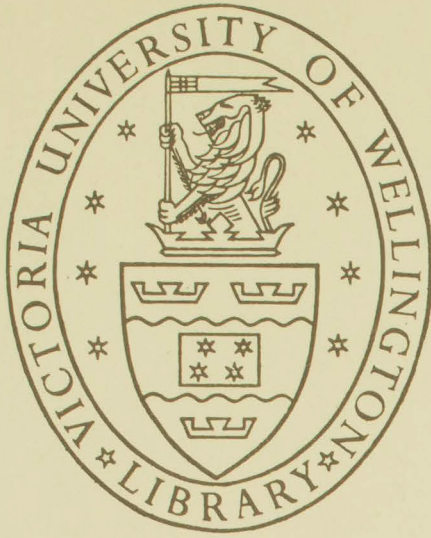


CUTRESS.

XCU CUTRESS, B.M. A review of Children's Boards in  
Porirua, Lower Hutt and Wellington.







VICTORIA UNIVERSITY OF WELLINGTON  
**LIBRARY**

F Folder Cu	CUTTRESS, B.M.  A review of Children's Boards in Porirua, Lower Hutt and Wellington.  <b>LAW LIBRARY</b> 359,686
-------------------	--

CUL 90/225  
PLEASE RETURN BY  
- 3 AUG 1990  
TO THE LIBRARIAN

A fine of 10c per day is  
charged on overdue books

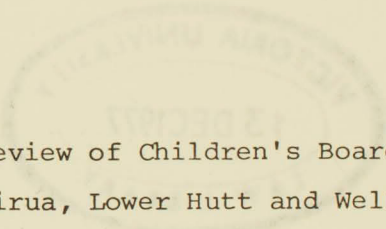
r Folder Cu	CUTTRESS, B.M.  A review of Children's Boards in Porirua, Lower Hutt and Wellington. 359,686
Due	Borrower's Name
	Anne McHenry
15.6.84	Alfred
	Leah Smith
16-6-84	M. O'Keefe
21.2.85	Michael Smith
21.2.85	Ralph
6.6.85	John
24.6.85	J. Bushby x 715
18.11.85	" " x 513
1-6-86	Chris Spelche
17 AUG 1990	CUL 90/225
L.C. 23	

Research Paper in Special Projects

Submitted for LLB(Hons) Degree.

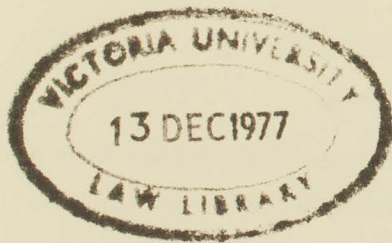
Victoria University of Wellington

1976



A Review of Children's Boards in  
Porirua, Lower Hutt and Wellington.

Brenda Margaret Cutress



359686



Introduction

Every generation of every civilization has been faced with the problem of dependent, neglected and abused children. Six thousand years ago an Egyptian pharaoh said "There are signs the world is coming to an end because children no longer obey their parents".

Throughout history many ways of managing delinquent, neglected and abused children have been developed. Children's Boards established by the Children and Young Persons Act 1937 which came into operation on 1st April 1938 are of particular interest. They are a new approach to dealing with children in this country and offer an alternative to the adultification process. Of particular interest is their voluntary involvement. It has long been

In the course of the preparation of this paper I interviewed the statutory members and lay members of the Children's Boards in Porirua, Wellington and Lower Hutt. These people gave very willingly of their time - sometimes for long periods.

It was a rewarding experience to meet so many interesting and stimulating people. I am most grateful for their co-operation.

The well-known adage "a helpless victim rather than a responsible human being" is a dilemma that long existed as to how best to manage child offenders. Should they be dealt with as offenders against whose society must protect itself and should such children be responsible for their actions in a criminal court or should they be regarded as children whose parents need assistance in bringing up their children? The latter of these approaches was accepted with the establishment of the Children's Boards.

Before a comparison is made of the functioning of the Boards in the Wellington area it is of interest to review the development that resulted in their establishment and to compare developments in New Zealand with other western countries.

## Introduction

Every generation of every civilisation has been faced with the problem of dependent, neglected and criminal children. Six thousand years ago an Egyptian priest said "there are signs the world is coming to an end because children no longer obey their parents"<sup>1</sup>.

Throughout history many ways of managing delinquent, neglected and criminal children have been developed. Children's Boards established by the Children and Young Persons Act 1974 which came into operation on 1st April 1975 are of particular interest. They are a new approach to dealing with children in this country and offer an alternative to the adjudication process. Of particular interest is their community involvement. It has long been recognised that dealing with dependent and neglected children in a court situation may not be a suitable way of handling such children. Similarly it has been suggested that alternatives to the court should be available for the processing of children who have committed offences. A great deal of sociological writing in recent years has been directed towards the labelling, stigmatization and moralizing function of the criminal justice system. It is thought that the impact of an individual being caught up in court reinforces his self-image as a helpless deviant rather than a responsible human being<sup>2</sup>. A dilemma has long existed as to how best to manage child offenders. Should they be dealt with as offenders against whom society must protect itself and should such children be accountable for their actions in a Criminal Court or should they be regarded as children whose parents need assistance in bringing them up and who should be treated outside the criminal process by a non-judicial administrative process? The latter of these approaches was adopted with the establishment of the Children's Boards.

Before a comparison is made of the functioning of the Boards in the Wellington area it is of interest and useful to analyse the developments that resulted in their establishment and to compare developments in New Zealand with other westernised countries.



### Historical Outline

Considering New Zealand has led the world in some aspects of social welfare legislation, comprehensive child welfare legislation and the establishment of a Children's Court came comparatively late - 1925 - when compared with other westernised countries.

During the late 18th Century and particularly in the 19th Century dissatisfaction mounted in North-West Europe, North America and parts of Australia about the way neglected, delinquent and criminal children were treated. Children who had committed offences were treated in the same way as adults by the courts and suffered cruel and harsh punishments. Neglected and dependent children were committed to terrible conditions. No segregation was made according to age, sex or condition.<sup>3</sup> Mounting criticisms resulted in the foundation of many societies and in State intervention to care for younger criminals, poor and neglected children.<sup>4</sup> The Parkhurst Act, 1838 was the first legislation of this era to recognise separate treatment for juveniles. By 1854 in Britain industrial and reformatory schools were recognised as the State's responsibility. During the 1870's in Massachusetts and New York States, cases involving children in the courts were kept separate from adults. A Children's Court was established in South Australia which received legislative approval in 1895 and Children's Courts were established in Illinois in 1899, Britain 1908, France, Austria and Belgium 1912, Hungary 1913 and Germany 1923.

It is understandable that New Zealand being a pioneering community, care of dependent persons and offenders ranked low in a list of priorities in the mid 18th Century. In addition, except for a few years in the 1870's the Colony suffered severe economic depressions with unemployment, harsh working conditions and low wages. However the Neglected and Criminal Children Act was enacted in 1867 which authorised the establishment of industrial schools for neglected and dependent children and reformatory schools for young offenders. Children under the age of 15 years could be committed to these schools for periods of 1 - 7 years. Thus early in New Zealand's history the idea of dual jurisdiction regarding delinquent and non-delinquent children was established.

During the 1890's times became more prosperous and the Government began activity to promote the welfare of the poor, aged, sick and young as a State responsibility<sup>5</sup>, but realistically little was done for neglected or dependent children or young offenders.

The Naval Training Schools Act 1874 had established naval training schools for neglected boys under 14 years of age. Although initially successful, problems with the scheme soon became apparent. There was great difficulty staffing the schools; no ship capable of sea-going was available to put into practise what was taught; discipline was arbitrary and rigid with severe punishments. Absconding from the school and desertions from apprenticeships



were very high<sup>6</sup>. In 1881 the school became an industrial school - the Government rejected the many pleas and pressures to re-establish naval training schools. The First Offenders Probation Act 1886 drastically reduced the number of children imprisoned, but for many years after its enactment there were no specially trained personnel to help children placed on probation. In 1882 the Neglected and Criminal Children Act 1867 (and its many amendments) were repealed by the Industrial School Act. This new Act was intended to extend the control over children in reformatory and industrial schools<sup>and</sup> provided the master of a school could remain the guardian of the child on his/her release from the school at the age of 15 years - this rarely occurred. Emphasis was also placed on boarding children out of institutions in private homes, but such children were often harshly ill treated<sup>7</sup>.

In the late 19th Century and early 20th Century criticisms of the treatment of neglected, dependent and 'criminal' children became more and more frequent. The industrial and reformatory schools were hopelessly over-crowded, facilities were appalling and staffing grossly inadequate. The children led grim, sad, monotonous lives and suffered harsh punishments. Although segregation of neglected and criminal children had been the intention of the legislature - in reality it did not occur. Children continued to appear in the same courts as adults and were given severe penalties. Gradually however it developed that Magistrates would hear cases involving children in their private rooms and an unofficial Children's Court did operate in Wellington prior to 1925<sup>8</sup>.

