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OVERVIEW

With a little help from its friends, the courts system is adjusting, slowly, to the human needs of those who come before it. Not that the system is inhumane as such; indeed, the tenets of the law are founded on notions of equality, fair dealing, and acceptance by the community. Whilst members of the courts apply these principles in good faith, however, the experiences of those on the receiving end are often far from positive.

The offender, naturally, is unlikely to feel positive about any sentence other than an acquittal, though he or she may feel that some form of punishment is 'fair cop' for the offence committed. But the criminal justice system does respond to what it sees as the needs of the offender. Through recognition, for example, that imprisonment as such does not rehabilitate the offender or reduce recidivism, various alternative sentencing options have been devised in the form of community corrections.

Victims often suffer extreme distress and frustration, not least because they feel that they are the forgotten element in the criminal justice system, and that the offender receives superior attention under the law. The strength of the message that has been elaborated by victim support groups has started to raise public awareness of the issues. Some would go so far as to say that the criminal justice system is becoming victim rather than offender-oriented and thereby more attuned to the needs of victims; others are afraid that as a consequence the fundamental principles of justice could be denied the offender.

Other groups perhaps are even more 'forgotten', and equally distressed by their appearance before the law. These are the families of offenders or of victims, witnesses to the offence, or jury members who may have to sift forensic and other evidence and arrive collectively at the 'right' answer. There are also those social groups who tend to appear or suffer disproportionately before the law - Aboriginals, children, persons from non-English speaking backgrounds, and so on.

The criminal justice system was established to apply the law, and adversarial principles were designed to ensure that each party receives a fair hearing. In the process - essentially a competitive one - humanitarian principles are secondary to legal principles, which must be applied scrupulously. In a recent Institute seminar on the topic of alternative dispute resolution (AIC Proceedings No. 15, 1986), Jenny David described the adversarial process as one which is:

> like a contest between opposing parties played according to definite rules with an umpire (the judge or judge with jury) deciding in favour of the 'winner'. Each party is like a side in a game or contest, vying to win with the winner taking all. Hence the saying 'fight it out in court'.

For most people, entering the court is like visiting a foreign country. The terrain is unknown, the language in need of interpretation, and the social norms a mystery; signposts are inadequate, social comfort facilities lacking, and court personnel often do not realise how daunting this is to the newcomer.

A number of services have developed in response to perceived gaps between the legal and the human sides of going to court. Most of these work on a voluntary or semi-voluntary basis and address the needs of persons who go to court. They provide information about the court process, the physical layout of the court buildings, the legal language that is used, and so on. They also provide direct comfort, support and assistance to those in need, to the extent of accompanying distressed persons into the courtroom, or providing support between court appearances. Some services are directed towards specific groups, such as victims, and others assist anyone who appears in need.

One of the aims of the seminar, elaborated by David Biles during his welcoming remarks, was to 'draw attention to the human needs of people who go to court' and to identify the 'steps that need to be taken to reduce the stress experienced by people in this situation'. The obvious response is to introduce court services of the kind just described. The other response, perhaps not quite so obvious but equally important, is for court personnel to use their positions and their knowledge of the system to facilitate the work of court services, and to assist directly the passage of people through the courts.

Another aim of the seminar, described by David Biles, was to 'focus on the needs of the courts themselves for expert advice on the difficult task of sentencing'. He felt that this is a particularly sensitive area with respect to 'the imposition of community-based orders such as probation, community service orders and attendance centre orders'. The Office of Corrections in Victoria now has an advisory system to the courts which provides such a service.

David Biles concluded that the seminar aimed:

> to assist the two major movements to humanise and professionalise our courts at the same time. I do not see these movements necessarily being in conflict with each other.

The seminar welcomed as the opening speaker, the Honourable Jim Kennan, Attorney-General of Victoria. Mr Kennan is a strong supporter of both court support services and advisory services to the court, and has himself been involved with both types of developments in Victoria. The backdrop to these and other programs recently developed in Victoria is a concern that the court should be seen as a point of last resort. For example, two new Neighbourhood Mediation Centres in Melbourne are available for parties to resolve civil disputes without going to court, and in the magistrates courts, parties are now encouraged to seek conciliation or formal arbitration at an early stage. The point of each of these devices is to limit 'the need for a dispute to be resolved by way of full scale adversary conflict'. Once disputes enter the full adversarial process in the courts, however, various court support services assist the parties to cope with the foreignness and formality of the experience. Furthermore, as part of a move to make Victorian courts more accessible to the community, court staff have new responsibilities for which they are being thoroughly trained, and various other initiatives are being supported, such as the simplification of language used in drafting legislation.

One of the court support services discussed many times during the seminar as an appropriate crisis-intervention model was the Victorian Court Information and Welfare Network. As first speaker after Mr Kennan's opening address, the Network's Director, Carmel Benjamin, described in detail the 'gap' in court support that needs to be filled. She said that:

> it is the unacknowledged, unmet needs of the accused, the victims, witnesses and their families, that form the gap in the criminal justice system. And while it is not appropriate for the court as the location of the objective decision making process to involve itself in these matters, it is now timely for law administrators to address these important human concerns.

The overriding feeling of those who become caught up in the justice system is one of powerlessness, accompanied by personal anxiety and frustration. For them, said Ms Benjamin, justice is not something which automatically follows the conclusion of the legal process, but a subjective interpretation by the parties concerned. Where the parties have no control over decision-making and do not understand the legal and court processes, the notion of 'justice' may well be one that eludes them.

'In humane terms', Ms Benjamin said, 'the amelioration of personal anguish is of great importance'. This is not a service, however, which is simply imposed upon parties by the welfare oriented; something far more creative is warranted. Firstly, it must be an enabling experience for the persons concerned, through emotional support and information about the court and other

relevant community services. Secondly, it is important that such a service should be non-partisan and objective, and available to all persons attending court. Third, this means that the service providers must be particularly well-trained in crisis intervention theory and practice. The Court Network thus views the individual as a total person, and is able to 'fill the gap' by 'diffusing anxiety, mobilising the individual's own resources, and facilitating self-determination in options for future action'. Finally, urged Ms Benjamin, it is vital that all court personnel contribute as far as possible towards this process, and that all support services begin to co-operate to maximise effective service provision.

The following two papers, by Margaret Hobbs and Howard Brattan, provided case studies of two different categories of persons who come before the courts and the trauma they experience before, during and afterwards.

Margaret Hobbs, a consultant psychotherapist, looked at a category of offenders who do not play by the 'normal' rules; those who exhibit compulsive, addictive and obsessive behavioural disorders such as drug addicts, alcoholics, exhibitionists, rapists, gamblers, and certain types of shoplifter. These offenders 'confound the system', because nothing 'appears to have a deterrent effect'. Offenders thus return to court again and again. The trauma and stress they experience in life is exacerbated by appearance in court, and their persistent behavioural response towards compulsive acts, which they feel will reduce their tension, only serves to increase it. It is not easy for such offenders to be recognised at an early stage, though Mrs Hobbs stresses that this is vital to the therapeutic effort. Both court personnel and court support workers need recognition training, so that appropriate referrals can be made for such offenders, and also to ensure that the justice system does not contribute unwittingly towards perpetuating compulsive behaviour patterns. The latter is an important point, because this category of offender wants to be punished; the court is part of a ritual cycle and an unsupervised bond is merely an invitation to re-offend.

Howard Brattan, President of the Victims of Crime Assistance League (VOCAL), discussed the status of victims in the criminal justice system, pointing out that victims have not been seen as central to the court process and that the courts have been relatively insensitive towards victims' needs. Mr Brattan analysed the source of this response towards victims. With the development of the present legal system, he said, the party injured by crime was the state rather than the victim. One of the major consequences for the victim is a feeling of lack of control over the justice process. The irony of this position, said Mr Brattan, is that the system needs the co-operation of

victims in reporting crime and testifying in court. VOCAL is urging the Victorian Government to take legislative steps to bring victims into the criminal justice process, in particular to introduce a Bill of Rights for Victims of Crime similar to that recently made law in South Australia. This would reduce the level of trauma for victims, including stress which is directly court related. In terms of court support services, Mr Brattan applauded the work of the Victorian Court Information and Welfare Network and said that it provided the immediate support so necessary for victim witnesses, and provided direct links to specialised victim support services such as VOCAL. During question time some concern was expressed that support for the victim should not extend to the development of a vigilante mentality - that if someone is hurt, someone must pay - and that the victim should not be coerced to participate in the court process if he or she prefers not to be identified. Mr Brattan agreed, stressing his main concern of recognition by the system of the status of the victim.

An Aboriginal participant in the seminar agreed that stress is part of the court experience for many people, but made the point that 'these problems magnify to an alarming degree among Aboriginal people'. Terry O'Shane, and his colleagues Randall Nicol and Joe McGinness, wrote to the Institute after the seminar to elaborate some of these problems. They were concerned that the majority of the population probably has no idea of conditions applying to Aboriginals who are resident on reserves. Speaking about their own State, Queensland, they described a situation where special legislation governs the lives of Aboriginal residents, where the laws are not really understood by either non-Aboriginal reserve staff or the residents and where native police and JPs are allowed to enforce these laws yet are essentially untrained in their application. From a situation where these special laws were introduced for the 'protection' of Aboriginals, the reality is that the lives of Aboriginals in this context are severely constrained. Worse, Mr O'Shane and his colleagues fear that for those who face charges before a native court, there is 'every likelihood of a miscarriage of justice'. They say that complaints to the government have fallen on 'deaf ears', and they call for urgent investigation of the special laws.

Here are examples of three groups of people who suffer in their daily lives, yet often suffer more as a direct result of involvement with the courts: compulsive offenders, victims, and Aboriginals. There are many more - migrants, children, physically handicapped,and the list goes on - but it was not the intention of the seminar to attempt to describe the circumstances of all groups. The concern was to elaborate the problem areas and to direct findings towards <u>all</u> persons in need, whatever their creed, colour or category.

Papers by Cora Tamm, Jan Donaldson and Joy Mott described services which operate in a range of courts. In South Australia, volunteers are co-ordinated in magistrates courts by the Department of Correctional Services as part of their community corrections program. Established in 1978, it was a response to an earlier recommendation that volunteers be used as a means of involving the community in correctional work. Ms Tamm described the service as 'client centred, providing information, support, counselling and correct referral to the court duty solicitor, the Department of Correctional Services and other appropriate agencies'. Twenty five volunteers work successfully in three metropolitan locations, in spite of the fact that accommodation appears to be woefully inadequate. During 1986 over twenty-one thousand clients were assisted. There is also an evident need to extend the service to country courts, but there are insufficient resources to permit this.

Jan Donaldson and Joy Mott described the work of the Victorian Network in two different court contexts, the Family Court and the Coroner's Court in Melbourne. The features of persons under strain are remarkably similar in any court, as is clear from most of the papers presented at the seminar. What particularly comes through in these two papers, however, is the 'grieving' aspect of going to court. This is perhaps obvious with respect to coroner's courts; we all equate 'death' with 'grief'. Joy Mott described the reactions of persons to having to cope with a sudden and unexpected death, and stressed the particular importance of recognising the small percentage of people who suffer prolonged and chronic grief, and who are simply unable to cope. Support is needed for all grievers but the latter group can simply go under without expert assistance. The Family Court is also a context for grieving, but Jan Donaldson said that this is not generally recognised:

> While someone who is grieving at the death of a loved one is usually surrounded by caring, supportive, comforting relations and friends, those whose marriage has ended - whose lives have been shattered, broken, turned upside down and inside out - do not usually find the same caring support. They discover friends and relatives taking sides, not being available, not wanting to know or even share a little of the pain, the feelings of failure and of guilt, feelings of fear of the unknown, of flattened self-esteem, broken lives. Although divorce per se may have become socially acceptable, those involved are not. They grieve alone and are lonely, hesitant, vulnerable.

Intervention is most important at the time of crisis. Failing this, it should occur at the earliest possible time after crisis. As Joy Mott put it, 'Months later, when the defences seem to have become rigid, working through them seems more difficult'. A large part of the value of court support services is their capacity to intervene at what is a critical period, when those attending court are most vulnerable.

In the same way as it was not possible to cover in detail all groups who need help to cope with their court experience, it was not possible for a representative from each support or information service to present a paper. However, the Institute received some criticism for not programming a volunteer support worker to speak, even though paid coordinators of essentially volunteer services were on the program, as was the president of a self-help group who also worked in a voluntary capacity. This criticism was accepted, and recognised as an indicator of the depth of feeling about the value of volunteer work (discussed further below).

The following paper, by Caroline Bray, issued an instructive warning to support services. From her experience as a social worker with the Coroner's Court in Glebe, Ms Bray confirmed the support that people need at times of crisis but questioned what kinds of support are needed and how they should be applied. Whilst there is a role for the professional or volunteer support worker, she reminds us of the value of the family, and of the wider social network of friends and colleagues, in the rehabilitation of individuals in crisis. Ms Bray feels that these groups often work against one another in this process, rather than combining to provide the support which is so necessary. As a result, destructive power struggles can produce more pressure on the individual, not less. It is the responsibility of support workers to ensure that their clients have access to information and resources, are helped to think through the situation clearly, and are treated as empathetically and humanely as possible. Moreover, suggested Ms Bray, coroner's court staff also need to contribute more towards this process, by providing access to information - medical reports and information which bears on the legal statements - much earlier than is the case at present, and with considerably less obfuscation about how access to such information should be attained. Neither the support workers nor the court staff, however, should seek to be a substitute for the type of personal support which is provided by family, friends and colleagues:

> It is more comfortable for the professional if the family and social networks are in place. This provides a buffer of care and information giving in relation to the individual, which the professional does not have [because he or she does not have prior knowledge of the individual concerned], in return for expertise which the professional does have.

Following this view of the court support worker as a welfare agent, Elizabeth Morley examined the implications of such workers becoming de facto legal advisers. Several speakers had already asserted firmly that their particular court support service does not become involved in giving legal advice. Ms Morley, however, felt that it is not at all clear in practice where 'a court support worker ceases to be a comforter and becomes a paralegal'. Although there are clear regulations governing who is entitled to do legal work, there is much advice which is essentially legal but is also fairly common community knowledge. Friends in court may be as likely as the instructing solicitor to recommend 'ask for an adjournment', and so on. By the same token, skilled court support workers can become excellent advocates for their clients. Ms Morley feels that there is a distinct role for paralegals in the courts, but that training in relevant skills is a vital route to maintaining the quality of advice which is given. Questions from the floor picked up the notions of 'quality' of advice and of the accountability of those who give it. There was some agreement that the role of lawyers is relatively narrow and that paralegals have considerable skills, knowledge and flexibility which should be applied to the benefit of court clients. This was offset by a concern that court workers, who are mostly volunteers, are not bound legally or via professional codes of ethics, and that there is a potential for misuse of knowledge or power over clients. The issue was not resolved, although it was clear from Ms Morley's paper that she has so far experienced no cases where wrong, or legally prejudiced, advice has been given by a court support worker. 'This has been due', she said, 'to the admirable discretion and knowledge of their own limits shown by the workers in question'.

The paper by Denbigh Richards, Director of Community Based Corrections in Victoria, looked at the statutory role of correctional services in providing advice to the court in relation to the sentencing of the offender. This advice is provided at the point 'when much of the trauma and turmoil of the court appearance is over and done with, but when for many, the major apprehension remains: the severity of sentence'. All correctional services give advice to the courts about sentencing matters (e.g. pre-sentence reports), but the introduction of community-based corrections has increased that involvement over recent years. In Victoria, the Court Advisory Service of the Office of Corrections provides advice via trained officers located at magistrates courts. This ensures not only appropriate advice, but because it is provided virtually on-the-spot, it reduces the anxiety for the offender as well as the waiting time for the report. Moreover:

> Where such advice also assists the court to arrive at sentences that are just, results in the minimum necessary intrusion into the life of the offender

- having regard to public safety, and is relevant to the offence-related needs of the offender, there are benefits for the court, the offender and the community.

Just as correctional viewpoints are accommodating more cost effective and less personally destructive dispositions via community corrections alternatives to imprisonment, courts are also starting to accommodate to the needs of the community. The paper by Michael Tippett, Clerk of Courts with the Victorian Attorney-General's Department, recorded one such example in Victoria, where the Courts Management Change Program was established to make courts 'adaptable, accessible, efficient and comprehensible'. Changes include a visiting clerks service in rural Victoria, a Legal Interpreter Service and improved legal aid facilities, and computerisation of the courts. Not only are the courts modernising their own operation, but the changes include a facilitative element through cooperation with related organisations such as the Legal Aid Commission, and voluntary agencies such as the Court Information and Welfare Network and the Salvation Army. In taking these steps, the Victorian courts are addressing some of the real problems that arise from fragmentation of services.

The paper by Jenny David, Lecturer in Law at the University of Sydney, looked at some North American court initiatives, in particular those relating to victim/witnesses. The thrust of witness coordination programs is to notify victims and witnesses as soon as possible of their requirement to attend court. As a result of these administrative arrangements, many witnesses who are no longer required to attend court are saved a great deal of time and stress, and those who do attend court may have their stressful experience minimised by being placed on a standby system where they do not arrive at court until they are actually needed. It should gladden the hearts of courts administrators to know that such an arrangement is exceptionally cheap to run, as well as beneficial in terms of the willingness of witnesses to cooperate. Ms David places the value of such programs within the context of providing appropriate dispute resolution services along the whole continuum of human needs. Not all disputes are appropriate for court intervention, yet most end up in court because of a lack of knowledge of alternatives. Her paper described another North American initiative, the Multi-Door Court House Project, which attempts to integrate all dispute resolution processes (from mediation through to conciliation, arbitration and adjudication) into the existing justice structure. It works through screening citizens' dispute resolution needs and referral to the most appropriate process.

Whilst new projects are undoubtedly needed, it is important to realise that many mechanisms are already in place, but are not necessarily used to advantage. Bill Wheeler, Clerk of the Local Court at Bankstown, Sydney, drew to the seminar's attention a number of changes over the last two decades which have:

> showed a willingness to shed conservative values and to question the role of government in society. In subsequent years traditional institutions came under close scrutiny, and there was more awareness for service providers to be more responsive to community needs. In many cases, bureaucratic structures were inappropriate and in need of change.

These changes included equal employment legislation, reforms relating to ethnic issues, efficiency and accessibility of courts and provision of legal aid, and the development of alternative dispute resolution mechanisms. The structural changes are in place but the reality, said Mr Wheeler, 'may be quite different'. He therefore strongly advocated improved interaction 'between court administrators at a local level with the community which they service'.

The seminar canvassed a wide range of perspectives, looking at court support issues from the viewpoints of paid professionals and volunteers, from support services, corrections, the legal profession, and court personnel. In the following paper by Prue Innes, Law Reporter for 'The Age', a media perspective was presented. Ms Innes' brief was to examine the issue of 'responsible court reporting' and the impact of media reports on those in court. As an experienced court reporter, Ms Innes strongly supported the principle of 'presenting a good story fairly and accurately'. Admitting quite frankly that much reporting has a salacious interest, she argued that reports of court proceedings are a necessary part of 'informing the public how their rights can be upheld and enforced, and what courts are doing that could affect their lives', and enabling the community to 'see that justice is done in public and not behind closed doors'. Ms Innes made it quite clear that there are certain provisions which protect against invasion of personal privacy (for example, names of rape victims cannot be published), and that reporters are also human beings and not insensitive to the feelings of those about whom they write - at least, she added, in Melbourne.

One important perspective remained to be aired - that of the judge or magistrate. The viewpoint from the 'other' side of the bench is vital because the judge or magistrate is in many ways a lynchpin to the success of court support services. Maurice Gerkens, Magistrate at the City Court in Melbourne, took on the critical task of assessing the material presented to the seminar. In so doing, he recognised the isolation of those on 'his' side of the bench from those whose lives are affected by court judgements:

> The general picture ... is one of a system which operates in something of a vacuum with the sentencer having little enough satisfactory information upon

> which to perform his or her task and generally no follow up information which would enable ongoing assessment of sentencing policy.

Moreover, Mr Gerkens expressed a distinct concern about the adversarial premises on which the present justice system is based, suggesting that there are good arguments for moving towards a more inquisitorial style of investigation. On the public relations front, Mr Gerkens argued for courteous treatment of all who come before the courts and for active support of 'those organisations which are in a position to bridge the chasm that does exist'. And, finally, on a very practical note, Mr Gerkens is himself involved in regular monthly meetings with such organisations in Victoria, to open up problems for public scrutiny, and to promote both the provision of much needed court support and liaison with court personnel.

One of the workshop topics took up the theme of how the courts can facilitate the work of support services, and how court personnel can use their position and their knowledge to directly assist people through their court experience. Participants in the workshop strongly supported liaison of the kind described by Maurice Gerkens, and made the following suggestions and comments:

- the attitudes of clerks of court to welfare personnel are entrenched and frequently negative;
- liaison of court staff with welfare agencies is necessary to facilitate feedback of client contact;
- training, especially in the form of an information exchange, should be provided to interdisciplinary groups providing services within the precincts of court buildings;
- job descriptions should be available for court clerical staff and welfare service providers, to clarify the roles of all workers within the court setting;
- service providers should wear a badge to be easily identifiable to potential service seekers;
- clerks of courts and chamber magistrates, in particular, need to be aware of community resources;
- the need for support <u>within</u> as well as outside the courtroom should be recognised;
- posters and brochures need to be clearly visible (in racks?) inside court foyers, to outline services such as drug rehabilitation centres, Salvation Army, Court Network

and also to inform people of their legal rights with respect to pleading etc.;

- orientation information should be solicited with subpoenas - a list of needs to be ticked off if required, such as wheelchair access, child minding;

- people involved in court actions should be kept informed of proceedings in their particular case;

- facilities in courts should include better acoustics, accommodation (separate rooms and toilets for the accused and family, and victims, witnesses and families), child minding and availability of refreshments;

- jury persons require better accommodation, note pads, gloves to handle soiled clothing etc., more frequent breaks during the trial process, and debriefing after gruesome or emotionally disturbing trials. This last point is a sensitive issue but must not be avoided; the corollary of community involvement in juries is long-term responsibility for the effects of the experience on those concerned.

A second workshop group looked at issues relating to communication between services. Although communication and cooperation is improving, it is still the case that services are fragmented; self-help groups versus the more broadly-based support and information agencies, volunteers versus the paid professionals, voluntary services versus mandatory services. In many ways the supporters are unsupported; they work in a stressful environment, funds are generally scarce, and volunteer groups in particular function with dubious legitimacy in the eyes of court personnel who do not recognise the need for such services.

The group discussed the fact that there is a duplication of services, jealousy between services, and both miscommunication and non-communication between services. This appears to be in large part because of the lack of knowledge of what other services do (for example, fear from lawyers that support workers might make their job more difficult by disseminating 'legal' advice) and also because of the entrenched attitudes of those involved.

Time and familiarity, however, break down many barriers. The paper by Bill Wheeler mentioned two critical steps which would ease the communication process. Firstly, there should be clear guidelines about the role of volunteers, which should be agreed to by the court administrator and support groups in each case. Secondly, it is necessary to integrate volunteers into the daily round of court life, for example by making staff room facilities available on an egalitarian basis. There should also

be a reciprocal flow of information; support workers are as much in need of information about the working of the court as court staff are about support workers.

Much of the discussion, both in this workshop and in plenary sessions, addressed the legitimacy of a volunteer role in courts. Both volunteer workers and others at the seminar clearly felt that there is an important role for volunteers in the courts, and that their services are able to fill in the gaps created unwittingly as a by-product of our legal and courts structure. Quite heated debate arose over whether volunteers or paid professionals should be expected to do court support work. One argument stated that voluntary work is seen as a charity and is therefore degrading. A contrary argument stated that the great value of volunteer work is its autonomy, which permits non-aligned assistance to people in need, and independent feedback to court personnel. There were concerns on both sides, however, about the need for responsible action. For example, support services should not pull clients in different directions; it is essential that support services staff are accepted on an equal footing with court personnel; volunteers should not be used to fire bullets on behalf of professionals; differences between services should be recognised and valued, and differences worked out; and services should not be pressed on those who may prefer not to use them. One comment emerging from the workshops indicated the danger of a deep division between volunteers and professionals. Unfortunately, the large amount of unsolicited discussion throughout the seminar on the topic of 'volunteers versus professionals' indicated that this division does exist, and much hard work on both sides will be necessary to reduce this particular gap.

The third workshop group discussed various training issues, and the services represented each summarised their existing training schemes. It was stressed that before any training can begin, it is vital for a service to establish the premises on which it is to be based - what the service is aiming to do, why it is doing it, and how it proposes to do it. It is not acceptable, as has happened in at least one organisation represented at the workshop, to be operational for several years before articulating basic aims and philosophy; this produces a range of internal problems, including low morale, and diminishes the value to the client while internal wrangles proceed. The perceived role of the support worker is particularly important to training needs. For example, is this to be a comforter or friend, or court officer (helping to fill in forms, etc.), or a legal aid officer, or a referral resource, an advocate, counsellor, or what? The selection and monitoring of new staff is also important - getting the 'right' sort of people, being alert to those who are not coping, and so on. Finally, training schemes should meet the needs of both workers and clients. As mentioned previously, for

example, this is a field where it is most important to 'support the supporters'. The main concern of volunteers is 'how will I react to ....?'. Awareness programs assist volunteers to examine and deal with their own values and reactions, and help them to be with the person in court.

