



HUMAN RIGHTS
COMMISSION

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REPORT
of
THE HUMAN RIGHTS COMMISSION
on representations by
The Auckland Committee on
Racism and Discrimination

CHILDREN AND YOUNG PERSONS HOMES

Administered by
The Department of Social Welfare

HUMAN RIGHTS
COMMISSION

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The Present Report:

The present report was drawn up by the Commission pursuant to sections 6(1)(a) and section 78 of the Human Rights Commission Act 1977, and in accordance with the Commission's general functions under section 5(1)(c) of the same Act following extensive interviews.

Commissioners Involved were:

Mr P J Downey, Chief Human Rights Commissioner

Miss M M Hutchison, Commissioner

Mr E. Te R Tauroa, Commissioner and Race Relations Conciliator

they were assisted by:

Solicitor to the Commission, Mr Carrick Morpeth.

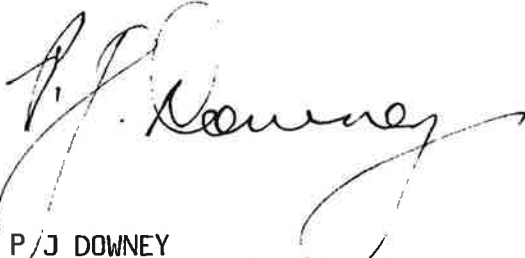
PREFACE

This report by the Human Rights Commission has been a long time in preparation. The major problem the Commission had was that there was no one able to work on it full-time, and as far as the Commissioners themselves were concerned it could only receive occasional attention among the other responsibilities of the Commission. On the other hand The Commission had to consider carefully the issues raised and how to deal with them as they were certainly the most extensive representations yet made on a matter affecting human rights.

The Commission was aware that during the course of its consideration many steps were taken by the Department to deal with some of the questions raised. In doing this the Department showed an openness that deserves acknowledgement and commendation. The Report also recognised the sense of dedication and professionalism of the staff. As the Report makes clear, the criticisms it makes are not intended to suggest that the staff in the Social Welfare Department Homes are callous or indifferent. To avoid any misunderstanding this has to be said in the most simple and direct way. Staff turnover and transfer in the Homes can be high, and consequently some of the comments quoted should not be related to present individual officers. The Commission is concerned about systems and general attitudes, and not in trying to establish the total accuracy of any particular comment.

Those who were responsible for making the representations, and the many people who have been interviewed, showed a level of social responsibility and concern that the Commission found very impressive. Finally I would like to acknowledge the work of the Commission's Legal Officer Mr Carrick Morpeth in the organisational work he had done in arranging interviews and keeping contact with the various parties, and in analysing the enormous amount of material supplied to the Commission. The Commissioners of

course are responsible for the Report, but the credit for the basic work involved in preparing the report belongs to Mr Morpeth.



P. J. Downey

P/J DOWNEY
Chief Human Rights Commissioner

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I

INTRODUCTION

BACKGROUND

On February 21 1979 the Commission received a letter from the Auckland Committee on Racism and Discrimination (hereinafter referred to as Acord) complaining of the method and procedures by which venereal disease testing was conducted on girls in social welfare residential Homes.

Acord at this time forwarded to the Commission a report of an inquiry conducted on 11 June 1978 by itself, Nga Tamatoa and Arohanui Incorporated into 'Social Welfare Childrens' Homes'.

In response to correspondence from the Commission, Acord then forwarded to it a formal detailed complaint alleging that, "the treatment of children by the Department of Social Welfare in the Bollard Girls' Home, the Owairaka Boys' Home and other Homes violates the United Nations Covenant on Civil and Political Rights which the New Zealand Government ratified on 28 December 1978."

On 30 March 1979 the Commission advised the Director-General of Social Welfare that a formal complaint had been received from Acord, forwarding to him a copy of that complaint.

At a Commission meeting of 6 April 1979 it was resolved to receive Acord's complaint as a representation 'affecting human rights'; under section 5(1)(c) of the Human Rights Commission Act 1977, which is hereafter referred to as the Act.

JURISDICTION

The long-title of the Act reads as follows:

"An Act to establish a Human Rights Commission and to promote the advancement of human rights in New Zealand in general accordance with the United Nations International Covenants on Human Rights."

The general functions and powers of the Commission are set out in section 5 of the Act, with the specific function regarding representations being found in section 5(1)(c):

"To receive and invite representations from members of the public on any matter affecting human rights."

In ascertaining whether a question is a "matter affecting human rights" the Commission is guided by that part of the long-title to the Act which refers to "the United Nations International Covenants on Human Rights."