Government remained resistant to these criticisms at first; it considered classification of children would be too difficult and expensive<sup>9</sup> and was not convinced classification and separation of children by the courts was necessary<sup>10</sup>. However the mounting criticisms finally caused the Government to recognise the need for reformation; the Child Welfare Act 1925 was the result of this recognition.

Thus it was only fifty years ago that a more humanitarian approach in dealing with neglected and dependent children and young offenders became a reality. The philosophy that what is done for a child must be done in the best interest of that child and that children must be regarded as individuals with special needs is of comparatively recent origin.

The establishment of the Children's Court was held to be the most important aspect of the Child Welfare Act<sup>11</sup>. The Court was given power to deal with all offences (except murder and manslaughter) committed by children up to seventeen years of age<sup>12</sup>, and in certain circumstances eighteen years of age<sup>13</sup>. Interestingly many of the objectives of this Court which were welcomed and acclaimed - its lack of procedural formality; the latitude and flexibility given the Court; the fact the Court was there to assist the child rather than



extract retribution; protection and prevention rather than punishment was to be the underlying philosophy and the presence of an experienced lay person to assist the Magistrate - were the same characteristics that received acclamation when the Children's Boards were established fifty years later.

Unfortunately few of the objectives of the Children's Court were achieved. Magistrates were not specially trained to deal with children, some Magistrates reported feeling disadvantaged by their lack of special training<sup>14</sup>. Magistrates, whether or not they had a special desire or aptitude to work with children, sat in the Children's Court. Very few experienced women ever assisted a Magistrate and the idea was abandoned in 1940<sup>15</sup>. It soon became apparent complete separation of the Children's Court from other courts was impractical and children frequently mixed with people waiting to appear in other courts. The dual jurisdiction of the Court was challenged by some critics; it was felt the Court was not the ideal setting in which to deal with neglected and dependent children. The informality - one of the prime objectives - was never realised. Many children and sometimes parents failed to understand the court proceedings. It is unfortunate that so much of the legislation relating to the welfare of children has failed to achieve its objectives. The legislation was usually based on sound principles, was progressive and humanitarian and yet the intentions remained unfulfilled - often because practical difficulties could not be overcome. High ideals must be backed by adequate resources.

The shortcomings of the Child Welfare Act were recognised. In 1948 the Act was completely revised and partly redrafted but for unknown reasons it proceeded no further<sup>16</sup>. Revision of the legislation was promised by the National Government in 1967, 1968, 1969 and 1970 but was not honoured. The Election Manifesto of the Labour Party had similarly promised revision of the Act and this promise was realised when new legislation was prepared when the Labour Government returned to power in 1972.

During these years developments in New Zealand and overseas added impetus to the need for reformation. Many of these developments did influence the type of legislation that was to be enacted in 1974 and must therefore be examined in more detail.



Developments within New Zealand

An enquiry in 1954 placed considerable emphasis on the need for reformation of the Children's Court<sup>17</sup>. An inter-departmental committee comprising the Departments of Police, Education and Justice was set up in 1958 to review the legislation with special emphasis on the treatment of young offenders and procedures of the Children's Court. This committee was responsible for the raising of the age of criminal responsibility from seven years to ten years of age.

The marked increase of officially recorded juvenile delinquency - particularly in the 1960's and early 1970's caused considerable comment and examination of the system then in operation. The Social Welfare Department Report on juvenile delinquency felt young offenders were not responding to the traditional methods of treatment and the Children's Court was not fulfilling the role that had been envisaged. It was hoped "new ways of dealing with the problem would be found".<sup>18</sup>

The Juvenile Crime Prevention Scheme (renamed the Youth Aid Scheme in 1968) which began on an experimental basis in Christchurch in 1957 and which was established on a national basis by 1961, formed a model for the establishment of Children's Boards<sup>19</sup>. It was realised that much juvenile misbehaviour was trivial and should not be clogging up already over-worked courts. The scheme was initiated to detect delinquency at an early stage; to offer an alternative to court action; to divert young offenders from the stigmatisation of a court appearance. Matters coming to police attention relating to juvenile delinquency and, in a small number of cases, to parental neglect, inadequate or detrimental environment, are referred to a special conference. At conference the matter is discussed by a police officer (who has special training and interest in working with children) and a social welfare worker (formerly a child welfare officer). Unless the child denies committing the offence - in which case the matter is referred to the court - the conference makes a formal recommendation to a senior police officer who decides whether or not to proceed with a prosecution. If no prosecution takes place a police officer may warn or admonish or place the offender under police or social welfare supervision. A large number of children have been handled by this informal procedure and thus were diverted from a court appearance<sup>20</sup>.

It is of interest to compare the Youth Aid Scheme with the Children's Boards. The former involves no community member, at the conference stage only officials are present - not the child or parents; the youth conference only makes recommendations - it is an informal agency. The Boards however are



a creation of Statute, parents and children do appear at a hearing, a community member is present and the Boards are empowered to make decisions.

The Youth Aid Scheme has undoubtedly been successful in diverting many children away from the courts but there are critics of the scheme. It is argued the scheme may be discriminating in that middle-class children are more likely to be dealt with under the scheme while "under-privileged" children are more likely to be prosecuted. It is felt an over-worked social welfare department places an increasing burden on the police - it leaves the police with a role which they are not trained to fulfill. Furthermore it is contended some young persons may be admitting guilt in situations where this may not in fact be the case in order to be processed by an informal, less stigmatising procedure.

When the proposal to adopt Children's Boards was introduced opponents of the idea voiced similar criticisms.

Developments Overseas

It was not only in New Zealand that dissatisfaction with the management of neglected and dependent children and juvenile offenders was voiced. Commissions of Inquiry during the 1960's in the United States, England and Scotland all came to conclusions that change was necessary.

United States: It was recommended<sup>21</sup> that community based youth service bureaux should be established to which juveniles could be referred by the police, courts, parents, schools and social agencies. This is needed, the report explained, because society has failed to give the juvenile court the resources that would allow it to function as its founders hoped. Interestingly there has been a move towards a strict legal approach in the Juvenile Courts of the United States. However, as an alternative to the court, agencies are being established in some states to divert offenders from the courts whenever possible<sup>22</sup>.

England and Wales: Several enquiries and reports were undertaken. A White Paper produced in 1965<sup>23</sup> advocated that all offenders under sixteen years of age, who admitted guilt, should be dealt with outside the court by family councils which were to be a non-judicial tribunal. This proposal and others aroused a great deal of criticism - the report was held to be too radical and ill-thought out. A great deal of antagonism was caused amongst those concerned with law enforcement particularly the Magistrates and probation service<sup>24</sup>. Family councils were criticised as being too time consuming and difficult to staff; that non-judicial tribunals open wide the door for arbitrary decisions and actions; such tribunals are given wide powers without giving a right to legal representation; there would be no reason to expect that councils would be less stigmatising than a court; they would lack adequate sanctions because of preserving a welfare image. It was widely felt the State should not encroach and interfere within the family. It was said<sup>25</sup>:

To leave in the discretion of an official, however well intended, however well qualified, the right to decide what social medicine is good for us (and for our children) as well as the power to make us drink it, is viewed as a danger both to judicial process and to other fundamental values of our society - individual freedom, the privacy of the family, and parental responsibility.

Because of the many criticisms a second report was produced<sup>26</sup> with less radical and controversial recommendations and these were later essentially enacted as



as the Children and Young Persons Act 1969. Children (between the age of ten and fourteen years) are treated as if in need of care, protection or control. The Act prohibits the prosecution of a child for any offence (with the exception of homicide). The same applies to young persons between the age of fourteen and seventeen years, except that in special circumstances a prosecution may be brought if the matter can be dealt with in no other way.

Scotland: As a result of the Kilbrandon Report in Scotland<sup>27</sup> the Social Work (Scotland) Act 1968 was enacted. Most of the main proposals were incorporated into the Act. The Act provided for the establishment of Children's Panels in each local authority area of Scotland. The system came into operation in April 1971. Because the underlying philosophy of the Panels is similar to that of the Children's Boards it is of interest to briefly examine how the Panels operate. The Panels are made up of laymen who are trained volunteers. The selection and training of panel members are the responsibility of Children's Panels Advisory Committees. In Fifeshire for example out of 175 people who volunteered for membership - 21 members were finally selected. An attempt was made to achieve a balance in terms of sex, age, occupation, social class and place of residence<sup>28</sup>. A children's hearing consists of three panel members who sit together to discuss with the child, the parents and social worker what measure of care, if any, is appropriate for the child. Parents who do not attend are liable to a summary conviction with a fine of up to £50. It is not the function of the Panel to adjudicate on the facts. If the child or parents dispute the grounds on which the referral is made, the matter must be referred to the Sheriff. Thus the system effectively separates the two categories of decision; one which relates to the facts of the case, the other to the measures of care required when the facts have been substantiated. It is the responsibility of the Reporter - a person usually with legal qualifications - to receive referrals from the police, social worker, school and other sources. Referrals are usually made because a child is suspected of being neglected or suspected of committing an offence. Fifty percent of referrals to the Reporter are reported to the Panels - the other fifty percent are not regarded as being likely to receive compulsory care. Care is defined to include protection, control, guidance and treatment. The Panels have jurisdiction over children until the age of sixteen, but if a young person is already under supervision jurisdiction is extended until the age of eighteen. The Panel has power to order a discharge, order continuation for further investigation, to make supervision orders or to order residential care<sup>29</sup>. Although the Panel may not order restitution it has been observed they do with ingenuity induce a child to make restitution<sup>30</sup>. The function of the hearings is to keep the interest of the child paramount and to reach a consensus on the



interpretation of the child's behaviour and on the choice of the appropriate measure of care. Parents may appeal from a Panel's decision.