In summary, this seminar was about those who assist people who go to court - with information, comfort, counselling and referrals. It was also about the provision of relevant advice - recognising those suffering trauma and needing assistance, informing the courts about alternative sentencing options, cooperating with other services, and so on. This was the first time that such a wide range of groups had been brought together to discuss these issues and it generated much energy and enthusiasm. It would be satisfying to think that this level of enthusiasm will be retained once delegates are back in their own environment. Probably it won't, since that is the way of such conferences. Nonetheless, it has made a contribution towards communication, cooperation and debate between services, and between services and the courts, and hopefully we will see this trend continue. Before the seminar closed, a motion was passed from the floor that the Institute should mount a follow up seminar in the next year or two. This has been noted and accordingly, will be put to the Institute's Board of Management when seminar topics are being planned for future dates.

The seminar was thoroughly enjoyable and worthwhile, and the credit goes to all who participated in the seminar: to Carmel Benjamin who alerted the Institute to the need for such a seminar; to Carmel Benjamin and Denbigh Richards in particular for their help with ideas and contacts; to those who presented papers, chaired sessions and participated from the floor; to Glenys Rousell at the Institute without whose organisational skills we would have had no registrations, accommodation, transport, refreshments or paperwork; and to all others at the Institute who were involved. Thank you.

WELCOMING REMARKS

Mr David Biles
Acting Director
Australian Institute of Criminology

The Honourable Mr Jim Kennan, Attorney-General for Victoria, His Honour Judge Newman, distinguished guests, ladies and gentlemen: it is my pleasant duty to welcome you all to this seminar on Court Support and Advisory Services. It is a great pleasure for me to note that this seminar has attracted such a large audience representing a wide diversity of interest.

My spies tell me that at this seminar to-day we have representatives of court support services, sexual assault services, youth advocacy services, the Salvation Army, community legal services, Aboriginal and Island legal aid services, victims organisations, magistrates, a judge (in the form of our old friend Kingsley Newman from South Australia), registrars and clerks of courts, court administrators, attorney-generals departments, youth and community welfare departments, adult corrections departments, probation and parole services, police forces and lawyers in private practice. It is clear from that list that many different people and many different organisations have an obvious interest in the topic of court support and advisory services.

One of the aims of this seminar is to draw attention to the human needs of people who go to court, especially victims and witnesses, who in many cases are unfamiliar with court procedures and the language that is used in that strange setting. The steps that have been taken, and the steps that need to be taken, to reduce the stress experienced by people in this situation will be closely considered.

Another aim of this seminar is to focus on the needs of the courts themselves for expert advice on the difficult task of sentencing. This is an especially sensitive matter when it comes to the imposition of community-based orders such as probation, community service orders and attendance centre orders. This advice should also include consideration of the availability and suitability of alcohol and drug treatment services, social skills training and the like.

Thus, as I see it, this seminar aims to assist the two major movements to humanise and to professionalise our courts at the same time. I do not see these two movements necessarily being in conflict with each other.

From this Institute's point of view, this seminar is a further demonstration of our commitment to provide a forum for the discussion of the central concerns of those who work in our courts. It follows other seminars that we have held recently dealing with prosecutorial discretion, pre-trial diversion of adult offenders, and alternative dispute resolution.

The Institute is greatly honoured to have as the opening speaker to-day the Attorney-General of Victoria, the Honourable Jim Kennan, who is also the Minister responsible for Correctional Services in that State. It so happens, without making invidious comparisons, that Victoria has been one of the leaders in Australia in providing court support services and is also in the process of upgrading the provision of professional advisory services. Mr Kennan has been a strong supporter of both of these developments. None can therefore be better placed to open this seminar. I have no doubt that Mr Kennan will have much of interest to say.

Ladies and gentlemen, would you please welcome Mr Kennan to the microphone to officially open this seminar.

OPENING ADDRESS

The Hon J H Kennan
Attorney-General
Victoria

I am pleased to have the opportunity to open this important seminar. So far as I am aware, this is the first time that the subject of court support and advisory services has been examined with such depth at a discussion of this kind. We need to look at how we administer the court system, support and information services. Problems for people are the formality and adversarial approach, exacerbated by grief, trauma and tension.

The court system which existed in Victoria at the time the Cain Government took office almost five years ago was antiquated and in need of substantial renovation. Judges in the higher courts had little at their disposal by way of modern technical aids. Modern technological developments such as word processing technology, computer assistance in the management and listing and conduct of cases were unknown. The main area of the court system, in terms of volume of matters handled and contact with the ordinary community - the Magistrates Court system - was starved of resources. Magistrates courts often operated from cramped facilities located in busy shopping centres, often alongside busy highways and next to the local police station. The people most immediately affected by these poor conditions were court personnel - magistrates and clerks of courts. Defendants, witnesses and other participants in the cases before the courts were just as seriously affected. Apart from the Advisory Service attached to the Childrens Court, there has been in Victoria no systematic court support or advisory services.

People affected by the legal process in Victoria had at that time three sources of information:

- informal advice from Clerks of Court (an estimate in 1982/83 put their work in this area at 115,000 hours per annum);

- professional advice from solicitors or barristers;

- educational material distributed by bodies such as the Legal Aid Commission and the Legal Services.

Clearly there were considerable gaps in the area of court support. During the last five years the Government has undertaken a range of initiatives, some taking the form of legislation, others involving administrative change, to improve and modernise the court system in Victoria. After assuming office as Attorney-General in September 1983 I established a new senior position in my Department with responsibility for Courts policy and administration. Mr John King, who was appointed to head the Courts Administration Division of my Department (and is now the head of my Department) established, in close co-operation with the magistracy, the Courts Management Change Program. One of its major emphases was to recognise that the court and its associated services had important community and welfare dimensions. One of the projects undertaken by the Courts Management Change Program resulted in the publication of a discussion paper in 1985 'Community Services in Courts in Victoria'.

That study emphasised the need for closer integration of a justice system with other services being provided through other agencies or government departments operating at the community level. The study also emphasised that appearance in court should be seen as the point of last resort in most instances.

Among steps which the Government has taken or enhanced aimed at ensuring equal access to the courts, are the following:

- The Legal Interpreter Service was set up in early 1985 to establish a comprehensive register of all legal interpreters and to provide an on-call referral system for government agencies. It is proposed to establish an accreditation and training scheme so that all interpreters used in the criminal justice system will be accredited and people with language difficulties will have qualified interpreters available to assist.

- The Legal Aid Commission has been encouraged to establish as comprehensively as possible a scheme to enable the attendance at court of salaried duty lawyers. The Commission will, once the courts regionalisation program has been completed, have duty lawyers at all regional courts. There is also a duty lawyer scheme operating in the Childrens Court.

- Substantial funding support is given to the operation of community legal services throughout Melburne. There are also community legal services dealing with special needs such as the Aboriginal Legal Service and the Womens Legal Resource Group.

The Court Information and Welfare Network has been an important development in the voluntary sector in recent years. This service operates in a number of courts including most of the major Magistrates Courts in Melbourne as well as the Supreme Court, County Court and Family Court. It has also been set up at the Coroners Court and several other Magistrates Courts.

I have noted with interest the emphasis on support services at the Coroners Court in today's program. 'Network' as it is commonly known has over the last two years provided support to the Victorian Coroners Court by way of two full time staff and several part time staff. I have been informed by the Clerk of Courts at our Coroners Court that Network has provided important assistance to people in grief who find themselves involved in that Court's processes. The court staff and the Network volunteers have worked well together. Where difficulties as to roles have arisen they have been resolved through co-operation and discussion. The Coroners Court itself takes care to select as its staff, clerks and attendants who are sensitive to the needs of people suffering distress at the loss of a loved one. On-the-job training is given to encourage the development of empathy in dealing with this difficult emotional setting.

At present I, as Attorney-General in conjunction with the Minister for Community Services, have commenced an evaluation study of Network's operation. One of the aims of the study is to ascertain the extent of Government funding which Network should receive. I hope that the results of this study will lead to Network having a more certain and secure basis for its future operation.

The Court Information and Welfare Network is made up of specially trained volunteers able to operate in the court setting. There are also a number of traditional welfare organisations such as the Salvation Army who have over the years provided important support and advisory services to people involved with the courts system.

A number of my programs have had as their focus the desirability of ensuring that the court is seen as a point of last resort. I refer in particular to Neighbourhood Mediation Centres which are to be established on a pilot basis as from 1 July. The Neighbourhood Mediation Centres will be located at Preston and Ringwood - two suburban areas of Melbourne and Geelong and Bendigo, two major provincial cities. The mediation service will be available on a voluntary basis to parties to civil disputes. The aim of the mediation will be to encourage the parties to reach a conclusion between themselves in regard to the problem that has led to their dispute. The function of mediator will be performed by a person who has received special training through our TAFE colleges. There are no special qualifications required

in order to obtain training as a mediator. This is an important development and follows upon similar initiatives in New South Wales.

The Hill Committee Report on the Future Role of Magistrates Courts in Victoria which I received in April 1986 and which is currently being implemented also draws attention to the desirability of reducing the emphasis on adversary legal processes as a way of solving minor disputes - minor in the sense that they do not involve larger amounts of money or property or, on the other hand, significant questions of the status of individuals. As participants in this conference will be aware, it is often these relatively minor disputes that carry with them great emotion and provide the seeds of much discontent between people. As a result of the Hill Committee, a new approach to the handling of civil business in the courts is being developed. It will encourage the parties at an early stage to seek conciliation of their differences by a clerk of courts or magistrate or by way of a formal arbitration carried out by a magistrate. Each of these devices is seen as a way of limiting the need for a dispute to be resolved by way of full scale adversary conflict.

The developments to which I have just referred will of course mean that new and important responsibilities will have to be exercised by clerks of courts. To that end the Courts Management Division of my Department is developing regular education and training courses to inform clerks of their new responsibilities. The magistracy is developing a similar program for its members, in conjunction with the Australian Institute of Judicial Administration.

The issue of victim support in Victoria is the subject of a wide-ranging reference to the Parliament's Legal and Constitutional Committee. The Committee intends to report later this year. More can be done in this area.

Offender support services is also a theme of today's discussion. In Victoria, the newly introduced community based order allows for a range of possible dispositions such as probation, attendance centre, a combination of these, or other conditions tailored to meet the individual case. Courts are guided in making these orders by the advice of the Court Advisory Services in the Office of Corrections, which is part of my portfolio. In the last two years the status of this Service has been upgraded and a concerted attempt made to develop greater professionalism in the quality of the service and of the advice delivered.

Last year Victoria introduced a package of major legislation dealing with mentally ill and intellectually disabled people. A major initiative of this package was the appointment of a Public Advocate under the Guardianship and Administration Board

Act 1986. The Public Advocate will be a kind of Ombudsman for the disabled, with functions including encouragement of advocacy programs, community education, and representation of and provision of advice to disabled people. The Public Advocate will play a major role in safeguarding the rights of disabled people, including their rights in the criminal justice system, whether as defendant or victim or in another capacity.

The second area of special concern involves domestic violence. Following extensive public consultation the Victorian Government has developed a range of measures to deal with family violence.

One of these is the establishment of a special advocacy service for victims involving the combination of existing welfare services with a community legal centre to provide expert multi-disciplinary counselling, advice and representation to domestic violence victims.

In my speech I have touched on some of the themes of this conference. It is vital to the achievement of a sense of fairness and of justice in the community that the court system, and its associated services, be seen to be accessible and supportive. In the past, too little attention has been given to the needs of those members of the community who find themselves caught up in the court system. Their needs vary considerably, depending on whether they are witnesses, parties to proceedings or friends or relatives. This seminar will, I trust, contribute to an increased understanding of their needs and of ways in which they can be met.

FILLING THE GAP - THE NEED FOR SUPPORT SERVICES IN COURT SYSTEMS

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In 1748 Montesquieu wrote that 'the most important thing in this world about which men ought to know is the administration of criminal justice'. Perhaps this remark was somewhat biased. Montesquieu had inherited a High Court office from his uncle; after ten years he sold it for 600,000 livres and lived on the proceeds for the rest of his life (Lenman and Parker, 1980). Nevertheless for anybody appearing before the court, lawyers and laymen alike, Montesquieu's comment is apposite. He might well have added 'and a good knowledge of courtroom procedure'.

Lenman and Parker suggest that, historically, the common aims and objectives of almost all known systems of criminal law were to deter offenders, to protect society against hardened offenders and to exact retribution for particularly unacceptable crime. However one might view this comment, the transactions between the court and the accused were essentially in order to determine guilt or innocence.

But the nature of the transactions has changed (Gatrell, Lenman and Parker, 1980, pp. 1-10). The attitude to the social and psychological understanding of the accused (McNaughton Rules), the formal concern for the dependants of the convicted (social welfare), and informal and occasional assistance to some accused (Salvation Army) gradually developed within the system.

Despite these changes the criminal justice system remains isolated from the community it serves, continuing to disregard the personal needs of individuals who are in contact with the court. It is the unacknowledged, unmet needs of the accused, the victims, witnesses, and their families, that form the gap in the criminal justice system. And while it is not appropriate for the court as the location of the objective decision making process to involve itself in these matters, it is now timely for law administrators to address these important human concerns.

> The drama in the court is in many ways similar to that of the theatre. The main players, the judge or magistrate, the prosecutor, counsel, solicitor

> and court officials are all familiar with their parts, they are familiar with the expectations of their colleagues. These important and learned actors have built up a profound knowledge of the law and its procedure and processes over many years. Their ability to cope within the particular environment of the court is unquestioned.
>
> By contrast, all too frequently the central figures of a criminal court action: the victim of the crime, the person accused of the crime, the witness to the crime, have no such knowledge of the roles in which they are cast. In consequence their ability to cope becomes minimal and they must learn their parts as the case progresses. They are often confused and bewildered by the very procedures, processes and expectations, that years of legal tradition have developed [ostensibly] to provide all citizens with equality before the law.
>
> If the highly prized principle of this equality is to be a reality, it is vital that the present imbalance in some areas of the court system are addressed. (Benjamin, 1982, p.37)

Many lawyers suggest that the accused is well protected if s/he has legal representation. This is, of course, important but there are other matters at stake. First is the assumption that the only problem confronting the accused is that which is directly involved in the court appearance. The individual's life experiences, family and peer commitments, or lack of them, may relate to an additional complex range of issues of which the lawyer has little knowledge or expertise. Second is the matter of communication between the accused and lawyer, and the frequent gulf of class and education that separates them, placing the individual at a disadvantage in not wishing to further 'lose face' by asking for clarification or explanation of the law and its processes. Third is the 'taken-for-granted' world in which the lawyer operates, the familiarity with the courtroom, languge and processes, that blurs the need to demystify and fully explain this to the individual and family.

The vast majority of court buildings are old and antiquated, addressing no contemporary attempt at human comfort. They were built to examine issues of law without concern for the accused or victim, both of whom require privacy and protection. For adults, these buildings are strange and disquieting; for a child victim of an adult offender, they are terrifying. These children are placed at considerable emotional risk when, after becoming a victim of crime, they are expected to overcome their fear of the accused and, amongst strangers in a threatening environment, tell of their experience.

The issues of previous life experience, problems of communication and the need for demystification of the legal process confront not only the accused but are of critical importance to victims and witnesses, who, in the presence of the accused are forced to re-tell, and through this re-live, the events of the crime in minute detail. During cross-examination in the necessary search for truth, victims feel as if they are on trial, feel disbelieved, discounted and manipulated. It must be fully recognised that these people have no one to represent or protect them under our system of criminal law. That these innocent people, who may have been victims of terrible crimes or witnesses to it, have no one to advise or assist them through the trial process is a grave problem that must be addressed. If victims do not understand the legal or procedural requirements of the court, the very powerlessness they felt as victims is reinforced (Benjamin, 1984).

Although these observations are directed primarily towards the criminal justice system, they are equally true of all court systems. The personal anguish and frustrations of people involved in Family Court proceedings are well documented, their feelings of extreme powerlessness having from time to time erupted into acts of passion so violent that judges of that Court require protection. In some cases family breakdown acts as a catalyst to behaviours that are foreign to the person. Anxiety and tension show as obsession, decreasing the ability to concentrate on anything other than the death of the marriage. People turn to alcohol and drugs, the latter frequently on prescription as if deadening the pain removes it; yet tranquillisers prolong the distress which ultimately needs to be addressed before coping with 'life after divorce'. The litigant may become depressed and withdraw from social encounters. The extended families of both parties are gravely affected. Divorce not only separates parents from children, but also grandparents from grandchildren and cousin from cousin.

There are overwhelming personal difficulties confronting people attending the Coroner's Court, when, having suffered the sudden, unexpected, and sometimes violent death of a loved one, their private horror becomes subject of unfamiliar, formal, public proceedings. The court hearing takes place months after the death and perforce delays, or destroys, the ability to emotionally 'bury' the deceased, even though the time of physical burial is past.

All the unresolved grief is reactivated when, months and sometimes years later, a coronial inquest is the subject of a County or Supreme Court trial. Many bereaved families attend court, following the trial through to verdict and sentencing. They are confronted with photographs in vivid, cruel colour of the distorted body; blood stained clothing and possessions; and

may hear of, without opportunity of rebuttle, a fabricated or factual lifestyle alleging drug abuse or the deviant sexual proclivities of their loved one. They then have to live with these memories which cast dark shadows over their unresolved grief.

Members of the jury are also witness to these events. The importance of this civic responsibility and its implicit requirement for secrecy imposes great stress on many jury persons. The events described in the courtroom can conjure up past experiences and losses of their own; they also later have to live with the shocking memories of photographs and other aspects of evidence. 'You would be less than human if you are not horrified at what you'll subsequently hear in this case', Crown Prosecutor Alan Saunders Q.C., told the Sydney jury (16 April, 1987) of the brutal murder of Anita Cobby (opening address in the trial of Murdoch and the Murphy brothers). Some members of juries are uncomfortable about the manner by which decisions are reached; many leave the court anxious and resentful. There is no one in the system to assist jury persons with their personal concerns.

These descriptions of courtroom impact are extreme. The situation in lower courts is usually less overwhelming but may also have grave implications. The barometer of personal stress is not dependent on the event itself but is measured by the meaning of the event to the person concerned: an elderly shoplifter may suffer more destructive psychological damage than another person accused of stealing a car; the mother of a drug user may suffer more than the child who is before the court.

In many cases these people are at considerable personal 'risk' but the court has no formal means of acknowledging or addressing their 'safety'. The court takes no responsibility for the impact on these people. It concerns itself solely with the issues of law. Once the court contact is over the participants are left to fend for themselves; sometimes angry, confused, ignorant of the implications of the decision, frightened by the implications, these people move out of the building to negotiate heavy traffic and cope with life in the future.

In recent times there has been a development towards some services. These services can be divided broadly into two categories: those offering advice to the court, and those focusing on the needs of the person before the court. The former have statutory authority and are called on by the court as it sees fit. The latter, people-centred, services are primarily community based, with allegiance to one or other of the parties before the court - to the accused/defendant and family, or to the victim and family.

Operating in the community, these services are very important and offer valuable assistance. They perform a crucial function in providing support, companionship, and sometimes counselling. In the case of self help groups this support is further enhanced by the shared experience offered to individuals whose personal trauma is identified as part of the group's unique dynamics.

Sometimes personnel from such agencies are ignorant of the criminal justice process, and lack the information and expertise to assist the person in court to manage immediate tasks. Information is thus distorted and behaviour inappropriate. Either will exacerbate the confusion and fear already being felt, further debilitating the person's ability to cope. Additionally, in the case of self help groups, the 'support people' are frequently trapped in memories of their own experience. They may be partisan in approach to the events under examination, or political in their ultimate goals. Their conduct will then be counter-productive to both the individual and the court.

At the other end of the spectrum it is widely recognised that for most individuals the time of their court contact is one of self-isolation or alienation. Many attend court by themselves, be they victim or accused; many have not told anyone of the events that led to the hearing/trial; and many have no knowledge of, or contact with, agencies that could assist them.

Self-isolation is equally true of Australian born and migrant Australians. Some Australian born people have problems with the sophisticated legal terminology; some migrants have additional language problems, which have resulted in a variety of interpreter services, although few of these services have the inbuilt checks and balances to assure their expertise. In the courtroom language is of course the crucial tool of communication, but there are also problems of conceptual understanding, plus cultural differences in legal traditions. Few, if any, lawyers explain the differences between the adversarial and inquisitorial legal systems. The principle of trial by jury composed of one's peers is not only unfamiliar to some migrant people, it is an outright insult to others. Many migrants who have become victims of crime are totally confused and frightened because they have no lawyer to assist and advise them, as would have been the case in their country of origin. They feel angry, frustrated and bewildered by the legal system, and alienated from the country in which they had sought sanctuary.

So in addressing 'the gap' there are recurring themes: those of personal anxiety, powerlessness, and the frustration confronting individuals who, either through acts of their own, or through acts of others, are caught up in a highly sophisticated system

of law. To such people it is not a system of justice. 'Justice' is the subjective interpretation of a process and is not possible for all participants in a triadic court system (Shapiro, 1981) in which the dispute is settled by a third party.

In humane terms the amelioration of personal anguish is of great importance. But, if 'filling the gap' implies no more than this then it denies a unique opportunity for creative intervention. It is therefore essential that a specialised, enabling service, providing a personal system of non-partisan, objective, concerned support, is available for all persons attending court. The service must be located within the precincts of court buildings to offer emotional support, information regarding court processes and information about community neighbourhood services to assist the person in the future. The service providers need understanding of crisis-intervention theory and skills in service delivery. It is through such a service that the gap can be filled.

The Victorian Court Information and Welfare Network (Court Network), a voluntary agency established on the principles of offering a crisis-intervention service of objective, non-partisan, concerned support to all people in contact with the courts, was established in Victoria in 1980. In that year it operated in one magistrates' court of inner-urban Melbourne and now, seven years later, functions in twenty-three courts including those in Bendigo and Geelong, and by June 1987 an additional five courts in the Sunraysia region will further extend the services of the organisation. The Court Network has spread both geographically and throughout jurisdictions. It is presently available in lower courts, coroner's courts, county and supreme courts and family courts.

The organisation represents one of several options for service provision. Court Network's particular strengths lie in its non-partisan, outreach model, combined with emphasis on specially selected and trained volunteers drawn from all sections of the community. It is equally relevant to the accused and the victim, and it is offered efficiently and effectively in the precincts of court buildings to any person attending. The organisation represents an important link between the court and the community. It is a mechanism through which individuals may gain access to neighbourhood welfare agencies, increasing the visibility of these at the time of client need.

The Court Network crisis-intervention service offers emotional support and information, viewing the individual as a total person, not as a reflection of particular behavioural labels such as drug addict, thief, rape victim. Although principally

concerned with immediate difficulties, Court Networkers are aware that the person's presenting legal problems may be the product of social dysfunction over a considerable period of time (Benjamin, 1983, p.30).

Policy and planning is developed through the Director and the Committee of Management which is elected from the volunteer workers, and advised by representatives from relevant government departments. The four social work and welfare professional staff (two full time, two part time) co-ordinate, supervise and train the volunteers. They are responsible for services in particular jurisdictions and provide the important personal counselling facility. The professional staff see their role in the 'pastoral care' and debriefing of the volunteers as critical to the service.

Court Networkers undergo an intensive 16 week, three phase training program (lectures and workshops; court observation and personal diary recording; 'shadowing' as an apprenticeship to experienced workers prior to independent service delivery). All graduate workers attend monthly continuing education programs to update and improve knowledge and skills. All Court Networkers operate in accordance with the organisation's code of conduct, and are bound by specific operational rules. They offer no legal advice, all such enquiries being referred to appropriate legal services.

An important aspect of the Court Network's role is its independence from government instrumentalities. The volunteer and professional staff are not part of the institutionalised criminal justice system, and in addition to their court service represent an informal community education facility. While on duty in the courts, the workers offer information on procedural matters; when in the community (always adhering to total client confidentiality), they are able to make informed, accurate comment on court processes and procedures. Court Networkers are able to make valuable contributions to court liaison committees, community corrections committees, policy committees, the Bar Council Readers' Course and a wide variety of other organisations, and are called on to address schools, service clubs and public gatherings. The Director takes part in regular meetings with the Director of Court Operations to ensure a regular two-way flow of information.

During the seven years of operation 34 students of social work and welfare studies have completed fieldwork placements with the organisation. This is an important input into community education providing students with the unique experience of working within the legal setting. It has increased their knowledge and understanding of a system that has traditionally held tension between lawyers and social workers (Bates 1982, p.330).

While outreach offering of assistance at the court building is the prime focus of service delivery, direct referral to the Network is ever increasing. Some individuals self-refer, and others are referred by the bench, legal practitioners, police, community health centre and welfare agencies. Additionally, many referrals come from within the Network which acts as a personal link between regions and jurisdictions e.g. from a Bendigo Court Networker to one in the Supreme Court, or from Magistrates' Court to Family Court.

Court Network assistance can be of particular value in the sensitive period between committal proceedings and a later county or supreme court trial. In these matters the accused and/or family may require support specific to the trial, referral to community agencies and information on social security entitlements. Victims and witnesses frequently experience fear and apprehension; it is a particularly critical period for these people if the accused is on bail.

If at the committal proceedings the matter is listed for county court trial after examination of a hand-up-brief, the victim may not be called to give evidence. While this is seen as protecting the victim (particularly the child victim), it also contributes to the individual's trauma and inexperience for the confronting tasks ahead. The unknown environment of a courtroom and the fear of the process by which evidence is heard, exacerbates the dread of attending the trial and being in the presence of the accused person.

It is Court Network practice to bridge the 'gap' whenever possible by taking the individual to the court in which the trial will later take place; to ensure the location is known and easy transport accessible; and to describe the geography of the building noting the whereabouts of toilets, coffee shops and the like. The person is taken into an empty courtroom and the layout is explained as are the roles of court officials and the function of a jury. The person is then offered personal support on the days of the trial. Assisting individuals in this way cannot remove their fears, but does give them some future understanding and control in the forbidding atmosphere of the courtroom.