The principal Covenants alluded to in the long-title of the Human Rights Commission Act and which are indeed central to the legislation are:

- 1 The International Covenant on Civil and Political Rights
- 2 The International Covenant on Economic, Social and Cultural Rights

New Zealand ratified these two Covenants on 28 December 1978 and they came into force on 31 March 1979. The provisions of these Covenants thus became binding upon New Zealand in international law before the United Nations.

The Commission therefore looks to those rights recognised within the Covenants when considering the question of whether any subject constitutes a "matter affecting human rights."

Having decided that the representations which form the basis of this report did constitute a "matter affecting human rights" within various Articles of the International Covenant on Civil and Political Rights the Commission then had to decide on its future course of action. This involved many considerations novel to the Commission as these representations were the first received by it involving allegations of fact and therefore requiring a consideration of the substantive basis of those allegations.

Section 5(1)(d), Section 6 and Section 78 all refer to the function of the Commission in making public statements and reports on matters affecting human rights and recommending courses of action. Section 6 provides that the Commission has the function of reporting directly to the Prime Minister on:

"Any matter affecting human rights including the desirability of legislative, administrative, or other action to give better protection to human rights and to ensure better compliance with standards laid down in international instruments on human rights." Section 6(1)(a).

This section makes it clear that the Commission in working in the area of representations affecting human rights on the basis of international legal standards on human rights is confined to the function of making reports and recommendations to the Prime Minister for action by the Government. The Commission has no power of its own to direct or require that any specific legislative or administrative action be taken. The Commission has, however, the responsibility given to it by Parliament to issue reports and recommend courses of action in matters affecting human rights. In order to make such reports and recommendations the Commission must ascertain factual information on which to base them.

The Human Rights Commission is not established in the nature of a Court nor can it act as a Commission of Inquiry. It does not possess the abilities of such bodies. It is not a body possessing the power and function to conduct proceedings of an adversary nature, and it does not bring down judicial rulings. Furthermore the Commission is not a Court of International Law which has the capacity to rule substantively on the interpretation of principles of International Law. Its general powers and functions can be seen however as being akin to those of an inquisitorial body established to investigate, question and report. In exercising this function it is guided by the statutory provisions, as its predominant consideration, to ensure the better compliance with standards laid down in international instruments on human rights.

This point was made to the Director-General of Social Welfare in July 1979, at which time the Department was supplied with a draft copy of possible procedures for the investigation.

PRELIMINARIES

On 20 and 21 July 1979 meetings were held with Acord representatives both in Auckland and Wellington to discuss the proposed procedures for the enquiry.

At a full Commission meeting on 18 September 1979 it was resolved that the Commission should commence the investigation forthwith on the general terms of the original procedural outline.

The Department of Social Welfare and Acord were informed of the Commission's decision to proceed with the investigation and the taking of statements from the first of Acord's 'witnesses' was set down to commence from 23 October to 26 October 1979 in Auckland.

During this time, the Commission received a full list from Acord of those people both citizens and professionals which it thought the Commission should interview.

However one of the three Commissioners designated to hear the representations Mr Harry Dansey, the Race Relations Conciliator was forced by ill health to retire from office on 17 October 1979. Harry Dansey's death shortly thereafter was a sad loss to the Commission and New Zealand.

The proposed hearing was postponed at the insistence of Acord, after the Commission had explored every possible means of proceeding forthwith. It was also felt, as Acord insisted, that the investigation would benefit from the presence of a Maori or other minority group representative on the panel and there was then no such member of the Commission.

It was not until January 1980 with the appointment of Mr E Te R Tauroa as the Race Relations Conciliator that the Commission had an available quorum and was able to proceed with the investigation.

The Commission's legal officer, Mr C D Morpeth, spent four days in Auckland late in January 1980 informally interviewing those people whom Acord wished to bring before the Commission in order to brief the Commission on the subjects which would be raised.

Finally the enquiry was set down to commence in Auckland from 11 February to 13 February 1980. It was proposed at this time to hear all people making statements on both Boys Homes and Girls Homes except any professionals who wished to address the Commission.

THANKS AND APPRECIATION

The Commission would like to express its appreciation and gratitude to all those who took part in this investigation. The extensive work done by Acord, particularly Dr O R W Sutherland and Miss Zita Anich was of great assistance to the Commission. Likewise the assistance of the Director-General of Social Welfare, Mr S J Callahan and Messrs J Scott, J Blair and K J Flint of the Department by their co-operation and frankness contributed greatly to the investigation.

The aid of the Departments of Justice and Health was also invaluable to the proceedings.

The Commission would like to state that it was impressed by the objectivity, reasonableness and responsibility of almost all those people, public, officials and professionals, Maori and Pakeha, who gave their time and knowledge to these representations. It is realised by the Commission that many Departmental officers must have been under considerable strain, and feeling a sense of being under unfair scrutiny when they had devoted their professional lives to the care of many children for which they received little thanks or public appreciation. Officials of the Department were not, of course, on trial, and an attempt was made, both by explicit statement and by the informal procedures adopted, to reassure them on this point.