It is recognised that gauging the effectiveness of social legislation such as this is very difficult and will take many years before trends can be detected. In one investigation<sup>31</sup> where 157 family hearings were reviewed by participant observation, adverse parental reaction to the experience of participation was rare. The process and decision of the hearing was acceptable to the family in 95 percent of the hearings. Flexibility of the system was felt to be its outstanding characteristic but that the shortage of trained social workers and other resources prevented the system operating to full efficiency. There have been less favourable reviews however. It has been said, although initially useful discussion did take place, this is no longer true. It has been observed that the parent who does not wish to involve himself in the hearing need not and there is little the Panel can do to foster exchange if this occurs<sup>32</sup>. Problems have been noted among Panel members - the members do not always have rapport and thus there is a reluctance to take part in discussion which is an essential feature of this type of tribunal<sup>33</sup>.

South Australia. The Juvenile Court Act 1971 provided for the establishment of Juvenile Aid Panels which came into operation in July 1971. The Hon. N.J. King - who as Minister of Social Welfare observed these Panels in operation - considered them "to be a most useful innovation that could be adopted in New Zealand". The favourable impression the Minister gained from the Juvenile Aid Panels influenced New Zealand legislation.

The major aim of these Panels was to offer an alternative to court proceedings and hence give more flexibility within the juvenile justice system, (South Australia had never had the equivalent of New Zealand's Youth Aid Scheme). The Panels were to offer in an informal sitting, support and assistance to the child within his family together with encouraging, helping and advising parents in problems of child care. Another aim was that reporting of offences would be encouraged to ensure that juvenile offenders are detected and remedial action taken as early as possible. The Panels are not a channel for retribution or punishment, but rather an aid for the family.

The Panels consist of two members - a police officer and social worker. In a report to assess the progress of the Panels it was found that most families were relieved to find only two members on the panel. The report noted however that there are resources in the community that could be of assistance in particular circumstances and which should be utilised<sup>34</sup>. It was felt some people have particular skills and knowledge in dealing, for example, with people from a particular ethnic group or people with medical problems. These people should be invited to attend a hearing. Most of the Panels are male dominated



and families thought it would be beneficial to have more women on panels, particularly if a girl offender is involved. Knowledge of the local area was of considerable help to a panel member. They could more fully understand the family circumstances, the behaviour of the local youth and resources of the community.

Children between the age of ten and sixteen years who have committed an offence, (unless the offence is homicide, the child is arrested or if the child is already under a Court order); are habitual truants or are uncontrollable are referred to the Panel. Parents and children may voluntarily seek assistance from a Panel but as yet few referrals have been made in this way. Child neglect and arrest cases are still heard by a Juvenile Court. A Panel may also refer a matter to the Juvenile Court if a parent fails to appear before the Panel at the Panel's request, if the child or parent requests that the matter be determined by a court, or if the Panel feels it is expedient in the interests of the child or community or because of the gravity of the offence<sup>35</sup>.

The Panel has the power to warn and counsel the child and his parents and records show that eighty percent of the children are dealt with in this way. The child or parents may have to agree in writing to undertake a training or rehabilitative programme recommended by the Panel. If the child or parent refuses to agree with this recommendation or if the undertaking is not observed by the parent or child within six months after the agreement is made the Panel may refer the matter to a Juvenile Court.

The progress report of the Panels noted that most families felt they were helped by the Panel and were grateful for being able to attend a panel hearing rather than appear before a court. The Panel system is now generally well accepted and supported throughout South Australia and are recognised as being a sensitive approach to helping young people.

A similar scheme to South Australia has been recommended in New South Wales by five project teams which were commissioned in 1974 to review child welfare legislation in the State. The reports of these teams are now before the Minister of Youth, Ethnic and Community Affairs in New South Wales. These reports favour the establishment of children's hearing panels to take-over the jurisdiction of the Children's Court in respect of first offenders and all minor offenders which currently comprise fifty percent of the Children's Court jurisdiction. No agreement has yet been reached on how the panels should be constituted but procedures and powers of the panels are envisaged to be similar to that of the South Australian scheme<sup>36</sup>.



Likewise in Canada draft legislation has been prepared which has currently been distributed in an effort to obtain support from the public and Provincial Governments. The legislation has been prepared from a committee's report which recommended that screening devices should be set up to divert youths from the formal court process. It is envisaged that the screening agency would be available to offenders up to the age of eighteen years and the Attorney-General will have the option of referring the accused to the screening agency as an alternative to a court hearing. Unlike the Scottish and South Australian schemes it is decided not to include sanctions for default or breach of the agreement that may be reached between the agency and young person. The introduction of compulsion or duress is felt to be contrary to the non-judicial nature of such an agency. In 1970 the Federal Government introduced the Young Offender's Act (Bill 192) but because of widespread criticisms and lack of support from Provincial Governments, lawyers, social workers and criminologists the Act never came into being. The Federal Government is hopeful a similar fate does not await this new draft<sup>37</sup>.

During the 1960's and 1970's many changes have occurred in the juvenile justice systems of North America, England, Scotland and Australia. The long awaited reform in this country was realised with the enactment of the Children and Young Persons Act in 1974. It was the establishment of the Children's Boards which was regarded as one of the most progressive measures of the Act<sup>38</sup>.



### Establishment of Children's Boards

The Labour Government on coming to power established a Committee in 1972 to report on the form new legislation should take. The changes that had occurred in other countries were carefully examined. It was during this time that the Minister of Social Welfare visited South Australia and saw the Juvenile Aid Panels in action and was very impressed by their operation. He felt the idea could be incorporated into legislation in New Zealand. The enthusiasm of the Minister of Social Welfare for the establishment of Youth Boards met with a contrary response from the Departments of Police and Justice. Under the proposed draft legislation it was intended to establish Youth Boards which in reality would formalise the existing Youth Aid scheme which would cease to operate. The Youth Boards were to be given considerable powers.

Whenever plans are introduced to establish non-judicial tribunals as alternatives to the courts, opposition is always raised. It is of interest to examine this opposition in some detail and later on evaluation will be made to assess whether such criticisms apply to the Children's Boards.

It is thought by some critics that non-judicial agencies are not desirable in societies which have already proceeded too far in transferring family problems and responsibilities to the public domain<sup>39</sup>. It has been suggested children get caught up and more deeply involved in a formalised system at an earlier stage than is necessary. Because special agencies have been created, they will be resorted to in preference to an informal procedure<sup>40</sup>. Diversion has been regarded by some critics as a counter-productive response to a problem caused by a humanitarian but misdirected attempt to cure the ills of all mankind<sup>41</sup>. There is no evidence to suggest that appearance before a non-judicial tribunal avoids the harmful effects of stigmatisation<sup>42</sup>. Many studies have concluded that those agencies treat best that intervene least in the lives of young people. The in-depth involvement of many non-judicial agencies may be too meddling<sup>43</sup>. The excessive attention that the child receives may create problems, not help them. Many of the parents and children who appear before a non-judicial panel are not articulate or accustomed to exchanging impressions and opinions; they could feel inadequate, embarrassed and at a loss<sup>44</sup>. A free, open discussion is essential to tribunals of this type, if discussion is not forthcoming the tribunal cannot function efficiently. Halleck suggests that incompetent interference in a child's life may be extremely harmful and that unless assurance of real ability can be given, contacts between professionals and a disturbed child should be kept to a minimum; doing nothing is to be preferred to incompetent attempts to help<sup>45</sup>.



It must be noted that Halleck was referring to the relationship between a professional youth worker and disturbed adolescent but it has been suggested that there is no reason why his views should not be equally applicable to any encounter between the child and an official agency<sup>46</sup>. Doubts have been raised that the effectiveness of non-judicial panels is no greater than what may be achieved by informal handling by a police-officer or social worker. If this is so, nothing is to be gained by the creation of more elaborate machinery.<sup>47</sup>

The Police and Justice Departments were opposed to the draft legislation - particularly the establishment of Youth Boards because it was felt formalisation of the Youth Aid Scheme was most undesirable; the informality of the Youth Aid Scheme was regarded as its essential strength. The giving of wide powers to the Boards by statutory provisions was not favoured and it was felt strong pressure would be exerted on parents and children to admit to a charge that may be able to be defended, in order to avoid court proceeding.