The crisis-intervention model is used because of the immediacy of assistance it offers. It is an efficient and effective method of diffusing anxiety, mobilising the individual's own resources, and facilitating self-determination in options for future action. To achieve this the Court Networker is sensitive to verbal and non-verbal communication, using the information constructively and with awareness of the organisation's responsibility to the court and to the community.

These responsibilities are also carried by the Salvation Army and probation services that predated Court Network, and by the Court Advisory Service that postdates its establishment. The clerk of court, tipstaff, jurykeeper and others have traditionally worked within the court system but presently many of these services operate independently, many without knowledge of the other's special function. It is important that information and co-operation develop and flow between all services. This will maximise potential service provision at the court and prevent any overlap in activity which is non-productive and wasteful of both community and human resources.

When the accused is legally represented and personally assisted during the trial so that all indicators of social problems are recognised and dealt with, and the family provided with appropriate support, then positive future outcomes are more likely. The profound needs of victims and witnesses must be met with expert assistance at the time of the trial. For the victims of crime these are the extremely confronting days in the long process of readjustment and require informed, trained, concerned personnel to provide appropriate support. Welfare agencies developing support to victims in the community are important referral points for the future coping of many of these people. Within the framework of responsibility and secrecy implicit in the tasks of a jury person, their personal vulnerability at the time of the trial and its potential effect on the individual's long term emotional well being must be addressed. There is an obligation on law administrators to ensure that future court buildings are designed with recognition of the needs of members of the public who are attending court. Issues of comfort, privacy and protection, childcare, refreshments and car parking facilities, are all important to individuals confronted by the personally threatening tasks demanded by the criminal justice system.

The criminal justice system need not be isolated from the community it serves; the objective decision making process will not be compromised; services providing advice to the court, and those focusing on the needs of the person can all work towards making positive use of the potentially negative impact of courtroom proceedings.

The 'gap' will be filled, and the criminal justice system balanced, when the community's regulation and protection is addressed together with acknowledgement of the intrinsic human rights of all people in contact with the court.

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TRAUMA AND STRESS IN THE CONTEXT OF THE COURT

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Trauma affects many people in many different ways and with varying degrees of variety and intensity.

For those people fortunate enough to be genetically and biologically sound, blessed with relatively normal parents which enable them to successfully leap the Freudian fixation hurdles, and who are not exposed to extreme early trauma, an integrated and physically sound personality can handle later trauma and stress with an accepted and acceptable degree of discomfort. That is, we can suffer the physiological and emotional symptoms of stress such as situational depression, insomnia, headaches, muscle pains, or a simple inability to relax; or we can use substances to see us through - alcohol, tobacco, food, prescribed medication; or we can indulge in quasi-destructive emotional outlets and relationships; but on the whole we can manage to function within the confines and expectations of self and society.

I want to talk about those people who have not been able to negotiate past traumas, or effectively deal with present stress, who cannot conform, who cannot confine their behavioural responses to socially acceptable norms, and who place themselves again and again and again, in one of the two societal docks labelled 'mad' or 'bad'. In particular I will look at those who act out their trauma and stress externally and place themselves in the courtroom rather than the locked ward. These accused are those deemed to be exhibiting compulsive, addictive, obsessive behavioural disorders - the drug addict, the alcoholic, the exhibitionist, the child molester, the rapist, the gambler, and a category of shop-lifter. They have learned to respond to life with symptomatic, repetitive and ritualistic behaviour patterns, performed to relieve stress and tension, but which only succeed in reinforcing and perpetuating the behaviour.

There would be general agreement that these offenders confound the system. Many will have criminal histories encompassing twenty years, with court appearances anywhere between ten and a hundred. Often, it only becomes clear that the court is dealing with compulsive behaviour when the offender appears for a second and third time, charged with the same offence. These later appearances, more often than not, will constitute a breach of a

good behaviour bond, this being the disposition sought for a first offender. Many histories will therefore begin with a good behaviour bond, but certainly do not cease with a custodial sentence. Nothing appears to have a deterrent effect, nor indeed will it.

I perceive that the crux of the problem lies in the initial disposition of compulsive offences. The legal profession will usually plead for a good behaviour bond for a first offender but paradoxically, because of the psycho-pathology inherent in this behaviour, an unsupervised bond can be an invitation to re-offend, as can be the granting of bail to the rapist who falls into this category.

With the third and fourth appearances, perceptions shift from the 'bad' model to the 'mad' model and psychiatric assessment may be ordered. The psychiatrist or psychologist will address the problem medically or behaviourally, and may recommend 'treatment' whilst advising that punishment is not the answer. A bemused judiciary, torn between community interests and the best interests of the accused, will experience difficulty in disposing once again of this matter, but often medical opinions are sought to assist the court with a decision and the offenders may still be left to their own devices once the court has ruled.

Yet another appearance may leave the court with no option but to impose a custodial sentence. Unfortunately, the effect of depriving any person of the means of gratifying a compulsive drive serves only to strengthen the drive and entrench the behaviour, and sets the offender free to indulge the impulse within an hour out of the gates. Custodial dispositions are only a comma in the sentence.

And so, the whole scenario begins again. The court itself begins to feel disordered and uneasy. This offender is not playing the game according to the rules and the interacting players become unsure and uncomfortable in their prescribed roles. The most asked question becomes, 'Why do you continue to do this?' and the most common reply is, 'I don't know' - and that is a legitimate answer.

It makes it more intelligible to realise that obsessive compulsive behaviour is an exaggeration of normal human trends. For successful human functioning, order WAS and IS paramount, and we can observe today how repetition, superstition and ritual enter into our personal, social and business lives:

> if we examine compulsive ritual dispassionately, we find that it springs from the same roots as do the rituals of the practical skills of science, politics, social customs, art and religion. Unless

> we recognise that the relationship between normal and abnormal in this area are more than superficial resemblances, that both go deep into human nature, we cannot begin to understand compulsive behaviour. We will not recognise neurotic devotion to exact repetition, rigid uniformity, strict taboo, and severe self-punishment as pathological variants of universal human trends. (Cameron, 1968, p.173)

A further factor which greatly influences the perpetuation of compulsive acts, lawful or otherwise, is the significance attached to the presence or absence of luck, fate, chance and destiny. Very openly observed in gamblers, this facet also operates in other compulsive behaviours but on a less easily recognised level. The 'I don't know' of unrecognised and largely unconscious drives, manifests in an act which is an attempt to regain lost feelings of omnipotence, by fighting and/or courting luck or fate. The past victim now becomes the present villain. Thus this offender will view 'captures' and 'escapes' fatalistically, as throws of the dice. This thinking whilst relatively innocuous in the less serious offender, can have dire consequences when the fate of a victim is sealed by this mental tossing of the dice by a rapist or child molester (Hobbs, 1982). Unless these dynamics are recognised and understood by involved personnel, these offenders will not only continue to offend but may unwittingly be given permission to do so.

Given, then, the particular psycho-pathology of the obsessive compulsive personality, with the emphasis on order, ritual, guilt, punishment, authority and control, it is not really surprising that the lead performers of these life dramas seek out their catharsis in the punitive atmosphere of a ritualistic and highly formalised inquisition, the court room, with its supporting cast of villains, victims and rescuers.

The traumas and stress of court proceedings become a continuing part of the drama, endlessly and monotonously repeated.

Although I make conscious use of theatrical terms, this vernacular is particularly applicable when discussing compulsive acts and their performers.

A whole range of illegal so-called 'deviances' has been termed 'exhibitionism' and includes wilful and obscene exposure, voyeurism, obscene telephone calls and others, and yet it is not commonly recognised that compulsive offenders are exhibitionists per se. For example, I have observed elsewhere that a category of female shop-lifter is the equivalent of the male exposer. Offenders themselves are prone to using Thespian terms when describing their activities and the accompanying effect -

'centre-stage', 'up-front', 'in the spotlight', 'playing a part-not me' - but notably Dr Jekyll and Mr Hyde. It is perhaps this role-playing where actors are also stereotyped, which engenders difficulties in dealing with the problems objectively.

If we study the script for this drama we observe that the star of the show is of course the offender, and one indeed without whom the show could not go on. We observe how the supporting cast play their parts, adhering to a script that is known by heart. We do really want to boot the lead player off centre stage but we all appear empowered to play our parts without seriously attempting to re-write the script. Until then the star is quite prepared to accept deviant star status and we seem prepared to maintain it. So we have the judiciary to judge, the prosecutor to prosecute, counsel to defend, with 'goodies' and 'baddies' lined up on the 'for' or 'against' team, and yet the very nature of an adversary system demands these divisions.

I am gratified of late, however, to receive referrals from police personnel and to have recently been approached by a police prosecutor following my appearance for a shop-lifter on a fifty-ninth appearance, with a request for a referral telephone number. I commend this 'crossing of the line' as a step in the right direction.

In the context of this seminar and this particular category of offender, it seems to me that several areas need consideration:

1. the stresses and traumas of the past which are instrumental in shaping the behaviour which brings people into conflict with the law;

2. the models adopted, and the recognition of roles played, in the court and its peripheries, and how these can play a part in perpetuating patterns of behaviour;

3. the ways and means of recognition, assessment, intervention, co-operation and consistency.

1. In my own management programmes for compulsive offenders, it is an unfortunate obstacle that the symptomatic piece of behaviour is illegal. Because of this, more emphasis has to be placed initially on arresting the symptom before we can address the underlying problems. The longer the behaviour has been in operation the more difficult the symptom is to control. We are not afforded the luxury, as we are with 'legal' addictions, of treating the underlying problems with no great harm done if the symptom breaks out. Many people referred to myself have extensive histories and often it is difficult to know which trauma to address first. Sadly, if these problems were dealt with appropriately at the time, we might not now be attempting to stem

a compulsive habit. For example, it has been statistically reported, and is certainly known from my own observations, that many female drug abusers have been the victims of childhood sexual abuse. It is heartening to note that these matters of sexual abuse and incest are receiving more publicity and hence attention, but I would like to be assured that the victim of every assault is being offered counselling.

Who catches the victims before they become villains.

2. I have spoken earlier about participants' roles and their perceptions of themselves, and themselves in relation to others. The judge, the lawyer, the prosecutor and perhaps ultimately the custodian, have more clearly defined roles than does the professional helper. When a variety of dispositions, approaches and treatments fail, in time the offender bristles with tags that read, 'hopeless', 'unmotivated', 'untreatable', 'manipulative', incorrigible', 'incurable' - all statements of perception and an acknowledgement of the failure of the authority to effect change. If we recall the psycho-pathology mentioned previously, this is what offenders want to hear, evidence that they are the victims of fate unable to influence their own destiny. I am certainly used to hearing offenders say with something akin to pride, 'I've been told I'm incurable'. My answer is, 'You might be, but your problem isn't'.

If we are serious about keeping these people out of the court room, we cannot operate in isolation, we must turn to each other for advice and assistance and we must be prepared to put aside professional egotism and not say that this person is incurable because they failed to respond to a particular treatment. It is often remarked by the judiciary that recidivists constitute an enormous cost to the community. It is also true to say that they represent a considerable financial advantage to the legal and medical professions. The obvious fact that they appear innumerable times in the courts, would indicate tht something is going radically wrong somewhere.

3. I am fully aware of the difficulties inherent in assessment and intervention, and realise that there are no cut and dried answers. Who recognises, assesses and intervenes? Where, when and how? I can only speak today in terms of the categories I have described and it can be seen that these people are easily identifiable by the nature of their offence and the pattern of their criminal history. The first axiom would therefore seem to be recognition, and early and appropriate intervention. From my own point of view, the earlier one can work with the syndrome the better the prognosis. Fifteen or twenty years into the behaviour negates against simple resolution.

Recognition requires education, and I am pleased to recount that over the past year I have had seven compulsive category female shop-lifters referred by the Victorian Network as a result of my own involvement in their training sessions. Another common catch cry I hear is 'I didn't know where to go for help', so it would appear that there is a paucity of information available, or it is fragmented, or not easily accessible.

I look forward to hearing some solutions to my unanswered questions.

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VICTIM SUPPORT

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It has been argued that we should go back to a more victim-based system of justice. This would bring a much fairer deal to victims, who are as much, if not more, affected by crime than the offender. George Fenn, formerly chief constable of Cheshire, says the following:

> Victims of crime are the forgotten people in the criminal justice system. Although greater consideration is being given to the questions of compensation, restitution and reparation by the offender to the victim, the system, generally ignores, victims ... The rights that victims ought to have are often sacrificed to those of offenders and others ...
>
> But victims do have important interests which the law should recognise, such as freedom from fear, intimidation, harassment and further degradation and the preservation of privacy.... What many people do not appreciate is that the system is founded on the assumption that the party injured by the crime is the state and not the victim. Offences are committed against the law rather than the individual. The wrong done to the victim and the damage and loss suffered are incidental and putting the matter right is no longer a vital part of the prosecution. The criminal justice process is not there for the victim's benefit but for the benefit of the community. Its main purpose is to deter people from committing offences, to rehabilitate those who can be rehabilitated, to punish offenders and to administer justice - it is not there to restore victims to their previous position.
>
> This has not always been the case .... The old idea of the law was 'to make the victim whole' (Fenn, 1984).

The irony is that the criminal justice system needs support from victims in order to effectively bring offenders to justice. In presenting its final report, the Chairman of the (United States) President's Task Force on Victims of Crime (1982) stated that:

> The American criminal justice system is absolutely dependent on these victims to cooperate. Without the cooperation of victims and witnesses in reporting and testifying about crime, it is impossible in a free society to hold criminals accountable. When victims come forward to perform this vital service, however, they find little protection. They discover instead that they will be treated as appendages of a system appallingly out of balance. They learn that somewhere along the way the system lost track of the simple truth that it is supposed to be fair and to protect those who obey the law while punishing those who break it. Somewhere along the way, the system began to serve lawyers and judges and defendants, treating the victim with institutionalised disinterest (President's Task Force on Victims of Crime, 1982).

In our legal system every possible precaution is taken to ensure that the 'rights of the accused' are protected before, during and after court procedures. For example, police in Victoria can only detain an arrested person for a maximum period of six hours for investigative purposes irrespective of the seriousness or the number of offences being investigated, unless the suspect consents to an extension of that period of six hours. In addition suspected persons can refuse to participate in identification parades or have their fingerprints taken, and even refuse to give their names and addresses. Furthermore, accused persons can utilise the right to give 'unsworn evidence' or in the case of alleged perpetrators of criminal acts who choose to not be represented by counsel, make 'unsworn statements'.

These concessions are not, of course, given to victims. Generally, the effect of sentencing on the offenders is given intensive consideration. If convicted and sentenced, offenders are given the benefit of remissions, early release, and provisions of rehabilitation assistance. The victims of the perpetrators of crime (the people who make them victims) are in no way given such consideration and assistance to overcome the traumatic experience of their victimisation.

It is therefore disappointing to note that the Victorian Attorney General, Mr Kennan, when discussing the issue is reported to have said 'Do we want to continue to address the issues by providing more powers and more recourses for the police, to emphasise

heavier penalties, to have a larger jail population and to have our present level of civil liberties eroded?' The answer he said is that 'we do not'. In support of this view Mr Kennan asserted that 'The crime rate, rather than the detection or conviction rate, had to be the major determinant of the effectiveness of the criminal justice system. When changes are proposed on police powers or police recourses the question must always be asked what effect will this have on the crime rate' (Walsh, 1986).

Of course the monitoring of crime rates is important, particularly when they are continuing to escalate. For example, 500,000 serious crimes were reported to Australian police during 1985/86, with the number of serious assaults almost tripling in 12 years. However, Mr Kennan has missed the point. Increased police powers are necessary in order to bring to justice those persons who commit crimes irrespective of whether the crime rate is low or high. The justice system must take into account the perspective of victims and the sense of frustration and impotence they feel when offenders commit crimes with virtual impunity. It is extremely unlikely that victims of crime would agree with Mr Kennan that the crime rate is the key to the police powers issue.

Victims of crime are victimised not once, but again and again as they experience the criminal justice process. First there is the police questioning. No matter how necessary, sensitive and/or considerate this may be for the victim, it is a further reminder of the incident. He/she is then put aside and ignored - rarely indeed, informed of the charges laid, or the conditions of bail imposed, or if such bail is granted to the offender. Then, when the case is about to go before the courts, the victim is advised by the police that he/she is required to give evidence on behalf of the prosecution. Once again the victim is 'used' by the judicial system. The prosecution is presenting the case for the Crown, not as should be, presenting the case for the victim. In effect, the victim is only present as an appurtenance to the prosecution who unfortunately all too often does not present to the court the effect, short term or long term, that the victimisation has or may have on the victims and/or their families. The victim/witness has no option but to give evidence on oath and is invariably subjected to rigorous and sometimes relentless cross examination by defence counsel. Needless to say, the more he can discredit (and in effect, victimise) the victim/witness, the greater the prospect of his client (the person who is alleged to have caused the victimisation in the first place) being given more favourable consideration by the court. Furthermore, the offender is given the option of three choices: to remain silent, to give evidence on oath, or to make an 'unsworn statement' or to give 'unsworn evidence'.

Once the case is concluded the forces of rehabilitation spring into action on behalf of the offender to ensure that his rights are protected. Whilst in prison he is rehabilitated as much as possible and generally every effort is made to ensure that his/her lifestyle is not interrupted, and made as pleasant as can be.

The victim, in contrast, becomes a forgotten entity. No government funded 'aid' service for them, no further interest in their well-being. The traumatic effect of the court appearance on the victim, the cross-examination, the devastating effect of the all-too-often apparently lenient sentence imposed on the convicted offender, are simply not addressed.

Fortunately, in Victoria we have the Court Information and Welfare Network which provides the victim/witness moral support as well as advice on court procedures and other tangible assistance. Once the case is concluded the Networkers have already completed their most impressive contribution to the welfare of the victim/witness.

It remains then for voluntary victim suport services, (e.g. VOCAL Inc., Victoria; VOCS Inc., South Australia; etc.) to endeavour to assist and support that victim. Hopefully in time, with considerate and caring compassion plus professional advice, the trauma can be defused and the victim can return to normal living.

In North America the initiation of civil lawsuits by victims of crime is increasing. Though this is not a perfect solution, because it puts the onus back onto the victim, it does have distinct benefits as Carson (1986) elaborates:

> BENEFITS OF CIVIL LAWSUITS FOR CRIME VICTIMS
>
> Many crime victims have won impressive settlements and jury verdicts, but money is seldom the primary motivation by bringing this type of action. Crime victims point to four incentives in taking action through a civil lawsuit: a therapeutic regaining of control; accountability for the crime; deterrence of the crime's repetition; and finally, compensation.
>
> 1. Regaining Control
> Regaining control is crucial because criminal assault takes control away from its victims; survivors need to put themselves in a position where they feel they have some jurisdiction over what takes place. Regardless of recent legal

reforms, the crime victim is not in charge of the criminal case and often feels victimised by the criminal law process. A civil action on the other hand, allows the crime victim to choose their own lawyer and to help make all of the decisions, with their needs, capabilities, and limitations being a primary consideration at each step.

2. Accountability

Accountability is an important factor simply because so many serious crimes go unprosecuted. For example, the Center for Women's Policy Studies in Washington, DC reports that convictions are obtained in only sixteen percent of rape cases. Even if there is no criminal accountability, the civil system still allows a means of vindication against responsible third parties who may have sacrificed the victim's safety for economic reasons or other selfish motives. In most cases, a civil action can be brought even where no arrest conviction of the criminal has been obtained.

3. Deterrence of Future Crimes

From a societal perspective as well as for the peace of mind of the victim, deterrence is an important objective. Many crime victims feel a strong need to ensure that some other unsuspecting person does not suffer a similar fate because of third party negligence. In Joan's case, the landlord clearly knew of the risk caused by its actions, but refused to repair the defective window even after the two rapes occurred. Forcing the responsible parties to bear the economic costs of their negligent conduct will encourage greater awareness of security measures.

4. Compensation

Many crime victims do not even cite compensation as a major motivation in filing a civil lawsuit, but compensation certainly assists in the healing process. The crime may cause devastating physical or psychological injuries, requiring years of treatment or therapy. The injured person may be incapable of functioning normally after the crime, causing loss of employment, loss of self confidence, and even loss of family and friends. In the case of murder, severe economic deprivation may result on top of the family's having to bear the pain of losing a loved one through senseless violence.

There are, of course, other means of bringing victims back into the criminal justice process. For example, VOCAL has on several occasions made submissions that a levy be placed on all fines imposed on convicted offenders and that such levies be used to supplement the Crimes Compensation Tribunal awards to victims of crime. This would enable the Tribunal to make more realistic awards to victims and ensure that perpetrators of crime contribute to the compensation of their victims. It would also lessen the burden on the public purse and help in funding victim support groups. (VOCAL is delighted to learn that South Australia has just now legislated a levy of 5 per cent, in line with the principles outlined in this paper,on all fines.) We have also requested that the proceeds of police auctions of unclaimed goods and confiscated goods be distributed to VOCAL and other support groups to enable them and VOCAL to far more effectively offer support, assistance and rehabilitative facilities to victims of crime.

We have consistently advocated and supported the concept of the confiscation of the profit of crime and the assets of perpetrators of major crimes. We most heartily applaud the Federal Director of Public Prosecutions for bringing into effect legislation enabling the enforcement of these procedures in the federal sphere and most earnestly urge the Victorian and other governments to establish similar legislation.

VOCAL urges the Government to introduce legislation to permit victim impact statements to be utilised in courts at the time of sentencing, subject to the consent and full co-operation of victims of crime. We believe that the process all too often ignores the loss and the suffering of victims and on occasions when offenders plead 'guilty', in particular, little consideration is given to evidence produced on the effects of the crime upon the victim.

Victims are greatly inconvenienced by the retention of their property by police, for evidential purposes, for sustained periods. We suggest that photographs or photocopies of such property should be sufficient to satisfy its identification. This procedure would enable the rightful owner, the victim, to resume the use of his or her property with the minimum of inconvenience. A classic example of this wrongful and unsatisfactory procedure is the case of a Shepparton farmer who had the misfortune to be robbed of a number of his cattle in late 1985. The offender was charged and found 'guilty' and fined $10,000. The victim is however, still fighting to have his cattle returned to him, and has now had to resort to civil action to obtain the return of his property. He has been deprived of the earnings of his own property since they were originally stolen. Meanwhile

the victim is on the verge of bankruptcy, due to the failure of the 'system' to ensure that his property be returned to him without delay and with the minimum of inconvenience.

Finally, we have recommended that a Bill of Rights for Victims of Crime, similar to that recently made law in South Australia, be introduced in Victoria and in other Australian States without delay.

The South Australian Bill states that:

> The victims of crime shall have a right to:
>
> 1. be dealt with at all times in a sympathetic, constructive and reassuring manner and with due regard to the victim's personal situation, rights and dignity;
>
> 2. be informed about the progress of investigations being conducted by police (except where such disclosure might jeopardise the investigation);
>
> 3. be advised of the charges laid against the accused and of any modifications to the charges in question;
>
> 4. have a comprehensive statement taken at the time of the initial investigation which shall include information regarding the harm done, and losses incurred in consequence of the commission of the offence. The information in this statement shall be updated before the accused is sentenced;
>
> 5. be advised of justifications for accepting a plea of guilty to a lesser charge or for accepting a guilty plea in return for recommended leniency in sentencing;
>
> 6. be advised of justification for entering a nolle prosequi (i.e. to withdraw charges) when the decision is taken not to proceed with charges. (Decisions which might prove discomforting to victims should be explained with sensitivity and tact);
>
> 7. have property held by the Crown for purposes of investigation or evidence returned as promptly as possible. Inconvenience to victims should be minimised wherever possible;

8. be informed about the trial process and of the rights and responsibilities of witnesses;

9. be protected from unnecessary contact with the accused and defence witnesses during the course of the trial;

10. not have his/her residential address disclosed unless deemed to be material to the defence;

11. not be required to appear at preliminary hearings or committal proceedings unless deemed material to the defence;

12. be entitled to have his/her need or perceived need for physical protection put before a bail authority which is determining an application for bail by the accused person;

13. be advised of the outcome of all bail applications and be informed of any conditions of bail which are designed to protect the victim from the accused;

14. be entitled to have the full effects of the crime upon him/her made known to the sentencing court either by the prosecutor or by information contained in a pre-sentence report; including any financial, social, psychological and physical harm done to or suffered by the victim. Any other information that may aid the court in sentencing, including the restitution and compensation needs of the victim should also be put before the court by the prosecutor;

15. be advised of the outcome of criminal proceedings, and be fully appraised of the sentence, when imposed, and its implications;

16. be advised of the outcome of parole proceedings;

17. be notified, if desired, of an offender's impending release from custody.

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SOUTH AUSTRALIAN COURT INFORMATION CENTRES: A SUCCESSFUL COMMUNITY CORRECTIONS PROJECT USING DEPARTMENTAL VOLUNTEERS*

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ORIGINS

In 1973 the Mitchell Report (the First Report of the Criminal Law and Penal Methods Reform Committee of South Australia) recommended that volunteers be utilised by the Department of Correctional Services as a means of involving the community in correctional work.

This principle was put into practice in 1978, when the Court Information Centre was established. At that time the Department of Correctional Services provided a duty probation and parole officer to attend the Adelaide Magistrates Court and act as an advisor to the courts on issues such as supervision, pre-sentence reports, probation, parole and any other matters concerning the Department of Correctional Services.

The impetus for this particular type of service came from the observations of a new probation and parole officer, who perceived that many offenders and their families attending court were in crisis and existing services available were insufficient to meet the needs of those people. The main problems of such people were that they found court procedures complex and confusing; once they got there they did not know where to go or quite what to do. Moreover, they were in a state of high anxiety, they were ignorant of their rights, and they did not know where to go for help.