An inquiry such as this inevitably looks at shortcomings and some failures. The report might accordingly give an unbalanced picture if it were presumed that the matters raised by the complaints were expressive of the total life of the Homes. This is not so. There are many positive features of the Homes, and the dedication and sympathy and intelligent concern for the children of

so many members of the staff was obvious, and should be more widely acknowledged. The matters of concern dealt with in this report therefore should not be seen out of context or interpreted as a complete picture of the institutions. The Commission had a limited task, to look at certain matters to see if improvements ought to be made, in the interests of the Department of Social Welfare, and to ensure better protection to human rights of the children in the Homes. This was particularly appropriate as the International Year of the Child occurred in 1979 just before this inquiry started.

For many in the Homes this has become the place of last resort. The Department tries to get children in its care into other situations such as a family home, a group home, a cottage home or a foster home. The Social Welfare Department institution, however, often has to provide the contradictory functions of the place of first resort when a child originally comes into its care for one reason or another, and also the place of last resort for those for whom there seems to be no other more satisfactory alternative.

It must also be recognised that some of those in the Homes are headstrong, difficult, given to violence, or with behaviour problems. This applies to both boys and girls. The Commission has throughout been aware of this situation. In assessing the complaints made, and in preparing this report and forming recommendations the Commission has endeavoured to adopt a realistic attitude.

PROCEDURE

The investigation it was decided was to be formal, but in the nature of a non-judicial inquiry. The report on this inquiry would be general in nature and would not purport to be a judgement on individuals.

1 Acord

At the outset Acord would be required to provide a list of possible 'witnesses' together with a brief indication of the information they could supply. Individuals would then be invited for interview at the discretion of the Commission and statements taken on the basis of considerations arising from the relevant Articles in the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights.

To avoid any misunderstanding, or suggestion of a trial of some sort, at the time of hearing the statements of those people brought by Acord, there would be no appearance of any representatives of the Department and accordingly there would be no cross-examination. Acord would be permitted to have a non-participating representative in attendance at these interviews as an observer to enable the organisation to prepare general representations at the conclusion of the inquiry.

2 Department of Social Welfare

After hearing the information of those people brought by Acord the Commission would decide which officers and representatives of the Department it wished to interview, with the Department being able to nominate anyone it might wish to be heard. No member of Acord would be permitted to attend the interviews of officers of the Department and accordingly there would be no cross-examination. As with Acord, a representative of the Department could attend in a non-participating role to facilitate later general submissions.

3 Final Submissions

Both the Department and Acord would be given the opportunity to make concluding submissions for the purpose of comment upon or clarification of any matters which had arisen out of the interviews mentioned above. These submissions could be on matters of fact as well as considerations of domestic and international law.

II THE MEANS BY WHICH CHILDREN AND YOUNG PEOPLE ENTER THE HOMES

At any time one could find the following types of children and young persons represented in a Department of Social Welfare remand and short-term care Homes such as Bollard Girls' Home, Owairaka Boys' Home or Wesleydale Boys' Home:

- * A child (up to 14 years) or young person (14 to 17 years) who has been abandoned by his or her parents, or who is the victim of a marital breakdown.
- * A child or young person who has been sexually abused by a parent.
- * A child or young person whose parents or parent have entered into an agreement with the Department that they should be placed in care.
- * A child or young person who has been found wandering the streets by the police.
- * A child or young person who has been a persistent truant.
- * A child or young person who has been charged with a criminal offence, minor or serious, and is in custodial remand.
- * A child or young person who is beyond the control of his or her parents.

The explanation for the wide range of children and young people of different backgrounds who enter Social Welfare institutions, particularly the short-term care Homes, lies in the provisions of the Children and Young Persons Act 1974. The difficulty that arises is that children with very different backgrounds, from very different situations and with very different needs can all end up in the same institution.

THE REASONS FOR ENTRY INTO THE HOMES

Under section 27 of the Children and Young Persons Act 1974 (as amended)

a child or young person is deemed to be in need of care, protection or control if:

- * his development or his physical, mental or emotional state is being avoidably impaired or neglected.
- * he is being ill-treated.
- * he is exhibiting behaviour "beyond the control of his parent."
- * he is exhibiting behaviour, "of such nature and degree as to cause concern for his well-being or his social adjustment or for the public interest."
- * he has been acting as a truant.
- * "he has committed an offence or offences, the number, nature, or magnitude of which indicate that he is beyond the control of his parent or guardian."

METHODS OF ENTRY INTO THE HOMES UNDER THE CHILDREN AND YOUNG PERSONS ACT 1964

This section is intended to be descriptive of the most common methods by which children and young persons enter the Homes. It is not intended to be a definitive listing.