Amendments were made to the draft Bill because of this opposition. As a result it was decided Children's Boards having jurisdiction over children up to the age of fourteen years would be established instead of Youth Boards which would have had jurisdiction over young persons of seventeen years of age and under. The Youth Aid Scheme would continue to operate and the decision whether or not to prosecute a young person (a youth between the age of fourteen and seventeen years) would be left with the police.

On introduction of the Children and Young Person's Bill to the House of Representatives on 20th November 1973 the Minister of Social Welfare said:

"In the forty-eight years since the Child Welfare Act came into effect there have been tremendous changes. There is a new affluence and with it a changing morality. Social problems have heightened and taken new forms; new methods must be found to deal with them as the old traditional methods are found wanting .... We must apply our energies to prevent children getting to the Courts. When problems arise we must ensure action is taken early enough to prevent them becoming serious."

It was hoped the establishment of Children's Boards would be a constructive solution to these problems.

The Bill was referred to the Social Services Select Committee. Forty-seven submissions were presented to the Committee which resulted in many minor and two major amendments to the Bill. The latter two amendments related to lay membership on the Boards and powers of the Board. The original Bill had



intended that membership should consist of a member of the police, and officer of the Social Welfare Department and an officer of the State Services appointed by the Secretary for Maori and Island Affairs. Eighteen submissions felt strongly that lay representation on the Board was a necessary requisite. It was said, for example, that lay membership was needed "to represent more sensitively the wider community norms than could the specialist officers of State departments"<sup>48</sup>. That "Boards should not all be state servants, too often stigma is attached that they only deal with the troublesome and delinquent, and therefore the Board should consist of a member of the public so they could be looked upon more as a helping agency".<sup>49</sup> Another submission felt the Boards should be more closely linked to the community "a less statutory, more community based Board might allow the child to feel related to the assessment process from which all too often he/she may feel alienated".<sup>50</sup> In respect to powers of the Board it was felt that a Board should be given authority to direct its determination to parents and guardians, not only to children as had been proposed in the Bill<sup>51</sup>.

Eleven months after its introduction to the House, the Bill received its second reading on October 25th, 1974. During the second reading debate it was said "the Bill represented one of the major social welfare bills introduced into New Zealand this century".<sup>52</sup> The Bill was read a third time and received the Royal Assent on November 6th 1974. The Children and Young Person's Act came into force on the 1st April, 1975.

One of the prime intentions of the Act was to keep children away from the Courts and to ensure that the care and protection of children under fourteen years of age was primarily the responsibility of their parents. It was hoped the establishment of Children's Boards created under Part II of the Act would help fulfill this intention.

The operation of the Children's Boards and how well they have fulfilled these expectations is the concern of the rest of this paper.



TABLE 1.

## NUMBER OF CHILDREN AND PARENT ATTENDANCES

## AT CHILDREN'S BOARDS SITTINGS

	WELLINGTON			PORIRUA			LOWER HUTT		
	1	2	3	1	2	3	1	2	3
NO. of Sittings	9	7	8	8	19	21	17	18	14
No. of Children under 10 years	4	6	1	1	17	8	7	13	-
No. of Children over 10 years and under 14 years	18	32	19	12	34	37	38	28	36 <sup>+</sup>
Cases where both Parents attended	9	8	7	6	15	18	18	8	*
Cases where two Parents in family but only Mother attended	5	7	4	4	7	6	21	10	*
Cases where two Parents in family but only Father attended	2	2	1	1	2	3	3	3	*
Case where neither Parent attended	6	-	-	-	-	-	-	-	*
Cases where Solo parent only and that parent attended	X	11	3	X	11	9	X	5	*
Matter referred back to Police or Social Welfare which resulted in an appearance at Children and Young Person's Court	1	2	1	1	-	-	2	-	*

1. April 1, 1975 - September 30, 1975

2. October 1, 1975 - March 31, 1976

3. April 1, 1976 - September 6, 1976 (Note this period is 3 weeks short of the 6 month statistical period).

+ The 36 children who appeared before the Lower Hutt Board have not yet been divided into the two age categories.

X Data not collected during this period.

\* Data not yet available.

It will be noted discrepancies exist between the total number of children who appear before the Board for every 6 month period., and the number of cases where parents attended. The secretaries of the Boards are unable to account for these discrepancies. This is the data that is forwarded to the Department of Social Welfare (Head Office) every six months.



PART TWO

REVIEW OF THE CHILDREN'S BOARD IN OPERATION IN  
PORIRUA, WELLINGTON AND LOWER HUTT

Introduction

It was unfortunate that the Boards could not be observed in operation. The Boards are very aware of the importance of the confidential, intimate and informal relationship that is created between the Board members, parents and child. It was feared this relationship - so critical to the functioning of the Boards - would be lost if an observer was present.

The findings in this paper have been obtained from long interviews with the people involved in the operations of the Boards in the Wellington area. This included talking with police, social welfare and Maori Affairs representatives and lay members of the three Boards; the secretaries to the Boards, administrators in the Department of Social Welfare and police officers in Wellington, Porirua and Lower Hutt who are responsible for the majority of referrals to the Boards. These people talked very freely and made critical appraisals of the Boards. Although inferior to observation, I feel a clear understanding of the functioning of the Boards was obtained by this interview method.

Jurisdiction of the Children's Boards

The Boards have jurisdiction over children who are below fourteen years of age, if the child and the parents admit to the alleged offence and accept the facts that are material to the report. If the facts are disputed, the offence denied, or if any question of compensation or restitution is unresolved the matter is referred back to a member of the police or to a social worker - preferably (but not mandatory) to the person who made the report to the Board<sup>53</sup>. A determination is made as to whether or not a complaint should be made as provided by section 27 of the Children and Young Person's Act, 1974. If a complaint is made the child appears before the Children and Young Person's Court. Only seven children in the Wellington area who were originally referred to the Board have been referred on to the Children and Young Person's Court under this procedure. (Refer to Table 1 opposite page). It will be noted (Table 1) that the greater percentage of children dealt with by the Boards are between the age of ten and fourteen years. The proportion of under ten year olds to children between ten and fourteen years is very variable ranging from 1:19 to 17:34. This variable pattern is similar for all three Boards.



### Referral to the Children's Boards

Every member of the Police and every Social Worker reports to the Board every alleged offence committed by a child, or any matter in which a child is involved if it is considered that proceedings under the Act should be taken in respect of the offence, or if the matter is one which should be dealt with by the Board<sup>54</sup>. By far the greatest number of referrals made to the Boards come from the Police. In the last twelve months there have been no referrals from the Department of Social Welfare to the Wellington Board and only two referrals to the Lower Hutt Board. In Porirua fifteen percent of the referrals are from the Department of Social Welfare. Thus it would appear that referrals tend to be "offence" orientated. A Magistrate on hearing a complaint involving a child and finding it proved may direct the complainant to refer details of the complaint to the Children's Board<sup>55</sup>. This has rarely occurred in the Wellington area - since the Boards have been in operation there is record of only two children being referred from a Children and Young Person's Court to the Board.

Thus the Police play the dominant role in referrals to the Boards. Police attitudes and how they view the function of the Boards are of crucial importance. Both Police and social workers do continue to exercise a wide discretion as to whether they will handle a matter informally or refer the matter to the Board.

In Lower Hutt and Porirua - in spite of some doubt on the desirability and usefulness of the Boards by some members of the Police, and even some hostility towards the Boards at the time of their establishment - very positive attitudes now exist. This has been helped no doubt by the close liaison between the permanent Board members and the Police in these two areas. (For example the Social Welfare Board representative in Porirua was also involved in the Youth-aid conference until she left the Board a month ago. The permanent Board members in Lower Hutt have worked together over a long period and have a close working relationship with the local Police department). The attitudes of the Police towards the Board in Wellington are not as positive. This is thought to be partly due to the fact there is no close liaison between the Board and Police, and partly because Wellington lacks the community feeling that is prevalent in Porirua and to a certain degree in Lower Hutt. The police are unhappy with the fact that most of the children who appear before the Board are only given a warning - they feel that the Board should be making greater use of the other alternative actions open to them. As a result the Police refer far fewer children to the Wellington Board than do the Police in Porirua and Lower Hutt. In the last twelve months 57 children were referred by the Police to the Wellington Board; 93 Police referrals were made



to the Porirua Board; and 75 Police referrals made to the Lower Hutt Board. Considering the population of children in the 5-9 age range and 10-14 age range in Wellington is double that of the equivalent population in Lower Hutt and Porirua - a far lower referral rate is occurring in Wellington which may be linked to the less positive attitudes some of the Wellington Police have about Boards.