Following identification of these difficulties the concept of a Court Information Centre was developed and a plan submitted to Department of Correctional Services management for implementation of the concept.

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* The records of the Volunteer Unit were used in compiling this report. The work of the staff and volunteers of the Unit, past and present, is gratefully acknowledged.

Although it could have been rationalised that providing such a service was the responsibility of the Courts Department, the Department of Correctional Services supported the idea of commencing such a service on a trial basis for two reasons:

1. many of the users of such a service were already clients of the Department of Correctional Services or were likely to become clients as a result of their visit to court;

2. the Department of Correctional Services was keen to promote community understanding of correctional policies and to develop their community corrections program.

The proposed Court Information Centre fulfilled many criteria for a community based correctional system:

1. it would provide a service to the criminal justice system, not only by probation officers, but by volunteers familiar with the Department who would have quick access to the staff in the Department;

2. it would involve the community and enable them to participate and take some responsibility for the correctional system;

3. it would educate the community with regard to offenders and disseminate information about the Department by training and utilising volunteers;

4. it would provide a social intervention service, an information and resource centre which would bring the community into closer contact with the correctional system through its staff and volunteers;

5. it would help to promote community understanding of correctional policies and the criminal justice system;

6. it would help increase the social competence of offenders by disseminating information and offering caring intervention and advocacy where needed.

The Court Information Centre was designed to be client centred, providing information, support, counselling and correct referral to the court duty solicitor, the Department of Correctional Services and other appropriate agencies. In using volunteers as client advocates the Department of Correctional Services took the position that the service should not infringe in any way on the province of the legal profession or the court.

The service commenced in May 1978 and by the end of that year approximately 2,500 members of the community had used the service. Users included defendants and their families, witnesses, students, police, prosecutors, lawyers and welfare workers.

EXTENSION TO OTHER COURTS

Originally it was hoped that the service would be extended to all metropolitan magistrates courts and to two major country areas - Port Augusta and Mount Gambier. Though this did not occur, services were extended to two metropolitan areas, Darlington and Glenelg, in 1979. Unfortunately these courts are now closed but the Information Centres were very active whilst they were open. Port Adelaide and Holden Hill services opened in 1983 and both these services are kept very busy.

Services at country courts have not been set up as yet although there is clearly a need for them. Difficulties in developing the service in country areas arise because of the expense involved in having the Adelaide-based co-ordinator travel regularly to those areas to set up and maintain a service. The current high work load of probation and parole staff situated in country offices does not allow them sufficient time to establish the service themselves.

ACCOMMODATION

A major difficulty for the Centres has been that of finding a suitable position, or in some cases, any position at all. In the three locations where we currently operate the accommodation is far from ideal. Our metropolitan courts are all old and overcrowded and the court staff themselves have enough difficulty finding sufficient space for their own activities without allocating a key position to another agency, however much the services they provide are appreciated.

Ideally a court information centre should be situated at the main entrance to any court it serves so that anyone needing help will find it easily when they first arrive. Also a small private interviewing room or area would be useful as it is embarrassing for many users to have to express their problems in front of other users waiting for assistance.

Although appropriate accommodation for the Centres does not seem to be a realistic short-term possibility, the Department of Correctional Services has approached the Court Services Department to have suitable office space allocated whenever new courts are eventually built. This request has been sympathetically received by the Courts Department.

RECRUITMENT OF VOLUNTEERS

When the service commenced in 1978, eight volunteers were recruited to staff the Adelaide Magistrates Court Centre. These volunteers came from a cross-section of the community.

Now volunteers are recruited for a variety of work within the Department of Correctional Services, in line with the recommendation of the 1973 Mitchell Report. Some volunteers specifically request to work in the information centres because they know friends who do this work. Others transfer to this work after spending time working in other areas. As Adelaide is relatively small, some volunteers work at two locations regularly or make themselves available for relieving at other centres.

Of the original eight volunteers, three are still with us. Volunteers are usually retired or perform 'home duties'. Such people are able to make the regular commitment that is required to maintain rosters. Some of the volunteers have formed close friendships and have worked together for many years. They are a reliable, knowledgeable, responsible and thoroughly delightful group with whom to work.

Information Centre volunteers meet monthly for support and information sharing with their co-ordinator, a probation and parole officer. They regularly invite guest speakers from other agencies to keep them well informed on topics that are associated with their work. They often see a relevant film and also usually have lunch together. Such meetings play an important role in maintaining a sense of association with their colleagues whom they otherwise would never meet because of their different rosters.

At the present time there are 25 volunteers providing information services at three centres. (A job description is located at Appendix A.) Volunteers are insured by the Department and reimbursed for any expenses they incur, including transport costs. The co-ordinator is readily available to the volunteers by phone and she visits each centre at least every week at different times. Also, duty probation and parole officers in nearby offices are always available to answer any queries whenever volunteers need extra assistance. It is accepted that volunteers leave for a variety of reasons but new intakes continually replenish the vacancies created.

TRAINING OF VOLUNTEERS

All Court Information volunteers are required to attend a volunteer orientation program. This is designed to:

- inform them of the philosophy and role of the correctional system;
- prepare them for the most common problems and pitfalls which they may encounter;
- build upon their individual qualities;
- bring about any necessary change in attitude towards offenders;
- develop awareness of the obligations in working with the Department; and
- form part of the selection process.

A formal specialist training program is also provided, covering sources of law, court structure, terminology, ingredients of offences, ancillary criminal responsibility (e.g. aiding and abetting), police powers (arrest, search, questioning, etc.), bail, basic criminal procedure, sentencing options and processes, local court procedures and small claims, general licencing and licence appeals, Family Law and Family Court applications, and restraining orders.

In addition Court Information Centre volunteers occasionally attend courses offered by further education colleges, the fees of which are met by the Department. Ongoing, informal 'on-the-job' training is provided by the Co-ordinator, Court Information Centres.

PROFESSIONAL SUPPORT STAFF

The Court Information Centres operate from the Department of Correctional Services Volunteer Unit. There are currently over 100 volunteers actively involved in various programs, and during 1986 a total of 21,037 members of the community were assisted as indicated in the following table.

TABLE 1

TOTAL NUMBER OF CLIENT CONTACTS

BY THE COURT INFORMATION CENTRES - 1986

LOCATION	NO. OF CONTACTS
Adelaide Court Information Centre	12,571
Pt. Adelaide Court Information Centre	2,898
Holden Hill Court Information Centre	3,070
Glenelg Court Information Centre	2,498
TOTAL	21,037

The Volunteer Unit is staffed by a senior social worker who is the co-ordinator of the Unit and a main grade social worker who is an assistant to the co-ordinator as well as being the co-ordinator of the Court Information Centres. Clerical support is shared with the Adelaide District Office of Community Corrections which is in the same building as the Volunteer Unit. Overall supervision and management assistance to the Volunteer Unit is provided from head office by a social worker of district officer level who in turn reports to the Director of CommunityCorrections. Funding for the 86/87 financial year is approximately $24,000, excluding wages and clerical support costs.

BREAKDOWN OF THE WORK CONDUCTED BY VOLUNTEERS

Volunteers are expected to record the results of their client contacts on standardised sheets (See Appendices B and C). A breakdown of their workload is shown in the following table.

TABLE 2

BREAKDOWN OF WORK BY COURT INFORMATION CENTRES VOLUNTEERS

COURTS	
Directing the client to the appropriate court (e.g. Local Court, District Criminal Court, Family Court etc.)	14%
Providing information re the various jurisdictions of the courts	7%
AGENCIES	
Directing the client to the appropriate agency e.g. duty solicitor, Legal Services Commission, police, Department for Community Welfare, Department of Social Security, Department of Correctional Services etc.	12%
Providing information re the role of the various agencies	6%
COURT PROCEDURES	
Checking the cause list/official letters for the client and directing them to the appropriate court Justice of the Peace, clerk of the court, main office, court orderlies etc.	48%
Providing information re the differing court procedures and personnel	8%
MISCELLANEOUS	
General support and counselling including attending court with the client	5%

CONCLUSIONS

In conclusion the Adelaide Court Information Centres are continuing to play an important role in easing the difficulties for members of the community attending our courts.

Moreover, it seems a reasonable assumption to make that if it were not for this service provided by Department of Correctional Service volunteers, these people would be approaching the busy clerical staff of the Courts Department for information and assistance, thus adding to their already busy workload. We anticipate the service will continue to function successfully providing we are able to have the necessary space allocated to us from which to function.

The obvious advantage of having the volunteers available for assistance is that they are trained to help with the problems for which people request help. They are trained to deal with people in crisis and exhibiting significant signs of stress. The Courts Information Centres have given the Department of Correctional Services an opportunity both to involve the community in the work of the Department and to provide the community with a well utilised community service.

APPENDIX A

JOB DESCRIPTION FOR VOLUNTEERS WORKING AT

ADELAIDE COURT INFORMATION CENTRE

1. Participation in an initial period of training, including visits to relevant institutions.

2. On the job:

   A.M. Collect cause lists and newspaper.

   9. a.m. - 12 noon, counter duty. Deal with general public, giving information, support and assistance. Refer to duty solicitors where relevant.

   P.M. as above.

3. Other duties:

   Attend on-going training.
   Attend monthly staff meeting -

   (1) make decisions re centre
   (2) develop group - team development
   (3) discuss any problems or new ideas
   (4) suggest speakers and training needs

4. Assist with maintenance of information resources.

TOTAL TIME - average of 4 - 5 hours per week.

APPENDIX B

.....COURT INFORMATION CENTRE MONTH..... YEAR .....

Total No. of Contacts: Total No. of Enquiries:

	Category	Directions	Contact	Information	Total
	COURTS				
CA	Adelaide Magistrates Court				
CL	Local Court				
CD	District Criminal Court				
CS	Supreme Court				
CF	Family Court				
CC	Childrens' Court				
CO	Interstate, Suburban, Country & Industrial Courts				
CA	Appeals; Court Imposed, Demerit Points				
	SUB TOTAL				
	AGENCIES				
ADS	Duty Solicitor				
AL	Legal Services Commission				
AP	Police, Watchhouse, Police Witness				
AC	Dept. Correctional Services, Probation Officers				
ACS	Community Service Orders				
ADCW	Dept. Community Welfare				
AS	Social Security				
AI	Institutions-Y.L.P., Adelaide Goal, W.R.C. etc.				
AO	Other Agencies				
	SUB TOTAL				
	PROCEDURES				
LD	Check Cause List & give direction to a Court				
PCL	Check Cause List only				
PFO	Front Office				
PCC	Clerk of Court				
PJ	Justice of Peace				
PO	Orderlies of the Court				
PA	Attend Court with Client				
PB	Bail/Surety				
PR	Restraint Orders				
PF	Fines				
PI	Index Room, Listing Clerk				
	SUB TOTAL				
G	General Enquiries & Directions				
S	General Support & Counselling				
T	Telephone calls incoming				
TO	Telephone calls outgoing				
	TOTAL				
	TOTAL NO. OF ENQUIRIES				

APPENDIX C

NO.	SEX & AGE	ENQUIRY AND ADVICE GIVEN DATE:	CATEGORY & FOLLOW-UP	VOLUNTEER's INITIALS

CHECK THE CATEGORY, IS IT ACCURATE ?

PERSONALISED SUPPORT AT THE FAMILY COURT

Ms Jan Donaldson
Welfare Worker
Victorian Court Information
and Welfare Network

SETTING THE SCENE

A kaleidoscope of humanity passes through the Family Court: people from all strata of our community - a diversity of backgrounds - of ages - of languages - of emotions. In any other circumstances the gathering would be seen as rich and colourful, truly representative of the depth and variety of the community. However in the setting of long corridors, small court rooms, inadequate waiting and conference rooms, confusing lift systems, badly signposted toilets and facilities, people are confused, distressed, frightened and intimidated.

9.30am in Melbourne Family Court bears great similarity to 12 noon Saturday at a busy supermarket - yet there is more order, cohesion and decisiveness about the latter. With the former there is an overwhelming sense of bewilderment in addition to all the emotions that are present, with people who are at various points along the continuum of being married, separated and divorced. Some come immersed in sadness; others overwhelmed by anger, bitterness and recriminations; still others come with a sense of relief bordering on hysteria; a few come bolstered for this moment with alcohol or drugs; many smoke constantly; others pace nervously the long corridors; some sit turned in on themselves oblivious to their surroundings, while others use this time for yet another verbal or physical disagreement; others hide from the mere sight of their former partner, fearful, filled with memories of more violent days. Many people come alone, others with large numbers of friends and relatives. Some have been married just a short while, others for many years - 20, 30, even 40 years.

HIDDEN AGENDA

The reasons behind someone appearing at the Family Court are many and varied. Much has been written about marriage 'breakdown' - as if a relationship which has come to an end is a mechanical being, or with the use of certain tools it may either be 'fixed' or discarded. I don't intend to speak at any length about marriage, or separation, or divorce, except to note that the circumstances of the people involved are some of the major reasons why it is essential there be support services for people attending any Family Court.

I believe that for people involved in a relationship which has ended, there ought to be a mourning or grieving period. That this should happen means recognising this as a very significant time of 'loss' in their lives. It is a time of great trauma, of shattered dreams and hopes, of feeling a failure; it is a time of pain, of hurt; and for many there are physical symptoms as well as emotional ones. People speak of sleepless nights, of under or over eating, of increased blood pressure, of skin disorders, tears never far away, shortness of breath, chest pains, loss of short term memory, not remembering appointments, reliance on drugs and alcohol. Although people at both the Coroner's and Family Courts have described these symptoms to me, my experience is that for people attending the Coroner's Court, these outward or physical signs of grieving are more socially acceptable. To someone whose loss is almost seen as of their own doing, that is ending a relationship, signs (physical, emotional or mental) of grieving are at best not acknowledged, and at worst totally ignored and considered inappropriate and unacceptable. While someone who is grieving at the death of a loved one is usually surrounded by caring, supportive, comforting relations and friends, those whose marriage has ended - whose lives have been shattered, broken, turned upside down and inside out - do not usually find the same caring support. They discover friends and relatives taking sides, not being available, not wanting to know or even share a little of the pain, the feelings of failure and of guilt, feelings of fear of the unknown, of flattened self-esteem, broken lives. Although divorce per se may have become socially acceptable, those involved are not. They grieve alone and are lonely, hesitant, vulnerable. They rebuild their lives tentatively, playing out roles and wearing masks that make them acceptable to friends, relatives and the community.

So while in many ways death is not accepted by society for the reality that it is, those who grieve the death of a loved one usually find caring support, concern and acceptance, both of them and of their grieving. In contrast, divorce appears to be accepted, but those who grieve for this 'loss' in their life may not find caring support - knowing instead bitterness, recrimination, rejection and loneliness.

The overriding feeling of people attending a Family Court hearing is one of powerlessness. People arrive at Court - unfamiliar with procedure; unsure of the legal language (cf divorce/ dissolution); often not having met the barrister who will represent them; never realising that 10.00am may mean 11.00 or 12.00 or even later; and those representing themselves are lost in the atmosphere, language and 'club' of those who are familiar with, trained and experienced in, court procedure and practice.

The uncertainty of the day, added to the past and present emotional, physical and mental health of the individual, the hidden agendas, the unresolved conflict and unfinished business, all lead to the conclusion that a support service at any Family Court is absolutely essential.

HISTORICAL BACKGROUND

In March 1981, Mr John Robson, Councillor (NSW) of the Family Law Council of Australia, approached the Court Network regarding provision of assistance to people involved in Family Law matters heard in magistrates' courts. Further discussions involved other issues that may arise from family trauma and later become the subject of court hearings, such as shoplifting, .05 charges, other driving and traffic offences, death of a child, and assault charges.

Subsequent discussions were held with the Family Law Council in October 1982. There was no thought of overlap with Family Court counselling or legal services. It was suggested that crisis workers in the court would act in a role complementary to that of Court counsellors. Discussions with counsellors revealed that they were aware of the enormous difficulties and emotional stress experienced by individuals during court hearings.

Court Network, because of its experience in general aspects of court care, was interested in the request to extend its service to the specialised area of Family Law. In 1983 a study was undertaken into the particular needs of people in contact with the Family Court ('Families in Conflict'), revealing that for most people attending the Family Court it is a time of crisis. Products of crisis are distress, confusion and often suspicion. Moreover, migrant families with language and cultural differences, isolated from familial support, and at times overburdened by threats of revenge and recrimination, are often overwhelmed by the experience. It thus became apparent, and indeed remains so, that a family in conflict is a family in crisis and at risk, and thus in urgent need of enabling support and assistance at the times and places of crisis.

In 1984 Court Network commenced at the Melbourne Family Court. Now in 1987, we provide a crisis intervention support service at Melbourne, Dandenong and Bendigo Registries, together with providing assistance to people attending magistrates' courts on Family Law matters.

THE SERVICE

Main features of the service are as follows:

1. Service users - clients are

   - litigants;
   - relatives, friends, particularly grandparents;
   - people involved in present relationship with litigant (legal or de-facto);
   - witnesses called by litigants;
   - children.

2. Client contact is initiated by

   a. outreach of the Networker;

   b. referral -

      i at the time of pre-court hearing;

      ii at the time of court hearing;

      iii subsequent to court hearing.

      Referral services are community agencies and groups, court officials, Family Court counselling service, legal representatives, Court Network, and the judiciary. Other clients contact the Network directly.

3. Intervention

   The aims of the Court Network are to:

      i offer emotional support during the court experience;

      ii offer information regarding procedural matters and the availability of legal aid services e.g. duty solicitors, community legal centres; and

      iii provide information regarding community agencies, using a crisis-intervention approach and increasing the visibility of these services at the time of client need.

What this means in practice is:

- emotional support, listening, 'being with' a person;
- physical support, including basic first aid to knowing when a doctor/ambulance is needed (emotional trauma often precipitates physical trauma);
- mediation, clarification, interpretation;
- explanation of process, procedure, legal language and terminology;
- assisting people to make contact with legal representatives and interpreters, to find the correct court, or floor, to find toilets, cafeteria, counselling unit;
- referral to duty solicitor, to community resources, to refuges, government departments and community agencies, social and/or self-help groups;
- being aware of and assisting those with special needs - physically handicapped, educationally and socially disadvantaged.

The service is provided by volunteers who have undertaken the primary Court Network training program, and who have received additional training of five, two-hour sessions.

Finally, I recommend Beryl Shaw's book, 'Out Here On My Own' (1985), in which she devotes a chapter entitled 'Divorce' to briefly recollecting her 'year in court'. So much of her story is retold, replayed, day after day in the Family Courts of Australia. For the greater percentage of couples whose marriage ends in divorce, the only time they come near the court is to hear a judge say 'I pronounce a decree nisi, to become absolute in one month'. No ceremony, no fanfare, indecently quick and it is all finished. That in itself is very difficult to accept. People leave the courtroom wondering 'Is that <u>all</u> there is?' They need support.

For the smaller percentage who seek decisions from the court which they cannot negotiate through agreement or mediation, conciliation or counselling, the trauma of the experience of an adversary court hearing leaves more tears. The provision of a support service for this time of crisis is essential. Positive intervention at this point provides a unique opportunity to work in an economic and effective way, often preventing long term social dysfunction.

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GRIEF AND THE DEPENDENT RELATIONSHIP

Ms Joy Mott
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The purpose of this paper is to share some of the issues that have emerged during my two years as a Social Worker at the Coroner's Court in Melbourne. I am grateful for this opportunity as I have vigorously followed my hunches by reading and by having discussions with other professionals; the hunches are thus emerging into a theoretical framework which assists me in assessing and planning intervention for people I meet at the Coroner's Court.

The service at the Coroner's Court is unique, the work is challenging and the issues are complex. The service provided by the Victorian Court Network is relatively new and is a support, information, counselling and referral service available to all persons who are in contact with the Coroner's Court and City Mortuary. The service was initiated following discussions between a psychiatrist and police surgeon who were concerned about the depressed patients appearing to be suffering as a direct result of unresolved emotional difficulties following a sudden death.

While observing and assessing families experiencing grief, the diversity of reactions and coping abilities of people soon becomes apparent. While bearing in mind that we are all individuals and act individually, the question still arises (especially when working with widows) why, when some people walk away from the court, we 'know' that their chances of recovery are not good.

Dimensions which usually determine recovery or otherwise from the sudden death of a friend or family member include:

- age of deceased;
- type of death;
- circumstances surrounding the death;
- ethnicity, and other cultural factors.

Underlying these dimensions, however, is a vitally important additional factor. This is often referred to as the 'something

else' and it appears to be the final determinant of who will cope and who will not. My assessment is that a small percentage do not and will not move through the grieving process.

Further enquiry about this elusive dimension led me to a study by Parkes and Weiss (1983) on intensity of yearning and dependency where they state:

> It appears to us that the 'something else' is most often the situation of having been highly dependent on the spouse.

Parkes and Weiss refer to what they call 'prolonged chronic grief'. This is defined as persistent grieving without diminution and intensity despite the passage of time. In simple terms, it describes a person stuck in the grieving process with no movement - no recovery. Studies by Parkes and Weiss conclude that 15 per cent of widows experience clinical depression accompanied by pining and longing a year after the death of their spouse. These women are most often involved in dependent relationships.

This paper focuses on grief and the dependent relationship with special focus on widows. Definitions of these terms, for the purpose of this paper, are as follows:

> Grief: Often used interchangeably with bereavement and mourning, according to Parkes (1983) it resembles a physical injury, a wound that may gradually heal with or without complications or may fail to heal or may reopen. Grief (bereavement, mourning) reactions evolved together as a distinct biopsychosocial behaviour system to ensure the survival of the human group.
>
> Dependent Relationship: Life and relationship organised on assumption of helplessness and great need by both partners.

On the day of the inquest (usually 3 to 6 months after the death) I have become familiar with a type of language tht alerts me to the 'stuckness' and vulnerability of grieving persons, especially of widows. On one occasion, my intervention led to the hospitalisation and subsequent recovery of a widow who was involved in a suicide attempt. This woman had been experiencing total helplessness and had simply gone to bed to die.

The work of various theorists is useful in explaining this kind of behavioural and emotional response to sudden death. Bowlby (1969), for example, postulates that emotional dependence is a

form of insecure attachment and that this tendency is usually determined in childhood. Dicks (1967), using object relation theory, describes the unconscious and sometimes conscious searching and selection of the emotionally insecure person as follows:

> The unconscious may select a partner with consummate skill - it may choose one who on the surface would appear to have all the potential for providing a positive relationship - yet who underneath, as it turns out is ideally matched to meet more neurotic and ambivalent needs.

Eric Fromm (1982) uses the term symbiotic relationship to describe the fusion that takes place between 'passive' and 'dominant' persons and encourages the study of both personalities (I have also found this necessary in planning intervention). Common characteristics of passive and dominant persons are:

PASSIVE	DOMINANT
. Distrust of self	. Commands and often demands
. Preoccupied with other - feels anxious when out of sight (attachment)	. Needs other to boost own position
. Feeling of helplessness and indecisiveness	. May behave indifferent toward partner - may parent 'My little girl'...

Minuchin (1974) and Bowen (1978) use a systemic framework to assess dependent relationships, as in the following dimensions of separateness and connectedness between partners:

ENMESHED - - - - - - - - - - - - - - - - - DISENGAGED
(Lack of appropriate boundaries)

EMOTIONALLY-FUSED - - - - - - - - - - - - - - DIFFERENTIATED

Family members intrude on each others' feelings, belongings, space, thoughts and relationships. Within this context, couples may fuse and become a single self; this results in a dominant over-functioning mate and a 'dysfunctioning adaptive' mate.

Dysfunctional relationships operate only at the extremes of the continuum, there being a very wide range of functional relationships. When a death occurs and a couple's relationship is at the dependent extreme, the person left behind experiences a loss that

is so intense that the emotions are frozen. The social worker becomes aware that it is not the person's intense sadness that is the focus but the active resistence to changing that emotion. Not only is there no movement but also a sense that the person will not permit movement. An often used example is that of Queen Victoria's mode of mourning.

Parkes and Weiss found that prolonged and chronic grief accounted for the poorest outcome. To let go of the relationship is like letting go of the self:

> A certain comfort and reassurance against anxiety was observed amongst those who displayed this reaction. The inability to work through grief seemed preferable to the bleak hopelessness anticipated, should the bereaved truly relinquish the lost relationship.

It is difficult to assess chronic grief in the early stages, though common indicators are:

- a lack of sense of future (even after several months);
- resistance to engagement with present life;
- the question, 'What is there for me now?...'.

My own case notes show that chronic grievers, rather than facing their relationship, often enter a 'new' but similar relationship shortly after the inquest.

Others, because of self blame, express guilt or depression. The family may insist that the person who is suffering from chronic grief presents at the family doctor's office for treatment of depression. The usual treatment appears to be antidepressants and/or rest. Raphael (1983), while stating that these cases are difficult to treat and have a high risk of suicide, suggests that antidepressants are often unsuitable.

Her suggested intervention strategy states that counselling may be necessary up to three times weekly. It is at this point that the counsellor needs to focus on the quality of the lost relationship. Critical elements are why the relationship had such a 'special' meaning and why it cannot be relinquished.

Resistance is to be expected from such clients. The pattern is to attempt to seduce the counsellor (or others) into becoming a replacement for the lost person or a fascinating psychopathology may be invented to mislead the counsellor and avoid the issue of loss (Raphael). However, lowered defensiveness because of the crisis situation seems to facilitate opportunities. Treatment which focusses on new roles and identity in order for the person

to give up old ways of perceiving self seems to work very well. This should be commenced at the time of crisis. Months later, when the defences seem to have become more rigid, working through them seems more difficult.

