but as an effect of rape ideology.

Elizabeth Ward describes rape ideology as 'that set of beliefs and practices which causes females to actually live in fear of males or maleness. It assumes that male sexuality is innately active, aggressive and insatiable; that female sexuality is innately passive, receptive and inhibited ... War and sexuality are seen as the same battleground' (Ward, 1984).

Rape, actual and threatened, is an effective tool of control that subjugates females of all ages, and nowhere is this terrorism more insidious than in its application to children; particularly in their own homes.

The individual masculine desire for sexual domination over females is compounded by the propertarian nature of heterosexual relationships. Elisabeth Ward says of incestuous fathers 'they are not aberrent males; they are acting within the mainstream of masculine sexual behaviour which sees women as sexual commodities and believes men have a right to use, abuse these commodities how and whenever they can. The fact that many fathers do not behave in these ways towards their daughters .. does not alter the fact that they could.' Power relationships, between men and women, adults and children, etc. are both institutionalised and internalised i.e. the concept of power has two senses.

Institutionalised power is structured into social organisational systems (health, welfare, familial, etc). This form of power is hierarchical, static, public, socially legitimised (it has authority), it is a form of control: 'power over' model with connotations of competition, dominance, force.

This construct of power is a cornerstone of patriarchal hegemony and without it aggression and exploitation of people who have little or no institutionalised power (ie children, females, non-white people, working class people, etc) could not be maintained.

Internalised power is individual, personal, dynamic, persuasive: a process 'from within' with connotations of creativity, respect, affirmation based on a sense of self-worth and self-esteem which connects rather than separates.

A feminist analysis of incest regards the damage sustained by the incestuously abused child as the result of the way she has internalised a sense of powerlessness and passivity. The multifarious effects of incest upon the adult woman/adolescent can be described as a sort of 'hyperfeminity' as exacerbations of the 'normal' feminine experience of self as vulnerable, weak, ugly or mad. Incest has been described as the perfect introduction to the role of 'powerless, dutiful, submissive wife'. Herman argues that 'women have been initiated into sex prematurely by an act of exploitation appear particularly vulnerable to a wide range of traditional female misfortunes ... far too many childhood sexual abuse is an introduction to a life of repeated victimisation and an .. indelible lesson in women's degraded position. (Herman, 1981, 33-4)

Through its analysis of incest as a sexual power relationship the feminist literature has provided the tools to re-examine other aspects in a way that is much more sympathetic to the mother and daughters position. By linking the phenomenon of incest with the nature of the family and male-female relationships in patriarchal society it can suggest intervention strategies that are social as well as individual, for example reconceptualising the notion of power is part of the empowerment process; an initial step towards recovery and survival. This section has been only a brief introduction to some of the major tenets of the feminist perspective on incest.

DYMPNA HOUSE'S DEFINITION OF INCEST

We understand incest not as an act of mental disturbance or individual deviancy or sexual aberration, but as an act of power, a disorder of power, an abuse of power. It represents a misuse of the power that society legitimately accords to adults over children; also it represents use of the power that men have over women.

We define incest as any sexual behaviour imposed on a child or young person by a male (rarely a female) taking advantage of his position of power and trust within the family. This includes anyone considered to be bigger, older or more mature than the child or young person. Sexual behaviour covers a range of behaviour that makes a child/young person feel scared or uncomfortable. The behaviour can range from exhibitionism, fondling, voyeurism, masturbation, fellatio, cunnilingus to penile or object penetration and bestiality. The families involved can be nuclear, single parent or extended, and the abuser may be the natural father, uncle, step-father, grandfather, mother's boyfriend, etc.

The above is not a legal definition of incest. We have broadened the definition because the restriction of incest to mean sexual intercourse between two related persons only accounts for a small range of the total range of sexually abusive behaviours and because the sexual abuse of children often involves other people who have the same type of trust and power as parents do, that is, step-parents, brothers, uncles and family friends.

As feminists we acknowledge that incest is characterised by the betrayal of trust and the abuse of power implicit in the relationship between adults and children and between men and women. Within contemporary society the family is a set of relations that systematically privilege and empower men over women and children. The dynamics of incestuous abuse rely on this construction of the family and we believe that until this construction alters in favour of women and children incest will continue to happen.

What this means in the nitty gritty of daily life is that whilst the home may be a safe place for many children, for many others it is the stage where sexual abuse and exploitation of their person is acted out and as such is the most unsafe locale of all their childhood environs. This is disturbing and highly confronting to many of us because it challenges one of our most dearly held notions of 'home and hearth' as the warm nurturing centre of our world. Ask yourself 'if you can't be safe in your own home, where can you be?. Imagine being a child and ask yourself this again.

Consider the statistics for a moment: one in three girls and one in five boys will be sexually assaulted before they reach 18 years old (Gillies). Most researchers agree that between 90-98 per cent of offenders are male; and its commonly agreed that 75 per cent of sexual assaults occur within the family (Sgroi). Dympna House survey sample revealed that 57 per cent of offenders were the victim's natural father. We are currently experiencing a dramatic increase in notifications of sexual abuse of younger male children.

We believe that all children, who are dependent on adults for their welfare and have the inalienable right to safety, protection and nurturing. This belief which is our number one concern at Dympna House forces us to critically examine some basic issues in our society, for example, the structure and function of the family, the process of feminine socialisation and its connection with victimology of women and girls; the constricted concept of masculine sexuality and its oppressive expression as well as the notion of natural rights for children.

WHAT DYMPNA HOUSE DOES

1 STRUCTURE

- Staffing
- Funding
- Organisation
  - WAI/Committee
  - Collectivity
  - DH aims and objectives

2 PROGRAMS AND SERVICES

- Counselling program
- Research program
- Training program
  - External
  - Internal
- Community Education
  - Information booklets
  - Community youth workers
  - The Web
  - Videos
  - Talks, seminars
  - Written information
- Accommodation program
- Administration

3 COMMUNITY PROFILE AND POLICIES

WHAT DYMPNA HOUSE DOES

Since the February 1984 phone-in, Dympna House has expanded and consolidated its structure, programs, services and community profile.

STRUCTURE

For most of 1984, staffing consisted of four counsellors and one research worker. Today the permanent staff consists of four counsellors, one administrator and one housing officer. Current temporary staff consists of two youth workers and two group trainers. Previous temporary staff has included the employment of one research worker and two information workers.

Funding

Dympna House is jointly funded by the Health Department and Youth and Community Services. In 1985, we were able to employ two information workers through a six month C.E.P. grant. This year a special training grant from Y.A.C.S. has enabled us to employ two trainers on a sessional basis. An International Youth Year grant provided funds for two youth workers, whilst the Women's Housing Program of the N.S.W. Department of Housing funds the housing officer. Upon completion of her task in mid 1985, the research worker left to take up another position, enabling the appointment of an administrator.

Organisation

As stated earlier, Dympna House grew out of the concern of the broader-based lobby group, Women Against Incest (W.A.I.) and their subsequent campaign to establish a specialist incest centre, and the conducting of a Sydney-wide telephone survey.

The W.A.I. group consists of a cross section of committed workers from legal, health, welfare and women's services. From this group, the Dympna House committee was formulated. The Dympna House workers meet regularly with this committee to discuss matters of policy, planning and accountability. The committee also acts as an advisory and support body.

Dympna House workers function as a collective. This means that our organisational structure and processes are based on the concepts and operation of consensual decision-making, worker management, active self-responsibility and the sharing of skills, experience and ideas. Collectivity is about the pooling of resources in the deepest and widest sense. It includes the valuing of individual differences (i.e. class, cultural, age, knowledge,) recognising our commonality of purpose, investment

in processes being as important as the products. Collectivity is a basic feminist tenet that embodies high committment to personal empowerment and an appreciation of the importance of group processes.

Aims and Objectives

The aims and objectives of Dympna House are as follows:

1. To raise awareness about the high incidence of incest; the patriarchal social relations from which incest is created and maintained; the short and long term effects of incest; the need for feminist support services.

2. To provide a wide range of services run by women for incest victims/survivors, based on a feminist analysis of incest.

3. To work towards the protection of children and young people who are or who have been victims of incest.

4. To empower women, whether they be victim/survivors of mothers, relatives or friends of incest victim/survivors.

5. To develop and promote a feminist understanding of incest within the community.

6. To make an impact on and change existing legal, health, welfare, therapeutic, religious and educational services in their attitude towards and intervention in incest.

7. To lobby for funding to initiate new services appropriate to the needs of incest victim/survivors.

8. To identify and try to meet the needs of migrant and third world women and children, and to be aware of a range of different cultural backgrounds.

9. To identify and try to meet the needs of Aboriginal women and children and to be aware of existing class differences.

10. To identify and try to meet the needs of working class women and children and to be aware of existing class differences.

11. To identify and try to meet the needs of women and children who have special needs related to psychiatric treatment, drug dependency, disability or old age.

12. To promote and instigate feminist research into incest.

13. To conduct and develop training programs for workers in relevant work areas.

14. To act as a resource and information centre regarding incest.

15. To operate on a self-managed basis.

16. To develop networks among women using the service.

17. To provide medium term accommodation to women and children affected by incest.

18. To evaluate the aims, objectives and services of Dympna House on an ongoing basis.

Programs and Services

Dympna House offers six broad programs: counselling, research, training, community education, accommodation and administration. A brief explanation of each program follows:

Counselling

From the 1984 phone-in, Dympna House counsellors worked with adult, female victims/survivors. However, more adolescent referrals were subsequently received, and the trend over the past two years has been for our referrals to come from younger and younger people. We have seen a significant increase in referrals from the under twelve year old age group. This trend parallels that expressed by Esther Gillies in her recent visit here. Esther Gillies is a Director of Children's Institute International in Los Angeles, California.

Dympna House provides one-to-one counselling for adult women who were incestuously abused as children, mothers of incest victims (current or past), adolescent girls and children of both sexes. The counselling program also provides group work for adult women, mothers of victims, adolescent girls, and has run a self image body work group for adult women who were abused as children. It is envisaged that sometime in the future we hope to be able to provide group work for children.

In 1984, current case work comprised approximately 30 per cent of the centre's total case load. It now comprises 90 per cent. Alongside the increase in notification to Y.A.C.S. there is an increasing tendency to refer children to Dympna for validation, assessment and counselling generally. Casework with children represents a much more demanding proposition than work with adult women, whose incest experience occurred in the past. Current cases often involve after-hours crisis work and increasing

amounts of legal work. As more cases of child sexual assault are brought to trial and defended, Dympna House workers have been required to both submit court reports and appear as witnesses, in addition to preparing the child/adolescent for, and support her through the various court procedures. Other duties involve marital work, work with siblings and other family members, foster placement and alternative care, liaising with youth workers, health workers, school counsellors, etc.

Dympna House counselling services accentuate the restoration/ strengthening of the mother/daughter bond. Most workers in the field seem to favour this, even those who are most committed to reuniting the parental couple. As Henry Giaretto, Director of the Sexual Abuse Treatment program in San Jose, California, put it: 'We feel the essential nucleus is the mother/daughter relationship. As soon as the mother communicates to the daughter that she (the daughter) wasn't to blame, the repair process has begun. (Herman and Lisa Hischman 1981, p.145)

Research Program

A research worker was employed to establish, in consultation with the W.A.I. a survey on the nature and extent of child sexual abuse within the Sydney metropolitan area; to analyse the data collected and to prepare a comprehensive report on this program. This report, entitled Breaking the Silence, is now available.

It is becoming increasingly evident that there is a dire need for Australian-based research into incest issues. Dympna House is keen to see research of the nature that determines community needs, develops intervention strategies, evaluates treatment models as well as looking at the long term effects of incest and possible community prevention strategies.

Training Program (External)

Dympna House continuously receives numerous request for training workshops, and has evolved a mini-bureaucracy to cope with this. In 1984, Dympna House received approximately two requests per month for training workshops. Two trainers have now been employed on a sessional basis to work with counsellors to clear the backlog of demands. As a means of maximising the efficiency of these workshops, the trainers have encouraged requesting agencies to form local inter-agency groups, comprising people with a strong commitment to working with incest.

The purpose of the training program is to make links with other workers who are, or are likely to be, working with incest survivors/victims and their families; to share our knowledge, experience and skills so that a comprehensive referral network of incest support workers can be set up throughout N.S.W.; to

increase understanding amongst health and welfare workers about Incest; to provide better services for incest victims and their families; to break down our isolation as incest support workers.

The workshops provide training in the areas of:

- Information about incest, which includes familial, legal, social welfare and resource materials.
- Skill sharing which introduces/expands skills to support incest victims and their families.
- Experimental learning which helps to explore personal attitudes and feelings about incest and child sexual assault.

Every workshop, within a general framework, is tailored specifically to the needs of each group. Workshops are usually three days long, with a follow-up day 4-6 weeks later, if appropriate. They are open to any individual or group of any age or culture who is involved or likely to be involved with incest victims/survivors and their families, and to anyone who is feeling isolated in their work with incest-affected people and would like to become part of a wider support network.

Training Program (Internal)

Given the complex and emotionally draining nature of working with incest plus the wide range of duties performed by Dympna House workers, the need for ongoing training is deeply felt.

Each worker receives one month's intensive training upon employment at Dympna House. In addition, one half day ongoing training session is available for all workers each fortnight, which examines general issues such as changes in legal statutes, sexual politics, advocacy etc.