The Police in Lower Hutt and Porirua do not refer trivial matters or first offenders to the Boards. They see the Boards as a useful alternative when informal handling has failed to deter the child. Sometimes a child may be dealt with informally by the Police three or four times before a referral to the Board is considered. Thus it would appear the criticism that, because a statutory agency has been established children are deprived of the opportunity of being dealt with in an informal way, is not substantiated by these experiences. The Boards are regarded by the Police as a useful alternative both to the Court and to the informal procedures that are open to the Police. They recognise that different children respond to different methods of handling - the more alternatives there are to choose from the better. It is felt that referral to a statutory agency may be useful in providing a jolt to the child - and sometimes the parents - that will make them realise, as informal handling cannot always do, the undesirability of their actions.

A criticism that was raised<sup>56</sup> - that a Board may be by-passed because children could be sent direct to the Children and Young Person's Court - would not be justified in respect of the three Boards studied. Very few children have been referred to a Children and Young Children's Court in the Wellington area. Official data is not available, but unofficially I was informed there would be no more than 10 or 12 children being sent directly to a Children and Young Persons Court in the whole Wellington area in the last twelve months<sup>57</sup>.

The Police in Porirua have been so favourably impressed with the functioning of the Board that they would like to see the Board's jurisdiction extended to include young persons. It is felt that many young people would benefit from a Board rather than a Court appearance. They have approached the Board on this matter and the Board has agreed to hold meetings involving fourteen year old young persons on a trial basis. Although the permanent members of the Lower Hutt Board have reservations about extending the jurisdiction of the Board to include young persons, the Wellington Board and all the community members I spoke with thought this would be a very good idea.

The Police generally felt a useful amendment to the Children and Young Person's Act would be to make all attendances before a Board compulsory. It is felt that uncooperative, uncaring parents who do not accept the invitation are prejudicing the chances of their children. A police officer may not refer



a case to a Board because he knows the parents will not attend the hearing - this leaves an opportunity for bias to enter into the system. The caring parent may welcome the opportunity of having their child dealt with by a Board - a child of uncooperative, underprivileged parents may not be given this chance.

All the members of the Porirua and Wellington Boards reported that they would like to play a greater role in the selection of children referred to them. The Lower Hutt Board did not feel this was necessary. However, because <sup>of</sup> the very close liaison between the permanent Board members and the Police in Lower Hutt, a considerable amount of information about the type of child the Board expects to deal with may be exchanged.

#### Invitation to Attend the Children Boards

Once a member of the Police or Social Worker has decided to refer a matter to the Board, a notification of this decision is sent to the parents of the child (see Appendix 1.A). The matter is reported to the Board with the necessary details. The secretary to the Board (a staff member of the Social Welfare Department) sends an invitation to the child's parents to attend a Board meeting (see Appendix 1.B). The minimum time period between a matter coming to the attention of a member of the Police or Social Worker and the time when the child attends a Children's Board hearing is four weeks. The delay is rarely longer in Porirua but in Lower Hutt and Wellington the time period spent on police administration may take longer than the average two week processing period. Delay is never caused by the Boards - as soon as they receive notification of a referral an appointment can be made for the following week. To date there has not been a back-log of cases at any of the three Boards. All the Boards realise the importance of dealing with the matter as soon as possible.

The invitation to attend a Board hearing is delivered personally in Porirua; it is felt that the letter sent by the Police or Social Welfare Department and the invitation to attend a Board hearing does appear to be very formal to many of the recipients - it is felt a verbal explanation is necessary. It is important that the child and parents fully understand that, contrary to appearances, the matter is to be discussed informally and is not a judicial process. In Wellington and Lower Hutt the invitation is posted. The secretaries for these Boards reported that many parents do telephone asking for more detailed information. Thus the secretaries have an important part to play in the functioning of the Boards - they are the first point of contact for many of the parents with the Board. The way the secretary deals with sometimes worried, hostile or perplexed parents is very important. For example the secretary of one Board had a sympathetic understanding approach with parents



which helps create a favourable impression towards the Board; the more distant, authoritarian approach of another secretary may create a less favourable impression.

All the Boards noted that once made, appointments are nearly always kept. If an appointment is not kept the matter is always followed up. In Porirua and Lower Hutt a visit is made by a member of the Social Welfare or Maori Affairs Department. In Lower Hutt on the eight occasions this has happened it was discovered that the people involved were all Polynesian families who had not understood the invitation or appreciated what it meant. In Porirua - because an explanation has already been given - the reason for non-attendance is usually transport difficulties. If this is so, transport is arranged so the family is able to keep a new appointment. In Wellington if the family is known to the Social Welfare or Maori Affairs Department a visit will be made - if the family is not known another invitation is sent.

It was suggested by one of the Wellington community members a year ago that simply worded letters of explanation written in Maori should also accompany the invitation. This suggestion was not adopted. However the Police Department have now produced a simply worded pamphlet giving information about the Boards and the Wellington Board proposes to include this with all invitations. Interestingly the report on the progress of the Juvenile Aid Panels in South Australia made a similar recommendation. This report felt that the very formal appearance and wording of the requests sent out to parents gave the impression that there was to be an appearance before a Court which causes considerable anxiety for the family. It was recommended a letter should be sent - not a form - with accompanying information about the Panel written in simple language with translation in the migrant languages.

#### Meetings of the Boards

There are sixty-one Boards now operating throughout the country - one in each Social Welfare District. Some Boards meet only monthly (for example Upper Hutt) and some twice weekly (for example Auckland). It was proposed that the three Boards in the Wellington area would meet weekly - the Wellington Board has met far less frequently however. In the period 1st April 1976 - 6th September 1976 out of a possible twenty-two sittings Porirua sat twenty-one times; Lower Hutt fourteen times (although it must be noted that every fourth week this Board holds a sitting in Upper Hutt); Wellington sat eight times. In Wellington and Porirua it was several months before the Boards started to operate, which accounts for the low number of sittings in the first six month period. (Table 1). Once established however the Porirua Board was sitting regularly every week. The Wellington Board has not yet established weekly



sittings - sometimes a two or three week period elapses without any referrals being made to the Board.

All three Boards have dealt on average with two or three children at a sitting with the exception of the Wellington Board. In its second six months of operation an average of five or six children were dealt with at a sitting. Obviously no Board is yet over-taxed by a heavy case-load. This has been regarded as advantageous because, being such a completely new idea, it has allowed Board members to gradually learn to adapt<sup>to</sup> this new situation<sup>58</sup>. Also all the Board members have commented that a sitting which comprises two or three hearings involving long in-depth discussions can be mentally and emotionally tiring. The Porirua Board feels this would be difficult to sustain for a whole day and feel if referrals to the Board become more numerous it would be preferable to sit two half-days a week, rather than a whole day. The Wellington Board did feel however it could cope with all-day sittings. One lay member commented "the day we dealt with seven families although very exhausting was a very rewarding experience".

Meetings of the Boards must not be held in a courthouse or a Police Station<sup>59</sup>. Meetings must also be conducted as informally as possible<sup>60</sup>. All the Boards in the Wellington area meet in the local Department of Social Welfare. In Wellington and Lower Hutt the room used is situated on a different floor to that used by the general public - in Porirua parents and children waiting to attend a Board meeting wait in a common waiting room with the general public using other social welfare facilities. The rooms used are comfortably furnished with easy chairs and coffee tables and are comparatively informal when compared with a court-room setting. However one could criticise the choice of holding a meeting in the Department of Social Welfare. The Department of Social Welfare does create negative reactions in many people and, while not as intimidating as having to appear at a Police Station or a Court, for many people social welfare still has an air of officialdom about it. Surprisingly none of the permanent Board members agreed with this criticism - they felt the fact that it was central and well-known was important; the informal setting of the room and informal procedure soon disbursed any fears of "officialdom". Three lay members did question the choice of location - one member felt meetings could be conducted at a home of one of the members but she hastened to add that the permanent Board members disagreed violently with this suggestion. Obviously an alternative location would be difficult to find because it would have to be central, available on a regular basis and neutral territory which rules out using Church Halls and city council rooms. This is probably the reason for the choice of location being the Department of Social Welfare plus the fact that as the Department of Social Welfare is responsible for the administration of the Boards, its Department is an obvious



place to hold the meetings.

#### Board Membership

Children's Boards must consist of four members<sup>61</sup> although three may make up a quorum<sup>62</sup>. Membership must include a member of the Police, an officer of the Social Welfare Department, an officer of the State Services appointed by the Maori Affairs Department and a resident of the Social Welfare district in which the Board is situated. In the majority of sittings four members are present.

In all three Boards only senior officers were appointed to the Board by the Departments of Social Welfare and Maori Affairs. Police membership has varied - a Senior Sergeant is the Police member for the Lower Hutt Board whereas more junior Police members have sat in Porirua and Wellington. The Lower Hutt permanent Board members have remained unchanged throughout the whole period of the Board's operation, whereas Police membership has changed frequently in Porirua and Wellington (particularly the latter) and recently the Chairman of the Board in Porirua has left the Board because of another appointment within the Social Welfare Department. All members - permanent and community - feel there is a definite advantage in having a stable Board membership. They noted that it has taken many sittings for the Board to learn to work together as a team and to learn one another's weaknesses and strengths. They find it is very disruptive if membership changes too frequently. A Board where everyone works together as a team is far more efficient - the atmosphere is more relaxed and free-flowing discussion results.