Chronic grief can result in controlling and punishing others as well as eliciting their care. Often a person alienates both family and professionals. Moving in with family can often lead to further complications as the person searches for a new person to cling to (especially, according to Parkes and Weiss, where the relationship has not been close in the past). Fromm (1982) refers to such relationships as being based on neurotic need, having fusion without integrity.

While it is generally accepted that support groups can be beneficial in terms of offering support, empathy, friendship and practical assistance, those who are showing pathological signs of bereavement require intervention of a skilled and well-trained counsellor (Parkes, 1983; Raphael, 1983). It is worth noting here Raphael's concluding comment (1983, p.401) in acknowledging the counsellor:

> The core attribute, however, of anyone offering support for the bereaved, is the capacity for empathy. This brings special difficulties for the counsellor, since empathy with the bereaved in their encounters with loss and death touches off in each one of us the most personal of terrors. We have to learn to live with loss, but the person who works in this sphere must confront it everyday.

This paper has not addressed adolescents and suicide or other categories of bereavers at the Coroner's Court. However, through my work at the Coroner's Court I have been alerted to the isolation, vulnerability and hopelessness the young (particularly males) experience after the breakdown of a first intimate relationship. These relationships often have similar qualities to those others described in this paper: the relationship is consistently based on need - 'I love you because I need you' (Fromm, 1982).

Based on my experience at the Coroner's Court as a Victorian Court Networker, I would like to make the following final comments:

- Contact with the bereaved at the City Mortuary and the Coroner's Court offers a unique opportunity which can lead to a change in outcome for those people who are unable to move through the grieving process.

- Those people who only require support can be cared for when visiting the Coroner's Court.

- Friends and relatives who care for the bereaved can be supported and acknowledged, and aided when necessary.

- General public awareness can be increased.

- Health care professionals can be alerted to symptoms that may influence the modes of treatment. The Coroner's Court worker can also be consulted.

- Support groups can be used as a valuable resource and the Coroner's Court worker can be a resource to the groups.

- The knowledge and information that emerges from the Coroner's Court can be used as a preventive measure for people working with those 'at risk'.

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GENERAL MODEL OF SUPPORT SERVICES IN THE CORONIAL SYSTEM

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After six years as a social worker with the Health Department of NSW, Division of Forensic Medicine, which is attached to the Coroner's Court in Glebe, I want to make some general comments about human needs at a time of crisis (see also Bray, 1986).

A death usually presents a crisis in a family, and the deaths reported to the coroner range from expected deaths of the elderly who have not seen a doctor for three months or those in hospital, to the sudden and untimely deaths as a result of negligence, accidents, suicides and murders. Families need support in many of these deaths, but what support and how should it be given?

I would like to identify three 'circles' of support which come into play in a crisis such as a death. They are distinguished along a continuum of attachment to the central figures who need support. The critical factor is the nature of their prior relationship, rather than their function in the crisis, in the sense that it is the context of the previous relationship which makes the support given to the griefstricken very different. These circles are -

1. the family,

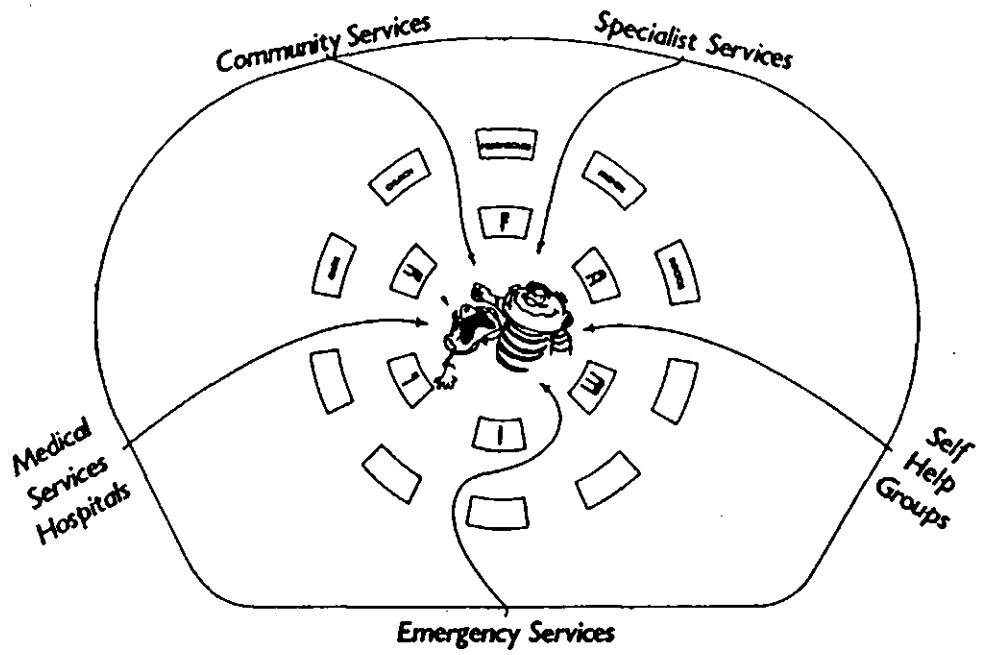
2. the wider social network of friends and colleagues, and

3. professional helpers who have not been known personally by the bereaved.

If one draws the vulnerable central figures, as in the following diagram, the first circle to gather around is the family, and if the crisis is overwhelming for them, friends and key people from their own personal network gather and add their strength. The professional circle, which may be called in because of the crisis, come into the picture as an 'outer' circle in terms of their specific professional expertise.

In a death reported to the coroner, professionals include ambulance and police officers, hospital staff, morgue staff, the pathologist who does the post mortem, court staff and the

Circles of Social Support.



coroner. These professionals can come into contact with the bereaved, as the arrows indicate, carefully avoiding all contact with the first two circles of support; or they can come in recognising the important survival functions of these circles and work with them; or they can bulldoze through them making them feel powerless and ineffective, which is very destructive of the delicate supporting networks. When parents, spouses, brothers and sisters are in a state of shock and numbness, others who know them well take on a protective function, on the basis of their individual knowledge of the circumstances. They clarify why things need to be done and help make decisions. Moreover, when these circles of support act in concert with professional helpers, going through a traumatic death can have positive as well as negative aspects.

It is not uncommon, however, for each circle to act in a dysfunctional way, trying to be protective and blocking the effective support and tasks of the other circles. Destructive power struggles ensue which mean that the inner circle receives more pressure, the opposite of 'support'. For example, friends and colleagues are sometimes seen by professional helpers as obstructive and irrelevant, just because they are not 'family'.

In every situation, there is a different pattern of these circles of support. Some families are very complex and have too many members, some have too few. Some families have no experience of difficulties, some families have had destructive experiences in the past, or have other concurrent crises. Some have dysfunctional rules about receiving outside help, or feel guilty or inadequate because of the nature of the death. My experience has been that helping family and local networks to function as effectively as they can, has the effect of strengthening and

deepening their relationships with the people who play an ongoing role in their lives. Sharing the tragedy of a death helps people to have more realistic values and confidence in their strengths to tackle other difficulties when they arise.

THE FAMILY AS THE PRIMARY SUPPORT SYSTEM

The natural support system in any crisis which poses a threat to the individual is the family. This is because of their intimate knowledge gained over a whole lifetime and their continuing expectations of the future. They know the good and the bad and can put it in the context of how it developed. The meaning of any behaviour is readily known. There is an empathic understanding of how the crisis is affecting the inner world. They know what the usual coping mechanisms are, and what risks and vulnerabilities there are from past experience. There is a two way attachment, whereby if one member is suffering, all members will be affected. The attachment draws them together in a crisis to provide protection and support. They test out new people and make judgments about whether it is safe to work with outsiders or not.

The functional family in a crisis gathers together, recognises and acknowledges the hurt and loss to the individual and its meaning, and mobilises its own and outside resources. It is available for long term support till the individual and the family can regain a new equilibrium in society. A major role for the family is 'holding' (Winnicott, 1964, p. 182) the individuals, providing protection during the initial phase of shock, vulnerability and numbing defences, so that the person progresses through the natural processes of taking in the losses, making sense of what has happened in terms of themselves and the world they live in, to experience the appropriate emotions of anger, guilt and depression, and to know what steps they take in the future. This takes time. It is the family too, which helps them 'let go' of their grief and give up their victim status, to feel alright about enjoying themselves again. They then have access to memories of the people and things they have lost, both good and bad, without the raw pain of grief and despair.

SECONDARY SUPPORT SYSTEM - THE SOCIAL NETWORK

While many crises can be dealt with by functional families, often it is necessary to call on the wider social network. The crisis may be particularly severe, or the family lacks relevant experience, or there are specific vulnerabilities from past experience which limit the impact of family support. Members of the wider social network know the individual in the many ordinary life circumstances as friend, neighbour, workmate, member of a church or club or community group. The crucial factor is that they are not part of the family.

This level of support is characterised by knowing the individual and/or family; there is a meaningful attachment, usually less central than that of a family member. The losses, therefore, are one stage removed. The threat is not that they have lost a central family relationship but that they could; that a similar crisis could happen to them and their family. What can they do to prevent that? They often think 'if that happened to me I would die', and they are intensely curious about how their friends cope. They can learn a great deal if they are able to listen and to share the experience.

The function of this circle of support is to provide backup and resources to the family, to 'hold' the family in its place in the community. They are empathic about the nature of the crisis as they share many of the same beliefs, values and geographical location. They can be angry on the victims' behalf, and instigate measures which will reduce the threat to others. Making sure others don't go through what we did, can be some comfort to the victim, so that the death or loss was not totally in vain. The network, in turn, benefits by sharing at a removed level the experience of the slow processes of coming to terms with a personal disaster. It provides practice and knowledge about loss and life crises and the many different ways of handling them. It can provide links and bridges to other services that can be mobilised on the family's behalf, as it lessens the destructive feelings of helplessness and strengthens the fabric of a community.

In a less adequate community, there can be destructive isolation and scapegoating of the family as though they have a contagious disease, which can add to the family's burden and contribute to deterioration and despair. This often comes from dysfunctional beliefs that are widespread in Australian society, such as:

> one should not waste valuable time on emotions that do not restore what one has lost;
>
> sharing sadness pulls you down into a mire of grief, from which there is no way out;
>
> one's duty in life is to be happy, and people who aren't, are letting the side down;
>
> though one would like to help, once one is involved, the whole burden of a stricken family would fall on the helper;
>
> people get what they deserve, or they have brought it on themselves.

It can be important to change community beliefs, and a social worker can be used to make this circle of support effective. This has long term benefits to all the community. Ongoing professional help can enable this network to give what they can, without being overburdened. They can be heartened by sharing the experience of resolving impossible situations. This is often the heart of the good things which can come out of disaster. The professional circle should not take on functions that can be done by the social network. The important part about this level of support is that there will be opportunities to reciprocate, and give back to the community in a variety of ways the support which has been given. This may be extremely important to families with a traumatic death, as restoration of their ability to give is often the turning point in their restoration to normal life. It is important to return to more balanced 'give and take' relationships.

PROFESSIONAL SUPPORT SYSTEM

This level of support is defined as those services which have no prior knowledge or contact with the bereaved. Contact arises out of the crisis; professional help is unhampered by prior attachment; and it is NOT their loss. However it is appropriate to respond as one human being to another in a difficult situation, and do as one would be done by. At this level of support the response is respect for the vulnerable person; carrying out their specific task efficiently; and making bridges to, and working cooperatively with, other services. It is not uncommon for professional services to respond as family or social network, doing as much as they personally can. For example, the policeman who, in his own time goes back to clean up the shed for a woman, whose husband has shot himself. He says 'she should not have to do it'. He is right, but he assumes that her personal network cannot arrange this. This is counterproductive and he should not take it on unless he knows this, otherwise it puts too much stress on him.

Professionals must monitor the taking on of family roles, as constant exposure to such situations leads to 'burn-out' or development of defences which inhibit the human response which is appropriate and necessary for both sides. There is a duty of care, and without it professionals can become dehumanised. However professionals must look after their own needs. Their distance from the centre on the core of personal involvement is valuable as it increases their efficiency.

It is more comfortable for the professional if the family and social networks are in place. They provide a buffer of care and give information in relation to the individual, which the professional does not have, in return for expertise which the

professional does have. If there is friction between these circles of support, it is important to look at why this is so. It may well be that there are dysfunctional values and rules in the family, or dissent between family members on using outside help, or that there are too few family members, or they are out of their depth or too overburdened by other crises. It is at this time that a professional in the social support field, a social worker, family therapist, or psychologist, can look at what can be done to assist these sources of support to do the best they can, without feeling bad about what is clearly too much for them to manage. At this stage more help can be arranged from the outer circle of support, from volunteers and other agencies.

If the professional system regards the other levels of social support as a nuisance and a waste of time, and does not recognise their vital roles for the psychological health of the individual, there will be destructive power struggles and undermining from both sides. It is important to recognise that family will want to vet outsiders - anyone who can help can also harm. It is worthwhile spending time gaining their trust.

It may be very important to have family members present to remember what was said and done by professionals and to have someone to share the experience. For example for a family member attempting a visual identification of a mutilated body, it is important to have some old friend or family to discuss and interpret what they saw. People are usually reluctant to talk to their family when they have not shared the experience, as they think it will unneces-sarily upset them. (They do not realise that their fantasies may be much more horrific.) It is helpful to process this experience with others who have known the dead person in life.

Professional services are learning from the knowledge of self help groups and the support professions. For example, ambulance officers who now acknowledge the need of the parents to hold and say goodbye to a baby that has died of cot death, earn the parents' trust as a person they can allow to take their baby away. This has done away with not uncommon scenes of officers struggling to remove a baby's body from reluctant parents. One cot death mother said, after the ambulance officer had waited till she felt trusting enough to hand him her baby, 'even though my baby was dead, my faith in human nature was restored'. This is the hoped for outcome from support at this third level, rather than a continuing closeness to the individual helper.

It is a false proposition to divide this level of professional help into active and caring services, as though ambulance officers, police, or doctors have a specific active function and others are there to be 'supportive'. Everyone at this level of

support has a specific task, including support professionals, which should be explained to victims and their families, and all should provide a human response appropriate to the task. There is tremendous support in people doing their task effectively. Professional helpers are not there to relieve the active workers of the task of responding in a human way. This belongs to all those in contact. Support professionals are called in because they may have special listening skills, knowledge of resources or processes of resolution, which can be of benefit. People can experience efficient police action as very supportive - because what they want is to fight back against the criminal, or to have a fair hearing of the facts in an inquest, or to inform or warn the community. It may be that a social worker can help them think clearly to sort out action which is consistent with their family values; but the social worker cannot take over the personal support that can be provided by friends and family.

Different professions have different goals and values and we should acknowledge these differences. Many can be resolved by better communication. I think that it is a responsibility of professional workers to act in a coordinated way, to resolve differences which can pull families in different directions. This coordination maximises the support given by everyone, and provides a positive experience for the bereaved.

VOLUNTEER OR PROFESSIONAL COURT SUPPORT WORKERS

Sometimes it seems that the rationale for volunteer support workers at courts is that they act as 'family' in helping people through a new and confusing system. It is important to acknowledge that they do not have the intimate and individual knowledge of the bereaved before the crisis occurred. Their role ceases once the services are delivered. They may have good links to community services, but they are not there because of an existing relationship, and usually cannot be repaid in kind, by returning support.

Their first responsibility is to enable the family and personal networks to operate effectively. However, volunteers will not be part of the continuing fabric of the lives of the bereaved. There are of course many situations when family and community members are not there, and it is important that support is available. Volunteers as a group have a much wider range of personal and other skills which gives a richness to their help, which is sometimes lacking in the support professions. Volunteers should be able to recognise when a person needs 'trained professional' support and act as a bridge to specialist counsellors.

SELF HELP GROUPS

As with volunteer groups, self help groups come into the picture as 'third circle' supports. While many of the other services have a special role and only see a limited part of the whole picture, those who 'have been there and done that', can offer their experience of the whole system and the resolution of the loss over time. If they wish, ongoing friendships can be formed. They also provide a structure in which help which has been given can be returned, in terms of service to the group. Self help groups also form a powerful lobby for effective services which are in tune with the needs of the bereaved.

My experience with self help groups where the common factor is a death is that there is great vulnerability and sensitivity in the group, which needs strong and sensible people to keep the balance. They have very strong values about the need for positive caring and they need effective ways of dealing with differences of opinion and conflict which inevitably arise. A social worker can provide effective support and training for self help groups.

HUMAN NEEDS IN A CORONIAL ENQUIRY

I would contend that in all societies there are well worn ways of dealing with a traumatic death: elucidating and publishing the facts, supporting the bereaved, and punishing the wrongdoers. This seems natural and appropriate. For example, in the film Out of Africa, when a child dies unexpectedly in a hospital the whole tribe of natives gathers together for three days to give everyone the opportunity to hear all the details, ask questions and give opinions. The benefit of everyone's experience is valuable in making sense of what has happened and keeping it in perspective. Strong emotions are ventilated and acknowledged and become more reasonable.

Many of the same principles are evident in the English coronial system which developed in the thirteenth century. For each local district, the King appointed a man of some social standing in the community to make an open enquiry into any sudden or unexpected death, to protect his own revenues and to prevent people taking justice into their own hands. The enquiry could only be made on examination of the body, which was done by the coroner and a jury of local people, who examined wounds, weapons, and circumstances, and determined the cause and manner of death. (In many ways, the office of coroner was like that of a local ombudsman.) The evidence was heard openly and those responsible were charged before the local assizes. This had to be done before the body was buried, which meant that it was done quickly. Both the coroner and the jury understood the local community and its values and attitudes as they were part of it. They understood the implications of the death.

OPERATION OF THE CORONIAL SYSTEM IN NEW SOUTH WALES

With the growth of the professions (legal, medical, police and scientific) these tasks of hearing and sifting evidence are owned not by the people but by the various professions who seem to have no obligation to pass on information to the family of the bereaved. Eighty percent of coronial enquiries have no court hearing. All that the family receives is a brief letter saying that the inquest has been dispensed with, and giving the cause of death. Moreover, this happens several months after the death. For further information, the family must apply in writing and pay a page charge for the statements and reports. They are not told of these procedures, and by that stage they have formed their own conclusions for better or worse, without any benefit from the expensive and secret enquiry. Each profession holds their information till their report or task is complete, and the coroner determines the time, place, mode, manner and cause of death.

It is only this century that the functions of the coroner have narrowed to rigidly legal ones, of determining whether somebody should be charged. This is to the impoverishment of the whole community, with whom the sifting and understanding of the circumstances are not shared.

There are many examples which I could cite, and if you will bear with me I will present three. In the first example, a baby was born in a city hospital to a Muslim family and it was evident from the start that the baby had severe abnormalities. He was taken to the Childrens Hospital, where surgeons operated to see if any corrective action could be taken. It confirmed their worst fears that nothing could be done, and the child died within twenty four hours of the anaesthetic. The death was reported to the coroner. The cause of death was quite clear and it was most unlikely that anything new would be found at post mortem. Any interference with a body is against the religious practice of Moslems, and the parents were appalled that this should be 'necessary'. The parents, the GP, the paediatricians at the hospital, the religious leaders and the member of parliament made representations to the coroner, who decided that the post mortem must be carried out because it fell under a category of the Act. The parents' grief was compounded by their supportive network's inability to get any sort of reasonable hearing on their behalf - they felt of no value and unregarded in what seemed to them a barbaric community. They said they would not have given permission for the operation if they knew that an unnecessary post mortem would be done. There of course would be no court hearing in this case, only a letter giving the cause of death which was already known. As the coroner has less and less real contact with members of the community, the rules become more inflexible, and the enquiry serves the needs of the community less.

In another case where a 19 year old was knocked down by a car while riding his bicycle, it seemed as though no-one was really at fault. His parents in the country were told of the death by their local police, not the ones who had attended the accident. Six months later the mother, a doctor, came to Sydney because she needed to know what happened. She could not talk to the doctor who performed the post mortem, but read his report. She contacted the ambulance staff and carefully followed up the witnesses through the social worker. She virtually conducted her own enquiry to meet her family's needs because the information that she needed was not collected officially.

In the final example, a three year old was taken to a new 15 million dollar country hospital, run by administrators with only visiting medical staff, and died of epiglottitis because of the ignorance and inexperience of nursing staff. Legally no-one could be charged with negligence. The father had to fight to have a post mortem performed, and is at present fighting for an inquest, an open hearing and sifting of the facts, for the benefit of everyone. He says that after an aircraft crash, even if there is no life lost, there is an extensive and exhaustive enquiry which examines all the prior circumstances and systems. They also may find no fault, but it acts as a vital review of safety systems and tightens procedures. He cannot understand why this should not be done when his son has died. His pushing for an enquiry can lead to his stigmatisation and the assumption that monetary compensation is the desired outcome, which is not the case. There seems little comprehension of the purposes such an enquiry can perform in improving, understanding and healing in a local community. If I am right that such an enquiry serves an important social function, then I think it will not be long before the media take on this role in a program such as the Investigators, presenting and sifting evidence and examining the human issues.

It is clear that professionals in the coronial system operate in a way which denies the needs of the inner circles of support. A review of the coronial system is desirable, to upgrade the calibre of professionals, and to take into account the needs of families and communities. Then the operation of the coronial enquiry would serve as a support to families, and the need for support personnel at courts would be considerably lessened.

CHANGES NEEDED IN THE CORONIAL SYSTEM

Access to medical information is often of vital importance for families. They need to speak to a doctor who has done the post mortem or who has access to the results. They want to know: Was he conscious? Did he suffer? If this had happened, could death have been prevented? These sorts of questions often can be

answered without doing histology or waiting months for toxicology reports to confirm what everyone 'knew' already. By the same token, families are aware that further information can change the picture, for example that drugs were involved or that there are factors which can only be found by microscopic examination, and they appreciate being told what is known. This system operates well in the case of cot deaths, where the post mortem results are given to a paediatrician at the Childrens Hospital who is the expert on cot death, and who works co-operatively with all the support services.

Access to statements of witnesses is also important. However the family is looking for more information than that which bears on the legal statements. They want to know what sort of person called the ambulance, or was involved with the accident, and this information is better heard in person. It would seem to me to be important that a preliminary hearing is held to take what evidence is available within two weeks of the death. This is more humane for those giving evidence, as the tension of waiting to give evidence in court is considerable. A court hearing at this time would enable statements by the family to be given about the personality and character of the dead person. It is often of great value to the family to have a public testimony to stop wrong conclusions being arrived at. Also, the calibre of the information would be much improved over asking people to remember what they saw eighteen months ago, or to comment on a post mortem done the year before. Hearing evidence within the human capacities of the witnesses would considerably upgrade the proceedings.

The only reason I can think of for this not being done, is the reluctance of the court to deal with the matter before all the evidence is available, and that court personnel want as little contact as possible with people in an emotional state. Both make good sense in terms of professional efficiency but it needs to be recognised that this negates the supportive aspects of such an enquiry to the family or the community. Although it could be said that it is very difficult for family and witnesses so soon after a death, in fact people often experience a numbing in this early period that makes it easier at that time. It should be up to families to decide which members are strong enough to attend and bring the relevant information to the remaining members. If close relatives are required to give evidence, this may be accomplished with the sympathy and understanding of all, or there may be discretion that their evidence is heard later, when other reports are heard. This preliminary hearing would seem appropriate in giving due attention and weight to the death. It also allows the coroner to present a meaningful public statement, deploring a tragic loss of life. This is of great comfort to relatives if properly done.

Professional and volunteer support workers are of value to families. However, it would be a great pity if the support professions go along the same track as other professions of building professional empires at the expense of encouraging family and social network support of bereaved persons.

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Bray, Caroline (1986), Needs of Families with a Death Reported to the Coroner : Possible Social Work Responses, Division of Forensic Medicine, NSW Department of Health, Sydney.

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THE ROLE OF PARALEGALS

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This will be a paper which merely raises issues. It is not extensively researched, and it will not come to any conclusions except to say that there is a role for paralegal workers. The focus will be mainly on non-lawyers working in the mainstream courts, but there are even more immediate roles for non-lawyer advocates and supporters in the various systems of administrative and consumer tribunals.

I have daily experience of working with volunteers. As casework solicitor for Marrickville Legal Centre, I oversee the rosters and the work done by a group of 60 to 90 (at any one time) volunteers. About half the volunteers are qualified solicitors and barristers and the actual advice giving is done by them. The remainder are students, bilingual members of the community and anyone else who wanders in and can be found something to do. The 'non-qualified' volunteers do everything from coffee making (an important matter when people are waiting long times for interviews), to interpreting, opening files, filling in client statistics, getting the basic facts of the problem down, administering the advice session, doing research and doing reviews of files to keep them up to date.

Besides working with our own volunteers I have been on the management of the Court Support Scheme in Sydney. Although I am no longer active in that group, I still have regular contact with the co-ordinators and with the member of that group who attends at Newtown Local Court. I also have contact with a number of other workers in the community who give de facto legal advice and might be considered at that stage to be paralegals. For example, there are refuge workers, Youth and Community Services district officers, the social worker at the local information centre, the solicitor's secretary who actually does the conveyancing and probate work, and so on.

In 1985 I helped prepare a submission for the funding of a study into paralegals, their role, use and training in New South Wales. This submission was supported by a loose collective of groups (including The Aboriginal Legal Service, the Ananda Marga, the Australian Prostitutes Collective, the Australian Transsexual

Association, the Gay Rights Lobby, Marrickville Legal Centre, the Motorcycle Riders Association, the National Organisation for Reform of Marijuana Laws, Prisoners Action Group and Women's Action against Global Violence) but was subsequently rejected by the Law Foundation of New South Wales. Because it represents the combined thought of so many interest groups, I have appended a lengthy extract for information. I would also refer you to a relevant chapter on 'Roles for Non-Lawyers' in Disney, 1986.