In addition, workers have specific training services tailored to their expressed needs, for example, counsellors are currently being taught play therapy techniques and philosophy; the housing worker has a training program operated by the Department of Housing; the administrator has access to accountancy personnel, and a contact network with administrators in other centres.

As well as regular group consultations amongst themselves, the counsellors also meet with a family therapist who is employed by Dympna House on a consultative basis, to look at case management, techniques, workload levels and other such issues as the ever increasing number of requests for Dympna House counsellors to act as consultant/supervisor for other agencies.

The workers at Dympna House are consistently attending various relevant training programs.

Community Education

Incest is a community problem and Dympna House prioritises the availability of knowledge, information, the sharing of skills and experience to members of our community in a number of ways.

Firstly due to a six month C.E.P. grant, two workers were employed to prepare information booklets about incest. These workers were both women who had previously been service users. A booklet targeted at adolescent girls who are, or may be victims of incestuous abuse is being printed and will be available from Dympna House in the near future. A similar information booklet for mothers of incest victims is awaiting completion.

Community Youth Workers

A twelve month International Youth Year grant has facilitated employment of two community youth workers to implement the 'Young Woman's Incest Victims Project'. This entails networking with youth workers in community and government agencies who work with incest victims and survivors; providing adolescent girls with information; developing information about available resources; establishing support networks for incest victims; public speaking and workshops; networking amongst the Spanish and Greek communities in particular; organising and facilitating information-sharing days with C.Y.S.S., youth workers and grant-in-aid workers as part of the overall aim to raise consciousness about the incest issue. In addition, the community workers are preparing an education kit to be printed in Greek and Spanish (and Arabic if possible). This will broaden Dympna House's resources and referral networks by adding different community contacts and making other workers familiar with them.

Telephone Support Network

The 'Web' support network has been established to act as a supportive contact system for women and children whose lives have been affected by incest, but who are in a post-crisis stage. it is a structure designed for those people who want to ring up somebody, who has a warm and supportive understanding of how incest can affect our lives. It is not a counselling/therapy structure, but rather a friend network of people who have been through an incest ordeal either personally, or who are in close relation to someone who has. Many of the individuals who form the 'Web' are previous service users at Dympna House. The women on the 'Web' are backed up by Dympna House staff, although they are a self-managing group who have developed their own internal support system. These individuals perform an immensely valuable community service of providing support for callers and for each other, engage in grass-roots consciousness raising and networking. Many friendships seem to emerge from this type of structure which in itself has countless positive spin-offs.

Videos

Dympna House recently made submissions to government sources to research, script and prepare production budgets for five, 5-10 minute videos on different aspects of incest. The motivation here was to expand community education resources. The focus of these five videos is as follows:

I Children 5-8 years old, covering sexuality and promoting preventative measures. Could be used in schools, child care centres and youth groups. The N.S.W. Child Sexual Assault Task Force, in its report, specifically noted the need for such a resource.

II Adolescent girls video, looking at incest issues during the disclosure crisis; who to tell, when to tell, what will happen if they do tell, effects that incest has had on their lives. This video will act as a discussion starter.

III A video for adult women survivors, on the long term effects of incest. This video will be produced in different community languages. By making a connection between childhood and adult experience it is hoped that this video will assist women in their recovery process towards experiencing happier and more meaningful lives.

IV A video in different community languages for mothers, about the mothers dilemma at the time of disclosure; acknowledging the range of complex emotions which most mothers are confronted by at this time, as well as providing validation, support and information.

V A video to show indicators of incest, its effect and the process of notification. This video would be used as a training resource for personnel mandated to report child sexual assault.

Since its inception, Dympna House workers have presented countless talks and seminars on a wide range of incest topics to many diverse groups, for example, Y.A.C.S. district officers, nurses, women's refuges, sexual assault centres, teachers groups, childcare students, high school students and many community groups. In addition, numerous newspaper and magazine interviews have been conducted, as well as five television and three radio interviews.

During 1984, Dympna House received approximately fifteen requests for oral and written information per week; at present it receives an average of twenty-five such requests per week. Much of this growth in demand is the result of an increased awareness within educational institutions of the need for research into this area. We have been approached by students at all levels from secondary

school to Ph.D. for bibliographic, theoretical and statistical information. We have also received many requests from teaching staff, particularly in the social welfare area for workers to conduct lectures or tutorials on child sexual assault.

Accommodation Program

Dympna House's accommodation program consists of an internal and external component. The internal accommodation is about providing short term emergency accommodation at Dympna House for incest-affected women and children.

The housing officer will be available to administer the projects and support the residents.

The support role will encompass:

- advocacy on behalf of women in their dealings with welfare organisations and government agencies;
- encouraging women to undertake their own advocacy over the period of time they are housed in the project;
- providing referrals for specialist counselling where required.
- supporting women in their acquisition of skills, (eg. health care, budgeting, etc.)
- assisting residents to secure long term housing and support services to facilitate the transition to independent living; and
- assessing women as prospective tenants for the project.

Administration

It should also be stressed how crucial it is to have our administrator. It is difficult to remember how we managed earlier without her. She is the lynch pin of our day-to-day management. This role is a diverse one, and is one that is imperative to ensure an efficient service. It includes:

- the maintenance of accounting books;
- attending to correspondence;
- typing
- maintenance of both office supplies, and repair to premises;
- maintenance of resource material and the establishment of a referral/reference file;
- assisting in the preparation of, and final responsibility for making submissions for funding;
- attending to telephone calls, telephone counselling and referrals; and
- sending out information and pamphlets etc.

COMMUNITY PROFILE AND POLICIES

To get an idea of what being a community based centre means in a feminist sense it is perhaps advisable to examine some of Dympna House's very basic policies. Our priority of policies reads as such: the protection of children; the empowerment of women and girls and creation of a referral network for offenders.

The whole philosophy of Dympna House's politics, analysis and programs centre on these three basic policies. Given the patriarchal structure of our society it is women and children who are the most consistent victims of abuse and until the imbalance of power and privilege changes in favour of women and children these people will need strong support systems and services. Dympna House recognises this power imbalance and consequent abuse on a very practical level; hence our prioritising of services.

The prevention of incest lies not only in children having more information about their rights and bodies (including sex education), how to defend and protect themselves, and in women and girls becoming more assertive, independent, supportive of each other and self respecting, becoming survivors of life rather than victims of it, but also in men taking full responsibility for feelings, thoughts and behaviours thus accessing themselves to more of their potential to become creative, nurturant and tender self-actualising human beings.

We are seen as being separate from any government agency by the service users and by the workers. Still today many sexual assault victims express fear and reluctance to go to hospital based sexual assault centres because of the stigma attached to rape victims. As incest still carries a surrounding veil of silence, secrecy and taboo, we try to provide our services in a low key relaxed and friendly, non-bureaucratic atmosphere. Having an ordinary looking house in an unexceptional suburb goes a long way to minimising fear and anxiety of our service users, be they adult women or seven year olds. We deliberately try to create a sense of personal safety and protection. Part of this strategy entails decreeing Dympna House as a woman-only space. Since the majority of offenders are male and the majority of known victims are female this seems only logical, but it is more than that. It is part of the process of empowerment - permission giving to define our own boundaries - physical, emotional and psychic space as being for women and children only. A place safe from the possibility of bumping into any male person. The usefulness of this strategy is borne out in the testimony of both past and present service users. Dympna House serves as an informal meeting place where much valuable communication occurs across race, age and class boundaries.

The women at Dympna House are skilled and trained incest workers in the community; however, we do not view ourselves as 'experts',

or accept being role typed as such. We have a lot to offer as well as a lot to learn. We actively encourage empowerment, for workers as well as victims and family members.

As community workers we play an active role in the creation of inter-agency worker networks to share skills, resources and information, so that incest services can be set up in both metropolitan and country areas, for example, recently we have been involved on a consultative basis in the creation of incest services at Mt Druitt (Western Women Against Incest Group), Gosford, Blue Mountains and Liverpool. Our self-help community based inter-agency model has been supported by these groups.

WHERE TO FROM HERE?

As a move towards further addressing the problem of incest we need to examine gaps in services, resources, training, community education, the law and other issues. Acknowledging the absences and negatives is a necessary precondition to developing effective intervention, prevention and recovery, strategies and services. To this end we offer some of the needs that after two years of operation we acknowledge.

SERVICES

Accommodation

It is unfortunate that all too often children and adolescents at present have to be removed from home, or leave home in order to be safe from further abuse. This intensifies the feelings of responsibility that the victim is already experiencing. One option open for consideration is that the offender leaves home. At present there is no legal mechanism to ensure that this happens. Many American programs implement this procedure as the first step in rehabilitation eg. Giarretto, child sexual abuse treatment program in San Jose, California; Lucy Berliner from Harbourview Sexual Assault Centre, Seattle, Washington.

Medium to long term accommodation facilities are required for adolescent girls who are often forced to leave their homes in order to protect themselves. Youth refuge accommodation is inappropriate because they mostly offer short term (1-3 months) stay only. Those few medium term youth refuges that exist are not uni-sex nor are they staffed, as yet, by skilled trained incest workers.

Supported accommodation services for women with dependent children other than refuges are needed. Women's refuges constantly operate 'on overload' and again offer predominantly short term accommodation. We need to be able to provide specialist medium term accommodation for incest affected women with dependent children.

Outreach Programs for Migrant and Aboriginal Communities

Outreach programs and services need to be piloted and implemented for various migrant communities. Breaking the secrecy and silence about incest is doubly difficult for women and children who have little or no reassurance that personnel who speak the same language are readily available. Similarly there are no services tailored to the specific needs of Aboriginal women and children.

Counselling Services

Dympna House has always recognised the need to develop a network of workers who are skilled in working with all family members in order that a more effective referral system operates. This has been consistently problematic where there are insufficient numbers of knowledgeable, skilled workers. It is necessary for there to be an increase in funding for separate programs for specialist incest centres as well as for ongoing development of inter-agency networking amongst incest workers.

LEGAL ISSUES

Access

Given that the Child Welfare Act and the Family Law Act are state and federal acts respectively, there arises problems where differing decisions are made in each court. Of particular significance is the situation where the Children's Court may make a decision of a child having no access to the offender, while the Family Law Court may grant access. As the federal court can override decisions of the state court, this inevitably leads to considerable confusion on the part of the family and involved workers. There is little consistency in the Family Law Court where access is concerned. Our experience has been that supervised access is likely to be granted where there has been allegations of sexual abuse. The supervisor is frequently someone known to the offender who doesn't necessarily believe that sexual abuse has occurred.

Criminal Courts

It has become increasingly evident that few cases of child sexual abuse reach the criminal court. Children/adolescents experience considerable trauma where they are expected to relate very personal details of sometimes years of assault, in the presence of the offender. Furthermore, they can be subjected to intense cross examination by the defence counsel.

COMMUNITY EDUCATION AND RESOURCES

What is needed are community awareness programs that shift blame and responsibility away from the victim and non-offending parent to address the basic issue of responsibility and the sexual politics involved. It needs to constantly be restated that the children are not responsible for incestuous acts committed upon them; neither are mothers responsible and it is unrealistic to expect women generally to police male sexuality. The issue of responsibility needs to be put squarely back on the shoulders of the offender.

Preventative behaviour programs in schools are an essential strategy for teaching children about their bodies and rights thus empowering them. Such programs operate extensively in the U.S.A. and are currently being piloted in N.S.W.

Age appropriate information kits and booklets for particular incest affected groups such as very young children, pre-adolescents, adolescents, mothers and adult women survivors. These resources are particularly beneficial, when they are written simply, clearly and with an empathic understanding of the issues involved.

TRAINING

As we have stated there is a serious shortage of persons concerned with service delivery. This problem is further intensified where workers in positions offering counselling services have felt ill-equipped to do so, that is, where they do not possess the necessary knowledge and skills.

Child Protection Council

Alongside Dympna House, Women Against Incest has continued to operate as a broad policy-making and lobby group, a co-ordinating body for the large number of feminist services and workers who deal with incest. The major campaign in 1984 revolved around the appointment of an official government body, the N.S.W. Child Sexual Assault Task Force, to make recommendations about an overall strategy to address the high incidence of incestuous abuse, and the related problems once disclosure had happened.

In December 1985, the N.S.W. State Child Protection Council was convened with the objective of dedicating four years for the purpose of implementing the recommendations of the task-force. It is intended that a paid secretariat be responsible for convening the five subgroups: training, services and budgeting, community education, procedures and interdepartmental guidelines, legal as well as ensuring that the recommendations from each group be put forward at the monthly meeting of the State Child Protection Council decision-making body.

In addition to these subgroups there will be a group addressing the implementation of a pre-trial diversionary scheme for offenders. Dympna has invested a lot of hope in the integrity of the council and its wide ranging powers to ensure that a comprehensive, consistent strategy that deals fully with the needs of all individual members of the family affected by incest be implemented.

Given the very complex nature of this problem where the abuse of power exists on a number of different levels it is imperative to intervene on all of these levels ranging from the macro level of governmental agencies and programs to the micro level where responsibility ultimately lies with individuals who comprise the community.

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THE N.S.W. CHILD SEXUAL ASSAULT (C.S.A.) PROGRAM

Helen L'Orange
Chairperson
N.S.W. Child Protection Council

Ms L'Orange spoke to the attached speech point outline and action schedule.

INTRODUCTION

Genesis of Child Sexual Assault Program.
Why focus on child sexual assault?

Child Sexual Assault Program

Conduct of a child sexual assault program adopted by N.S.W. Government on 28 August, 1985.

Sixty-three out of sixty-five of task force recommendations incorporated into program.

Child Protection Council

Services: health, education, community services, police, community roles; and special skills, employment of females, availability of interpreters, ongoing support, quality of out-of-home placements, joint interviewing, audio recordings, interviewing children at school, medical examination protocol, presence of support person, vital services, regionalisation of police services, continuity of police personnel.

Training: statewide training program, curriculum for tertiary instructions, in-service training.

Law and Legal Procedures: form of medical report, establishment of Attorney-General's Prosecuting Unit, priority list of C.S.A. cases, venue of court proceedings, court room proceedings, education on conduct of trial, information (multilingual). Bail conditions to limit contact, parole and recognisance issues.

Community Education Program.

Education from pre-school to eighteen.

Legislative reforms.

GOVERNMENT ACTION ON PROGRAM

Law reform: amendments through Parliament in November 1985, assented to in December, proclamations of most in late February 1986.

New test for reception of evidence, all proceedings.

Spouses compellable to give evidence.

Judge's discretion on warning to jury re uncorroborated evidence of child.

Strict limits to admissibility of evidence re child's sexual history/reputation.

Dispense with required warning re delayed complaints.

Hearings 'in camera'.

Mandatory reports for persons in positions of professional responsibility to child.

Amend range of child sexual abuse offence by extending types of offences covered and stressing seriousness of cases where child is under care, supervision authority.

Establish pre-trial diversion program for limited number of offenders.

Resourcing the Program:

1985-86 Budget $1.87m (year)

Police	$200,000	15 extra officers
Health	$300,000	Upgrade services
	$100,000	Treatment program for pre-trial diversion
A-G's	80,000	Establishment of Special Prosecuting Unit
YACS	$500,000	42 additional staff
	$160,000	Community based services for victims
	$100,000	Child Protection Council Secretariat
	$200,000	Regional training
Education	30,000	Development of material for schools

Child Protection Council:

Terms of Reference: focus on child sexual assault in first four years.

Composition: includes Departmental heads of Attorney-General's, Y.A.C.S., police, health, corrective services; deputy from education; three community representatives.

Location: reports to Y.A.C.S. minister.

Secretariat: nine positions, includes executive officer, legal officer, program officer.

Committee: community education, services planning and state budget, training, legal, procedures and inter-departmental relations.

Committees composition to include many community members.

CONCLUSION

Participants may wish to be placed on the Child Protection Council's mailing list. Please contact:

Child Protection Council
c/- Women's Co-ordination Unit
Premier's Department
Level 8, Goodsell Building
Chifley Square
SYDNEY NSW 2000

DECEMBER, 1985

CHILD SEXUAL ASSAULT PROGRAM
ACTION SCHEDULE

TASK FORCE RECOMMENDATIONS	REFERRED TO RELEVANT MINISTER/S FOR IMPLEMENTATION	REFERRED TO STATE CHILD PROTECTION COUNCIL	OTHER ACTION/COMMENT
COMMUNITY EDUCATION			
1. Broad community program	Y.A.C.S.	Carriage	Phase 1 scheduled for mid 1986. $200,000 in 1985/86 YACS Budget
2. Education for pre-school-18	Education	Consult	$30,000 in 1985/86 Education Budget to evaluate overseas material.
3/4 Community Education sub-committee to council.	Y.A.C.S.	Carriage	
5. 15% levy on Birth, Death & Marriage Certificates	-	-	Not proceeded with.
SERVICES & NON-LEGAL PROCEDURES			
6. Special skills for workers	Relevant Ministers	Monitor	
7. Employment of females	Relevant Ministers	Monitor	
8. Establishment of state councils & its sub-committee etc.	Y.A.C.S.	Commence December	$100,000 for 1985/86. Child Protection Council with focus on child sexual assault for first four years.

TASK FORCE RECOMMENDATIONS	REFERRED TO RELEVANT MINISTER/S FOR IMPLEMENTATION	REFERRED TO STATE CHILD PROTECTION COUNCIL	OTHER ACTION/COMMENT
9. Development of wide range of services.	Relevant Ministers	Monitor	$700,000 new funds allocated to Police, YACS, Health & Attorney-General's.
10. Budget for program.	Premier/ Treasurer/ Relevant Ministers	Co-ordinate	4 year strategy adopted. $1.87m. allocated in 1985/ 86 Budget.
11. Treatment program for offenders (links with 65)	Health	Monitor	YACS/Attorney-General's to participate in development & oversight of Program. $100,000 allocated in 1985/86.
12. Evaluation & Monitoring	Relevant Ministers	Develop mechanisms	Council will report annually.
13. Review & development of inter/intra departmental & NGO policies & procedures.	Relevant Ministers	Co-ordinate & monitor	
14. Availability of interpreters.	Ethnic Affairs Commission	Monitor	
15. Y.A.C.S Recruitment Policy for child protection workers	Y.A.C.S.	Monitor	Relevant tertiary qualifications 2 years experience; 15 additional child protection workers in 1985/86 budget, adding to 100 child protection and family crises workers already working in field.
16. Ongoing support for workers	Relevant Ministers	Monitor	

TASK FORCE RECOMMENDATIONS	REFERRED TO RELEVANT MINISTER/S FOR IMPLEMENTATION	REFERRED TO STATE CHILD PROTECTION COUNCIL	OTHER ACTION/COMMENT
17. Quality of out-of-home placement for victims.	Y.A.C.S. Health	Consult departments and N.G.O.'s Development of policies and procedures	Y.A.C.S. currently conducting substitute care review. 46% increase to $3.8m for approved programs run by NGOs. Girls in Care project will report March, 1986. 15 additional substitute care District Officers funded for YACS 1985/86. Foster parent payments rose from $39.00 to $41.50 in October. 7% increase in pocket money for State wards.
19. Joint interviewing	Y.A.C.S. Health Police	Monitor	
20. Audio recordings of child's statement. (discretionary).	Y.A.C.S. Health Police	Co-ordinate & develop	
21. Interviewing child at a school.	Y.A.C.S. Education	Consult & Review	Policies & procedures to be developed by mid-1986. Review every 18 months.
22. 24 hour State -wide crisis line.	Y.A.C.S.	Monitor	12 additional staff $180,000 allocation in 1985/86 Budget.
23. Y.A.C.S. use of Health & Community based medical officers.	Y.A.C.S.	Monitor	Policy adopted.
24. Medical examination protocol.	Health	Monitor	Protocol adopted & in use by July 1985

TASK FORCE RECOMMENDATIONS	REFERRED TO RELEVANT MINISTER/S FOR IMPLEMENTATION	REFERRED TO STATE CHILD PROTECTION COUNCIL	OTHER ACTION/COMMENT
25. Support person present at medical examination.	Health	Monitor	
26. Hospital Sexual Assault Centre staff including Paediatric medical staff.	Health	Monitor	$300,000 additional funds have been allocated to hospitals to create 17 new positions include medical, counselling and clerical staff. All sexual assault centres now have full-time co-ordinators.
27. Health services to victims in rural areas.	Health	Monitor 18 month review	$388,000 for nine new crisis counselling services for adult and child sexual assault victims in rural areas.
28. Expand & regionalise Police Child Mistreatment Unit.	Police	Monitor	Juvenile Services Bureau now incorporates Child Mis-treatment Unit. 60 officers regionalised with Units at Campbelltown, Penrith, Bankstown, Wollongong, Lismore & Newcastle. $200,000 additional funds in 1985/86 Budget.
29. Continuity of Police Personnel.	Police	Monitor	
30. Support person during investigative process.	Police	Monitor	

TASK FORCE RECOMMENDATIONS	REFERRED TO RELEVANT MINISTER/S FOR IMPLEMENTATION	REFERRED TO STATE CHILD PROTECTION COUNCIL	OTHER ACTION/COMMENT
TRAINING OF PERSONNEL			
31. Priority for training	Relevant Ministers	Develop Monitor Co-ordinate.	Planning for regional state wide training program underway.
32. Compulsory 33. child sexual 34. assault curricula for tertiary institutions.	Education	Encourage and Monitor	
35. In-service training. 36. Type and access. 37.	Relevant Ministers	Develop and Monitor	
38. Former victims role in training and services.	Relevant Ministers	Develop and Monitor	
39. Work of 40. Training. Sub- 41. committee of State Council.	Y.A.C.S.	Carriage	$200,000 allocated for regional training in 1985/86 budget.
42. Staff for in-service training.	Y.A.C.S. Health Police Education	Monitor	
LAW AND LEGAL PROCEDURES			
43. Extend those required to notify child assault.	Y.A.C.S.	Community Education & Monitor	Legislation passed November 1985. Ministers of religion excluded.
44. Prescribed form for medical report to Y.A.C.S.	Y.A.C.S. Health	Monitor	

TASK FORCE RECOMMENDATIONS	REFERRED TO RELEVANT MINISTER/S FOR IMPLEMENTATION	REFERRED TO STATE CHILD PROTECTION COUNCIL	OTHER ACTION/COMMENT
45. Family Court/ Y.A.C.S. liaison.	Y.A.C.S.	Develop liaison &	Council to set up working party.
46. Access to sexually assaulted child.		Monitor at Federal level.	
47. Medical examination issues.	Attorney-General Y.A.C.S.	Community Education & Monitor	Legislation passed November. 1985.
48. Establishment of Attorney-General's Special Prosecuting Branch.	Attorney-General	Monitor	$80,000 provided in 1985/86 budget for establishment expenses of Unit.
49. Priority listing child sexual assault	Attorney-General	Monitor	High priority after proceedings involving persons in custody.
50. Venue of court proceedings.	Attorney-General	Monitor	Child's wishes to be taken into account.
51. Policies & procedures to minimise child victim's trauma in criminal proceedings.	Attorney-General	Consult	
52. Education on conduct of criminal trial.	Education	Consult Monitor	
53. Multilingual information of victim/parent rights in court proceedings.	Attorney-General YACS	Community Education	

TASK FORCE RECOMMENDATIONS	REFERRED TO RELEVANT MINISTER/S FOR IMPLEMENTATION	REFERRED TO STATE CHILD PROTECTION COUNCIL	OTHER ACTION/COMMENT
54. Closure of court & presence in court of support persons.	YACS Attorney-	Monitor	Legislation passed November, 1985.
55. Publication of information on case.	Attorney- General YACS	Monitor	Legislation passed.
56. New test for reception of evidence of child victims (understands the duty of speaking the truth).	Attorney- General	Monitor	Legislation passed. Applies to children under 12 years.
57. Spouse compellable witness in cases of personal injury of their child.	Attorney-	Monitor	Legislation passed.
58. Strict limits to admiss- ibility of evidence of victim's prior sexual history and sexual reputation.	Attorney- General	Monitor	Legislation passed.
59. Removal of mandatory warning to jury on need for corroboration of child's evidence.	Attorney- General	Monitor	Legislation passed.

TASK FORCE RECOMMENDATIONS	REFERRED TO RELEVANT MINISTER/S FOR IMPLEMENTATION	REFERRED TO STATE CHILD PROTECTION COUNCIL	OTHER ACTION/COMMENT
60. Removal of mandatory warning to jury on absence or delay by child in making a complaint.	Attorney-General	Monitor	Legislation passed.
61. Bail conditions to prohibit contact or attempted contact with alleged victim.	Attorney-General Police YACS	Co-ordinate development	
62. Parole and recognisance issues	Corrective Services YACS	Monitor	
63. Interim no-contact order.	-	Monitor need	Not proceeded with because of constitutional concerns.
64. Amendments to range of Child Sexual Assault offences.	Attorney-General	Monitor	Legislation passed.
65. Pre-trial diversion program.	Attorney-General Health	Participate in development and evaluation.	Legislation passed.

NO LONGER A VICTIM

Cathy-Ann Matthews

For the first fifteen years of my life my parents abused me emotionally, physically and sexually. This memory was repressed until my early fifties when I received professional care.

Subsequently I have written a book No Longer A Victim as a case-history of my healing to this point.

Having been helped I now want to share with other abused persons and their helpers, how I came to terms with the fear, pain and devastating effects of my childhood and particularly the belief that I was of no value.

My discoveries have enabled me to see that abused persons respond to situations and relationships from a totally different basic emotional reference point to non-abused persons.

I believe this state is comparable in some ways with alcoholism, in that once a child is abused it becomes predisposed to responding from this different emotional reference point. Also, the effects of this are equally as uncontrollable by abused persons, without external help.

From my experience this basic difference, and its symptoms, are not always clearly recognised nor understood by helpers or relatives so their intervention strategies may not always be appropriate.

Perhaps this is not a new theory to many, nevertheless I am presenting my experiences and the ways God has enabled me to cope so that many abused persons of mature years and especially those of childbearing age, may receive therapy from helpers who are aware of this basic difference. Then if the abused are prepared to face the pain involved in this therapy, they may overcome the life-long control of their past, thus preventing them perpetuating the tragedy by becoming abusers themselves and the cycle of child abuse may be broken.

*

To read No Longer a Victim - A woman confronts her abused childhood, by Cathy-Ann Matthews, is a moving experience. It has a refreshing honesty about her own spiritual struggle and a candour about her childhood experience which will leave few readers unaffected.

Fortunately for Cathy-Ann Matthews, her story has a happy ending. Unfortunately, the childhood documented by her is far from unique. The description she gives of verbal, physical and even sexual abuse is typical of that which occur in thousands of Australian families. In many ways Cathy-Ann Matthews is lucky. She is articulate, has been able to put down her feelings on paper, has an understanding husband, received good professional help and above all has a spiritual dimension to her life which, although not always easy, has been able to sustain her. While these things can be made available to all, many victims of child physical and sexual abuse do not have access to any of these resources in their adult life.

This is an important book. It brings out into the open a problem which many would prefer to ignore. It describes the author's spiritual struggle in trying to understand why her life and feelings had been as they were. Most importantly it shows how one person has been able to cope with having been a victim of child abuse.

I am sure that many people will benefit from sharing these experiences with Cathy-Ann Matthews.

R. K. OATES
Professor of Paediatrics and Child Health
The University of Sydney

Chairman
Sixth International Congress on Child Abuse and Neglect

'MEDICAL ASSESSMENT: HELPING CHILDREN FEEL GOOD ABOUT THEMSELVES'

Dr Tania Black
Sexual Assault Referral Centre
Queen Elizabeth Hospital
Adelaide

INTRODUCTION

Sexually abused children exist in our society in alarming numbers. Abuse in not a new phenomenon, what is new is the realisation that children rarely invent allegations of sexual abuse, that their cries for help should be heard and that intervention can and should be beneficial for victims.

The medical assessment is a small part of what should be well co-ordinated multi-disciplinary management. However, it is essential for those involved in medical examinations of sexually abused children to remember the aphorism 'first do no harm'. The child should never be subjected to further trauma or abuse. In fact, I believe that the medical assessment can be a positive experience for the child, a stepping stone on the road to emotional well being.

In this paper I shall describe the way in which medical assessments of children are carried out at the Sexual Assault Referral Centre in South Australia. I estimate that I have personally been involved in around 300 assessments so that, sadly, I am able to base my remarks on considerable experience.

THE SERVICE PROVIDED AT THE SEXUAL ASSAULT REFERRAL CENTRE

The Sexual Assault Referral Centre (S.A.R.C.) commenced in Adelaide in 1977 as a victim orientated service to both males and females, adults and children. It was to provide emergency medical care and follow-up, medico-legal documentation and collection of evidence; later a counselling service was added.

Over the years the pattern of referrals has changed dramatically (see fig. I.) with enormous increases in the numbers of young children seen: initially most children seen were molested by 'strangers', now only a small minority of alleged offenders are strangers, the majority being fathers, 'father figures', close relatives and acquaintances. Our figures show that a significant number of adolescents attend the Sexual Assault Referral Centre and another significant trend has been the increasing number of boys seen (Fig. II.).

Why have these increases in child referrals occurred? I believe that we are seeing not only an increased public awareness and determination to act, but also a real increase in the amount of sexual abuse as offenders move from one 'family' to another in our society with its high rate of marriage and relationship break-ups. Whatever the reasons the steadily increasing flow of clients and the availability of a multi-disciplinary team has allowed the development of a comprehensive assessment, orientated to the special needs and well being of children.

Referrals to S.A.R.C. come from several sources: the police, the Department of Community Welfare, general practitioners and other hospitals, schools, parents, and individuals. Increasing expertise and acceptance of the service have gone hand in hand. We are, of course, always looking to modifying and improving our methods; however, we believe that the demands we are now experiencing are an indication that the service we have developed is seen to be doing good not harm.

S.A.R.C. service is free of charge and great care is taken to maintain confidentiality. Police involvement is not a pre-requisite; however, we do comply with our state's laws in the mandatory reporting of children at risk to the Department of Community Welfare (the organisation responsible for child protection). When cases do not fall into this category, parents are counselled regarding the availability of the Rape Enquiry Unit of the South Australian Police Force and other services.

Out staff consists of:

1. a panel of female doctors who are rostered on 24 hour call, and several male doctors are also available to see older male victims if required. S.A.R.C. doctors record their findings carefully and are frequently required to give evidence in various courts.

2. a nurse co-ordinator who is responsible for arranging all medical assessments during normal hours, and assists at medical examinations. After hours, specially trained nursing staff in emergency service arrange and assist at examinations.

3. a social work co-ordinator and two other social workers who provide day time crisis counselling, and long term individual and group therapy for adult and adolescent rape victims. A social worker forms part of the multi-disciplinary team for management of each case of child sexual abuse, and

4. a secretary.

Of course with the large numbers of victims attending S.A.R.C., we consider ourselves under-staffed and are ever hopeful of expansion. Despite hard, stressful work, our staff have remained dedicated and enthusiastic, not only because we know our service is worthwhile and appreciated, but also because we do sometimes have fun.

Whilst many adult and adolescent victims are seen at the Sexual Assault Referral Centre as emergencies, we have found that urgent child cases are uncommon and most children are seen (by the same two or three female doctors), as 'semi-urgent' or planned cases, preferably early in the day. Only when there are urgent medical needs, or an expectation of 'fresh' forensic evidence (e.g. semen) are children seen at night. This is not to say that crisis intervention may not be necessary and the Crisis Care Unit of the Department for Community Welfare or the Police may be involved. However, we consider that the most efficient child assessments are those which are planned and performed by our multi-discplinary team. S.A.R.C. staff also provide consultation regarding problem cases if a referral is under consideration. We frequently find that a good relationship can be developed with the mother so that her expectations are clarified and the mother and child arrive well prepared to co-operate, rather than 'in fear of an ordeal'.

THE MEDICAL ASSESSMENT

Four aspects of the medical assessment can be described. Careful documentation of the assessment is essential for legal purposes: to date we have not used audio or video recordings but written notes and drawings are kept.

1. Our aim is to provide children with the opportunity to divulge the extent of the sexual abuse to the doctor who should have appropriate attitudes, sensitivity and a specialised knowledge of the subject. We are conscious that repeated questioning may distress the child and may add to the difficulties of assessment; however, we feel that not only is it important for the doctor to know the details of the abuse prior to the examination, but it is also beneficial in the long term for the child to unburden him or herself of the dreadful secret.

2. At the physical examination any injuries should be assessed and treated and forensic specimens may (infrequently) be collected. This is not an intrusive 'gynaecological' examination and should not be traumatic for the child: rather she or he needs whatever reassurance is possible regarding damage or disfigurement. Monitoring for venereal disease and pregnancy needs to be considered, especially in older children.

3. The impact of the abuse must be gauged and future therapy planned. We believe that it is an integral part of our work to commence the therapeutic processes for both the child and other family members who will be supporting the child.

4. The child's safety is of paramount importance: whilst regrettably we cannot promise unfailingly to protect the child, we can promise to do our best to help her or him feel safe. Liaison with other agencies involved in protection (e.g. police, Department for Community Welfare, lawyers, etc.) is an important part of S.A.R.C.'s work.

The assessment usually takes place in pleasant surroundings in a quiet area of the hospital which victims can reach without compromising their anonymity. In this environment all hospital resources are readily available and victims and workers feel reasonably safe. Provided with an initial reassurance regarding 'no needles or injections' children seem happy to regard the hospital as a caring place where nurses and doctors help them to feel better.

The procedure commences with the S.A.R.C. team meeting the child and supportive parent. We do not expect to have the alleged offender present at the medical assessment, as this places additional and unreasonable stresses on the child. Staff are introduced, procedures are explained and a signed consent for the examination is obtained.

Whilst the child is engaged by the social worker in non-threatening, 'getting acquainted' activities, I aim to obtain from mother relevant information regarding the child and family, such as:

(1) The allegations made by the child, and any other reasons mother has for concern.

(2) The child's general health and medical history specifically regarding problems which are commonly encountered and recognised as suggestive of child sexual abuse (see Table 1).

I inquire about:

(3) Sleeping patterns, school achievement, and behavioural changes since a history of night terrors, and unexplained emotional disturbances and other behavioural changes is all too common (see Table 2).

It is also important to know:

(4) The family structure; the identity of possible offenders and of other children possibly at risk, and the current custody and access arrangements, and

(5) The agencies involved with the allegations.

An attempt will be made to determine:

(6) Any past history of sexual or physical abuse of the child or parents,

(7) Any history of violence in the home, and

(8) The alleged offender's response if he has been made aware of the allegations.

Finally (and this may follow the child's assessment) it will be necessary to assess the mother's reactions to the abuse; she may, for example, present with severe reactions similar to an adult rape victim, or be reliving a previous personal experience of sexual abuse and her needs will be urgent, many and varied.

I then 'talk to' the child with the nurse and/or social worker, but wherever possible, without parents. We have found that there are rarely problems in separation but that children accompanied by a parent during the interview usually reveal very little of the abuse.

We recognise that for many reasons it is very difficult for a child to talk about what has happened and that the histories obtained may be incomplete or understated. By paying careful attention to establishing rapport, using appropriate language, and sensitive non-threatening attitudes, and by helping the child to feel safe and supported, we can often assist the child to give a detailed history of the abuse.

I use drawings initially to establish names for all parts of the body including the genitalia and the child is given permission to use familiar terms. These drawings may be used to show which parts of the body have been involved in the abuse. Some children prefer to use the blackboard, or words, and many find dolls useful, to 'show' rather than to tell. Children can use male and female dolls with external genitalia to describe in minute detail their own individual sexual experiences. They do not fantasise regarding sex with adults. They do display a knowledge of a broad spectrum of sexual activities which is intimate, inappropriate for their age, and activities which are very different from the generally expected straight 'vaginal intercourse'.

The dolls or drawings are used to clarify the persons involved, when and where the abuse occurred, details of clothing, positions used, ejaculation, conversations, sensations, and other sometimes surprising details. Children also convey much in their faces, their body language and their behaviour during the interview. They may show, for example, overwhelming sadness and despair, fear, learned eroticism, regressive and/or pseudomature behaviours, and they will often demonstrate considerable anger at the offenders.

TABLE 1

SOME MEDICAL INDICATORS OF CHILD SEXUAL ABUSE

- Inadequately explained genital trauma
- Venereal disease, pregnancy
- Persistent, unexplained vaginal discharge and/or irritation
- Pre-occupation with symptoms relating to urinary tract, genitalia, anus
- Unexplained abdominal pains
- Headache, psychosomatic disturbances.

TABLE 2

SOME BEHAVIOURAL INDICATORS OF CHILD SEXUAL ABUSE

- Overly pre-occupied with sexual matters
- Inappropriate sex-play with peers, toys, etc.
- Overly compliant
- Aggressive acting out
- Pseudomature
- Regressive
- Depression, suicide, self-destructive, etc.
- Withdrawn, school performance down
- Poor peer relationships, few friends
- Fear of males
- Seductive with males
- Running Away
- Substance abuse
- Sleep disturbance, nightmares.

In taking histories children should not be asked direct questions which provide information regarding sexual activities, such as 'Did he put his penis in your mouth?'. Rather our questions are open-ended and based on known cues; for example, 'Show me (with the dolls) what happens to make your fanny feel sore', 'What happens next', 'Does the hand, (penis, mouth) touch you anywhere else?'.

The child's allegations and the identity of the offender are checked by as many methods as possible, both during the history taking and the physical examination. It is of vital importance to obtain anatomically accurate allegations from the child. Most young children do not know the vaginal canal exists, and the word is used to encompass a very broad area. 'He put his thing in my vagina' may actually mean penile thrusting into the vulval opening. The former might reasonably be expected to cause trauma, while the latter might not. It is sad if the child's allegations are disbelieved simply because no one finds out exactly what the child means.

The examination should be a complete physical assessment of general well being, including a close look at the genital area. I do not believe that an internal examination should be performed unless there are specific medical indications, such as damage or infection: sometimes a swab is taken by speculum and bi-manual examinations are not part of the routine for young children. Some more mature girls may require medical tests: the opportunity can be taken for the doctor and nurse to be sensitive and caring so that she learns about her body in a positive way.

In the privacy of the examination the child sometimes talks about or shows other activities. The extent of touching and alleged penetration can be checked in relation to the child's body and the history can be re-assessed in the light of the findings. Doctors examining children should be aware of the broad spectrum of activities which can occur and the appearances which may result. They also need to be aware of the types of forensic tests which may be necessary and the specific procedures necessary for dealing with specimens.

In sexually abused children gross trauma is uncommon. Knowledge is accumulating about minor changes which can be identified but if instruments, such as the colposcope are to be used to more clearly identify changes to the vaginal entrance area, caution will be needed to ensure that the child is not further abused by the process.

For the child the most important part of the examination are the messages from the voice of authority on such matters, namely the doctor, 'Your body is not permanently damaged', 'You are not pregnant', 'Your body is not bad, dirty or ruined'. Of course, any necessary investigations and treatment must be implemented and the child reassured regarding the eventual outcome wherever possible.

Throughout the assessment the child's feelings in relation to the assault are canvassed. Whilst it is recognised that there are some confused good and bad, nice and nasty feelings, it is our experience that most children feel overwhelmingly sad, scared, angry, and hurt. 'Yuk' is a favourite word to describe the activities. They feel guilty, bad, crazy, worthless, and disbelieved, unable to trust anyone and powerless to stop the abuse. They fear blame, punishment, retribution and rejection. Frequently loyal to and protective of their families, they nevertheless wish that the abuse they have suffered will cease, and that the offender will be suitably treated or punished.

The doctor's response to the child's expressed feelings is the commencement of the therapeutic process. Children receive continued reassurances that they are believed, are not to blame for the abuse or any consequences, and not permanently despoiled; that they are worthwhile persons entitled to protection from further abuse and to continued help to recover from the emotional trauma, that is, to feel better about themselves.

It is hoped that during the assessment details will emerge regarding the specific sexual activities involved, including progression or changes with time, the duration and frequency of the abuse (recognising that children have difficulties estimating time), violence, inducements, and other methods of coercion into the activities and the maintenance of the secret. Avoidance behaviours will often be described, as will previous attempts to 'tell' andreasons for 'telling now'. The involvement of other family members or involvement with other offenders, pornography and prostitution should not be overlooked. The child's perception of the mother's role in the abuse is important as are his or her wishes regarding the future.

Taking into account all of the history obtained from the child, the physical findings, the behaviours and emotional reactions noted during the assessment and described by child, and the history obtained from mother, especially medical and behavioural indicators, a picture now emerges which can be viewed in the context of the known dynamics of sexual abuse. Sometimes no definite conclusions can be made; however, when it is considered that sexual abuse has occurred, the team's next step is to discuss the findings with the mother.

During the child's assessment the mother will have had the opportunity for counselling with the social worker. It is necessary to assess mother's reaction to the crisis of disclosure, her individual needs, her readiness to believe the child's allegations, and her ability and commitment to support and protect her child or children.

When applicable, the concept will be promoted that the offender's taking responsibility for his actions is an important first step in the child's recovery and the offender's seeking help regarding his behaviour. The final steps then are to assess the risk of further abuse, to involve child protection agencies and police as necessary, and to arrange on-going therapy for the child and other family members.

S.A.R.C. has on-going involvement with some young children and adolescents, but most have been referred for therapy to the special interest group at the Adelaide Children's Hospital, Department of Psychiatry, with whom we have developed a good working relationship. Our services are complementary, not in competition, and we believe it is essential to have both components since appropriate intervention and therapy can promote recovery and prevent long term harmful consequences.

Our achievements with children have been the result of hard work and close co-operation between our team members, plus the support of the Adelaide Children's Hospital team. Involvement with child sexual abuse is difficult, frustrating, and stressful work, however, it can also be immensely rewarding to have a previously sad child, leaving the S.A.R.C. assessment feeling less helpless and looking happy. The medical assessment must do no harm and can help children to feel good about themselves.

FIGURE I.

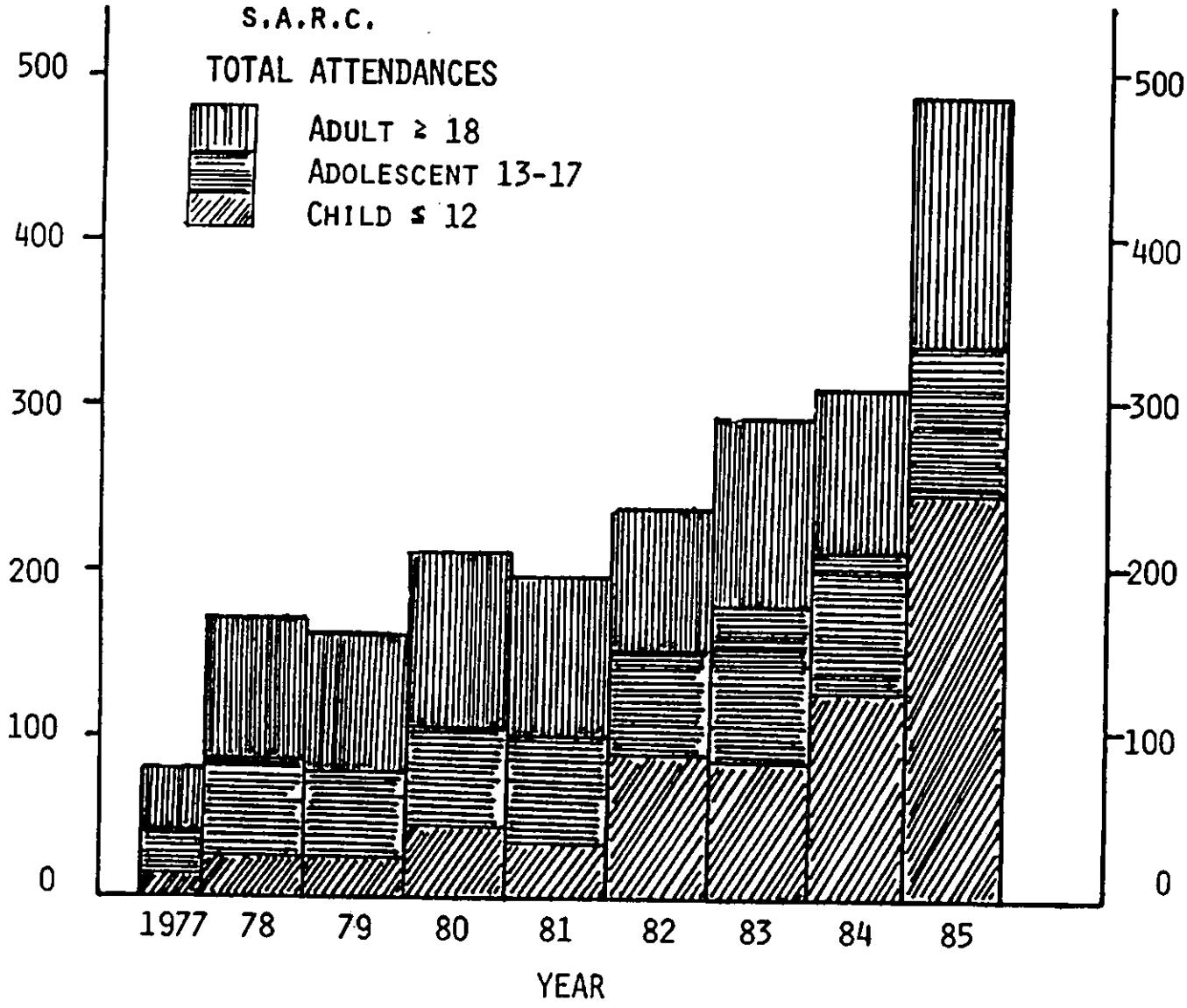
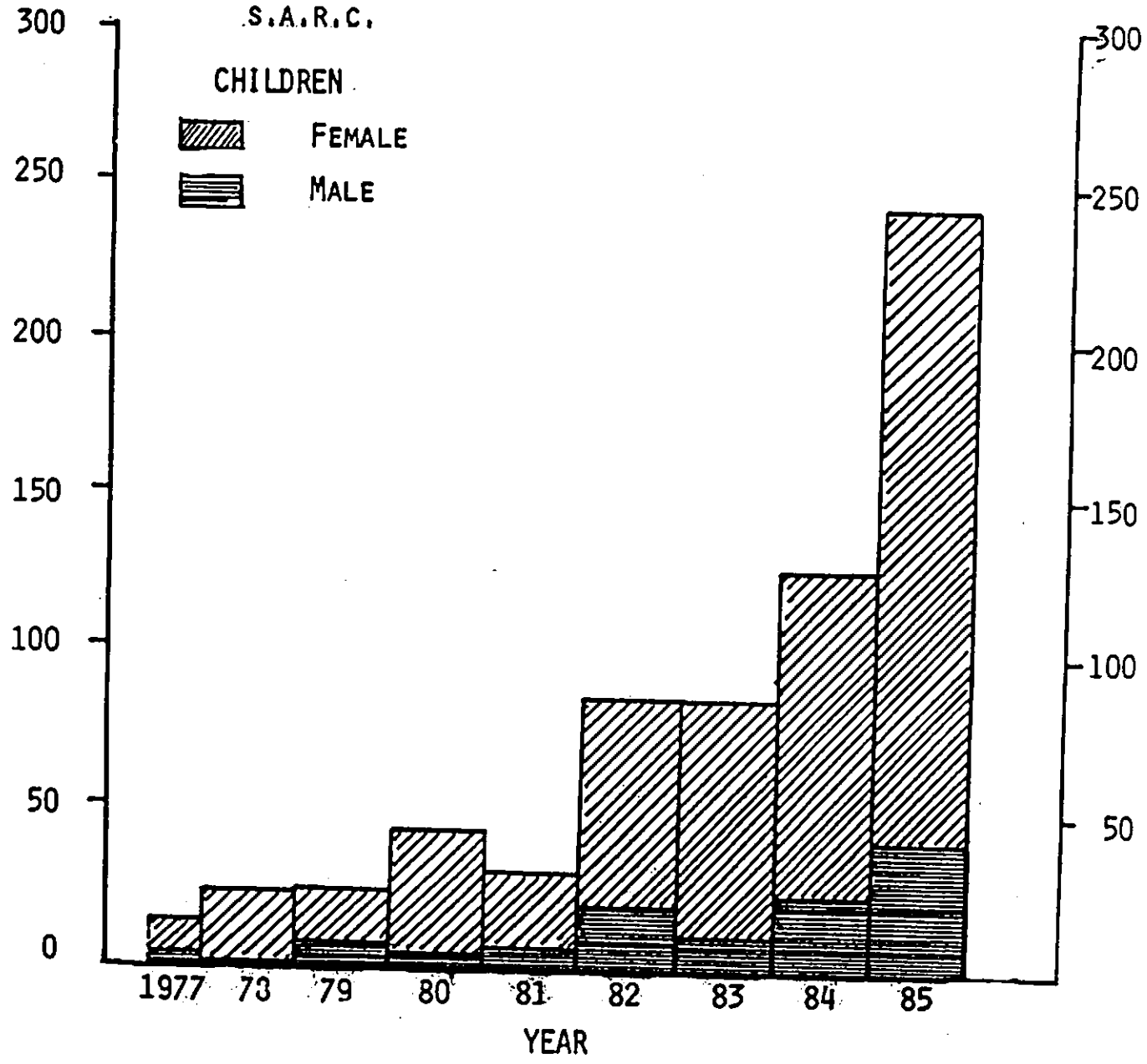

S.A.R.C.
TOTAL ATTENDANCES
ADULT ≥ 18
ADOLESCENT 13-17
CHILD ≤ 12
500
400
300
200
100
0
1977
78
79
80
81
82
83
84
85
YEAR

FIGURE 2.


S.A.R.C.
CHILDREN
FEMALE
MALE
300
250
200
150
100
50
0
1977
73
79
80
81
82
83
84
85
YEAR

IDEAS ON THE FORMATION OF A NATIONAL REGISTER ON CHILD ABUSE

Mark Jones
Community Policing Research Officer
Victoria Police

Interest in the establishment of a national child abuse registry has been expressed at a number of national forums. The most recent of these that I am aware of, was the Crime Prevention Council Conference held in Brisbane during 1984. These calls for the formation of the registry have however, never been in the form of developed proposals and have largely been off the cuff responses to a concern about interstate migration of abusing families.

The formation of a national registry has a lot of immediate appeal to those concerned to assist abused children and I must say that when I was first asked to speak on this matter I found the idea quite attractive. However, after looking at the matter for some time I have withdrawn from my original position and now believe that such a registry would diminish the overall effectiveness of registry services to children (while at the same time vastly increasing costs).

I would like to point out at this stage, that many of the more general questions raised by child protection registries have been dealt with by a previous speaker, Dr Sally Leivesley. In order to avoid repetition and to benefit from the discussion that followed Dr Leivesley's paper I have hastily rewritten this piece with a view to making it an action document rather than the somewhat stuffy academic piece that I had prepared.

I had intended to speak of the long history of registries in Australia with particular reference to the still existent registry of the Children's Protection Society and its records dating back to 1894, but rather I was impressed by the poignancy of a comment by David Meldrum (S.A.) in the discussion which followed Dr Leivesley's paper on Tuesday and think it more important to bring this to you, and I paraphrase, 'Every worker and agency that is active in protecting abused children keeps records'. I believe that the simple truth of this statement is inescapable. Then I would suggest that no matter how ineffectively compiled that these records constitute a registry! In general though the term registry is applied to a recording system that facilitates access to a summary case history by workers who may be called on to protect the children at some later date. In the modern world this means either a computer or a large room full of badly indexed and rapidly decaying paper files.

The compilation of all this material is not necessarily to satisfy the empire building desires of ambitious bureaucrats [although systems with a definite bend towards this can be found] rather, it is compiled to meet four quite specific objectives. These are: identification, accountability, research data base, and management information.

The identification of children in danger must be seen as the primary function of all registry systems. Our modern therapeutic practices, philosophies and the practicalities of intervention combine to mean that we do not remove children from their families at the first suggestion of danger. Given that all abusive situations have the potential for repetition that many of these families are mobile and that a diversity of agencies may be called on to deal with the matter, it is quite likely that workers of the current instance will have little or no prior knowledge of the work done with the family in the past. The timely availability of a summary case history can be crucial to the safety of the child, indeed it is often that a child can only be identified as being in danger if a case history is available.

If I may illustrate this, a minor bruise to a child that is the result of excessive corporal punishment does not generally require the continued interest of our interventionist agencies, multiple chronic incidents of this type certainly do. We must remember that many abusive adults do not volunteer information about the history of their abuse and may well take steps such as frequent relocation and the use of a multiplicity of health services to disguise their abuse. The compilation of a case history is plainly a necessity and responsibility of the professional child protection worker.

Such case histories must be complete and draw from all agencies working with the family. Moreover, they must be accessible twenty-four hours a day and contain a more complete case history than the fact that a file exists in a locked regional office on the other side of the state that will re-open after the Christmas break.

On another level, several of our Victorian Community Policing Squad members have had the experience of commencing an investigation of sexual abuse and then find that the family flees on becoming aware of this attention. With any luck this family will come to the attention of community police in another district and, I suggest, that if forewarned with a case history the child rapist is unlikely to be given the opportunity to abduct the child again.

Of less immediate importance to the child is the ability of registries to impose some level of accountability on child protection workers. Any well constructed registry would record such basics as, who has made the notification and on what date, who is the child concerned and what were the findings in the

matter. In an area where service delivery standards must be maintained to the highest level, such recording practices should be considered normal and necessary.

I will now turn to a quite different area. A potential by-product of an orderly recording system is the production of accurate and useful empirical and other data. This information generally takes on two quite distinct forms, a research data base and management information. A comprehensive research data base would allow many of the basic questions of abuse to be tackled. An example of this that came to mind during this conference was the recent transition in emphasis from stranger danger to familial sexual abuse. The experience of many refuge workers was that stranger rape of children was a relatively rare occurrence compared to familial sexual abuse. Even when this view was reflected in valid empirical reports produced by the Women's movement it was dismissed as biased and unrepresentative until such findings were reflected in 'official' statistics. I would hope that soon we will be able to turn from the bulk of our work being concentrated on identification of the problem to assessing the effectiveness of our strategies towards solution.

Management information need not necessarily be the remote and imposing set of supervisory tables that many believe that the name implies. Those of you familiar with police 'points' and 'quota' systems will be well aware of the destructive potential of such systems but this need not necessarily be the case. Indeed management information can be a valuable tool to democratising and decentralising decision making. The primary thrust of my unit, The Community Policing Data Base, has been to supply data to our community policing units that gives them the ability to self-evaluate their programs and to self-determine their targets for proactive policing efforts. The introduction of these principles to Victorian policing has, at least in part, led to the 25 per cent reduction in our juvenile offending rate experienced since 1981. Moreover if nothing else it has led to a more rational deployment of our resources than would otherwise have occurred.

A national registry would, at first glance, meet each of the four objectives of a registry. However, we should look to actual experience in this type of system to gauge the effectiveness of such a model.

I would draw your attention to a recent report of the National Centre for Missing and Exploited Children in the U.S.A. Despite millions of dollars, massive promotion campaigns and a computer with more gigabytes of memory than I would ever dream of having available, every state of the U.S.A. still maintains its own missing persons and child protection registry files. It would appear that a national registry has been found to be so unreliable and so remote as to be totally unresponsive to the information needs of local programs. This report records the

attempt of the state of Alabama to wholly rely on the federal system and outlines that the eighteen month pilot got little further than the exchange of correspondence.
I would suggest that it is a natural law of administration that the responsiveness of a system is proportional to the structural and geographic distance between the service user and the service provider. I believe that this idea is behind much of the current trend to regionalisation of services.

The difficulties of great distance between service provider and service user is reflected in Australia by the current difficulties with our federal statistics unit the WELSTAT Secretariat. Despite at least five years of work and innumerable conferences not one data point can be shared between the states. WELSTAT is a moribund institution reduced to a single state funded employee currently acting in a position that is the responsibility of the federal government. WELSTAT has turned its focus from the compilation of a simple national data base to a forum for the airing of policy questions. This should not be seen as surprising if we remember that the federal government has no responsibility of its own in service delivery to abused children. We again have a gulf between service user and service provider that has engendered a total lack of responsiveness. This is not to say that WELSTAT cannot be revitalised. If the states obtained the level of staffing that they were paying for and the secretariat concentrated on compiling statistics rather than calling policy meetings, much could be achieved.

On a further matter we must consider what benefit would be obtained from locating our systems of accountability in Canberra when the federal government has no service responsibilities of its own. Child protection workers should be accountable to abused children, their fellow workers and the community that supports their work. No one else.

As I said earlier, every state in the U.S.A. still maintains its own systems, and this is very nearly the case in Australia. With the exception of Western Australia and Victoria all of the territories and states maintain a child protection registry. If this was universalised the major focus of a national registry, identification of children in danger, could be achieved by a simple set of information exchange protocols between the registries, and a few phone calls. If the registry officers in each state could be allowed to meet and discuss common problems, a basic and simple statistical report could be expected at the start of the 1988-89 financial year.

I cannot support Dr Leivesley's suggestion that registries should be the province of police forces. While police experience would be a valuable contribution and one often overlooked, the primary orientation and tradition of police is towards the detection and prosecution of offenders. This is not always in the best

interest of the abused child. Even within the progressive environment of Victoria we do not extend access to our registry to all police. Indeed, we restrict access to include only experienced members of community policing squads and take great pains to ensure that it is only accessed when the member has a genuine concern for a child.

We have seen the development of an independent body in many states usually going under the title of Child Protection Council. It is the policy of the Victoria Police that it is this body which should maintain a child protection registry. We believe that this is the only way to properly express the multi-disciplinary requirements of a registry.

Given that this is the last day of the conference and we only have a very short time for discussion, I would suggest that we break into three groups and develop resolutions on the following questions.

Should the non-registry states compile a child protection registry?

Should the registry officers of each state meet to discuss common methodological problems and solutions, with a particular view to the development of information exchange protocols and assisting the WELSTAT Secretariat?

Should the WELSTAT Secretariat be revitalised and return to its original function of compiling statistics?

When addressing these questions I believe that participants should be aware that no methodology exists for the compilation of reliable statistics other than to draw them from a registry and that an informal system of information exchange currently exists. This informal network includes those states which publicly state that they are opposed to registries. Can a department state that they are opposed to registries when they are quite prepared to use the registries of other states?

STRATEGIES IN THE PREVENTION OF CHILD ABUSE AND NEGLECT IN AUSTRALIA

Ms Alison A. Davis
Sydney, New South Wales

INTRODUCTION

I believe that the greatest challenge to those of us in Australia who concern ourselves with the protection of children is to work towards prevention strategies on an Australian national basis.

Before I deal with what prevention of child abuse and neglect involves it is important that I state that what I shall present are my own beliefs that I have formed over a period of at least a decade of work in child protection, in research, field work and child protection program development. As well I have had the privilege of attending four of the five international congresses held under the auspices of the International Society for the Prevention of Child Abuse and Neglect. Each time I have been to an international congress I have looked at child protection programs in several countries: United States of America, England and Europe, specifically The Netherlands, and as a marked contrast to Holland in Italy and France.

AUSTRALIAN HISTORY

The Australian history of child protection is varied and interesting, particularly in comparison to how child protective services developed in other countries. We, in Australia are approaching the bicentenary in 1988 of settlement by whiteman. As we are all aware Australia began as a penal colony in 1788, and before 1788 was populated by our Aboriginal population. Some of us here today are descended from early settlers who arrived in Australia as convicts. I now know that I am descended from five convicts (two first fleeters and three who arrived in the third fleet) although until I unearthed the proverbial 'skeletons out of the closet' my family were blissfully unaware in my generation and my parents' generation that we are descended from convicts. In 1986, with reverse snobbery this is an asset.

I raise this matter because violence and poverty were inherent factors of transportation to the colonies. It is now widely accepted that violence begets violence and that parents who were abused, are at high risk of being abusive parents. Studies have demonstrated, particularly the San Quentin study, that

incarcerated offenders began life as, or early in life were, abused children. The violence in the early Australian society from 1788 to the end of transportation in 1856 would be immeasurable.

If we are to accept that violence begets violence and abuse then we in Australia are in the unenviable position of probably having an exceptionally violent society. However, this is not necessarily so compared, for example, with Iran, where they send their children into the mine fields to ascertain whether the areas have active mines. Migrants to Australia have originated from war torn societies, particularly post Second World War, when the major influxes began from Europe and more recently Korea Vietnam, the Middle East and South America.

The first reference I have been able to find to an organised manner of protecting children from abuse in Australia is lodged in the archives of the Mitchell Library in Sydney. In 1853 in Woolloomooloo in the inner city of Sydney the Society for the Protection of Women and Children from Aggravated Physical and Sexual Assaults was formed. This was eighteen years before Mary Ellen, the battered child, for whom protective services could only be invoked through the Society of Prevention of Cruelty to Animals in New York City, in 1871. This was the first time in the United States of America that an abused child came to the attention of the court system.

WOOLLOOMOOLOO SOCIETY (1853)

The aims of the Woolloomooloo Society were to:

> Bestow and alleviate the sad condition of women and children exposed to systematic illtreatment, inhuman atrocities of dastardly ruffians with whom, in many instances they are connected by the closest ties of kindred and from whose cruelty they have none but compassionate strangers to protect them.

Given that these aims were written in 1853 in what is now known as 'old English', nothing has changed and yet it can change if we begin to look at prevention of child abuse and neglect and the solutions involved.

WHY PREVENTION RATHER THAN JUST PROTECTION?

Firstly, I should state that both are essential and integral components. Protection is a statutory responsibility and prevention can perhaps be seen as a community responsibility and concern. Why should Australians concern ourselves with the prevention of child abuse and neglect? Until recently, people

involved with child abuse have directed their attentions towards identification, intervention and realistically in Australia, to a lesser extent treatment of the perpetrator and in some instances the child victims and/or a family approach to treatment. It has become clearer to researchers and other child protection professionals seeking to understand the multiplicity of causes of child abuse that actually working with children to prevent abuse can become a long term prevention strategy. Strategies to prevent child abuse must involve parents as well as the overall community, and include components of community education through all available mediums. It is no longer good enough to talk about prevention and community responsibility, rather we must work with communities to teach them how to carry out prevention strategies, and support their own and individual community efforts.

We now know and can demonstrate through research that:

1. Abusive parents were most likely abused as children.

2. They perceive their children as different, and describe behaviours as age inappropriate and usually have unrealistic expectations of the children to meet their own needs.

3. Their lives are thwart with crisis.

4. There is an absence of life lines for them to invoke in a crisis.

5. Sexually abusive parents and adults make up a large proportion of our young and adult offenders against society.

Many people believe that the family unit provides the most beneficial environment for rearing children and instilling proper societal values in children. Until recently, child protective work was primarily with the mother, little, if any attention was directed towards the father and nothing was done for or with the child. There is very little literature on the role of the father in physical abuse of children, and masses written on the male perpetrator in child sexual abuse.

ALTERNATE CARE

Foster care separation does provide a place of safety for the child, gives parents a much needed emotional and physical rest, but prolonged separation results in attachment of the child to another set of parents, whilst the parents get used to living without their child and relinquishing their responsibilities to rear their child for long periods of time. Most cruelly, the child's right to see its biological parents have often been impossible to adequately carry out. Foster parents, in the past

were sometimes chosen because they lived long distances from the parents and it was hoped they would not 'disturb the child'. Some foster parents have insisted that they did not have to see the parents because of their enormous anger at what had been done to 'their child'.

'Their Child'?

Child abuse, in all its manifestations can and does occur in foster homes, which is not to denegrate all foster homes, just simply to raise the level of awareness that this sometimes happens. Why is it that society is so surprised at failures in parenting, when we are aware of the fact that there are failures and distortions in all human relationships. When marriage between husband and wife fails then divorce proceedings are an acceptable result. Australian society is moving towards accepting a respectable institution of 'divorce' between parent and child, that is, voluntary relinquishment by parents of children, when they cannot love their child or handle the situation in any other way. For these changes to happen and voluntary relinquishment to be viewed as socially acceptable many attitudinal changes must have occurred, including those of the courts who reflect society's attitudes, and those of parents, grandparents, and in some instances the professionals, in the community in general and the many and varied community sub-groups.

It is hard for professionals to face up to the fact that they cannot help everyone: rather it is important to work with families and communities to assist them to help themselves. In Australia we have not begun to deal realistically with the many difficult questions involved in involuntary termination of parental rights. Although there are some preventative programs that strive to reinforce parent-child relationships and allow the family to function as an independent unit in Australia many more are needed. We have to be very careful that we do not allow ourselves to get into a situation where it is necessary for 50 per cent of our population to be supporting the other 50 per cent of the population.

I believe that mandatory notification/or reporting of suspected child abuse and neglect is an essential element of any child protection program and that child abuse prevention programs in themselves are not enough. I also believe that once a state or country has mandatory notification it becomes a small issue in relation to the protection it provides not only for the children, but for the workers themselves. Mandatory notification will never solve all the problems related to child protection issues, but it does relieve workers and the community of the need to be clairvoyant in case finding, and reduces the severity and frequency of further sexual, physical and emotional abuse to children. Notification and appropriate follow-up services can

prevent further physical and neurological damage to a child and reduce the number of children who die at the hands of their parents or caretakers; it can also reduce the incidence of repeated sexual abuse to child victims.

It is difficult to argue that mandatory notification in the long term is not emotionally and financially cost effective to a society. The United States of America has recently made a commitment to reduce child abuse by 20 per cent by 1990 and to prove the cost effectiveness through their national incidence study.

NATIONAL INCIDENCE STUDY

A national incidence study involves many more research components than just mandatory notification statistics. These statistics in themselves are open to a wide variety of interpretations, as all states and countries have individual reporting laws. Researchers can present individual interpretations.

The late Professor Henry Kempe brought child abuse and neglect to the attention of the multi-professional groups and community members who now concern themselves with the protection of children, by coining the phrase the 'Battered Child Syndrome' in 1961. Henry Kempe worked relentlessly throughout his life to improve childhood for children. He spoke about mandatory reporting over ten years ago at the first Australian National Conference in Perth in 1975, entitled 'The Battered Child', and said, in comparing involuntary reporting of suspected child abuse, with a voluntary reporting system in The Netherlands: The Confidential Doctor System of Notification.

> Now as a physician let me say that I found this law very helpful. I have worked for 10 years without it, and I have worked for 12 years with it. It makes it easier vis a vis parents to have our residents and other doctors say to the parents that there will have to be a report made to the Department of Welfare. It says to the parents we have no choice in the matter - it is not a matter of necessarily picking on you - we do this for every such case. It makes it very impersonal and straight forward - it has a good advantage of being fair to everyone. It has not kept people from coming to us; it has been suggested that people would avoid our hospital in droves if they knew we were in this particular business. On the contrary - it has not resulted in patients shopping any more than they already do for medical care.

For a mandatory notification to be successful all relevant professionals should be mandated, and community members free to notify their concerns to a relevant authority, mandated to assess each individual situation.

Ten years on from the Perth conference Dr Richard Krugman who now heads the Kempe National Center for Prevention of child Abuse in Denver, Colorado, told me during 1985, that they are far less likely to see a classic textbook case of a physically abused child in Denver, Colorado. Not only has the incidence of abuse been reduced, but also the severity of abuse. I think that this is most probably true in most states and countries where mandatory notification has existed for a sufficient time span.

Anne Cohn, the Executive Director of the Chicago based National Committee for Prevention of Child Abuse wrote in a 1984 N.C.P.C.A. publication:

> Many people also fear that government control may become so insidious and government intervention so pervasive that the family unit as commonly accepted may become impossible to maintain. Many argue that broad, coercive intervention programs should be avoided. Because of this concern, prevention programs that provide services to all families on a voluntary basis probably have a greater chance to succeed.

Anne Cohn (1984) continued by pointing out that:

> There are, however, two objections to this approach:
>
> First, if services are offered on a voluntary basis, families with the greatest need may choose not to accept them.
>
> Second because of resource constraints, the more costly programs cannot be provided to all families. For these reasons it is important to accurately identify families with the greatest need for prevention programs and to make the services most readily available to them.
>
> To wait for perfect knowledge to begin work, would be to wait forever. There are gaps in our existing knowledge ... which hamper the ability to design the most effective prevention programs, but the knowledge gaps must not be obstacles to getting started. Improved understanding will follow further clinical work.

GETTING STARTED ON AUSTRALIAN PROGRAMS TO PREVENT CHILD ABUSE

Principle: If we don't do anything: we won't change anything.

I propose to you today that Australia needs an Australian National Committee for the Prevention of Child Abuse. Somehow, we must convince funding bodies that we cannot afford to wait any

longer to reduce the incidence and severity of child abuse in the Australian society. The funding of a National Committee on the Prevention of Child Abuse should not be the responsibility of governments alone. Corporate funding and community funding on a local level should be sought. Such an organisation would need to be an independent national body, whose primary concern is prevention. It must not compete with or duplicate government statutory child protective services in any way, rather it should complement child protective services.

Principle: If we don't measure anything we won't know anything.

The known incidence of child abuse and neglect has risen markedly in countries and states where mandatory notification exists. Preventive and treatment programs may uncover new cases of child abuse and thus appear to increase the incidence. Prevention programs are often undertaken in a climate of heightened public concern. This same increased level of concern can in itself lead to increases in the notified incidence rates. In some geographical areas, notification may be sufficiently well developed that no large reservoir of unnotified cases exist for some types of child abuse; for example, severe physical abuse of children.

THE RESPONSIBILITIES OF AN AUSTRALIAN NATIONAL COMMITTEE ON PREVENTION OF CHILD ABUSE AND NEGLECT

I see the responsibilities of a national organisation coming under three broad categories.

Research

The Australian incidence of child abuse and neglect is in urgent need of evaluation. If we don't know the Australian incidence rate then it is easy for those of us who concern ourselves with child abuse to allow funding bodies to be like Scarlet O'Hara and 'think about that tomorrow'.

By funding bodies I mean all organisations who concern themselves with the distribution of dollars for community and even corporate purposes. Whilst state and commonwealth governments alone can no longer be expected to contribute to the prevention of child abuse they do have a major role to play, but they need the support of other funding bodies, and community involvement at a local level.

Prevention strategies can and do work, but we need to be creative enough to convince all who should be involved in funding prevention programs that they have a responsibility to contribute and fund programs on an Australian national basis, not merely state by state, thus reducing the effectiveness of limited financial resources. Demonstrating this is impossible without adequate qualitative research.

Education

Australians possess a vast knowledge of child abuse information, but unlike many other countries we write and publish relatively infrequently. Furthermore, we have few formal and regular opportunities to meet together on a national basis to discuss problems related to child protection programs, to share solutions, to teach and to learn from each other.

Whereas the use of research and statistical information from other countries is often relevant, in many incidences it is not necessarily relevant in Australia, and difficult to apply to Australian communities. For example, Australia now has an exceptionally large multicultural population and many general beliefs about culture and ethnicity need to be re-examined in order to discuss child abuse prevention for different population groups. Differences within cultures may exceed differences between cultures. These differences result in a variety of definitions of acceptable parenting standards and good-enough child rearing practices.

One of the most difficult questions associated with cross-cultural issues in child abuse is how to get professionals to talk about our ethnic and cultural groups and their inherent similarities and differences. Until professionals can confront within themselves their own values, myths and biases, minimal progress can be made in designing community-appropriate prevention programs for our multicultural society.

An Australian national organisation could take the responsibility for organising educational opportunities for all people involved and concerned about child abuse.

There are two types of educational opportunities that require national attention:

Australian national conferences on the prevention of child abuse and neglect, routinely scheduled on a two yearly basis, (in alternate years to the international congresses) and held and hosted routinely in all Australian states and perhaps New Zealand as well as Australia.

Small meetings involving selected and at times invited people to deal with specific issues, similar to the European study group meetings or the Keystone conferences run by the Kempe National Center in Denver, Colorado. The overall aim being to increase and collate our knowledge in Australia on the most cost effective prevention models.

Program Development

I see the development of prevention of child abuse programs as the most exciting and challenging element for an Australian

national committee for the prevention of child abuse. In November 1985 I had the privilege of attending the Seventh National Conference on Child Abuse in the United States. The conference was held in Chicago and supported by the National Committee for the Prevention of Child Abuse (N.C.P.C.A.). This conference was exciting and positive. Positive because each and every delegate I spoke with has moved beyond what I choose to call the 'Oh dear isn't it dreadful stage' in dealing with child abuse, to 'Yes, child abuse is an enormous problem in American society, and our goal is to reduce child abuse by 20 per cent by 1990'. I believe they will make every effort to reach this goal.

I present to you today for consideration some of the many preventive and innovative programs presented at the Chicago National Conference. Most of these programs have been developed and run by local and community based chapters of the Chicago based National Committee for the Prevention of Child Abuse through its nationwide network of child abuse prevention organisations.

The N.C.P.C.A.'s long range plan for 1985 to 1990 has six goals.

1. To have a fully aware public nationwide.

2. To have a more complete body of child abuse prevention knowledge.

3. To have important child abuse preventive services available to all.

4. To have improved public and private sector child abuse prevention policies.

5. To have a nationwide network of child abuse prevention organisations.

6. To have an informed, well equipped nationwide network.

Practical Ideas Included in the Program

1. April in United States is child abuse prevention month. This began when a group of representatives met in Kansas City, Missouri, in 1982 to plan the 'STOP Violence Coalition' in Kansas City. Since 1983 there has been an annual 'STOP Violence Campaign'.

2. The campaign was based on the American Cancer society's smokeout campaign. The highlight of the month long campaign is the 'National No Hitter Day' on the last Saturday in April. The campaign involves local baseball teams and uses a variety of slogans.

For example:

- 'Be a hugger, not a slugger'.
- 'An assault free diet never killed anyone'.
- 'Stop taking violence out on people'.

3. A community contest for the ten most effective ways to prevent family violence which is judged by prison inmates during the campaign.

4. The campaign has been adopted and run by many community based chapters of the N.C.P.C.A. in American communities and cities.

5. Other community messages are promulgated continually through all possible mediums throughout the whole year. An example is: 'Take Time Out: Don't take it out on Your Kid'.

   It is important to remember that if we give the media 'Oh dear isn't it dreadful' messages, the media will print and promulgate 'Oh dear isn't it dreadful' information to the detriment of our children. It is imperative to work more with the media in the development and design of positive publicity.

6. Messages on the back of cereal and milk packages.

7. A welcome baby program in South Carolina.

8. A parent linking project for teenage mothers in New Jersey, as an integral part of their child and adolescent advocacy program.

9. An incest survivors group in Atlanta, Georgia who have raised $200,000 from corporate sponsorship to fund their own preventive programs in child sexual abuse.

10. Twelve alternative ways to 'wash' a kid publicity program: to publicise in a positive way prevention of child sexual abuse.

11. Children's and family trust funds in over thirty states. These are most important because of their philosophy as a source of funding. Funding is derived from a tax of about $2 on birth and marriage certificates, or a tick-off tax deduction box on taxation refund forms.

    Funding priorities of the children's and family trust funds are:

1. Local child abuse prevention programs.

2. Community spouse abuse programs.

3. Local elder abuse programs.

4. Regional or statewide programs to further professional education, primary prevention campaigns on family violence and strategies in primary prevention of child abuse.

12. Promulgation of the Spiderman comic to school children giving the message that child sexual abuse does occur, it's okay to tell, and to keep on telling until someone listens.
13. The good touch/bad touch programs which have recently been produced in the United States, (and also Canada and England).

A PROPOSED STRUCTURE FOR AN AUSTRALIAN NATIONAL COMMITTEE FOR PREVENTION OF CHILD ABUSE

I would propose that a similar structure to the N.C.P.C.A. in Chicago be considered where a balance is maintained on the board (management committee) of professionals, the business community (for their leadership skills and knowledge of financial management) and voluntary or community representatives. It is vital to involve not only the media but the business community as well. These groups have expertise in areas where child protection professionals lack essential skills and knowledge. Employers can help by strengthening families through their workplace when they are convinced that it is cost effective and increases productivity.

CONCLUSION

Child abuse prevention strategies can be organised on a state by state basis, perpetuating competition for scarce resources, duplication and territorialism rather than a sharing of knowledge. My belief is that if we are to succeed in reducing the incidence and severity of child abuse through prevention strategies in Australia then it needs to be a national commitment, to be a really successful feature of our Australian children's programs.

To reiterate the two principles I presented.

1. IF WE DON'T DO ANYTHING, WE WON'T CHANGE ANYTHING, and

2. IF WE DON'T MEASURE ANYTHING, WE WON'T KNOW ANYTHING.

In conclusion I would like to quote Henry Winkler ('The Fonze') who spoke at the Chicago conference about a man in Los Angeles who was apprehended for sexually abusing three of his four daughters. When the man was asked why he didn't sexually abuse his fourth child he replied, 'She said no'.

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AUSTRALIAN INSTITUTE OF CRIMINOLOGY

CONFERENCE ON CHILD ABUSE

3-7 February 1986

MONDAY 3 FEBRUARY

10.00	Refreshments	
10.30-10.45	Welcome and Official Opening Professor Richard Harding Director Australian Institute of Criminology	
10.45-11.30	History of Child Abuse in Australia	Professor Peter Boss School of Social Work Monash University
11.30-12.00	Who Owns Child Sexual Abuse?	Ms Sharyn Butt A.C.T.
12.00-12.30	Discussion Time	
12.30- 1.30	LUNCH	
1.30- 2.15	Definitions of Emotional Abuse	Ms Jan Carter Perth Western Australia
2.15- 3.00	Discussion	
3.00- 3.45	Child Sexual Assault Prevention Programs - implications of their introduction to Australia	Ms Affrica Taylor and Ms Moira Carmody Sexual Assault Centre Westmead Hospital New South Wales
3.45- 4.15	Refreshments	
4.15- 5.00	Discussion	
5.00- 6.00	Resolutions	

TUESDAY 4 FEBRUARY

9.30-10.15	The Evaluation of Child Abuse Services	Dr Sally Leivesley Queensland
10.15-11.00	Discussion	
11.00-11.30	Refreshments	
11.30-12.15	Intervention v Support in Cases of Child Mistreatment: an efficient system that works	Dr Terry Donald Faculty of Medicine University of Tasmania
12.15- 1.00	Discussion	
1.00- 2.00	LUNCH	
2.00- 2.45	Practical Legal Dilemmas and Child Sexual Abuse	Dr Flora Botica Adelaide Children's Hospital South Australia
2.45- 3.30	Children in the Family Court: Whose Best Interests?	Ms Moira Rayner Bar Association of WA and Ms Sally Beasley Family Law Court of WA
3.30- 4.00	Discussion	
4.00- 4.30	Refreshments	
4.30- 5.00	Incest and Access: the Family Court's response	Ms Julie Stewart Women's Legal Resources Centre, Lidcombe, New South Wales
5.00- 5.30	Discussion	
5.30- 6.30	Resolutions	

WEDNESDAY 5 FEBRUARY

9.30-10.15	Mandatory Reporting: Yes or No?	Inspector Barbara Oldfield Victoria Police
10.15-11.00	Discussion	
11.00-11.30	Refreshments	
11.30-12.15	The Child Victim in Criminal Proceedings	Mr Paul Byrne NSW Law Reform Commission
12.15- 1.00	Discussion	
1.00- 2.00	LUNCH	
2.00- 2.45	Protective Behaviour's: The Victorian Community Program	Sgt Vicki Brown Community Policing Squad Victoria Police
2.45- 3.15	Discussion	
3.15- 4.00	The Police Role in Child Protection	Sgt Annette Pursell Juvenile Aid Bureau Queensland Police
4.00- 4.30	Refreshments	
4.30- 5.00	Discussion	
5.00- 6.00	Resolutions	

* * *

7.00-10.00	Workshop on Protective Behaviour Part 1 of 2 (Max 40 people)	Sgt Vicki Brown

THURSDAY 6 FEBRUARY

9.30-10.15	Child Abuse and the Media	Ms Sally McGregor Childrens Interest Bureau Adelaide
10.15-11.00	Discussion	
11.00-11.30	Refreshments	
11.30-12.00	Kids in Crisis - from the point of view of a Refuge	New South Wales Women's Refuge Collective
12.00-12.45	Discussion	
12.45- 2.00	LUNCH	
2.00- 2.45	Dympna House: an analysis of a community based incest centre	Ms Jan Emetchi Dympna House Incest Centre Haberfield, NSW
2.45- 3.30	Discussion	
3.30- 4.00	NSW Child Sexual Assault Program	Ms Helen L'Orange Womens Co-ordination Unit New South Wales
4.00- 4.30	Discussion	
4.30- 5.00	Refreshments	
5.00- 6.00	Resolutions	

* * *

7.00-10.00	Workshop on Protective Behaviour Part 2 of 2 (Max 40 people)	Sgt Vicki Brown

FRIDAY 7 FEBRUARY

9.30-10.00	Medical Assessment - Helping Kids Feel Good About Themselves	Dr Tania Black Sexual Assault Referral Centre, Queen Elizabeth Hospital, South Australia
10.00-10.30	Ideas on the Formation of a National Register on Child Abuse	Mark Jones Victoria Police
10.30-11.00	Discussion	
11.00-11.30	Refreshments	
11.30-12.15	Strategies in the Prevention of Child Abuse and Neglect in Australia	Ms Alison Davis New South Wales
12.15- 1.00	Discussion	
1.00- 2.00	LUNCH	
2.00- 3.30	Discussion and Resolutions	
3.30	Close of Conference	
3.30- 4.00	Refreshments	
4.00	Bus to Airport	

AUSTRALIAN INSTITUTE OF CRIMINOLOGY

CONFERENCE ON CHILD ABUSE

3-7 February 1986

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Ms Helen Swan	Shelter Women's Action Group PO Box 252 WOODVILLE SA 5011
Ms Affrica Taylor	Sexual Assault Community Educator Westmead Sexual Assault Centre Westmead Hospital WESTMEAD NSW 2145
Ms Esme Tyson	Women's Community House PO Box 3219 ALICE SPRINGS NT 5790
Ms Ann Wentworth	Director of Women's Unit Department of Territories GPO Box 158 CANBERRA ACT 2601
Ms Joan Whetton	102 O'Connell Pt Road Beauty Point via BERMAGUI NSW 2546
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Ms Carolyn Woodman	Irene Women's Shelter PO Box 34 CLARENCE GARDENS SA 5039

AUSTRALIAN INSTITUTE OF CRIMINOLOGY

NATIONAL CONFERENCE ON CHILD ABUSE

3-7 February 1986

RESOLUTIONS

The following resolutions were passed by participants at the final plenary session of the National Conference on Child Abuse. Not all participants at the Conference were present at that plenary session, so that while the majority of resolutions were unanimously passed, they cannot necessarily be seen to be supported by all those present at the Conference during the week.

The resolutions appear here grouped under major headings indicating the particular areas of concern of Conference participants. However, the plenary sessions did not allow enough time for precise re-wording of resolutions and the attached are edited versions of the initial proposals which accurately reflect the spirit of the session.

FAMILY COURT MATTERS

Participants expressed 'grave disquiet about the Family Court's ability to fulfil its obligations as specified in Section 43(c) of the Family Law Act. In many cases the Family Court fails to protect the rights of children or promote their welfare where abuse (physical, emotional and sexual) is alleged'.

The conference clearly saw the most important current issue as the courts' failure to adequately respond to sexual abuse of children . Therefore, the conference wished to draw to the attention of the Attorney-General, the Family Court and the Family Law Council the following facts about sexual abuse.

- Children have a right to be protected from sexual abuse and the court has the responsibility to ensure that right, and act in the best interest of children.

- Any child sexual abuse constitutes violation and is serious. Child sexual abuse is any sexual activity imposed on a child by an adult.

- Children must be taken seriously and believed when they make allegations of sexual abuse. Children very rarely lie about child sexual abuse.

- The perpetrator is solely responsible for the sexual abuse; the child is never responsible.

- Children find it traumatic to disclose sexual abuse. They often feel unsafe doing so. Therefore, any time gap between the time of the actual abuse and the complaint must not be seen as invalidating the child's complaint or discounting its seriousness.

- Child sexual abuse has long term effects, causing serious damage to those who have been abused.

- The benefit of the doubt must be given to the child rather than the parent seeking access, because the risk to the child of further sexual and emotional abuse is far greater than the possible damage to the child from having no access to the parent.

From acceptance of the above facts, flow the following resolutions:

1. Section 64(1) (a) should be amended to include a statement to the effect that...'The court shall have regard to its obligation to protect the child from physical, sexual or emotional abuse and/or neglect, or the risk thereof'.

(UNANIMOUS)

2. The Attorney-General should require the Family Law Council to investigate and report on two particular issues. Firstly, the Family Courts' effective (or otherwise) use of the relevant state and territory authorities in assessing allegations or suspicions of abuse concerning children affected by the court proceedings. Secondly, on the relationship which should exist betwen Family Court and state court orders and findings affecting children who have been abused or at risk.

(UNANIMOUS)

3. Family Court counsellors should be directed that their responsibility is to include child sexual abuse and any other abuse and they should include such abuse in reports to the court, if they suspect it or it is alleged.

(UNANIMOUS)

4. In cases of child abuse and neglect which are being managed by state or territory authorities and where there are also proceedings in the Family Court, the state or territory primary worker responsible for the child should inform the child and his or her siblings of their rights of access to Family Court counsellors and facilitate this access regardless of the wishes of the parent.

   So that appropriate information is communicated to State or Territory primary workers responsible for children this resolution should be communicated to the heads of appropriate state and territory departments.

(UNANIMOUS)

5. The Family Court Counselling Service should run an information session for all appropriately-aged children involved in Family Court proceedings, to inform them of their rights and the options available to them. These sessions should be run as small groups and be widely publicised.

   Such information sessions should be mandatory in cases of suspected or alleged child abuse and in contested custody and access cases.

(CARRIED WITH 2 DISSENSIONS)

6. To assist the court where allegations or suspicions of child abuse or neglect are raised in the Family Court, the child or children concerned should be made parties to the proceedings and be represented by independent advocates. The advocate's task should be to represent to the court the child's wishes wherever possible.

(UNANIMOUS)

7. There should be a pool of trained legal practitioners to act as both separate and independent legal representatives for children in such cases. Training and resources should be provided from Commonwealth legal aid funding to substantially improve the quality of advocacy by separate and independent representatives of children.

(UNANIMOUS)

8. Amendments should be made to Section 64 (1)(b) Family Law Act to give effect to the following:

'Where there is credible evidence of child abuse, access should normally be denied until the investigation of the matter (which should be expedited).'

(CARRIED WITH ONE DISSENSION)

9. No access must be seen as a real option. Access is not necessarily in the child's best interest. The Family Court should establish in each case that access is beneficial to the child. The onus of establishing that access is in the best interest of the child should rest on the claimant.

(UNANIMOUS)

10. Established and informed child protection agencies which involve multi-disciplinary teams should be given credibility in the court as impartial witnesses for the child.

(UNANIMOUS)

11. The Australian Institute of Criminology should be requested to establish and maintain an educative program on child abuse matters for Family Court judges, registrars and senior legal personnel, on child abuse matters, and the Family Court's role in the protection of children affected by its jurisdiction.

(UNANIMOUS)

12. The Australian Institute of Criminology or some other appropriate body should be requested to establish and maintain a comprehensive information system on all Family Law cases involving custody and access matters in which children are alleged to have been abused or neglected.

(UNANIMOUS)

POLICE

13. As an urgent matter all police departments should ensure that every police recruit is given substantial, specialised training in recognising and assisting children who have been subjected to sexual, physical, emotional and other forms of abuse. The training should reflect the current major involvement of police staff-hours (both generalist and specialist) in this work area.

(UNANIMOUS)

14. Any video taped interview of sexually abused victims should be retained only for as long as it is required in court proceedings. It should then be destroyed. It should not be used for any other purposes including professional training or publicity.

(CARRIED WITH 4 DISSENSIONS)

15. Police departments in all states and territories should recognise the urgent need to set up sensitive and specially trained units to deal with children who are subjected to any form of abuse.

(CARRIED WITH 1 DISSENSION)

MEDIA

16. More communication should take place between media representatives, community agencies, committees and government departments with child protection responsibilities; with a view to re-examining ethics, policy, practice and outcomes and minimising the exploitation or abuse of children in the public arena.

(UNANIMOUS)

FEMINIST PERSPECTIVES

17. Funds should be made available so that community-based houses for child survivors of rape can be set up in all states and territories. Both residential and non-residential services should be provided and the houses should be safe, confidential places for children to begin to work through and understand their rape and its impact.

As most children are raped by adult males within the family and as these violations can occur because of the power men have in their relationships with women and children, a feminist orientation should be integral to the service provided.

(CARRIED WITH 11 DISSENSIONS)

18 The importance of child support in refuges should be given immediate recognition through adequate funding to employ more workers and resources.

(UNANIMOUS)

19. Government agencies, funding bodies, education authorities and law courts should recognise the substantial and valuable input of refuge workers in providing services for children.

(UNANIMOUS)

20. In recognising the vital role of the women's movement in all aspects of child maltreatment, the Organising Committee of the Sixth International Congress on Child Abuse and Neglect, should acknowledge the poor financial situation of refuge and voluntary workers in women's and children's services and facilitate their attendance at the international congress to be held in Sydney in August 1986.

(UNANIMOUS)

EDUCATION

21. Through the Australian Institute of Criminology, each state Education Department and Higher Education Board should ensure the immediate inclusion of an adequate child maltreatment component into all areas of teacher training courses (including in-service and further training).

(UNANIMOUS)

22. Senior education policy personnel responsible for curriculum development in schools and colleges of education and other practitioners involved in the design, implementation and monitoring of protection programs should be brought together within the next twelve months to discuss relevant issues and the progress they are making on such issues.

(UNANIMOUS)

23. A national conference should be organised by the Federal Minister for Education, to bring together senior policy personnel responsible for the curriculum development of human relations programs in schools and colleges of education in order to:

    (a) share the work/ideas that each policy unit is involved with and hopefully benefit from that interchange;
    (b) answer the question of how child abuse can be addressed within the framework of human relations programs

(UNANIMOUS)

FORMATION OF A NATIONAL BODY ON CHILD ABUSE

24. A national, co-ordinated approach to the establishment of child abuse protection programs is strongly recommended. To this end, the Australian Institute of Criminology should establish a periodic national conference where state/territory strategies may be shared, a steering committee created, and an action plan for training and program implementation devised.

(UNANIMOUS)

25. A central advisory policy should be established by the Commonwealth Government to assist the states and territories in working towards a unified policy in connection with child abuse.

(UNANIMOUS)

26. A central advisory policy should be established by the Commonwealth Government to assist the states and territories in working towards a unified policy in connection with child sexual abuse.

(UNANIMOUS)

NATIONAL DATA COLLECTION

27. The collection of national data in the field of child abuse is of vital importance and the Commonwealth, states and territories should acknowledge this and give such data collection a high priority.

(UNANIMOUS)

28. Welstat provides an ideal forum for the establishment of such a collection. Sufficient resources should be provided by the state, territory and Commonwealth Governments to accomplish this.

(UNANIMOUS)

29. That registry officers of each state and territory meet with the Welstat Secretariat on a regular basis to discuss common methodologies and solutions with a view to a development of protocals for the exchange of information.

(UNANIMOUS)

30. This Conference requests the premiers of the states of Victoria and Western Australia to review their policies and priorities regarding the maintenance of a child protection register and in relation to the uniform interstate and intrastate use of such registers.

(CARRIED WITH 6 DISSENSIONS)

MISCELLANEOUS

31. Deploring the fact that the Queensland Inquiry into Child Exploitation, undertaken in 1984, (Sturgess Report) has not yet been released to either Parliament or the public, this meeting believes that Justice Minister Harper should immediately release the report in full.

(UNANIMOUS)

32 The Federal Government should make money available to each state and territory to fund a state child abuse conference before December 1986. This would enable workers in this area to establish cohesive and united ways of fighting these crimes against children.

(UNANIMOUS)

LOST RESOLUTIONS

The following three resolutions received considerable, but minority, support from participants at the plenary session. They complete the set of resolutions considered at the conference and are included as a matter of record.

33. No access should be allowed to a child if child sexual abuse is established in any court, or by two specialised workers or by a team of workers.

34. In the Year of Peace, the Federal Government should spend one dollar on children for every one dollar they spend on defence.

35. There must be some recognition of the ideologies, policies and institutionalised practices which contribute very significantly to the widespread abuse of children. Of primary importance is the poverty in which countless children are forced to live, and the lack of child care services which mean that many mothers obtain no respite from the responsibilities of parenting. The Federal Government should therefore:

    (a) provide a guaranteed minimum income at an adequate level to all persons caring for children and to all young persons living independently; and

    (b) initially, reallocate to the Office of Child Care the funding withdrawn from that office (in August 1985) and subsequently increase allocations to the Office of Child Care in response to the financial requirements of services providing care for children.

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PROCEEDINGS
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