Only the permanent Board members in Lower Hutt had worked together before - two of them had worked together for twelve years, the third came to Lower Hutt nearly 5 years ago. They had built up a close relationship over this period. This, no doubt, accounted for the fact Lower Hutt was one of the first Boards in the country to begin sittings.

Community membership is an interesting aspect of the Board concept. In recent times there has been a growing impetus for the need of community involvement in the criminal justice system - lay representation within formal agencies is one way of achieving this involvement.

As already noted there was no provision for lay membership in the original Children and Young Person's Bill. Recommendation in many of the Submissions to the Social Services Committee resulted in an amendment which provided for community representation. Opposition to this amendment argued that public servant members on the Boards were also members of the community and many were parents, therefore community members could offer no further qualities to the Board. It was also argued that as the Boards were to be non-judicial and were



to assist the parents and child there was no need for a watch-dog in the form of lay representation. Furthermore it was thought community membership would only attract older, middle-class people who had plenty of spare time. Such people could hardly be representative of the majority of people with whom the Board would be concerned.

These opposition arguments would not be applicable to the community members of the three Boards under study. They have brought qualities to the Boards which have been useful and constructive; all lay members felt it was useful to have a check on the permanent members and that the Board could develop a bureaucratic approach without a community member present; none of the community members could be described as older people with plenty of free time.

The community members cover a broad spectrum of the population. They range in age from the late twenties to mid-fifties. Occupations include a Baptist Minister, schoolteachers, mothers with pre-school children, a market gardener, youth counsellor, dairy-owner, nurse, councillor for handicapped and disturbed children, meat-packer in a supermarket, builder, railway-fitter and an owner of a men's wear shop. Their attitudes, values and beliefs are varied. Some have strong religious convictions and are active members of the Roman Catholic, Maori Evangelical Mission, Church of Christ and Baptist Churches; some have no religious ties. Although the majority of them are middle-class, eight of the members said they come from "working-class" homes. The majority had happy family lives as children but two of the members came from broken homes - one having been brought up in an orphanage and one in a series of foster homes. The latter two report these experiences have been of great help in identifying with some of the parents and children with whom they have been involved on the Board. Some members are very conservative in their attitudes, others have liberal and radical ideas.

They have lived in the local area for periods ranging from four to forty years. With one exception, all are involved in community affairs. Three are city councillors, one a Hospital Board member, one a counsellor for the Porirua Family Centre and one a marriage guidance counsellor. They organise youth, sporting and church clubs. One is responsible for the organisation of a hostel for psychiatric patients, one organises a voluntary pre-school group, one a home for children who have run away and one member is a foster parent in a Social Welfare family home. They belong to political organisations, women's groups, youth-line and the Samaritans. All are interested in children, which together with their community involvement, would appear to be the reason for their selection. Only one of the members knows



the reason for her selection - she was asked by a Labour Member of Parliament if she would consider becoming a Board member, and feels her appointment was for political reasons. All the community members are parents. The older members feel this has been an advantage. Many of the problems that confront them during a meeting they have experienced. They feel empathy with the parents and can understand their difficulties.

Of the fifteen community members eleven are European, three are Maoris (two in Lower Hutt and one in Porirua) and one is a Cook Islander who came to Porirua nine years ago. The Wellington Board is without a Polynesian community representative - their Maori representative left Wellington several months ago and has not been replaced. All members expressed the desirability of having a Polynesian representative. All four Polynesian representatives are highly respected within their local Maori or Island community. It is felt their presence on the Board has a great deal of influence if a Polynesian family is involved.

All the community members are pleased to have been appointed to the Boards. Unlike Scotland where the members received special training in dealing with children, no such training or preparation is given in New Zealand. An introductory meeting was held prior to the Boards beginning operation which explained the under-lying philosophy of the new legislation and the aims of the Boards. Some members came to the Boards with no pre-conceived ideas; some had followed the passage of the legislation very closely and were very enthusiastic about the new approach; two of the members were very sceptical about the general concept of the Boards and thought they would be an ineffectual agency - they have now completely reversed their opinion.

The community members of Porirua felt they took an active and useful role from the beginning of the Board's operations - this is supported by the permanent Board members. Only one permanent member lives in Porirua and therefore the community members knowledge of the local area and of resources available in the area has been very useful. The Lower Hutt members felt they took a less active role during the early sittings than they do now. The intimate working relationship the permanent members had established through working together in other situations made the community members reticent in intruding into this relationship. They have now built up a close rapport and actively participate. The Wellington community members are dissatisfied with their role and feel they play a too passive part in the Board's decisions. It has been the practise of the Wellington Board to only counsel or warn the children and parents - referrals and follow-up have never been made. Although this may be useful and valuable in some situations, it is felt other forms



of action are sometimes required. For example one member referred to a situation where an eight year old boy, who had repeatedly broken into a nearby home, was eventually caught by the Police. He was breaking in so he could dress up in women's clothes. His mother who was a solo parent was a very dominant, possessive woman who would not let the child speak or leave him alone with the Board members. This particular community member felt that counselling by the Board was unsatisfactory in this situation and feels a referral to psychological services or to another agency for supervision should have been made. At this stage she had only had a short association with the Board and felt she was not in a position to over-ride the other member's decision. If a similar position presented itself today she feels she would suggest a referral. In another situation a thirteen year old girl appeared because of lack of supervision which resulted in promiscuity. It was felt the girl should have been referred to an agency so close supervision could have been organised or arrangements made to see if the mother could be home more often. This was not done.

As a result of this dissatisfaction the Board members have held two long meetings to discuss this matter for the purpose of over-coming these deficiencies. All recognised that Wellington is a fragmented anonymous society and members are not well acquainted with the resources of the community. They have decided to make a detailed investigation of available resources throughout the city such as youth groups, voluntary agencies, church groups, sports clubs and ethnic centres which may be suitable referral agencies. The community members intend pursuing a more active role in the future and will follow-up referrals if they feel it is necessary. It is interesting that the system allows for such an appraisal - it is fortunate that the people concerned were able to discuss their limitations and deficiencies and were willing to work towards a solution.

Board membership is mostly comprised of articulate, sympathetic caring people who realise they have a useful, important and responsible role to play.

#### Procedure of the Children's Boards

Apart from the provision that all meetings must be conducted as informally as possible, each Board has considerable flexibility in the type of procedure it adopts. It has been said that informal handling may appear to be informal to those administering the system, to those caught up in the system it may appear to be impressively authoritative and formal<sup>63</sup>. All three Boards make every attempt to achieve an informal atmosphere. The Police members wear plain clothes, no files or records are visible, the room consists of comfortable chairs and coffee tables. At the Wellington Board one community member takes



her baby to the sittings. Every effort is made to put children and parents at their ease. Although many parents and children are grateful in having the opportunity of appearing before the Board, some parents are hostile and some are bewildered or ashamed. The Boards feel they are able to reassure even the most hostile of parents. They have the time to ensure that parents and children fully understand the proceedings. It is always stressed the Board is non-judicial, all matters discussed are confidential and that the function of the Board is to discuss any difficulties and problems the family is experiencing and to give advice and assistance if it is felt necessary or if it is requested. To fulfill these objectives the Boards must operate in a relaxed, sympathetic atmosphere, it is essential to obtain the co-operation of the parents and children as the Board cannot enforce any of the actions it may choose to make. The Boards did feel they were usually successful in achieving this aim, although the Wellington and Porirua Boards felt that some relieving Police members have adopted moralising and authoritarian attitudes which destroys the informal, co-operative atmosphere. The community members in Lower Hutt noted that the other Board members do sometimes adopt an authoritarian attitude. However, because of the considerable experience of these members, it was felt such an approach was used judiciously and when used in this way could be constructive and effective and did not affect the informality and co-operative atmosphere of the meeting.

In order to assist parents and children a frank discussion is required that involves the family, particularly the child. Such a discussion may take a considerable time. In Lower Hutt up to forty-five minutes is allowed for a hearing but the Porirua and Wellington Boards feel at least 1½ hours is necessary. The most productive meetings are where full participation and spontaneous discussion occurs. Frequently the child's offence - the usual reason for the Boards appearance - is glossed over. The child's behaviour is seen as a family problem and treated as such. The Board works towards a solution in which the whole family can take part. For this reason children and parents are rarely separated - which is not the practice in many Boards throughout the country. Only if intimate and personal details are to be discussed are parents and children separated. For some families it is the first time they have sat down with a group of caring, concerned people and talked freely about their problems; fears and worries. The Boards feel if only this much is achieved it has been successful.