The Macquarie Dictionary defines the adjective 'paralegal' as 'related to the legal profession in a supplementary capacity, often used of legal workers who are not formally qualified'. The question is, 'when does advice and assistance become legal advice and assistance?' Advice such as 'you can ask for an adjournment' or 'it's a good idea to have a character reference if you're going to ask the court to go easy' is in a sense legal advice but is also fairly common practical community knowledge.

The lines are thus not at all clear where, for example, a court support worker ceases to be a comforter and becomes a paralegal. The worker at Newtown Local Court is an excellent tenancy advocate and has taken quite an assertive and challenging stand to the local council's practice of prosecuting local people for littering and parking offences. She has been allowed by the magistrate to be in the court from time to time and actually speak on behalf of unrepresented persons, not as representative herself, but as, one might say, interpreter for an inarticulate person. This worker has earned the trust of court staff and has the competence, skill and diplomacy to gradually extend the role. Other court support scheme workers on the other hand take a more restricted view of their roles and indeed some of them, at least as yet, do not have the skills to go further.

There are regulations governing who can do legal work. This varies from state to state but essentially the law prevents people holding themselves out as solicitors unless so qualified, for or without reward, and doing certain work for reward normally done by solicitors. The cynical see this, with some justification, as an attempt to preserve the monopoly of solicitors over certain work. The monopoly is being eroded (for example, conveyancing companies) in many areas but not to date in the courtroom. The courts have an inherent right to control who appears before them. They have been reluctant to be too generous out of an expressed concern for the quality of representation both in terms of best use of court time and the quality of advice given to the person represented.

On the other hand there is not much the court will do about friends and supporters in court unless they become disruptive.

These friends are usually known as 'McKenzie advisers' when they actually prompt, advise and confer with the person before the court. Many court support workers could and would fulfil this role.

There have been as yet (to our knowledge) no problems of wrong advice being given - wrong, that is, in the sense that a person has been legally prejudiced - although one might oneself have wished for various reasons to pursue a different direction. This has been due to the admirable discretion and knowledge of their own limits shown by the workers in question.

However, it is of genuine concern (and not, when expressed by lawyers a mere concern with their hip pocket) how the quality of advice is to be maintained. We are seeing increasing regulation of, and professional negligence claims against, the legal profession. We are also seeing attempts to regulate the interpreting profession. This latter has arisen because of the 'Mr-Fix-its' who have been abusing the vulnerability of many non-English speakers. In some ways these people have fulfilled the role of adviser although often for reward. Except for the question of reward there is often little distinction with the work done by court support workers.

What remedy will a person have in relation to, for example, wrong advice by a court support scheme worker? What control will there be of paralegal workers who do not observe basic fairness considerations like avoiding conflicting interests? With the best will in the world, a partly trained and busy worker can very easily fall into (for example) directing clients towards negotiating time to pay when perhaps there is a valid and practical legal defence. A classic area where this crops up is in the consumer credit area. For example it may be that every contract of a well known finance company entered into since the Credit Act NSW came into effect may be unenforceable as regards the interest. How many generalist court support workers would pick up a technicality like that? (Mind you, that company's own lawyers do not appear to have done so.)

My own opinion is that these are not insurmountable problems and I am not in favour of a paralegal professional regulatory body, but the concerns do have to be kept in mind. The reason for not wanting a regulatory body is that it would make any system of paralegals too rigid and would not allow for the broad range of sympathetic and specialised workers that I envisage as desirable. In addition, such a body risks breeding a sense of professionalism which can rapidly become restrictive and elitist.

One of the possibilities is that only those persons will be accepted by the courts who have completed approved training schemes which might include an ethics component. This raises the question of who is to approve the schemes.

One of the clearest attempts to set up a substantial training scheme for paralegals in the community sector was that by the Aboriginal Legal Service of New South Wales in 1982 for their field officers. The course was funded partly under the NEAT scheme so that the officers were paid their wages and it was structured over a year to have a month studying and a month back at their job applying what they had learned. Field officers who undertook the course speak highly of it as having given them confidence, understanding and skills they had not previously gained in a number of years 'on the job'. Most magistrates recognised those field officers who completed the course and gained the certificate, and granted leave to those officers to appear before them on bail applications, mentions and pleas.

It is interesting to note that the course included not just hard information on present rules and regulations but entered into discussion on the historical and philosophical background. Course participants also saw it as an opportunity to pass on their experience and criticisms of the system to the people, such as the ombudsman, who came to talk to them as part of the course. Unfortunately, funding has not been made available to continue this excellent program but it does set a good example of the way a course can be designed and of the fact that learning as you go on the job is not enough.

I think paralegal schemes need to develop slowly. At this stage we are still really limited in New South Wales by the personalities of magistrates, judges, the local legal profession and the workers themselves. We are also limited by the unwillingness of funding bodies to investigate and instal appropriate training schemes. There is a lot of prejudice against, in addition to real problems with, paralegals in the courts.

Such schemes will be started by volunteers. It is one of the real advantages of volunteer services that they can recognise an area of unmet need in the community and design and get under way some means of addressing those needs. Once they have blazed the trail and proved that there is a real need, then the community as a whole should take on the responsibility by providing that service by paid staff. There is an ideological base for this proposition. The state should not be able to avoid its responsibilities to the people by relying on unpaid services, and the people should not have to depend on the energies and enthusiasms of private charity workers. This does not mean that the volunteer becomes redundant. There are so many areas of need as yet unmet that the volunteers can and should be taking up. It will also be necessary for the volunteers to keep an eye on just what the administration does with the service they started; there is a 'keeping them honest' role.

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EXTRACT FROM

SUBMISSION TO THE LAW FOUNDATION OF NEW SOUTH WALES

ON THE ROLE OF

PARALEGALS (UNPUBLISHED)

PARALEGALS AND THE MINORITY GROUPS COLLECTIVE

The interest of the Minority Groups Collective in paralegals is specific to the needs of our member groups, and we intend in this section to outline the nature of the service which we would like paralegals to provide to our communities. We will also address the questions of where paralegals would work, what training they would receive, who would fund them, and why they would be of benefit to minority groups. However, while the Collective has a specific interest in its member groups, it sees that many other groups would benefit from the same assistance. In particular ethnic, youth, women's and workers' groups.

1. Functions of Paralegals

Paralegals should be able to provide people with information to do their own advocacy in court, give advice on how best to utilise the existing social and legal services, assist in social security appeals and other administrative processes, prepare and lodge Freedom of Information applications, accompany people to court and police stations, lodge bail applications, seek adjournments and do mentions in Magistrate's Courts, provide information to clients about the court system and about probation and parole, foster a community awareness of legal rights and processes, and highlight areas of law in need of reform.

In addition, paralegals should be able to train volunteers, prepare legal education resource material, and do some community development work. The possession of specific skills in mediation, counselling, lobbying and policy formulation would be highly desirable, as would a good knowledge of one or more specific areas of the law such as tenancy, employment, discrimination, sexual harassment, child abuse, domestic violence, social security, workers compensation, conveyancy, prisons, probation and parole, motor traffic law, land rights, insurance, street offences, arrest powers and community welfare.

Under no circumstances would paralegals duplicate the functions of lawyers, conduct defended cases or hold money or property on account of clients.

2. Where Paralegals Would Work

Paralegals would work for organisations with a vested interest in community welfare. They could work at Community Legal Centres, Youth and Women's Refuges, Information Centres, Half-way Houses, Counselling Services, Offices of the Community Youth Support Scheme, Women's Health Centres, the Aboriginal Legal Service, etc. Other venues frequented by minority groups would also be suitable.

3. Training

Paralegals must be specifically trained, both on the job and in a formal training program. As regards the latter, there should be provision for both full-time and part-time courses (e.g. The College of Law sandwich course).

The costs of the training program should be borne by educational bodies, either through an increase in recurrent funding or by way of special grants from private or public sources. It may even be feasible for a small proportion of the existing legal education funding to be channelled into paralegal training, once the benefits of paralegals are realised.

4. Funding

Some paralegals would be working in a voluntary capacity, many others would be part of the existing staff of centres, community groups, refuges, half-way houses and other organisations. In some cases, however, it would be appropriate for these bodies to apply for special government assistance for the employment of paralegals.

Conceivably, government bodies such as the Ombudsman's Office, the Anti-Discrimination Board, the Ethnic Affairs Commission, the Drug and Alcohol Authority and the Human Rights Commission may be prepared to fund persons to work as paralegals at the local community level, or at least to employ such persons directly.

5. Benefits of Paralegals

* Paralegals would provide a basic legal assistance at a much lower cost to the community than lawyers.

* Paralegals would enhance the quality of service available at non-legal centres.

* Paralegals would protect people's rights by giving basic legal advice and by referring people to the appropriate legal service.

* Paralegals employed by legal centres would allow lawyers more time for the preparation of cases by taking on some of the work load.

* Paralegals would have a role in educating the community.

* Paralegals would act as the eyes and ears of legislators, by highlighting areas of the law in need of reform and by monitoring community attitudes to new laws.

* Paralegals would help overcome minority group alienation from the dominant culture by providing people with the knowledge and skills to defend their rights.

* Paralegals' flexible hours of work, their self-identification with the groups with which they work, and their multi-disciplinary skills would make them accessible to a wider range of people than lawyers.

* Paralegals could assist in areas where legal aid is not available, and where lawyers would find that the type of work is not cost productive, for example, the Consumer Credit and Social Security Appeals Tribunals.

DIMENSIONS OF THE STUDY

The study, as envisaged, will be in two parts. The first part will:

1. Identify the need for paralegals, how they can best be utilised, and who could best perform the function.

2. Review the role of paralegals in New South Wales, other than in the private sector.

3. Discuss the validity of existing models.

4. Examine whether any amendment is required to existing legislation to permit the utilisation of paralegals.

The second part of the study will be concerned with the practicalities of establishing a paralegal system for minority groups. It will:

1. Identify the major areas of responsibility of a viable paralegal system.

2. Make practical recommendations as to how paralegals could be recognised by the courts.

3. (a) Recommend a suitable training program for paralegals;

   (b) Determine whether any university or college courses could be adapted to the needs of paralegals;

   (c) Assess whether a recognised certificate or diploma could be issued upon completion of a course of study.

4. Examine possible sources of funding for such a program.

ADVISING THE COURT AND THE OFFENDER: THE CONTRIBUTION OF CORRECTIONAL SERVICES TO THE SENTENCING PROCESS

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Correctional services differ from other organisations providing support and advisory services to courts in that their role is a statutory one, and is performed after a defendant has been found guilty. It is a role played, therefore, in the sentencing process when much of the trauma and turmoil of the court appearance is over and done with, but when for many, the major apprehension remains: the severity of sentence.

What follows will largely be predicated on Victorian experience and practices, and the reader should bear in mind that whilst correctional services in all states and territories carry out assessments, prepare reports and make recommendations regarding the disposition of offenders to sentencing authorities, the advisory function is rather broader in scope in Victoria. Victoria is alone in requiring all courts to seek advice from a community corrections officer before making any order requiring the participation of an offender in an adult community corrections program. Nevertheless, the introduction of new community-based sentencing options into all Australian jurisdictions in recent years, many of which require the pre-sentence involvement of community corrections officers (e.g. community service orders, home detention, attendance centre orders), has resulted in a greatly increased involvement of correctional services in the sentencing process.

GENERAL PRINCIPLES

As noted by Bill Clifford and Richard Harding - both former directors of the Australian Institute of Criminology - in their contribution to the Seventh U.N. Congress on the Prevention of Crime and Treatment of Offenders,

> It is not fanciful to say that in Australia at the present time there is a national perspective on corrections. This perspective has been developed in Ministerial meetings, fortified by more frequent

> meetings of senior administrators. The perspective is that there must be emphasis within Australia, in all States, on community-based corrections and alternatives to imprisonment. The Council (of Ministers responsible for Corrections) has constantly highlighted the impact upon the community, both financially and in terms of human waste, of unnecessary imprisonment (Clifford and Harding, 1985, p.36).

This perspective grew out of an awareness and a growing body of evidence that imprisonment was a costly, ineffective and frequently destructive disposition. Correctional thinking in much of the western world has reached a point at which imprisonment can be seen as a last resort alternative penalty to community corrections, and its imposition warranted only upon offenders deemed to require total deprivation of liberty. In other words the position to which the correctional perspective has moved is that all community-based correctional options should be demonstrably unworkable or inappropriate in terms of sentencing, before imprisonment is even considered.

The Office of Corrections in Victoria supports the principle of, and seeks to provide to courts, accurate, reliable, objective and timely information that focuses directly on those issues relevant to sentencing. The objective of the Office of Corrections in providing information to sentencers is to maximise the proper use of community-based correctional options and to promote sentencing options which, whilst being the least intrusive, are capable of constructively addressing the offending behaviour without disregard for the community's requirements and expectations of retribution, deterrence and protection.

THE PERCEIVED BENEFITS OF COURT ADVISORY SERVICES

A. To the Courts

The provision of information and advice to courts by correctional services in the form of pre-sentence reports has occurred for many years. Pre-sentence reports are prepared at the request of a court in order to provide further information concerning the social background, circumstances and lifestyle of an offender. They are sometimes described as social history reports, but the writers commonly canvas the possible effects of various sentencing options and may offer sentencing recommendations. As to reasons for seeking such reports, Fox and Freiberg (1985, p.72) cite Mr Justice Lush:

> ... to reassure the judge so far as possible that nothing has been overlooked or suppressed in the evidence and plea which he has heard.

and Mr Justice Gillard:

> One of the reasons for getting such a report is to see that no injustice is done to an accused person, that the exercise of a discretion which a sentencing judge is called upon to perform, is going to be performed on the fullest knowledge of the accused person appearing before him.

In the course of compiling a thorough pre-sentence report, an experienced community corrections officer (or probation and parole officer) will nornally express a view on the rehabilitative potential and correctional programs relevant to the offending behaviour of the subject. More often than not the recommendations contained in pre-sentence reports are accepted by the court, which may be indicative of the weight sentencers are prepared to give to correctional assessments. A sceptic might suggest that this concurrence is nothing more than an indication of the skill developed by corrections professionals in anticipating sentencing decisions. Such scepticism did not gain support in the Ohio study of the role of the probation officer in the sentencing process, which concluded:

> It would appear that judges and probation officers are engaged in a process of mutual socialisation, each assimilating dialectically the thought generated by the dissimilar educational backgrounds of the other. What emerges from this interplay of independent thought processes are perhaps more reasoned case dispositions than would obtain if either dominated the other (Walsh, 1985, p.302).

Not all of the information required by courts before passing sentence relates directly to the offender. A sentence requiring performance of unpaid community work cannot be carried out unless work and supervision are available and the court may request an assurance in the matter. Home detention schemes, presently being implemented in two jurisdictions in Australia, can have a serious impact on the lives of any others in the dwelling; they must bear some of the weight of the sentence. There will be random checks by telephone and visit and, because home detention is frequently ordered where alcohol is the major contributory factor to offending, there may be a heightening of domestic tensions. The court will require from a corrections officer an assurance that supervision is available and that co-residents do not object to the order. Where a particular course of treatment, training or education is identified as central to the needs of the offender, and the court wishes to make the undertaking of such a course a condition of release to community supervision, it may wish to be advised as to the availability of such a course within reasonable distance of the offender's residence.

In summary then, advice provided to sentencers by correctional services may contribute to more effective sentencing by:

(a) enlargement of the information base,

(b) indicating the correctional programs relevant to the offender,

(c) indicating which sentencing options are viable in each case.

B. To the Offender

In drawing conclusions and formulating advice to courts, community corrections officers are mindful of the degree of risk borne by the community if the particular offender remains at large; the personal needs, problems and failings that contribute toward an individual's offending; and the requirement of the community that some penalty be paid by the offender - whether that penalty be construed as deterrence, punishment or retribution. However, in considering these factors and providing sentencing advice, community corrections officers should formulate recommendations on the basis of two fundamental principles:

1. The principle of minimum necessary intervention

It is important to avoid any tendency to widen the social control 'net' in the community. Two aspects of 'net-widening', which can be minimised with the assistance of a skilled, professionally - conducted court advisory service which is trusted by the courts, are:

(i) the tendency to order correctional programs for offenders whose offending behaviour does not warrant or cannot be affected by correctional intervention. In determining whether or not a particular offender might benefit or the community might be best served by the making of a correctional order, the court can be greatly assisted through the advice of one who knows what correctional services are available in the community and what they may be able to achieve with that offender. The fine and the unsupervised bond 'to be of good behaviour' remain the most cost-effective correctional options with respect to a great proportion of offenders.

(ii) the tendency to make community corrections orders which are of greater duration and/or intensity than can be usefully employed. Where the court, in making a community corrections order had in mind a

particular program or plan of action, it may be usefully advised of the time normally taken to complete that program or plan of action. The court could also usefully be advised as to the extent of the legitimate commitments and responsibilities of the offender, which may affect the time it will take to complete the program. If such issues can be taken into account at the time of passing sentence the demands of justice and rehabilitation can be satisfied without unwarranted intrusion into the socially useful and constructive aspects of the offender's life (e.g. his/her employment, training, parenting).

2. The principle of relevant intervention

Correctional services in Australia have maintained a commitment to rehabilitation as a legitimate goal of sentencing. (In the case of offenders who have never acquired skills that might assist them to live crime-free lives, 'habilitation' might more accurately describe the correctional process required.)

In the wake of publication of the review study by Lipton, Martinson and Wilks (1975) and further work by Martinson (1976) and others, a wave of despair and disillusionment swept the United States and, to a lesser extent Canada, as word spread that in correctional programs 'nothing works'. This conclusion resulted in some heated debate within criminal justice adminis-tration, particularly in the USA and Canada, and gave impetus to 'just desserts' models of sentencing; proposals for 'radical non-intervention' on the ground that doing nothing was at least as effective as anything done; and adoption of a deterrence focus as the goal of sentencing.

There is not space to comprehensively describe recent develop-ments; merely to indicate that community-based correctional programs can be effective when the right program is matched to the right offender, targetted at the offending behaviour and delivered by the right person (Gendreau and Ross, 1981a). It is now the 'just desserts', determinate sentences, deterrence advocates who are on the defensive as it proves difficult to demonstrate that these approaches have any effect on criminal behaviour and re-offending (Gendreau and Ross, 1981b, p.29).

What all the debate of the past decade has demonstrated is that intervention for intervention's sake is pointless, and indeed is unlikely to have any effect.

> Intervention needs to be related to offending behaviour, the learning needs of the offender and the requirements of society. It is in the area of the former two requirements that the advice of community corrections officers may be of value to sentencers and to offenders. The projected value to offenders admittedly rests on the assumption that programs which promote problem-solving skills, life enrichment, and social adjustment and assimilation for offenders are of benefit to them.

Court advisory services provided by community corrections officers may thus benefit offenders by:

(a) promoting the minimum necessary intervention in the life of the offender, consistent with public safety and the demand for surveillance and retribution,

(b) promoting sentencing decisions which directly relate to the offence-related needs and rehabilitation possibilities presented by the offender.

C. To the Community

The community is by no means united in its view on the proper goals of sentencing or of corrections, and public debate on the subject frequently generates more heat than reason. Weatherburn (1983) has discussed the confusion of goals in relation to the perceived purpose of imprisonment, not only among members of the community, but among sentencers themselves. However, insofar as correctional services are able to promote diversion fromimprisonment by providing advice to the courts, and by establishing and maintaining the confidence of the courts in the integrity, effectiveness and strictness of community programs, there are positive benefits to the community.

In Victoria, for example, it costs approximately $30,000 per annum to keep an offender in prison. The cost of an equivalent period of community-based supervision is less than $2,000. The cash saving to the community of appropriate diversion from custody is clear and considerable. Furthermore, where an offender is married and has dependants, diversion from imprisonment may eliminate the need for the dependants to rely upon social security and private support agencies, and where an offender is employed or employable, diversion from imprisonment may result in generation of tax revenue which will offset the cost of community supervision.

Assessment that an offender is suitable to perform unpaid community work is another tangible benefit that can flow to the community as a consequence of the availability of court advisory services. A court order for the performance of unpaid work is

in many ways a more constructive form of punishment for offending than incarceration in that it contains elements of reparation to the community as well as possibilities for development of workskills, work-habits and positive contacts with non-offending members of the community. Even Stanley Cohen, a cogent critic of the social control apparatus as it exists in most western democracies, is able to find some positive aspects in what he calls the 'soft-end projects':

> ... some good might be done, if only by chance, to those who are now being recycled into the soft machine. Not necessarily in the sense of stopping them committing another crime, and certainly not in the sense of even touching the real sources of inequality, exploitation and deprivation. How absurd to think that 'community control' could do any of this. The good that might be done, would be to touch the 'incidental' problems which the positivist filter cannot but pick up: alcoholism, chronic ill-health, illiteracy and learning disability, psychological disturbance, ignorance and powerlessness about claiming welfare rights, legal problems, homelessness etc. (1985, p.257).

If court advisory services result in offenders who might otherwise have been imprisoned being enriched or helped in some of these areas through a community corrections program, then, to a degree, the community is enriched. It would be difficult to find an informed observer who would argue that prison is either more effective in terms of rehabilitation or more humane than community-based alternatives. Indeed, prisons are assessed by many as creating more problems than they resolve, except in circumstances where community protection is seen as an imperative.

CONCLUSION

There is by no means a consensus in support of court advisory services provided by community corrections officers. In what appears to be a climate of general approval in Victoria, for example, a few sentencers object to what they see as an undermining of their independence and discretion. Some members of the legal profession express fears that material not presented before the court during the trial process might adversely influence the sentence their client receives. However, given that court advisers can be and are trained to identify inadmissible material when producing reports, given that courts may reject advice and recommendations, and given further that sentencers in this country are not trained and are sometimes quite inexperienced in criminal matters at the time of their appointment, it seems reasonable to suggest that the kind of comprehensive, independent

and objective advice and information supplied by community corrections officers to sentencers is a positive contribution to sentencing.

Where such advice also assists the court to arrive at sentences that are just, results in the minimum necessary intrusion into the life of the offender - having regard to public safety, and is relevant to the offence-related needs of the offender, there are benefits for the court, the offender and community.

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MAKING COURTS MORE ACCESSIBLE:

RECENT CHANGES IN VICTORIAN COURTS

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In December 1983, the current Secretary to the Attorney-General's Department, Mr John King, was appointed by the then Attorney-General, Mr John Cain. Mr King was given a specific brief by the Attorney-General and it was as follows:

> To improve progressively the efficiency and economy of operation of the Court System and the effectiveness with which it meets community needs.

Courts perform a dual role in that they are responsible for ensuring protection for the community from criminal and anti-social elements, and for providing members of the community with legal justice and resolution of disputes without recourse to force. Therefore, for courts to be able to fulfil their purpose of meeting community needs, it is essential that they be adaptable, accessible, efficient and comprehensible.

As a result of this brief, the Courts Management Change Program was commenced. The underlying theme of this Program was to improve accessibility to court services by local communities. It was also required to provide visiting services by clerks of courts in rural and some metropolitan areas. The findings of the Program were as follows:

1. The Court system was not sufficiently accessible to the community as a whole.

2. Buildings are inadequate and uneconomic. As a result of long-term neglect on the part of the Law Department, many court houses have fallen into a state of disrepair. When works were required to be performed, therefore, large amounts of money have had to be injected.

3. No long term strategic planning was evident in the Law Department. In the past, courts went from one year to the next without an overall plan about where they were heading or where they came from.

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* The paper was introduced by Mr John Ardlie, Deputy Director of Court Operation, Attorney-General's Department, Victoria, who spoke about the Courts Management Change Program and its interaction with court support services in Victoria.

4. The jurisdiction of the magistrates' court has not been progressively adapted to meet community needs. The cost of litigation and the present remedies available to courts are some of the factors reflecting the need for change.

AREA MANAGEMENT

Management of magistrates' courts is now organised by regions. There are currently four regions in the metropolitan area and four in the country area.

Through the division of the State into these administrative regions, local needs are identified and dealt with 'on the spot'. Regional managers are expected to ensure that optimum use is made of available resources and they are responsible for planning and regional budgeting. A major requirement of the manager is to liaise with relevant local community based organisations and government instrumentalities in order to develop a suitable network for delivery of court services, and to engender local participation in the planning and development of the court system in each region. Such input enables regional managers to advise central administration on long-term policies for the State and, more particularly, to propose projects that improve the provision of court services in each region.

VISITING CLERKS SERVICE

It has also been proposed that clerks of courts visit a large number of locations in rural Victoria to provide an expanded range of services from suitable facilities which may not necessarily be court-houses. This proposal is to be implemented progressively as resources become available.

Clerks of courts presently provide a broad range of services and perform a number of tasks associated with administering courts. These services should be distinguished from those hearing or adjudication activities which take place before a magistrate in the courtroom itself. Clerks of courts provide 'over the counter services' which are broad in range and may usefully be grouped into three categories. There are services directly concerned with hearings, for example, the operation of the sitting court, such as the issue of summonses, recording of judgments, issue of warrants and the like. These services are used by the legal profession, the police and the public at large. Secondly, there are legal information services. These comprise information given over the counter by clerks on a large number of issues relating to the courts and the operations of the law. The users of these services are the legal profession and members of the public. Lastly, there are community support services. The principal

activities in this regard are distribution of the court fund monies and the provision of information on other government and community related services, which are integral to the administration of justice. In respect of some of these functions, there is a need for clerks of courts to be available to members of the public on a face to face basis. In the past, the philosophy that the services of clerks of courts should only be available within court-houses has meant that there has been a steady decline in the number of service delivery locations throughout Victoria as courts have been closed. Clerks of courts were not directed to maintain services in the areas where closures have occurred, with the result that the cost or inconvenience of travelling to the nearest operational court-house reduced access to these services.

Accordingly, the 'visiting clerks' proposal effectively replaces these services in areas where closures have occurred, and establishes services in some other areas which have increased in population in recent years. In addition to undertaking court-related duties, it is intended that clerks also act as agents for other departments. For example, they might play a larger role in small claims or residential tenancies cases or in processing various applications. They might also distribute information in the form of pamphlets.

The service is particularly important in rural areas, where there is not the range of government agencies which exists in the metropolitan area.

EQUAL ACCESS TO THE COURTS

The Government is also concerned to ensure that members of the community obtain sufficient and equal access to the court system. The geographic location of Victoria's court-houses reflects a combination of the transport maze of the 19th Century and the political and social pressures of the 20th Century. No master plan was developed, nor were there criteria for determining the location of court-houses and facilities. The result is that in some areas court-houses are surplus to requirements, whilst in other areas there exists a demand for additional court facilities.

As part of the programs which have now been adopted, the Government intends to ensure that persons appearing in court are not disadvantaged as a result of their income or ethnic background. Included in this bracket of services is the newly set up Legal Interpreter Service, and a free legal service for those appearing in court.

The Legal Interpreter Service has been set up to establish a comprehensive register of all legal interpreters and to provide an on-call referral system for government agencies. It is administered by the Ethnic Affairs Commission under a joint arrangement between the Commission and the Attorney-General.

Where a person is charged with a criminal offence, the informant is required to arrange, where necessry, an interpreter in court. If the magistrate requires an interpreter after the commencement of a case, the hearing is adjourned until the interpreter has been organised by the police informant or the clerk of the court. In this case, the Crown bears the cost of the accused person's interpreter though this does not extend to witnesses for the accused. In civil proceedings the parties to the dispute are responsible for arranging interpreters to attend the court, though the magistrate may adjourn a hearing until an interpreter has been obtained. In these cases, each party bears his own costs.

A system of accreditation and a training scheme to ensure that all interpreters used in the criminal justice system are accredited has been established, and people with language difficulties will have qualified interpreters available to assist.

A legal aid service has been established at most suburban courts throughout Victoria. The main function of the Legal Aid Commission is to conduct actions on behalf of those assessed to be eligible for legal assistance, and it is presently funded by the Victorian and Federal Governments.

The Commission provides duty lawyers at various court-houses to assist persons appearing in court. Additionally, various law associations organise a roster of voluntary duty lawyers at nominated courts throughout the State to assist persons appearing without the benefit of legal representation. The Commission also briefs private solicitors to appear on its behalf.

Servicing of the magistrates' courts in the metropolitan area is through salaried duty lawyers based either at the head office of the Legal Aid Commission or in the regional offices that are being set up. Salaried lawyers are available at many of the large suburban courts. Voluntary lawyers are organised throughout the local legal associations.

Duty lawyers are also available both at the central Children's Court and the associated courts that hear children's court matters in the metropolitan areas.

In the country, duty lawyer services are organised by the Legal Aid Commission in co-operation with the seven country law

associations, or on a voluntary basis through the law associations. Courts are selected on the basis of the volume of business of the court and are reviewed annually by the Commission with the co-operation of the magistrate and the clerk of courts.

Other programs have also been adopted to assist people through the court process. Several voluntary agencies are setting up general information and assistance services to operate at the courts. Most operate with volunteers who make a direct approach to those waiting at the courts and offer their assistance. The assistance offered can vary enormously and may include information about entitlements to pensions, referral to other community agencies able to offer counselling or family support services, and support and assistance through the trial process and afterward with advice and information. This assistance is available to anyone appearing in court. In some instances the police will contact these services prior to a court appearance and notify them that a particular person is to appear in court and needs some assistance.

Such agencies include the Court Information and Welfare Network and the Citizens Advice Bureau. In addition to these groups, a number of more traditional agencies provide services to courts including the Salvation Army, Sisters from the Church of England and more recently, organisations such as Odyssey. Most of these agencies have responsibilities back to their own organisation and, it seems, provide information and offer advice to the magistrate in terms of their own service network rather than of community services in general.

COMPUTERISATION OF THE COURTS

The Victorian Courts System currently makes minimal use of computer systems. This lack of computer systems has meant that court services are not easily accessible either by the community or the legal profession - there is a lack of flexibility in the way the services are delivered and they are costly to provide. Also, many court staff are involved in performing rote clerical activities rather than performing tasks which would be of more direct benefit to the courts and their users.

Accordingly, a computing system will be introduced into the first Victorian court (Broadmeadows) in July 1987. This announces a period of change that will see all courts extensively modernised, providing substantial benefits to those coming into contact with them. Within five years, it is anticipated that the entire legal system in Victoria will be integrated into the computerised network and Victoria will have what is referred to as a 'paperless court' structure, thus establishing a sound foundation for the future effective management of the courts.

In summary, the Courts Management Change Program is developing in close consultation with members of the community, the legal profession, police and other interested parties and organisations. Whilst courts management in Victoria has come a long way in the past three years, we are still scratching the surface in many areas. However, the objective within the next few years is for the courts in Victoria to reflect the community they serve, and to be more accessible to those requiring their services.

NORTH AMERICAN INITIATIVES IN COURT AND VICTIM SUPPORT SERVICES

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I recently spent time in Canada, north-eastern USA and England looking at services for victims of crime and at alternative dispute resolution programs. There was a wealth of programs available and I do not claim that the few I want to talk about today are representative of the whole. There is a climate of innovation and evaluation in all three countries which is allowing for quite radical initiatives.

That climate is partly the result of the backlog of cases in the court system, of dissatisfaction with the cost and inappropriateness of adjudication to resolve many disputes and of the growth of the movement to give victims a place in the criminal justice system. (For more detail of the arguments against the adjudication system see David, 1985 and 1986).

Firstly, I want to look briefly at two types of programs established to give support to victims in the court process. They are inexpensive to implement as they are basically administrative programs. Secondly, I want to look at an innovative project of the American Bar Association to improve access to the most appropriate dispute resolution process for disputants.

WITNESS CO-ORDINATION PROGRAMS

These programs are based on the premise that victims and witnesses in criminal actions should be notified as soon as possible of any changes which affect the requirement for them to attend court. Alternatively, they should be given access to a system that provides up-to-date listing information so that they can check whether they are required to attend court. The method most commonly used for notification is by telephone, though some programs use letters if there is sufficient time prior to the list date and some use tape-recorded, telephone-accessible information of any changes. The need for these services stems from the fact that often victims and witnesses are the last to know about the relisting of cases (American Bar Association, 1983, p.6) and sometimes do not know until the case is called in court and a guilty plea is entered.

The Ottawa Witness Co-ordinator Program (Meredith, 1984, p.175) is an example of such a program. The program operates out of the Crown Attorney's premises. It is run by a full-time co-ordinator and two full-time assistants, all of whom are paid. The program prepared a brochure which is served with all subpoenas outlining 'being a witness'. Potential witnesses can telephone the program for information. Approximately one week prior to the trial date, the program attempts to telephone all civilian Crown witnesses to remind them to appear or to notify them that they need not appear. The evaluation report revealed that 72 per cent of subpoenaed witnesses were successfully contacted (Meredith, 1984, p.8).

Program staff also review the case with Crown Attorneys to verify the need for individual witnesses to testify, identifying those that can be excused and informing the Crown Attorney of any problems particular witnesses may have in attending. Defence counsel are contacted to enquire whether a plea of guilty is to be entered. If so, enquire whether a plea of guilty is to be entered. If so, the witnesses' subpoena can be cancelled and the witnesses informed not to attend. If no guilty plea is to be entered, the staff review the witness list with the defence counsel to identify witnesses who could submit their evidence in writing or whose testimony can be waived as superfluous. Both types of witnesses are then advised they are not required to attend court.

Further assistance to court administration is provided by the program staff who meet daily with the chief judge and the court administrator to review the court's list for the day in the light of the program's current information on witness attendance problems, proposed guilty pleas and Crown withdrawal of charges. Cases are then shifted to even out the load among the available courts.

The evaluation report states that the Ottawa police force has significantly benefited from the program. In a three-month period 192 police witnesses out of a total of 1120 were notified not to attend due solely to information provided by the program. Another 447 police witnesses were notified not to attend following police-initiated review of prosecution files, which review was co-ordinated by the program. As the report states (Meredith, 1984, p.26) 'this situation represents a dramatic change from the state of affairs prior to the start-up of the program when it was very much a 'hit or miss affair' as to whether the police would be informed regarding case cancellations'.

Generally, the program's records indicated that an average of approximately 100 subpoenas per month were cancelled due to the program's efforts (out of an average of 573 subpoenas issued per month). A further 20 witnesses per month are never served with

subpoena due to the program's review of cases with crown attorneys and with defence counsel. The evaluation report estimated that the program would save per annum:

Civilian witness fees	$19,200
Civilian witness expenses (travel, etc.)	$27,600
Police witness expenses (overtime and income)	$180,000
TOTAL	$226,800

Since the program's annual budget was $59,000 at that time, the program's cost-effectiveness was evaluated as being 'indisputable' (Meredith and Tinsley, 1985, p.177). The benefits of more co-operative witnesses and victims are claimed to result in increased success in prosecutions resulting in increased convictions.

The Ottawa program could be combined with a witness telephone alert program such as is operated within the Winnipeg Victim/Witness Assistance Program (Meredith and Tinsley, 1985, p.3). This latter program is a service for physicians and other professionals who are placed 'on alert' for the day they must give evidence. This is equivalent to placing them 'on standby' in Australia, except that the program staff arrange this not the crown attorney. The Winnipeg program also attempts to assist these witnesses to have written evidence accepted by contacting both the relevant crown attorney and defence counsel to seek agreement to this. There appears to be no reason why such a program cannot be extended to other witnesses. The type of criteria that are considered in other programs when deciding whether to place a particular witness on alert are: the co-operativeness of the witness; whether the witness can be reached by telephone during court hours; and whether he/she can reach the court within an hour of being telephoned. The witness is advised of the benefits of being on alert and of the consequences of not attending when telephoned and then given the option of being placed on alert.

The Ontario provincial government is in the process of implementing a witness co-ordination project, similar to the Ottawa program, within its Victim/Witness Service Program. The program is part of a 'new deal' for victims initiated in 1985 when there was a change of government in Ontario. The arguments for the program are that it is inexpensive to implement, and will result in more successful prosecutions as a result of more co-operative witnesses.

A program which was based in the court administration could have access to a computerised data base on cases, with information on witnesses, including victims, which could assist in the program's

implementation. The information on witnesses, their telephone numbers (and addresses if letters were to be sent) could be collected initially when the trial date is set, or when subpoenas are issued, and then for any postponements or for a plea of guilty the witnesses could be notified from the computerised lists.

A similar program in Australia is the Victorian mention system under which police informants and their witnesses do not have to attend mention courts. Pleas of guilty are dealt with at these courts. If the accused pleads not guilty then the case is listed for hearing subsequently at a hearing court where the police informant and witnesses do attend. The same claim of 'tremendous savings in police time and expenditure' is made (Victorian Attorney-General, letter dated 4 July 1986). In the Gippsland Region the mention system was found to substantially reduce police time spent in court, from an overall 4,445 hours in six months to an overall 854 hours! The Ottawa program would be even more saving of time and expenditue as it also involves the review of witnesses and the seeking of agreement of defence counsel to some evidence being given in writing.

APPEALS ADVICE PROGRAM

To ensure victims know about an appeal hearing before it is reported in the media, the Ontario Attorney General has instituted the following administrative procedure in the Appeals Division of the Attorney's central office. Where the appeal is lodged by the Crown, the appeal counsel in the central office is advised by the Court of Appeal registry of the hearing date approximately 21 days prior to the hearing. The central office ensures the local prosecutor's office is advised by telephone of the date of the appeal hearing so that they can, in turn, inform the victim prior to the hearing date. That date is confirmed by letter. The local prosecutor's office also informs the victim that he/she may attend the hearing but that there is no obligation to do so. If the appeal is lodged by the defence, then usually the appeal counsel does not receive notification of the hearing date until 14 days before the actual hearing. As soon as that notice is received the local prosecutor is notified and the same procedure followed. In all cases the local prosecutor is given discretion whether to notify the individual victims.

As only one clerk in the Attorney's central office is assigned the task of supervising and co-ordinating the notification of local prosecutors, this is an inexpensive procedure to implement as it only needed an administrative reorganisation and did not require additional staff.

MULTI-DOOR COURT HOUSE PROJECT

The third project I want to deal with is the American Bar Association's pilot project for the Multi-Door Court House. I think this project is particularly relevant in Australia as over the last six years there has been a growth here in the provision of dispute resolution processes other than adjudication in court. The range of those programs is set out in a recent paper given to this Institute (David 1986). There has been a similar growth in the USA, Canada and the UK. For instance, the American Bar Association recently published a Directory of Dispute Resolution Programs which lists 277 programs operating in the USA. In fact there are apparently over 350 such programs at present (Ray and Clare, 1985; Ray, Kestner and Freedman, 1986; Ray and Freedman, 1986) as not all were listed in the Directory.

The dispute resolution processes being used in Australia can be seen along a continuum from private negotiation between the parties, which does not involve the intervention of a third party, to adjudication which involves the imposition of a decision by a third person (the judge) upon the parties (who present their version of the dispute to the judge according to the rules of evidence and procedure). The methods can be set out as follows:

Private negotiation	No third party
Public negotiation	Unstructured third party intervention
Mediation) Conciliation) Arbitration) Adjudication)	Structured third party intervention

These processes are not mutually exclusive. They can exist side by side and, in fact, should do so. The critical task is to ensure that the most appropriate dispute resolution process is used for each dispute when the parties seek the intervention of a third party. This task can be assisted by the programs existing side by side.

The Multi-Door Court House project attempts to integrate these dispute resolution processes into the existing justice structure. The program is based on the idea of Professor Frank Sander of Harvard Law School who proposed a centre offering 'sophisticated and sensitive intake services together with arbitration, conciliation, mediation and adjudication all in the one physical location. The intake service would screen citizens' disputes and refer the disputants to the most appropriate door' or process (National Institute of Justice, 1986, p.2). That idea was

changed in the project in that the dispute resolution processes were not provided under the same roof as the intake process because existing dispute resolution programs were used.

Between April, 1984 and January, 1985 the American Bar Association established three multi-door court house projects in three different sites in the USA - in Tulsa, Oklahoma, in Houston, Texas and in Washington, DC. The basis of the project was that a centralised and effective intake centre would be developed for each site. Each project was assisted in fund-raising and training of intake workers but was left to develop separately in relation to the implementation of the program. Cases were obtained in different ways and referrals made to existing dispute resolution programs within their own areas.

The project was divided into three phases:

Phase 1: intake and assessment of disputes;
Phase 2: opening and improving doors for resolving disputes; and
Phase 3: evaluation and replication of the project models.

I want to look at the first phase today as that is most appropriate to the topic of this seminar and because it is the most advanced of the three phases in place at present.

Disputes were referred to centres from all the 'normal' local intake sources, such as the police, court officials, legal service centres, 'walk-ins', community agencies, social service agencies and prosecutors. The centres were to screen the disputes and refer them to the most appropriate dispute resolution process.

The project initially developed intake screening training which focused on developing skills in conflict identification (involving communication, crisis and stress management and perception skills) and on imparting information on local resources to allow the intaker to make appropriate referrals. Such an intake screening process had to be developed because the existing screening processes, such as they were, had all been based on criteria that referred disputes to dispute resolution processes without ascertaining what process was appropriate for each individual dispute or for individual disputants. Sometimes the referrals had been made solely on the need to reduce court backlogs. In other words, the existing screening processes operated on general standards that did not necessarily produce the most appropriate process for the particular dispute.

The intake screening process sought to give the disputants immediate relief in the form of being able to communicate with a caring, professional intaker who could also identify the

dispute and inform the disputant of the options available. The disputant could then choose the appropriate dispute resolution process. Six stages of the intake process were defined:

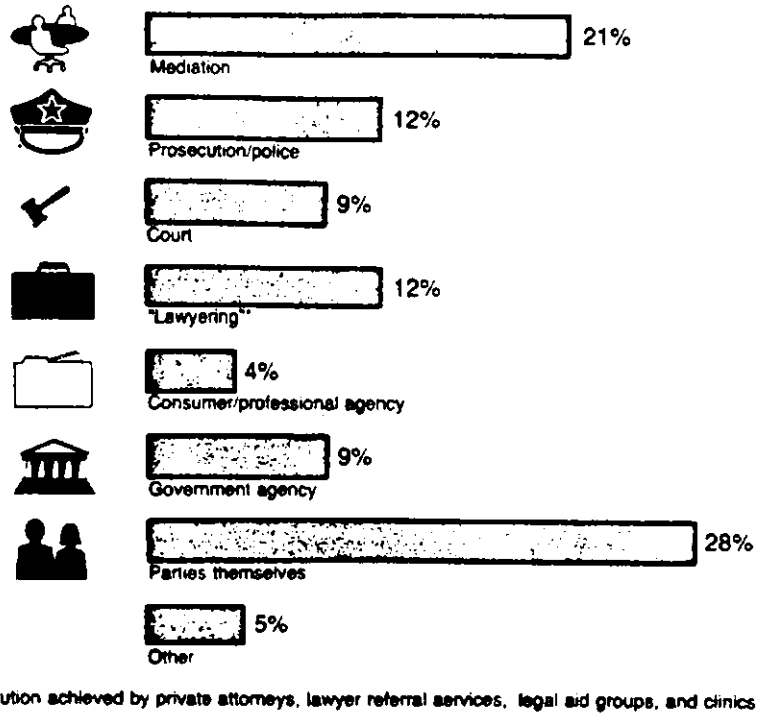
Introduction	making the complainant comfortable and establishing rapport;
Narration	by the complainant of the dispute;
Clarification	by the intaker of the dispute;
Dispute summary	definition of the central issues by the intaker;
Review of options	and their consequences by the intaker and discussion with the disputant of the most appropriate option;
Selection and referral	to the most appropriate dispute resolution process with the intaker encouraging the disputant to take responsibility for the selection.

These stages meant that disputants were listened to and allowed to tell their story in their own words and time. The evaluation study reported (National Institute of Justice 1986, p.5) that it was in the last two steps where problems were found in all three centres. Sometimes the disputants left the intake process with a definite considered plan but sometimes referrals were made without exploring the options with the disputant and at other times were made according to the disputant's wishes even though the choice was inappropriate.

During the intake process the following factors were taken into consideration when selecting the best resolution process for the particular dispute:

- history of the dispute
- seriousness of the injuries
- action and immediacy required
- questions of law involved
- nature of claim
- hostility between the disputants
- power disparity between the disputants
- disputants' desire to continue or sever their relationship, and
- cost, financial and emotional, of each process.

The disputes that were processed and referrals made by the intake process in the three sites were resolved by the following methods:



Source : National Institute of Justice (1986)

It is fascinating to note that the most frequent means of resolution was by the disputants themselves - 28 per cent of all the referred cases that were resolved. Disputes involving close relationships were most commonly resolved by mediation and disputes involving less close relationships were most commonly resolved by the parties themselves. Stranger disputes were resolved by various means with resolution by a government agency being used slightly more commonly than any other process. The evaluators noted that 'any outside intervention or even outside awareness of the dispute .. often seems to instigate resolutions ... where compromise and conciliation are attractive to both parties' (National Institute of Justice, 1986, p.5).

Personnel at the sites were satisfied with the results of the intake process and police in particular were thankful to have an alternative to either prosecuting or doing nothing. Eighty-three per cent of the disputants interviewed after their experience with the intake centre stated they were satisfied with the intake centre and 82 per cent were willing to return. Some had thought the centre would intervene directly in their dispute and were dissatisfied with the non-intervention. This appeared to be an information problem that could be overcome by the publication of

more precise information on the operation of the centre. The evaluators found that a centralised intake centre allowed referral agencies, the justice system and the general public to gain a quicker understanding of the purpose of the centre. However, a centralised location could be geographiclly inaccessible to some disputants. It made staff supervision much easier.

The American Bar Association is now looking to the second phase of the project - developing or improving dispute resolution processes where they were found either to be ineffective or non-existent in the projects. There will be an expansion of mediation programs in one centre and of court-annexed arbitration at another.

The Multi-Door Court House would appear to be the way of the future. The full range of dispute resolution processes needs to be made known to disputants so that the most appropriate resolution process can be used to resolve each dispute where the intervention of a third party is sought. As an American judge, Earl Johnson, said '.. it is almost accidental if community members find their way to an appropriate forum other than the regular courts' (National Institute of Justice, 1986, p.2). Intake officers in courts in Australia need to be aware of the availability of the various dispute resolution processes and to make use of them by referring cases to them. This is not only to help cut down court backlogs but, and this is stressed again and again, to ensure the most appropriate resolution process is used for each dispute.

If a similar project is implemented in Australia an effort could be made to encourage the private negotiation end of the continuum of conflict resolution processes. The intake officers could also be trained in some of the simple conflict resolution techniques which they could, in turn, pass on to appropriate disputants. Often disputants have had no training in how to handle conflicts constructively and when introduced to such techniques are able to resolve their own conflicts. A pamphlet, similar to that developed by the NSW Community Justice Centres on how to deal with conflict, could be prepared and given to such disputants.

There are parallels in Australia to the intake officers. Some of the chamber magistrates in New South Wales carry out this function though their time is more limited than the project intake officer's would appear to be. In the Model Court House project in New South Wales the inquiry officer carries out some of the functions of the intake officer, though again without the time to allow the disputants to tell their story in their own words and without the training given to the intake officers in the American project.

In Victoria the Courts Management Change Program reported (Law Department, Victoria, 1985, p.19) that the justice system needs

to provide a 'much more comprehensive range of dispute resolution alternatives'. As I have already made clear, I would argue that the system also needs to ensure that each dispute is referred to the most appropriate resolution process. Moreover, the American project discussed above is one of the ways to ensure that. I do not see the court system as being able to provide all the processes itself. In fact I maintain it should not. The input of innovation and enthusiasm from the private sector in the new processes developed overseas, usually on limited budgets, would not be possible for such a large and inherently conservative organisation.

The Courts Management Change Program and the Neighbourhood Dispute Resolution Project (Legal Aid Commission of Victoria, 1985) both concluded that the provision of processes other than adjudication should not take place under the courthouse roof, but should be separate from the adjudication system. However, the Courts Management Change Program did state that such services could be administered through the justice system. Such administration will require the sophisticated and sensitive intake process that the American project set up and will require the courts not only to be aware of the alternatives to adjudication but to refer disputes to the most appropriate alternatives.

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FACILITATING COURT SUPPORT - ASKING THE RIGHT QUESTIONS:

CHANGES TO BUREAUCRACY AND A ROLE FOR VOLUNTEERS

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We come to this conference because we share a concern about our justice system. We come because of injustice. Hopefully when we leave we will have gained some knowledge of how we can each try and solve those problems which are common to us all.

Before suggesting some solutions to you, I would like you to ask why there is so much dissatisfaction within the justice system as it presently operates. I suggest that perhaps the answer lies in the fact that the English justice system was brought to this country by Arthur Phillip, our first Justice of the Peace: the British Government had an overcrowding problem in its gaols, and Australia became a penal colony.

Governor Phillip's criminal and civil courts consisted of the judge advocate and military officers. In the words of Manning Clark (1980):

> it was a government designed to encourage law and order and subordination by terror, a government designed for men living in servitude rather than for free men. Within a few weeks convicts had stolen food so shamelessly that Phillip decided to have them flogged as a warning to both European and Aborigine of his determination to defend property. When floggings failed to deter, Phillip agreed to use the last sanction of the law and launched one of the thieves into eternity. The white man had come to Australia.

Today as you travel through New South Wales you will come to small country towns where Aborigines, their culture shattered, live as fringe dwellers. There will be a grand old court house in the main street perrhaps built of sandstone - imposing - freshly painted.

I ask you then to consider whether or not some of the attitudes towards the justice system imposed upon our society as a result of penal colonisation stayed with the people working within those authoritarian buildings and within the community whose laws we administer.

It is always difficult to point to a time in our history when there is the catalyst for change, but I point to the turbulence of the late 1960s and early 1970s, which saw huge demonstrations against the fighting in Vietnam - when in Sydney people like Wendy Bacon and Jack Mundey launched their assaults upon society's values and stretched the patience of the judiciary whose task it was to bring them under the rule of law. With the election of the Whitlam Australian Government in December, 1972 we showed a willingness to shed conservative values and to question the role of government in society. In subsequent years traditional institutions came under close scrutiny, and there was more awareness for service providers to be more responsive to community needs. In many cases bureaucratic structures were inappropriate and in need of change.

I would like to mention some of the changes which have had an impact upon the New South Wales justice and court system and recommend them for further study.

EQUAL EMPLOYMENT LEGISLATION

The passing of the Anti-Discrimination (Amendment) Act in April 1980 made it the responsibility of all public service departments (including the Attorney General's Department):

(a) to eliminate and ensure the absence of discrimination in employment on the grounds of race, sex and marital status; and

(b) to promote equal employment opportunity for women and members of racial minorities (Equal Opportunity Management Plan, 1980).

As part of the implementation of the Act a statistical analysis and review of the personnel practices within the Local Courts Administration was carried out in 1980. The Administration employed twice as many males as females, unlike the public service which as a whole employed slightly more females than males. There was one Aboriginal employee - employed under a NESA scheme. Primarily as a result of the implementation of the strategies imposed by the equal employment legislation the Local Courts Administration's employees are now more representative of the community and that trend will continue.