(a) "Non-Offenders"

With warrants; sections 7 and 28 of the Children and Young Persons Act provide for the issuing of warrants which may allow any policeman or social worker to remove a child or young person from their home to a residence without a court hearing.

Under section 7 a warrant is issued if a child or young person is being ill-treated or neglected. The warrant authorises any policeman or social worker to enter and search any premises to see whether a complaint under

section 27 of the Act is justified. However, if a person authorised by such a warrant, believes that the child or young person needs to be removed to protect his physical or mental health, then he may remove the child, using such force as is necessary, to any residence under the Act.

A section 28 warrant can be issued only after a complaint has been made under section 27. On the application of a policeman or social worker, a section 28 warrant will be issued if there is reasonable suspicion that the child or young person is likely to be ill-treated or neglected. Such a warrant authorises any policeman or social worker to remove the child or young person to a residence under the Act. Section 28 warrants are more commonly invoked than section 7 warrants.

Without warrants; under section 8, a policeman may remove a child or young person to a residence without a warrant if he believes it is "critically necessary for the survival of, or the avoidance of injury to", the child or young person. Similarly, under section 12, a policeman has wide powers with regard to children under the age of 14 whom he may find unaccompanied by parents or guardian in a public place and who are "associating with known criminals" or who are "in an environment which is detrimental to his physical or moral well-being".

If a policeman is unable to locate the parents or guardian of such a child then one of the options open to him is to place the child in the custody of the Director-General of Social Welfare, by delivering him to a social worker.

Under section 11 the parents or guardian of a child or young person may enter into an agreement with the Director-General for the latter

to take control of the child or young person in accordance with the terms of the agreement.

The Director-General of Social Welfare has full guardianship rights over wards of the state and accordingly any state ward might be required to enter a Home.

(b) "Offenders"

Other methods of entry concern children or young people who have been in trouble with the law, that is those children and young people who are actually found to have committed an offence. If the child is aged between 10 and 14 in the great majority of cases the matter is dealt with by a Children's Board. A Children's Board may recommend that the child be made the subject of a section 27 complaint. The matter then goes to the Children and Young Persons Court where, by the same proceeding as considered earlier, the child may be placed in a Social Welfare Institution.

A young person, deemed by the Act to be between the ages of 14 and 17, must be dealt with by the Children and Young Persons Court if he is arrested and charged with an offence. There are exceptions to this, namely charges of murder, manslaughter, certain traffic offences, and offences punishable by more than three years imprisonment where trial by jury is elected. Several options are open to the Court if the offence is found to be proved against the young person. One of the options is to place the offender under the guardianship of the Director-General of Social Welfare and hence, in many cases, into a Social Welfare Institution.

The final method of entry to a Social Welfare Home arises under the remand provisions of section 36(6) of the Children and Young Persons Act. Under this subsection, the court may postpone its final decision for up to three months and may direct that during this period the child be kept in the custody of the Director-General of Social Welfare.

(c) Appeals

It is possible for parents and children to appeal after sentence, or to ask for review after 12 months, of any decision which places a child or young person under a guardianship order. The procedure for appeal and review is contained in sections 53-64 of the Act.

(d) Details of Admissions to Owairaka Boys' Home from March to August 1980

The following table is provided as an indication of the predominant means by which young people entered the Home over a six month period.

OWAIRAKA BOYS' HOME

DETAILS OF ADMISSIONS FOR PERIOD MARCH TO AUGUST 1980

	March	April	May	June	July	August	Total
Admitted on Police Warrant	28	16	13	25	23	10	115
Admitted on Remand	22	21	31	11	16	28	129
Admitted State Ward	23	16	14	10	11	11	85
Admitted Social Welfare Warrant or Section 11	1	4	-	-	-	3	8
TOTAL NUMBER ADMITTED	74	57	58	46	50	52	337

III

THE INFORMATION SUPPLIED THROUGH ACORD

The following is a description of specific allegations made by Acord against practices and procedures claimed to have occurred in the various residential Homes. These allegations were either contained in Acord's original letters of complaint or arose from statements received by the Commission during interviews of individuals brought by Acord before the Commission. Where possible, verbatim statements of those who gave information to the Commission have been used. There was much more information supplied than is referred to here. Over a thousand typewritten pages. It varied in seriousness and reliability. What is referred to here is intended to be indicative of the sort of information that was supplied to the Commission. This information, where appropriate has been divided into those allegations pertaining to the Boys' Homes and those pertaining to the Girls' Homes. The Homes primarily involved were:

- * Owairaka Boys' Home, Auckland
- * Wesleydale Boys' Home, Auckland
- * Bollard Girls' Home, Auckland
- * Allandale Girls' Home, