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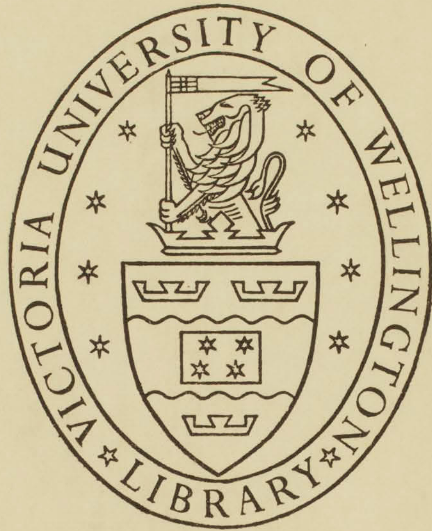
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# "THE CHILDRENS BOARD - DIVERSION IN NEW ZEALAND JUVENILE JUSTICE"

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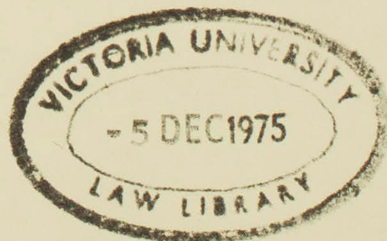


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# THE CHILDREN'S BOARD - DIVERSION IN NEW ZEALAND JUVENILE JUSTICE.

Possibly the most significant change effected by The Children and Young Persons Act 1974, operative since April the first of this year (1975), was the creation of Children's Boards, informal bodies designed to divert children in trouble away from the Children's Court system, a system which remains largely unaltered by the Act. At first sight these Boards would seem to mark a major innovation in New Zealand's juvenile justice system, an innovation similar to changes recently effected in other jurisdictions, notably the United States. However, although it may be premature to judge the effectiveness of the Children's Board as a means of controlling juvenile delinquency, it is the contention of the writer that the Children's Boards do not represent any significant change from the pre-existing system, and are unlikely to achieve markedly different results. In this paper the writer shall attempt to make clear his reasons for being of this opinion, and to indicate why, in his opinion, the Children's Board represents more of a restructuring of the status quo than of an actual change.

## 1. THE NEED FOR CHANGE:

Ironically, the Children's Court was itself instituted as a diversionary [1] agency, the aim being

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1. In this paper "diversion" is used as meaning the use of alternatives to involvement in the formalised justice system.

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to keep the young offender away from the rigours of the criminal justice system, and deal with him in a less formal, more rehabilitative agency. In New Zealand the aim was apparently

> "...to prevent the children reaching the Courts at all, and to give the boy or the girl a fair chance of making good before they get into serious trouble." [2]

The idea of such an agency spread rapidly following the inception of the first Children's Courts[3], and Juvenile Court systems became established in most Western (and in some other ) jurisdictions. In New Zealand the Child Welfare Act, 1925, provided for a comparatively less formal Court for children, creating an environment less likely to be detrimental to the young offender. However, in time the Children's Court, both in New Zealand and overseas, developed problems, mainly due to the attempts of the Court to be simultaneously a judicial body and a welfare agency, thus using legal power for the attainment of an end not suited to legal proceedings. Any benefit which was obtained by the rehabilitative measures imposed by the Court was cancelled out by the stigmatising effects of a possible conviction and of Court appearance. There was, in the words

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2. Sir Christopher Parr, then Minister of Education speaking to the Child Welfare Bill, 1925, in 206 N.Z.Parliamentary Debates, 671.
3. In Cook County, Illinois, 1899. See generally J.Mack, "The Juvenile Court", 23 Harv.L.R.104

of Lord Kilbrandon [4],

> "..much to be said for the view that you either put a person in a criminal court, or you don't; if you try to compromise you may get the worst of both worlds."

Moreover the nature of many cases was so trivial that Court action was simply not justified, and in such cases the sentence imposed often seemed disproportionate to the act of the child. The number of such trivial cases was such that, first, the system found it difficult to cope with the caseload, and second, that in some jurisdictions, particularly the United States, cases were dealt with in a hurried manner, added to which it had become apparent that Court appearance could have a labelling, stigmatising effect on the young offender, often reinforcing his tendency to anti-social behaviour, and thus increasing the possibility of his re-offending, either in youth or in adulthood. Arguably, the Court was, in many cases, helping to perpetuate delinquency, rather than control it.[5]

Thus alternatives to the Juvenile Court were clearly necessary. Britain found answering the problem to be a problem in itself, with a series of white papers recommending first continuance of the system [6], substitution of a less formal "Family Court"[7], and ultimately screening by means of a close

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4. "Children in Trouble", 6 BR.J .Crim. 112, 119.
5. See further, Lemert, "Instead of Court - Diversion in Juvenile Justice", p.9. (1971) U.S.Government Printer.
6.. The Report of the Committee on Children and Young Persons (The Ingleby Report) (1960 cmnd. 1191)
7. The Child, The Family and The Young Offender, (1965; cmnd. 2742)

liason between Police and Social Welfare,[8] (a system similar to the New Zealand Youth Aid practice). The latter proposal was ultimately accepted and enacted by the Children and Young Persons Act, 1969, (U.K.) and remains operative [9], although reversion to the old system has since been advocated.[10]

In Scotland the Kilbrandon Report [11] proposed abolition of the then existing system (if indeed there was a system at all - the type of Juvenile Court varied throughout Scotland) and replacement by informal lay Courts, with pre-Court screening being done by a "Reporter", a proposal ultimately enacted by the Social Work (Scotland) Act, 1968.[12]

Of more immediate relevance to the adoption of the Children's Boards in New Zealand, however, was the line of developments in the United States, where problems with the Juvenile Court system were probably at their most acute.

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8. Children in Trouble, (1968 Cmnd.3601). 9. For comment on the system in operation see Harris "An Appreciation of The Children and Young Persons Act 1969 in Operation", (1972) Crim.L.R.670; McLean, "Another View", (1972) Crim.L.R.684; and James, "Further Considerations", (1972) Crim.L.R.688. 10. By The Parker Report, as yet unpublished in N.Z.; Evening Post, 30/4/75. 11. Children and Young Persons (Scotland), (1964; Cmnd.2306). 12. For Comment on the Scottish system, see Grant, "Juvenile Justice - Part Three Social Work (Scotland)Act 1968", (1971) Juridicial Rev.149; and Morris, "Children's Hearings in Scotland" (1972) Crim.L.R.693

The report of The Task Force [13] noted that [14]

> "underlying the special handling of the young offender is the belief that he can be changed. For him therefore, the criminal process, because of its ineffectiveness as an agent of change, seems particularly inappropriate."

and recommended the expanded use of community agencies to deal non-judicially with all but the most serious juvenile offenders, thus avoiding the stigmatising effect of judicial proceedings and providing for resolution of the problem in an informal atmosphere more conducive to success.[15]

Added impetus was given to the Task Force recommendations by the coincident decision of the Supreme Court in RE GAULT [16] requiring observance of formal criminal procedure in the Juvenile Court. By stressing the requirements of due process, GAULT effectively lent weight to the Task Force recommendations; if the young offender was to be dealt with informally, it would have to be outside Court. Thus informality could be achieved and at the same time the detrimental effects of judicial processing eliminated by means of the Youth Service Bureaux proposed by the Task Force.

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13. The President's Commission, Task Force Report on Juvenile Delinquency and Youth Crime, (1967) U.S. Government Printer. 14. ibid, at p.10. 15, In fact such bodies were already long established in New Jersey. See Lemert, op. cit. pp.31-33. 16. 387. U.S. 1 (1967). See also KENT 383 U.S. 541 (1966), and WINSHIP, 397 U.S. 358 (1970).

The advantages were obvious and many jurisdictions adopted the Youth Service Bureau as an alternative to Court action by which potentially successful participants could be diverted from Court action.[17] This was true not only of the United States, but also of other countries, for example South Australia, whose Juvenile Aid Panels [18] were influential in the adoption of the Children's Boards in New Zealand.