In September, 1985 there was a re-survey. Females constituted 42.6 per cent of employees, and there are 14 employees of Aboriginal descent. As part of the implementation of equal employment opportunity there has been an increasing emphasis on staff development within the organisation. People working within court-houses attend training courses on public relations, equal

employment opportunity awareness (which includes lectures on management, aboriginality, cultural differences, the proper use of interpreters) and other matters which better equip them to serve the public.

THE RECOGNITION OF MULTICULTURALISM AND SERVICE DELIVERY

Approximately one in five persons in New South Wales was born, or has at least one parent who was born, in a non-English speaking country. Since 1976 the Labour Government has aimed to provide access to services, including the law, by affecting change within the mainstream of Government Departments, on the rationale that 'everyone in the community has the right to equal access to services and the same quality of service'. The objectives of change are:

(a) to ensure that all ethnic groups in the community may be aware of the services available to them;

(b) to promote equal access to services for ethnic and racial minorities by positive action to ensure that there is no discrimination on racial or ethnic grounds; and

(c) to promote services which are culturally sensitive and appropriate to potential clientele in our multicultural society.

Two matters vitally important to the administration of justice arise from this recognition that we are no longer 'British'. Firstly, court interpreters are available to attend and assist in all state courts, irrespective of whether or not the proceedings involve Commonwealth Law. In all proceedings of a criminal nature, interpreting assistance is available free of charge. In cases of financial hardship a free interpreting service is available in civil cases.

The second matter is that in December, 1984 the Local Courts Administration published its Ethnic Affairs Policy Statement. I commend it as a model for mainstreaming within justice administrations. The strategies are:

1. GENERAL

1.1 To formulate and implement an Ethnic affairs Policy Statement.

1.2 To establish a potential clientele data base.

2. PROVISION OF SERVICES

2.1 To continue to improve the provision of interpreter facilities.

2.2 To establish a system of checking that interpreters are used adequately.

2.3 To determine which language groups are actually represented in the service population.

2.4 To continue to improve the provision of notice boards and signs in languages other than English.

2.5 To ensure that information on citizens rights and Government Services available at court houses, is supplied in languages appropriate to the local community.

2.6 To make forms and legal documents more understandable to the public, with particular reference to people of non-English speaking background.

2.7 Liaise with the Model Court Project, to ensure that data relevant to fulfilling the aims of the Ethnic Affairs Policy Statement is collected.

2.8 To recognise the special disadvantages of women from non-English speaking backgrounds.

3. PUBLICITY

3.1 To create liaison with the ethnic press.

3.2 To create liaison with ethnic communities and other relevant groups.

3.3 To increase publicity on the range of services available.

4. STAFF DEVELOPMENT

4.1 To include multicultural awareness in staff development programmes wherever appropriate and possible.

4.2 To increase staff awareness of the desirability of proficiency in other languages.

4.3 To ensure that staff in need of improved English language and communication skills are advised of suitable courses.

4.4 To increase Staff Development Library holdings on multiculturalism.

4.5 To increase general staff awareness of multiculturalism.

COMMUNITY JUSTICE CENTRES

Community Justice Centres were established in New South Wales in 1980 by the Government to provide for mediation of minor civil and criminal disputes, disputes which experience showed were unresponsive to conventional law enforcement procedures. The Centres (part of the Attorney General's Department) have as mediators 'ordinary people' who represent all occupations and ages, and they have a policy to recruit mediators of non-English speaking background. The Attorney General's Department, in a consideration of its charter, stated last year that one of its four primary purposes is the provision of such dispute resolving mechanisms, as alternatives to the court system, as may be required to effectively administer justice. We are just beginning to feel the impact of alternative dispute resolution in Australia, but so far the contribution of the Community Justice Centres has been significant.

THE MODEL COURT PROJECT

This project began as an initiative of the Law Foundation of New South Wales in late 1983. Representatives of the Law Foundation, the Attorney General's Department and the Local Courts Administration are involved in the project. Its original objectives (Mohr and Pickup, 1984) were:

(a) the development of reforms in a number of respects of the operation of the court which may be translated into the operations of all local courts,

(b) to enable those members of the public who come into contact with the court, regardless of their capacity, to obtain efficient and responsive service, and to feel that, as far as possible, justice had been done or achieved.

It is interesting to note that the committee pointed out that previous studies of court systems were largely interested in processes, not people, and tended to focus on the need to push the maximum number of cases through the court lists. The Model Court study was aimed primarily at improving the level of understanding of those who come into contact with the court system.

In short, the administration of a court-house was to be examined from a community point of view, rather than the administrator's. At last the problems were in clear focus and the answers began to present themselves. The community may start to have greater access to the justice system than ever before.

Current objectives of the Model Court Project (See O'Brien, 1986 and Mohr, 1986) are as follows:

LEVEL 1:

1. Project should be an effective means of developing reforms.

2. Reforms should be able to be translated to other courts.

LEVEL 2:

1. Reduce waiting time at court for defendants, witnesses, professionals and others.

2. Increase predictability of hearing times; minimise cases not reached.

3. Reduce backlog and delay, particularly for adjournments of part-heard cases.

4. Improve court awareness of community.

5. Improve community awareness of the court.

6. Improve user understanding of the court's procedures, including documentation, use of interpreters.

7. Increase efficiency of the court.

8. Make courtroom less intimidating.

9. Improve comfort and convenience of waiting area.

10. Improve staff training and morale.

11. Increase the perceived independence of the court.

12. Maintain adequate security.

13. Improve the cost effectiveness of the court.

A STRIKE

A curious initiative perhaps, but one which had great impact upon the quality of service provided, was a strike by members of the Petty Sessions Officers Association (Wheeler, 1982). Association members are the people working within the courts and on 9 March, 1982 they carried a motion to strike by 451 votes for to 48 against. The industrial turmoil lasted three days. As a result the gradings of people working in key positions, counter staff and clerks of court in country towns were raised so that people in those positions had more experience and were better qualified to administer the courts and to provide assistance to their community.

THE PROVISION OF LEGAL AID

The Legal Aid Commission of New South Wales provides means-tested assistance to people in criminal matters before courts (such as the duty solicitor scheme) and in civil matters. In childrens courts for criminal matters involving children no means test applies and again in civil matters there is means-tested assistance available.

Defendants coming before the courts are almost always legally represented, and therefore have their rights properly protected and their cases better articulated in the courts.

DISCUSSION

So much for the structural changes to the bureaucracy.

Anybody who has close contact with our courts in New South Wales would realise that despite the objectives and initiatives which I have outlined, the reality may be quite different. For this reason I strongly support interaction between court administrators at a local level with the community which they service.

I have noted with interest that the recent Model Court Evaluation Report (Mohr, 1986) recommends that the clerk of the local court should devise referral and information guidelines and a training

program for staff in dealing with the public's non-legal problems and advising on community resources available. Also that senior court staff should attend relevant community agency meetings, for example, interagency meetings, on a regular basis in order to keep in touch with other local resources.

Carmel Benjamin has described court support volunteers as the link between the court and the community. I have had some involvement with the development of one such support group in New South Wales, organised by the Association of Civil Rehabilitation Committees of New South Wales (CRC). This is a community organisation of volunteers working in the interests of individuals and families affected by the justice system. In 1981 the Court Support Scheme, a committee of the CRC, was established with the express purpose of recruiting and training volunteers to work in the courts, where they could provide assistance and support to members of the public. The broad aims were to provide:

- information on court procedure, availability of legal aid;
- interpreters and local community services;
- moral support to those attending court;
- referrals to appropriate community agencies;
- comfort and aid to the victims of crime, defendants and their families;
- assistance to and co-operation with the court bureaucracy;
- liaison with local community organisations and legal aid services.

In addition the Scheme makes representations on behalf of the court. They wear a badge identifying them as members of the CSS and they operate by approaching people directly and offering assistance. Volunteers are recruited from the widest possible cross sections of the community, and offer a service to everyone before the courts, whether they be victims, defendants or witnesses. As at 13/3/87, CSS had more than 60 volunteers operating at Sydney Central Court, Wyong, Hornsby, North Sydney, Manly, Waverley, Castlereagh Street, Newtown, Parramatta, Liverpool and Childrens Courts. New courts are being aproached to participate in the scheme.

Some of the matters considered in the introduction of the CSS were:

1. There were clear guidelines written about the role of the volunteers within the court complex. These were agreed to by the court administrator and the CSS.

2. The need for training was recognised, and part of the training program which was developed involved a session given by the court administrator, who explained the legal system and the operations of a local court to the volunteers. One of the most important things which a volunteer has to learn is to know the limits of their role, and when to make an appropriate referral.

Two things emerged from this, one being that part of the training should involve gaining a good knowledge of the services which were available to people (for example child care facilities, interpreting service, legal aid) within the local community. Secondly, it was found that when volunteers knew and trusted the people who worked in those services they were more inclined to make the referral.

It was also necessary to show volunteers the whole of the court building, (including the parts marked boldly 'STAFF ONLY'), and explain the roles of the magistrate, the prosecutor, the solicitor, probation and parole etc. and perhaps as importantly the roles of the other people working within the court complex - the monitors (or magistrates clerks), the counter clerks, the person who cleans, and others. That personal contact was most important. One way in which it can be done is to invite the volunteers to use the staff amenities room. Within the space of one hour during the morning tea court adjournment they would meet most of the people within the complex.

The provision of written information in a court foyer is most important. If there is any place which should display information about drug rehabilitation and motor traffic laws, to name but two, surely it should be here. People who are non-assertive, apprehensive, will generally not ask for brochures while they are waiting to have their matter dealt with but they will take a brochure from a pamphlet rack. It was also found that 'silence' signs could be removed without unduly affecting the operations of the courts. (Who speaks loudly in a court foyer?)

People who are disadvantaged, migrants and Aboriginal, who are more likely to be involved in criminal incidents are less likely to report crimes committed against them to police or to be assertive enough to bring their claim before the justice system. This should be recognised. Whilst I don't suggest a land rights flag should be flown on that magnificent flag pole which adorns most court houses, mutual respect and regular contact between people working in Aboriginal legal aid offices and the courts helps to engender a confidence that justice is administered

impartially. Information in languages other than English, appropriate use of interpreters and the telephone interpreting service, and perhaps a few words of courtesy (greeting) learnt by court staff would likewise engender that confidence amongst ethnic communities.

People waiting to go before the court should have access to a telephone with STD facilities, and there should be a cold water drinking fountain and perhaps a drink vending machine. Notice boards should have posters showing information about local agencies, interpreting facilities, the Ombudsman, community health centres, and other appropriate agencies.

Finally, I would emphasise to volunteer groups that you should look carefully at the facilities for support in the agencies in your local area. You will probably find them already there. If they are not, perhaps they should be. You should avoid the danger of exploitation and direct some of your energies into ensuring that the policies which have been formulated by the mainstream services are being carried out at a local level.

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RESPONSIBLE COURT REPORTING

Ms Prue Innes
Law Reporter
'The Age'

Responsible court reporting probably means different things to different people. To a newspaper or media reporter, it means presenting a good story fairly and accurately. To many people a responsible press story is one that never appears in the paper.

I make no apology for strongly defending the right of the media to report court proceedings, and on analysis, I am sure most people would regard it as being in their interests, as citizens in a society in which the sound administration of justice is a key element of our democracy, that courts are open to the public and to scrutiny. In the oft-repeated phrase, justice must not only be done but be seen to be done - and in this context, seen by media reports, because it is obviously impossible for most members of the public to attend court themselves as spectators.

It is vitally necessary that court proceedings be reported, for two reasons - first as a way of informing the public how their rights can be upheld and enforced, and what courts are doing that could affect their lives, and second, so the community can see that justice is done in public and not behind closed doors, without fear or favour.

But of course there is a difference between the broad philosophical justification for press reports of court proceedings, and the specific impact they can have on ordinary people. The difficulty arises with the individual caught up in the system, as a litigant, someone charged with an offence, a victim, a witness, a member of an accused person's family, a juror.

Before considering the impact of 'sensational' reporting we are so often criticised for (but which is not a very accurate description, at least in Melbourne), let me spell out a few safeguards that exist and are observed, which might reassure people who feel they have no protection against an invasion of their privacy.

There are a number of categories in which people's identities cannot, by law, be published. This applies to victims of sexual assaults, so rape victims need not fear their names will be splashed across the pages of newspapers. Similarly there are

prohibitions on reporting adoption proceedings, and proceedings in the Family Court may be reported but only without naming people involved. Jurors are protected from identification. Generally, I think this serves to protect people who must be in court from an unwarranted invasion of privacy, and as a newspaper reporter looking for a story, I support these restrictions and believe they are justified.

The next thing to remember is that there is a vast amount of cases proceeding in many courts every day, and the chances of a reporter being in court for a routine case are fairly low. Many court cases, while intensely interesting to the people involved, are of limited general interest, and are not reported. This still leaves the large field of cases that are reported - the major criminal cases, the big civil cases which range from the BHP takeover through to people suing doctors for negligence, or a woman seeking damages for RSI, and simply the off-beat and interesting stories.

It should not be assumed that a reporter will ignore people's sensitivities in the rush for a story. It is a daily experience for me to be asked not to highlight some particular aspect of something because of people's personal difficulties or fear or embarrassment or whatever. Often this can be done without difficulty, if the request is reasonable and there are obvious harmful consequences from publication. However, I should say that names cannot be kept out of court stories simply because people ask for it, if they do not come within the categories which prohibit their names being published. There is an obligation on the press to identify people adequately to prevent the possibility of someone else being wrongly identified.

A recent and highly publicised case in the Victorian Supreme Court which I reported is an excellent illustration of the types of problems we are considering. A Melbourne woman sued a tobacco manufacturer, claiming that 20 years' smoking had caused her to get fatal lung cancer, and that the manufacturer was negligent. It was a landmark case because it was the first in Australia accusing the tobacco industry of liability for cancer. As such, it was guaranteed to be front page news, and it was. I think I can say that all the media reports in Melbourne were responsible, although I heard of one Sydney newspaper trying to enter the hospital where the woman was a patient, at 6 o'clock one morning, to photograph her. She needed court permission to sue out of time, because she was affected by the statute of limitations. Unfortunately her solicitors guaranteed to the woman that there would be no publicity. At the very least, this was an extremely irresponsible thing to tell her, because it was impossible. Of course there was publicity, and this caused her great distress, I am told. That is most unfortunate. None of us choose to

distress people, but that is not the only consideration, because the wider public interest in reporting such an important case is also relevant.

The case proceeded, she was given permission to sue, and a special date was fixed for her trial as a matter of urgency because she was dying. But she eventually withdrew her action, on medical advice, partly because she could not face the media exposure. That was a great pity, and illustrates a probably unsolvable dilemma in the balance between the individual's rights and the wider interests. The best you can hope for is that the reporting will be fair and sensitive and expose people to the least distress, consistent with a story that properly reports both sides of the case. Perhaps people should be warned of the possibility of publicity, and be given the facts about what can and must be published, but what also cannot, if this applies. It may allay some needless fears. We are not all 'ghouls of the press', as one magistrate was told one day.

A minor word of warning - don't draw attention to yourself. One of my favourite stories - which was a huge front page story for Melbourne's afternoon paper - involved a drunken driver conducting himself like a maniac while careering around Melbourne in a fully laden tip truck. The only reason I knew about it was because on a routine check of the court, as I was about to go inside, a woman - the man's mother - approached me and said, 'You aren't interested in so and so, are you?' and was so persistent that I checked to see what it was about.

One other point worth making is that the press is often useful to someone in a court case - the risk of publicity can often make an opponent see reason. I am frequently rung by people or their lawyers to tip me off about cases because they want publicity, or to test the law in a new direction, or expose a wrong, or simply have a nice heart-warming story about a small person's triumph over government or bureaucracy.

Reporters do face difficulties, not least of which is that court reporting, at least in magistrates' courts, is often done by fairly junior reporters who do not have a great deal of experience to help them form judgments on what to report and who are fearful of not getting the story they have been sent to cover, and the repercussions from their news editors. With experience it gets easier to realise that, for example, a story of a quadriplegic who describes how helpless she is and cannot even flick a fly away, need not include details of her personal hygiene arrangements, and that to go into intimate details strips away her dignity for no benefit.

Reporters can decide not to publish details that are not crucial to a story, or even (though rarely), not to use a story at all

because of the clear likelihood that publication would be harmful without any public benefit. We are human, and not anxious to go out of our way to distress or ridicule people.

Recently a young woman rang me about a story in 'The Age' in which she was quoted when she gave evidence at an inquest. She was amazed and concerned that this had been reported without her knowledge or permission. This is probably another good example of your concerns and what the media does about it. I told her that she had appeared in an open court, which we were quite entitled to report, but that if she had a sufficient reason not to have her name reported again and she was called to give further evidence, she could ask a court to direct that it not be published. But the difficulty is there - she appears in the paper unwillingly, and the paper publishes what it is freely entitled to do. It goes without saying that once something appears in print, or on a television screen, the damage to the individual is done. That does not mean that the media has been irresponsible.

Finally, I think much of the supposed difficulty comes down to an astonishing perception I often see of how and why the media does its job, and an attitude that the press's ability to report should be curbed, not widened as much as possible. The original brief I had for this segment clearly suggested that there was a great deal wrong with court reporting by the media that needed to be redressed, and as someone who has spent years of her life covering court cases, I simply cannot agree.

Perhaps the best thing I can ask you to do is picture, say, the recent Victorian case in which a policeman's wife was having an affair with one of her husband's colleagues, which resulted in the husband being shot dead, and the two standing trial for murder. There was a sad application for custody of the couple's children by the dead man's brother, which was publicised with varying degrees of taste. The trial itself got wide publicity, as had the original incident. If you were one of the people involved, naturally the publicity would have been repugnant. But as a general member of the public, would you have been interested? Of course you would. It was a delicious scandal, the stuff off TV soapies, and we the media stand in your shoes, enter courts for you in order to tell you what happened. It would be easy to discuss criticisms of the press and calls for greater curbs on reporting as hypocritical, but perhaps it is more likely that people do not consider what is at stake.

My final example brings together a number of the problems involved in court reporting, and this time I admit it is sensational. It remains very topical, incidentally, because the man at the heart of it is central to a prosecution for contempt of court against 3AW's Derryn Hinch. Some years ago I was in the

County Court and reported a case involving a priest who pleaded guilty to a sexual assault of a 12 year old girl who had attended a youth camp the priest had organised. That the girl was a rather mature and willing 12 year old made no difference to the fact that the priest had abused his position of trust to a child in his care (and to her parents), and the court dealt with him accordingly, jailing him. He appealed, but abandoned his appeal when he saw press reporters in court. Is this a problem for the press, should the case have been reported if the man felt unable to appeal? The answer can only be yes, I believe. Apart from the undeniable salacious interest in the case, which I freely admit, there was a vital public importance in reporting such a case because it exposed the way in which a man had hidden behind his clerical robes, and the danger to which children could be exposed, from him and others who abused the trust placed in him. The case has had interesting consequences. Two years ago, after the man had been released from jail and continued his involvement in the youth organisation, he was charged again on a number of child molestation offences, and at this point Derryn Hinch went public, asking how the man could still be permitted to remain in such a position with his record, still describing himself as a priest (though he had left the church). Derryn Hinch's language was colourful - a poacher in the sanctuary was one description of the man, and he was sentenced to jail for contempt of court. Derryn Hinch's conviction will be appealed to the High Court later this year, in what is seen as a major test of the law governing the balance between the public's right to open discussion of matters of public importance, and a man's right to a fair trial, unimpaired by prejudicial publicity. I hope it has become obvious that there is a whole spectrum of court reporting, and a variety of reasons for reporting, ranging from the frankly salacious to what responsible newspapers and other media would like to think of as their public duty. If you had been a reporter, would you have reported the original case involving the priest because of its public importance, or shielded the priest from publicity?

CONCLUDING COMMENTS : A MAGISTRATE'S PERSPECTIVE

Mr Maurice Gerkens
Magistrate
City Court
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Rather than rehash the papers which we have all heard anyway I thought I might highlight some of the problems I see from my side of the bench and which many of the speakers over the past days have addressed. I also propose to confine my remarks to the Victorian Magistrates' Courts system which accounts for something like 90 per cent of all criminal sentencing in that state.

Until relatively recent times, it has been an unfortunate fact of life that the decision makers in our criminal justice system were very much isolated from the people whose lives were affected by their decisions and I refer not only to accused persons but to all non-professional people involved or drawn into the court process.

The case load under which magistrates work necessarily ensures that plea-making is strictly confined on the basis of time and relevance.

It is not the practice for counsel to put their clients into the witness box and the only opportunity for the court to assess offenders in any personal sense is by observation as they sit mute in court partially hidden by their counsel. Where offenders are unrepresented, they are usually ill at ease in a strange environment and hardly able to project themselves to advantage.

A further problem is that sentencing often proceeds on the basis of bald, unsupported assertions by the offender (where represented, made through counsel) as to his or her background and previous character. Again, because of the workload, very little attention is devoted to verification of material presented.

The general picture then is one of a system which operates in something of a vacuum with the sentencer having little enough satisfactory information upon which to perform his or her task and generally no follow up information which would enable ongoing assessment of sentencing policy.

The situation of victim/witnesses is another area of concern. Because we have an adversarial system, judges and magistrates are duty bound to be impartial. Accordingly, they must treat victims

in court with no more, although certainly no less, deference than the alleged malefactor. I would hope that courtesy would be extended at all times to both victim and accused but that is as far as a judicial office can go. People who have been badly hurt both physically and emotionally must naturally feel some disquiet when the person responsible for their trauma seems to be treated with the same consideration as they themselves are accorded. That disquiet must become total dismay when they find themselves subjected to vigorous attack by the accused's counsel with no apparent attempt from the bench to protect them. Of course, provided the attack is contained within certain limits, there is no way the bench can protect such a witness without entering the arena and risking the appearance of partiality. I must admit, from time to time, I have been guilty of a reassuring smile when a witness has been under obvious stress but I never do it without certain reservations about propriety.

I might say that I believe the time has come for a re-evaluation of the bases of our judicial system. A strong argument can be mounted for abandoning our adversarial approach in favour of the inquisitorial investigation conducted in the Napoleonic code countries.

Whilst I am on the subject of problems with the system, another important area of concern is public relations. The trend in Victoria towards large complexes has brought many benefits. At the same time, it has to some extent impersonalised the services provided. The very size of the buildings and the frenetic activity they seem to generate must make an enforced appearance a very intimidating experience.

'Where do I go?'

'Where can I get some advice?'

'How do I behave?'

'What's going to happen to me?'

Moving on again, criminal proceedings often involve stress (and distress) for those involved be they witnesses, accused or the next of kin of either. Inadequate support for these people can mean a very lonely and harrowing experience. My first words today were 'until relatively recent times'. The fact is there has been a very real trend in recent years in Victoria, and from what I have heard in the last two days throughout Austrtalia, towards doing something about the problems. It is clear from what I have said that judges and magistrates cannot walk around the corridor saying 'Goodday Mate. How're you going? Your case is being heard in that room over there. The duty solicitor is round the corridor to your left and don't worry. It will all work out

for the best.' What we can do and I hope are doing is treating everybody courteously and even handedly; ensuring their dignity and explaining to them in simple terms why we are making decisions for or against them.

What we can also do is actively support and encourage those organisations which are in a position to bridge the chasm that does exist. For many years, the Salvation Army has provided a court welfare service which can only be described as the chrysalis of the present day integrated advisory and support service available in most busy Victorian courts. These officers under the now obsolete title of 'police court officer' make themselves available to police prisoners before court. They help and support these people and their loved ones; perform little tasks for them and provide the court with information about possible residential and employment placements. They provide much the same service to all other persons appearing before the court. I have the greatest respect and admiration for the many Salvation Army officers I have worked with over the years.

The now defunct Probation Service has traditionally provided detailed pre-sentence reports upon request. In recent times, that organisation's successors, the Community Corrections Centres have continued that practice and added to it a court-based immediate assessment service of great assistance to the courts. Suitability assessment is a pre-condition to all community based orders. Psychiatric and drug dependence assessments are also available from this organisation.

The Legal Aid Commission provides a duty solicitor service in many of the busier courts.

A number of specialist organisations readily provide assistance to the courts. For example, the Odyssey drug rehabilitation organisation will upon request, provide assessments of suitability for entry to their program.

Last, but certainly not least, I want to refer to the Network. From very shaky beginnings at the Prahran complex in the late seventies, the Network has mushroomed to become a very professional volunteer organisation providing an essential service to citizens drawn into the court environment. The work of the Network has been adequately covered by a number of speakers at this conference. Sadly, I know that many magistrates and court administrators were initially resistant to the concept of the Network service. Happily, most of that resistance has now evaporated. For my part, not the least of the benefits arising from the Networkers' activities is the wonderful public relations job they do for the courts. The Networkers give the courts a human face.

I regard the proceedings of this conference as an affirmation of the concept of court support services and the message coming through is the need for a rationalisation of the individual functions performed by each organisation with a view to a cohesive integrated whole.

I hold the exalted title of Co-ordinating Magistrate, Inner Urban Region which means that, as well as sitting in court all day, I take responsibility for the day to day magisterial administration and conduct of court business in the city and inner suburbs of Melbourne. We have recently introduced regular monthly meetings of those organisations which provide services to the Region's magistrates. The idea is to promote good relationships and provide a forum for discussion of problems and complaints. The meetings have worked well although they give me a pretty hard time of it occasionally. Perhaps the idea lends itself to implementation at a higher broad based level.

AUSTRALIAN INSTITUTE OF CRIMINOLOGY

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