A criticism made of the Boards is that they achieve no more than could a good social worker or youth-aid officer. The Boards all refuted this criticism. Four people provide greater flexibility, and their wider experiences are a great advantage. Members noted far more productive discussion



occurs when four members rather than three are present. When several people are present cues may be picked up that could be missed by one person working alone. For example a girl appeared before the Porirua Board for repeated shop-lifting. Several times she had been placed under the supervision of a social welfare officer. During the long discussion it materialised the girl had taken things she had needed at school and which she knew her mother, a solo parent, could not afford to buy. This placed a different emphasis on the girl's behaviour which had not been revealed in her relationship with the social welfare worker. As a result of this hearing the mother received help with her financial problems and the girl was counselled. With four people present there is always at least one person who can build up a rapport with the parent and child - this may not always be possible in a one-to-one relationship.

The three Boards studied do appear to receive the voluntary co-operation of the majority of parents and children. They achieved this in a similar way by providing a friendly, sympathetic and caring environment in which discussion could freely occur.

#### Decisions of the Children's Board

The Board may warn and counsel a child and parent; may arrange for the child, parent or guardian to receive counselling from a Social Worker, Maori Affairs officer or any other suitable person; may arrange for the child, parent or guardian to receive medical psychological or psychiatric help; or may refer the matter back to the Police or Social Worker so that a complaint may be made which would result in an appearance before a Children and Young Person's Court.

The three Boards always come to a decision in the presence of the parent and child. All Boards stressed they do not use the threat of a court appearance to coerce parents and children into accepting the Board's decision. The Board will point out that if the child's behaviour does not improve court action may eventually become necessary but do not say if co-operation is not forth-coming the matter will be referred to the Children and Young Person's Court. If a meeting is successful, which the majority appear to be, the parents and child do willingly co-operate and there is no need for coerciveness to compel the decision. It frequently happens that parents or the child will volunteer a course of action themselves. The parent or child will suggest for example, that a personal apology should be made and community work will be carried out to compensate for their action. Parents will often ask to be referred to an agency once their particular problems have been evaluated and they realise assistance may be helpful. The Boards all noted that once parents and children fully appreciated that the boards were there to help, not to sit in/  
/ judgement, parents



and children genuinely wanted to co-operate in seeking the best solution and were confident from the feed-back they have received that most of the referrals and suggestions made were being followed up by parents and children.

The Boards see their most important and effective function as assisting parents and children in coping with their problems and are convinced they are an alternative not a substitute to the Courts. They also feel in some situations that admonishment can serve a useful purpose. The setting is sufficiently official that an admonishment by a Board may have an impact that an informal Police warning may not have. Because they have been able to communicate with a child in a way a Magistrate is not usually able to do a child may be more willing to accept and abide by an admonishment by the Board.

The Boards vary in the type of action they take. Unfortunately no statistics are yet available on the forms of action taken. As already noted the Wellington Board counsells or warns the child or parent - no other form of action is used. The Porirua Board uses admonitions in fifteen percent of the hearings, but the greatest percentage of children and parents are referred usually to voluntary agencies within the community. Rarely are referrals made to the Social Welfare or Maori and Island Affairs Departments - it is felt these departments are already over-worked dealing with crisis situations and the type of assistance the majority of parents and children need is best provided by community rather than official agencies. Children may need to be kept occupied or taught to relate to other people and thus referrals are made to sports clubs, church groups or ethnic community groups. Community members will organise for the child to become involved in a particular interest. Parents have been advised to join activities that involve the whole family, they may be referred to marriage guidance, alcoholics anonymous or other voluntary agencies that can assist them with financial problems and supportive counselling. Porirua is fortunate in having a wide range of organisations within the community that can be resorted to. There is however a need for psychological services which are not at the moment available in Porirua. Porirua is the only Board in the Wellington area where follow-ups are made - they do express an interest in hearing from various agencies if the parent or child has made contact, how a family is getting on. Many of the referrals are made to organisations with which the community members are involved so this can be done more easily than in some other areas. Sometimes they will set a child a particular task usually in the form of community work and ask him (or her) to report back in two or three months' time - nearly all the children do report back. In contrast with Porirua, the Lower Hutt Board makes nearly all of its referrals to the Social Welfare or the Maori and Island Affairs Departments. (The secretary was unable to give me any statistics on the



proportion of referrals made). The Board feels once this decision is made their function ceases. They have every confidence the matter will be dealt with competently by social workers in the official agencies. It is interesting that as the community members are taking a more active role in the Board, referrals are increasingly being made to outside agencies.

Following a hearing the Police officer or social worker who made the report to the Board is informed of the Board's decision (Appendix 1 C). A letter is similarly sent to the child's parents or guardians (Appendix 1 D).

#### Future Trends

In the course of preparing this paper various suggestions and comments were made by Board members and outsiders in respect to changes they would like to see in the legislation. Many were constructive comments, some were controversial. As amendments to the Children and Young Person's Act 1974 are to be considered next year they are worth considering.

As already noted many persons feel the jurisdiction of the Boards should be extended to involve young persons as well as children and some Police officers felt Board appearances should be made compulsory to prevent pre-selection that may be occurring. Others disagreed with this latter suggestion and felt that the informal and voluntary nature of the Children Boards would be lost if compulsion entered into the Board concept. However it is not until the stage of the actual hearing that the informal co-operative atmosphere is created - perhaps this would not be endangered if attendance was made compulsory. It is unfortunate that the Police may not be reporting some matters to the Board because they know the parents will not bother attending - it is this type of family that may benefit from a Board hearing if the hurdle of getting them there could be overcome. The risk of maybe losing the Board's informal co-operative atmosphere will have to be weighed against the benefit that may accrue in getting families that most need help to the Board.

Many people feel the issue regarding restitution needs further clarification. Boards cannot deal with a matter if any question of compensation or restitution is unresolved. This has led to many anomalies. For example, recently two boys were involved in an offence in which the police requested \$100 be paid as restitution. The parents of one of these boys paid the money and the Police referred the boy to the Board. The mother of the other boy, a solo parent, was unable to pay the money and because restitution was unresolved this boy could not be referred to the Board. The boy appeared in the Children and Young Person's Court under the complaint procedure but due to mitigating circumstances the boy was given a warning and no money had to be paid. It is anomalous and unfair that for the same indiscretion one child appeared before the Board, the



other before the Court - the determination being decided by financial circumstances. It is interesting that in this particular case the family who had appeared before the Board, on discovering the other family had not had to pay the \$100, felt they should have had the opportunity of appearing before the Court and were very resentful about the handling of the matter. This is obviously an area that needs careful consideration as the Social Welfare Department is reluctant about having the issue of restitution left with the Boards because the Board will be given an adjudication role.

Whether the Board should be given more information about the children is a contentious problem. Many Board members commented on the sketchy information that is frequently given. For example, "home seems clean and well furnished", "child needs more supervision", "parents not very responsible", is all that is available on some occasions. A few people thought it was preferable not to have too much information - there was a danger of drawing conclusions and pre-judging the situation. The majority felt, however, that more information should be available. Each Board can make preliminary enquiries into each case and may seek reports from the Police, social workers, doctors or school teachers. None of the Boards did make preliminary enquiries or requested reports, although frequently the families are well known to the official Board members. The Boards spend ten to fifteen minutes at the beginning of each sitting reviewing the matters to be dealt with that day. Four of the members who are teachers thought the schools should be involved to a far greater extent than they are at the moment - they believe school reports are of vital importance. Many of the children appearing before the Board have problems at school - they are unhappy, do not like a particular teacher, have difficulties with school work or cannot get on with other children. Greater liaison with schools could be productive in many instances.

Everyone agreed that people selected to become a Board member should be carefully chosen. People should not be selected who have antagonistic attitudes towards the Boards - some of the relieving Police members have had very negative attitudes and resent being sent to a Board hearing. The successful functioning of a Board is dependent on a close co-operative teamwork - an antagonistic person can destroy this relationship.

A need for more specialist agencies is required in all areas. The Act provides for the establishment of services and facilities within the community to advance the well-being of children.<sup>65</sup> As yet none have been created. In Porirua referrals cannot be made to psychological services as none are available and all areas note the need for improved educational facilities such as remedial reading and special classes for slow-learners or children with



specific problems.

It was suggested that it would be useful and constructive if Board members from several areas could get together to exchange ideas. Each Board felt they could learn from other's experiences. Such meetings would be an ideal setting in which to orientate new members - some community members were hesitant about taking a place on the Board without any preparation.

#### Conclusion

" Attempts to achieve social control through arrest, reformation and deterrence have not only failed, but have led to penal practices which, if stripped of their euphemistic labels, are nothing more than abuses of fundamental freedoms in the name of enlightenment .... What is needed is a return to more modest goals - with fairness and justice always the aim. Public participation is needed, if for no other reason, than to secure confidence in the system. There is an urgent need to find other channels for the handling of conflicts that inevitably arise in society<sup>"66</sup>. Children's Boards do provide an alternative way of caring for dependent and neglected children and young offenders.

Although initially the Department of Social Welfare planned to carry out a survey after the Boards had been in operation for a year, it is now thought no valid conclusions can be drawn for three years. However, from this evaluation, although limited to a small area, it does appear the Boards are successful in creating an informal, caring atmosphere in which open productive discussion is occurring and in which parents and children are co-operating in seeking solutions to problems with which they are confronted. The Boards are providing a useful alternative. Hopefully in fifty years' time we shall not look back on the Boards as one of the other many well-intentioned ideas that foundered.