In New Zealand the situation was basically the same, although the system had been modified in 1959 by the establishment of the Youth Aid Section [19], a liason between the Police and Social Welfare Departments aimed originally at the mere screening of less serious juvenile offences away from the Courts, and later augmented by the power to impose a brief period of Social Welfare supervision. In terms of the numbers of young offenders dealt with out of Court, [20] Youth Aid had been an undoubted success, but generally the Juvenile Justice system seemed still to be falling short of its goals; the proportion of recidivist offending was still high [21] and the Department of Social Welfare noted

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17. See J.A.Seymour, "The Youth Service Bureaux, 7 Law and Society Rev. 247; and F.Howlett, "Is the YSB All It's Cracked Up to Be?", 19 Crime and Delinquency, 485. 18. Established By Part Two, Juvenile Courts Act, 1971 (S.A.). 19. Originally the Juvenile Crime Prevention Section. Similar Sections were operating in the United States. 20. In 1972, 12,435, approximately half of all young offenders. 21. See generally "Juvenile CrimeIn New Zealand", Department of Social Welfare, (1973) Government Printer.

that

> "We are not holding delinquency in check,
> let alone curing it by our present methods"

and that

> "There is little indication that our efforts
> are very effective." [22]

Reform came by way of the Children and Young Persons Bill, introduced into Parliament on the twentieth of November, 1973. The Bill, obviously influenced by overseas developments adverted to above, and by observation of the South Australian system, aimed most notably at diverting children in trouble away from the Children's Court. In introducing the Bill the Minister of Social Welfare, the Hon. Norman King, said [23]

> "Social problems have heightened and
> have taken new forms; new methods
> must be found to deal with them as
> the old traditional methods are
> found wanting.... We must not only
> continue to make better provision
> for those who come to the notice of
> the Courts, but we must also apply
> our energies to preventing them from
> getting there."

The Bill duly passed through the House and was assented to on the eighth of November, 1974.

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22. ibid, at p.41 and p.25.
23. 388 N.Z.Parliamentary Debates, 5216.

The Act, operative since the first of April, 1975, divided juveniles into two categories; children aged under fourteen, and Young Persons, aged over fourteen but under seventeen. In respect of Young Persons, the existing Children's Court system was largely re-enacted, and the Youth Aid consultations given legislative effect. [24] The significant changes came in Part II of the Act, providing for the establishment of Children's Boards in each Social Welfare district. [25]

## II. THE MECHANICS OF THE BOARD:

Each Children's Board is comprised of four members; a member of the Police, a Social Welfare Officer, an appointee of the Secretary of Maori and Island Affairs, and one member of the community, drawn from a panel of six local residents appointed by the Minister of Social Welfare. [26] The Board may meet anywhere, except at a Courthouse or Police Station, and is to consider the details of any offence or other matter which may be referred to it by the Police, Social Welfare or by a Magistrate sitting in a Children's Court. The child and his parents are to have the opportunity of being present and to discuss the case with a view to disposal of the case without Court action, but if the facts of the case are in dispute, the Board cannot act. [27]

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24. By s.26 (1)
25. 61 in all.
26. Section 13 (2).
27. Section 15 (a).

In such a case it is left to the Police and Social Welfare to decide whether or not Court proceedings are necessary. If the case does then go to the Children's Court, once the facts are established the Magistrate may refer the case back to the Board. [28]

Court action in respect of children can only be commenced if the Police or Social Welfare have reasonable grounds to believe that the offence or incident indicates

> "..that he is beyond the control of his parent or guardian or that it is in the interests of his future social training or in the public interest that a finding be made in terms of this Act." [29]

The Board itself has no power to order Court proceedings; it may however recommend to the Police or Social Welfare that proceedings be commenced, the final discretion in such a case being with those bodies.[30] Should the Board decide Court proceedings are unnecessary to effective disposal of the case, and the facts are not in dispute, it may decide no further action be taken, or it may arrange counselling or medical, psychological or psychiatric assistance for either the child or parents, providing the child's parents agree to the proposed disposition.

In summary, the Children's Board is not a substitute for the Court, as in Scotland and in Scandinavia [31], but rather an alternative to the Court

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28. Section 15(2).
29. Section 27(2).
30. Section 15(7) (d).
31. As to Scandinavian systems, see Frampton, "A Lesson from Denmark", 67 New Statesman, 160 (Denmark), and Temkin, "The Child, The Family and The Young Offender - Swedish Style" 36 M.L.R. 569 (Sweden)

through which the young offender may be dealt with informally and extra-judicially. In this respect the Children's Boards are best compared with the Youth Service Bureaux operating in the United States.

III. HOW MUCH DIVERSION?

The basis of all reports and implementations of the past decade has been the principle that, where possible, the young offender be diverted away from Court action. As previously noted [32] the Youth Aid Section was effectively doing just that in a great many cases, and hopefully the Children's Boards would further improve figures in this area. However, it seems likely that no substantial change will in fact occur.

In 1972 6,508 [33] of those young offenders who came before the Children's Court were admonished and discharged. Hopefully those in this category aged under fourteen will get no further than the Board, since they are obviously not "in need of care" within the meaning of Section 27.

A further 4,067 received supervisory measures. Since the Board itself may impose such supervisory measures, it would not be unrealistic to hope that the majority of this category will also get no further than the Board, presuming of course that the parents agree to the disposition, the Youth Aid experience being that they invariably do.

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32. ante, p.6

33. All figures from the Report of the Department of Social Welfare, 1973.

However, the foregoing is based on the further presumption that the young offenders concerned with actually be dealt with by the Board, and this presumption is by no means certain. Indeed it seems possible that the Board may be bypassed. While the Board's dispositions are conclusive, since the Board may "determine" [34] matters before it (in this sense the Board differs from many United States agencies whose recommendations are still subject to the final discretion of the prosecuting agency [35]). The Board is still subject to the prosecuting discretion as to whether or not the case will be dealt with by the Board, since the prosecution is given a discretion as to whether or not to refer the case to the Board. While this discretion was almost certainly intended to cover minor matters, there is no reason at all why it should not relate to every case. This is supported by Section 27, as nowhere in that Section does it say that Court proceedings in respect of children can only be commenced if the case has first been referred to the Board. Indeed the only check on the commencement of Court proceedings against children is that the prosecution must have a "reasonable belief"[36] that the child is in need of care or protection.

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34. Section 15(4).

35. eg:- Project Crossroads, Project F.O.U.N.D. and Operation DeNovo, in Descriptive Profiles on Selected Pre-Trial Criminal Justice Intervention Programmes, A.B.A., Washington 1974.

36. Apparently borrowed from S.1 Children and Young Persons Act 1969 (U.K.)

Precisely what constitutes such a "reasonable belief" is unsure, but it seems clear from the powers given the Court by Section 31 that the Legislature has contemplated Court action in respect of children where the child is not in fact in need of care.

While conferring this discretion on the prosecution before action by the Board rather than after may be beneficial in so far as it will avoid conflict between the Board, being concerned with the offender's future and rehabilitation, and the prosecution, being concerned with the offender's past and deterrence,[37] the overall effect is that, unless the prosecuting discretion is to be differently exercised, numbers of Court referrals are unlikely to be altered. Indeed this would seem to have been one of the pitfalls in the South Australian system.[38]

One is thus forced to conclude that, unless the discretion of the Police is going to be exercised on a different basis, despite changes in structure, the Children's Boards will not dramatically alter the numbers of juveniles diverted from Court action.

Even if this were not likely, the effect of the Children's Boards on the pattern of juvenile offending in New Zealand would still be limited, as the Children's Boards only deal with "children", that is, those aged under fourteen. It is unclear why the age ceiling of fourteen was chosen, the Panels in South Australia, upon which the New Zealand legislation was apparently modelled, operate up to age

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37. See Lemert, op. cit., p.40

38. Juvenile Aid Panels in South Australia, Department for Community Welfare, Adelaide, 1975, p.10

sixteen,[39] and it has been recommended that they be extended to operate up to age eighteen.[40] Although, as Seymour points out[41]

> "Any rigid rule might not be desirable; if help is needed and the Bureau can give it, this should be enough"

and indeed many of the schemes operating in the United States have no age ceiling, operating conjointly with adult diversionary schemes, while others, such as De Novo operate to age eighteen.[42] If an age ceiling was considered necessary, why was fourteen chosen? The possible answer may be that

> "..when a child gets to the stage where he no longer wants to be thought of as a child, he will have to accept a fair measure of responsibility for his own actions and behaviour."[43]

Even if this is accepted, the age of sixteen as at present in South Australia would have been a better choice. At present the Children's Boards can handle, at most, 20 per cent of New Zealand's youth offenders; by raising the age ceiling to sixteen, thus encompassing the fourteen to sixteen age group, in which 60 per cent of

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39. Section 7, Juvenile Courts Act, 1971 (S.A.)
40. Juvenile Aid Panels in South Australia, op.cit., p.7.
41. op.cit., p.251.
42. See generally Descriptive Profiles, op. cit.
43. N. King, 388 N.Z. Parliamentary Debates, p.5217.

New Zealand's youth offending occurs, the Boards would have jurisdiction to deal with 80 per cent of reported juvenile crime, rather than a meagre 20 per cent, as at present. Alternatively the jurisdiction of the Board could be made co-extensive with that of the Court.

While the Boards are only competent to deal with offenders of less than fourteen, they will never become a significant reality as diversionary agencies, the bulk of the work in this area remaining with the Youth Aid Section, as it did prior to the operation of the Act.

## IV. ATTENDANCE AND DISPOSITION: VOLUNTARY OR COERCIVE?

One of the bases of the idea of informal handling of the young offender is that, since delinquency may be traceable to the breakdown in the family, the problem should be discussed with the parents, as well as the child. Obviously, as this involves to some degree a reflection on the ability of the parents, many parents are not going to enjoy this, necessary as it may be. However, if the problem is to be solved, the attendance of the parents is imperative. (Although, arguably, it may unduly prolong proceedings in minor cases.) Yet at present the child and his parents are only given the opportunity to be present, and it is not hard to imagine cases in which neither will attend. Although non-attendance of either at the hearing may probably result in further action, and in this sense attendance may be seen as

compulsory, would it not be preferable to make attendance at the Board hearing compulsory, thus decreasing the chances of unnecessary Court action and increasing the chances of resolution of the problem out of Court.

On the other hand, it is possible that the parents may agree on incorrect facts, or to a disposition they think unsuitable in order to avoid the possibility of referral to Court. The detrimental effects of this are obvious:

> "If referral by the agency or Bureau for services or treatment in the community is backed up by the threat of referral to Court, then the allegedly non-penal agency is really an adjunct of the justice system, and "diversion" a verbal fiction."[44]

Arguably this will be true of the Boards whether or not attendance is compulsory; either way non-compliance may well result in referral to Court. The same is true of undertakings given the Board. As Nejelski noted[45]

> "Where participation in some program or treatment is required, voluntary diversion is a contradiction in terms. The coercive power of the State and the Court is always present in diversion. The child and his parents "agree" to enter a particular program "recommended" by some State official because

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44. N.Klapmuts, "Children's Rights", 4 Crime and Delinquency Litt. 449, at p.473. (1972).
45. Nejelski, "Diversion: Unleashing the Hound of Heaven?", Mimeographed, New York, (1974) at p.22.

> "they can be ordered in the alternative
> to accept this same program or one which
> is substantially more unpleasant."

The dangers of such a situation can be averted by making the Board's dispositions unenforceable. Indeed this was recommended by the Task Force, who felt that the Boards[46]

> "..should be precluded from using authority
> to refer to Court to procure the show, if
> not the substance of compliance....
> Inevitably the risk of failure of compliance
> is present, but it is slight in comparison
> to the dangers of overreaching inherent in
> the combination of official power and
> protracted guidance."

Yet many of the American Bureaux[47] have forsaken the advice of the Task Force, preferring to leave the way open for prosecution if the participant is unco-operative by virtue of non-compliance with the undertakings given, or by re-arrest. While enforced compliance with undertakings given the Board may seem advantageous in that it avoids the stigma of Court appearance, this must be balanced with the detrimental effects of coercion.

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46. op. cit., at p.20, N.105.
47. e.g.:- Bronx Neighbourhood Program, in Nejelski, op. cit. at pp.16-17; Operation De Novo (Minneapolis) in Descriptive Profiles, op. cit. at pp.30-36; and Project F.O.U.N.D. (First Offenders Under New Direction, Baltimore), ibid. at pp.37-39.

As Nimmer has pointed out[48]

> ".. a reluctant defendant compelled to accept counselling or treatment is likely to be an ineffective participant."

Of those Bureaux which have taken the approach suggested by the Task Force, that of voluntary compliance, it is interesting, and perhaps significant, to note that the "Van Dyke" Service Bureau has only a 2 per cent failure rate.[49]

Outside the United States, attitudes to non-compliance vary; in Scotland no further action is possible if undertakings given the hearing are not complied with,[50] while in South Australia the matter may be referred for further action.[51]

In New Zealand the position is unclear: no mention is made of what is to happen if undertakings given the Children's Board are not complied with, yet those responsible for the Act must surely have foreseen such a situation arising.[52] It is unlikely that the prosecution can, in the event of non-compliance, commence Court proceedings, since the Board has "determined" the matter,[53] but it seems possible that the child may be re-arrested on the original facts and then dealt with in the Children's Court. To the writer, this seems the likely position, but due to

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48. R.Nimmer, "Diversion", A.B.A.. Chicago (1974) at p.99.
49. See Nejelski, op.cit., at pp.15-16.
50. Section 39(5) Social Work (Scotland) Act, 1968.
51. Section 14(2) Juvenile Courts Act, 1971.(S.A.)
52. In respect of Court proceedings, the 1925 Act provided for further action.
53. See S.15(4).

the silence of the Act, this cannot be stated with any certainty. Presuming the former to be the position, then the advantages of informal handling and diversion have been lost, since any disposition is necessarily coercive.

Furthermore, any disposition must seem coercive to the child, as Section 15(7) requires only the consent of the parents, and not of the child, to any disposition of the Board. To the child therefore, any disposition is coercive, and it makes little difference whether the imposing body is a Children's Board or a Children's Court - either way the end result is essentially punitive, whereas the aims of the Act are supposedly remedial.

V. INFORMAL OR FORMAL?

It was stressed by many reports[54] that the agency dealing with the young offender be a lay community agency, perhaps as a result of Scandinavian successes in this area,[55] the reasons for this being twofold: first, the involvement of local residents would engender public responsibility, but second, and more importantly, to avoid the detrimental effects of formalised handling by

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54. Particularly the Task Force, op.cit, and Kilbrandon op.cit.
55. See Frampton, op.cit., and Temkin, op.cit.

treating the young offender in an environment familiar to him and familiar with particular local problems. Yet in New Zealand the Children's Board includes only one local resident, drawn from a panel of six, while including three members drawn from official agencies. While this may be justifiable on the grounds that the Police, Social Welfare and Maori Affairs representatives are necessary to the functioning of the Board, and the addition of more than one local resident would create a larger body, seeming more imposing to the child, it has the effect of making the Board seem formal and official, rather than informal. While the Board may seem informal to those on it, it will seem equally formal to those children confronted by it. In the words of the Task Force[56]

> "..informal handling appears informal only to the officials charged with the execution of certain responsibilities; to those caught up in the net of the juvenile justice system, it is impressively authoritative and formal."

The Children's Board may be viewed as a legislative modification of the previous Form 333 procedure whereby Youth Aid and Social Welfare conferred about the case, the major difference to the child being that instead of being confronted by one policeman or social worker (often a field worker familiar with the child's background)

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56. op.cit. at p.10.

at any one time, he is now faced simultaneously by three officials and a layman. In this sense the Children's Board may well be more formal and have a more detrimental effect on the child than diversion via the Youth Aid scheme. This problem is further heightened by research in the United States which indicates that composite Boards, made up of representatives of several agencies, while sounding good in theory, seldom function effectively as a co-ordinated unit.[57]

Thus the Board may achieve the same institutionalised status as the Court in the eyes of the young offender. Indeed, despite the intentions of the legislature that the hearing be not

> "conducted in such a way as to suggest that the Board is a Court",

there is the possibility that the Board may even function as a Court, besides seeming like one, as the Report of the New Jersey Supreme Court's Committee on Juvenile Conference Committees[58] in 1966 noted that some of the Committees had, in practice assumed the role of a Court. In view of the numbers likely to be handled by the Children's Boards, and the consequent trend to mechanisation, this may well be a real possibility in New Zealand. Even if this does not occur, the effect of the hearing on the child may well be as stigmatising as court action itself.[59]

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57. See Lemert, op.cit. at pp.89-90, and Juvenile Aid Panels in South Australia, op.cit. at p.25.
58. See Nejelski, op.cit. at p.12.
59. See Cavenagh, "What Kind of Court or Committee?" 6 Br. J. Crim.123.

While results in Scotland and California indicate that informality is beneficial in that

> "..it is possible for a meaningful discussion with the child and family to take place",[60]

the South Australian experience seems to have been that attempts at informality have been only a qualified success.[61]

Thus, despite efforts towards the attainment of informality, the Children's Board will most likely seem equally as formal to the child as Court proceedings. Despite a more relaxed procedure, the only real difference between the Board and the Court may be the punitive powers possessed by the latter, and this is subject to conclusions reached earlier[62] that any action of the Board may seem, and be, coercive.

## VI. CONCLUSIONS:

While it may be premature to come to any firm conclusions as to the effectiveness of the Children's Boards as an agency of diversion in New Zealand juvenile justice, there are , in the opinion of the writer, ample indications that the Boards are unlikely to achieve any substantial change in the pattern of young offending, indeed the previous Youth Aid system may have been better left alone.

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60. Morris, op.cit., at p.698. See also Duxbury, cited by Seymour op.cit., at p.255.
61. Juvenile Aid Panels in South Australia, op.cit. at p.25.
62. In Part IV.

While the Boards are clearly a further step in the right direction, that of extra-judicial treatment of the young offender, this is subject to serious qualifications.

First, the jurisdiction of the Boards is too limited for them to be of any substantial effect, and even if this were not so, the constitution of the Boards is such that they are, and will seem to the child, very much a part of the formal justice system.

If the child and his parents make a genuine effort to co-operate, the Boards may well meet with some degree of success, but in other cases the Board is likely to have similar effects on the child as Court processing; any disposition is virtually a coercive disposition, and to the child the Board will seem equally as formal and imposing as did the Court. Thus the advantages to be gained from diversion of the young offender cannot realistically be expected in any great degree from the Children's Boards.

Despite ostensible changes, the constitution of the Board and the fact that the decision as to whether Court proceedings be commenced or the child diverted remains with the police, indicates that no real change has been made. Rather it seems that change may have been made for change's sake, and old ideas[63] recycled in new forms.

If, as the Department of Social Welfare noted in 1973 [64], there was little indication that

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63. i.e.:- The Youth Aid Scheme.

64. op.cit., supra.

the then existing methods were very effective, can we realistically expect the Children's Boards, which in many ways represent an affirmation of the status quo and of those methods, to meet with more success?

The answer may possibly be "no". Indeed as the Children's Boards represent a more formal way of dealing with youth than did the Youth Aid Section, the Children's Boards may even be a retrograde step.

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