REFERENCES

1. Blizzard, P.J., (ed). Juvenile Delinquency in New Zealand. Social Science Section of The Royal Society of New Zealand. Wellington, (1967).
2. Hogarth, J. Studies on Sentencing. Alternatives to the Advisory Process. Law Reform Commission of Canada. Ottawa, (1974).
3. Cadbury, G.S. Young Offenders Yesterday and Today. London: G. Allen and Unwin, (1938).
4. e.g. Marine Society founded by Sir John Fielding 1756; The Magdelon Hospital Reformatory founded in 1758 as a reformatory for girls; The Philanthropic Society founded 1788 for the protection of poor children, the off-spring of convicted felons and the reformation of criminal; Ragged Schools founded in 1818 the fore-runners of the Industrial Schools.
5. Sinclair, K. The Liberal Government 1891 - 1912. Auckland: Heineman Education Books, (1967).
6. Whelan, P.J. The Care of Destitute, Neglected and Criminal Children in New Zealand. 1840 - 1900. Unpublished M.A. Thesis, V.U.W., (1959).
7. Lee, J.A. The Hunted. London: Werner Laurie, (1936).
8. 206 N.Z.P.D., (1925), 678.
9. 67 N.Z.P.D., (1890), 349.
10. 3 A.J.H.R., (1899).
11. Statement made by the Hon. C.P. Parr, Minister of Social Welfare, on the introduction of the Child Welfare Bill to the House of Representatives. 206 N.Z.P.D. (1925), 678.
12. Child Welfare Act 1925. S.32.
13. Child Welfare Ammendment Act 1927. S.22.
14. Cripps, C.R. The Children's Court. Unpublished L.L.M. Thesis. V.U.W., (1972).
15. Ibid.
16. Sainsbury, N.E. The History and Development of Children's Boards. Unpublished L.L.M. Thesis, V.U.W., (1975).
17. Report of the Special Committee on Moral Delinquency in Children and Adolescents. Wellington: Government Printer, (1954).
18. Department of Social Welfare. Juvenile Crime in New Zealand. Wellington: Government Printer, (1973).
19. Seymour, J.A. "Children's Boards in New Zealand - Some Unanswered Questions". Lecture given at the Auckland Conference on Children's Boards, July 1974.



20. In 1972, 1973 and 1974 almost as many children were dealt with under the Youth-Aid Scheme as appeared in the Children's Court.  
In 1972 - 12,435; 1973,- 11,570; 1974 - 12,588 were dealt with by the Youth-Aid Scheme as opposed to 13,049; 12,971; 13,287 children respectively who appeared in the Children's Court.
21. President's Commission on Law Enforcement and the Administration of Justice. Task Force Report: Juvenile Delinquency and Youth Crime. Washington D.C., Government Printing Office, (1967).
22. Cressey, D.R., and McDermott, R.A. Diversion from the Juvenile Justice System. Ann Arbor. National Assessment of Juvenile Courts, University of Michigan (1973).  
Howlett, F.W. "Is the Y.S.B. All It's Cracked Up to Be". (1973) 19 Crim. and Del., 485. In 1973 forty of the States in the U.S.A. had established youth service bureaus.
23. The Child, the Family and Young Offender. Cmnd. 2742. London: H.M.S.O., (1965).
24. Prins, H.A. "Children out of Trouble". (1970) 10 British Journal of Criminology 73
25. Neville Brown, L. "The Legal Background to the Family Court". (1966) 6 British Journal of Criminology. 139
26. Children in Trouble. Cmnd. 3601 London:H.M.S.O. (1968).
27. Report on Children and Young Persons, Scotland. Edinburgh, H.M.S.O. (1964).
28. Haldane, J.D. "Children's Panel Advisory Committees:Development of Function and Future Responsibilities". (1971) 11 British Journal of Criminology. 394.
29. Social Work (Scotland) Act, 1968. S.43 and S.44.
30. Bruce, N. "Children's Hearings:A Retrospect". (1975) 15 British Journal of Criminology. 333
31. Ibid.
32. "Children's Panels - a Costly Failure". Glasgow Herald, 8 March, 1975.
33. Gamble, H. "Children's Hearing Panels for New South Wales?" (1976) 50 Australian Law Journal, 68.
34. Juvenile Aid Panels in South Australia. A Report on Progress and Development. Department of Community Welfare. South Australia. Jan. 1975.
35. Juvenile Court Act 1971 S.12(1) (a) (b) (c).
36. Gamble, H. op. cit. supra n.33.



37. Gandy, J.M. "Canada's Juvenile System : Proposed New Legislation". (1976) 16 British Journal of Criminology 68.
38. 388, N.Z.P.D. 1973 5216.
39. Howlett, F.W. op. cit. supra n.22
40. Gamble, H. op. cit. supra n.33.
41. Howlett, F.W. op. cit. supra n.22.
42. Seymour, J.A. "Youth Service Bureaus" (1972) 7 Law and Society Revue, 247.
43. Ohlin, L. "Delinquency Planning at the Crossroads". Referred to in Seymour, J.A., Ibid.
44. Watson, J. The Child and the Magistrate, (3rd ed.), London:Cape (1965).
45. Halleck, S.L. "The Impact of Professional Dishonesty on the Behaviour of Disturbed Adolescents" (1963) Social Work 48.
46. Gamble, H. op. cit. supra n.33.
47. Seymour, J.A. "The Children and Young Persons Act 1974 (1974-1975) 6 New Zealand University Law Revue 395.
48. Submission to the Social Services Select Committee of the National Council of Women of New Zealand Inc., (Jan. 1974).
49. Submission of the New Zealand Federation of University Women.(1974).
50. Submission of Professor J.M. McCreary and some Staff Members of the Department of Social Work. V.U.W. (1974).
51. Submission of The Social Council (1974).
52. 395 N.Z.P.D. (1974). 5322.
53. Children and Young Persons Act 1974. S.15(8) (a) (b) and S.15(9).
54. Ibid. S.15(1) (a) (b).
55. Ibid. S.15(2).
56. Seymour, J.A. op. cit. supra n.47.
57. Oral communication with Wellington Police Headquarters: Youth-Aid Section.
58. Oral communication with Mr. Lucas. Administrative Officer. Department of Social Welfare.
59. Children and Young Persons Act 1974. S.17(1).
60. Ibid. S.19(3).



61. Ibid. S.13(2).

62. Ibid. S.17(3).

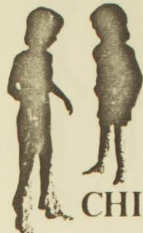
63. Task Force Report, (op. cit supra N.21).

64. Children and Young Persons Act 1974. S.15(7) (a) (b) (c) (d).

65. Ibid. S.3(e).

66. Hogarth, J. op. cit. supra n.2.





CHILDREN'S BOARD

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

M  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear M

Your child  
for the following reasons

aged \_\_\_\_\_ has come to notice

I have reported the matter to the \_\_\_\_\_ Children's Board. You will be notified of the place, date and time the Board will meet and you will be invited to attend, with your child and discuss with the Board how best the matter may be dealt with.

If you have any questions you would like to discuss with me before the meeting of the Board please telephone me at \_\_\_\_\_

Yours sincerely,

.....  
Police Constable/Social Worker





CHILDREN'S BOARD

\_\_\_\_\_

C/- Department of Social Welfare,

\_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_

M \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear M

We have been told that  
has

This matter is to be considered by the  
Children's Board at  
on / / at a.m./p.m.

We would be pleased if you and your child would come to the meeting and talk with the Board about the matter. Please telephone me at the above number and tell me if you are able to attend. If the suggested time of the appointment does not suit then a more suitable time can be arranged.

Yours sincerely,

.....  
for Chairman Children's Board





CHILDREN'S BOARD

Name of child:

Date of Birth:

The Board has considered this case and has

\*(a) made the following decision, under terms of section 15 (7) (a) – (c).

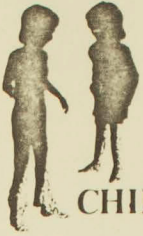
\*(b) decided to recommend that complaint action be taken under the terms of section  
15 (7) (d)\*  
(8) (a)\*  
(8) (b)\*

.....  
for Chairman Children's Board

/ /

\*Delete whichever is inapplicable





CHILDREN'S BOARD

\_\_\_\_\_

C/- Department of Social Welfare,

\_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

M

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Dear M

When the matter concerning your child  
was considered by the Board on  
decided that

it was

.....

Chairman, Children's Board





CHILDREN'S BOARD

Department of Social Welfare

Telephone

11

Dear Sir

When the matter concerning your child was considered by the Board on the 11th day of ...

Children's Board

VICTORIA UNIVERSITY OF WELLINGTON LIBRARY



3 7212 00449583 2

Children and Young Persons



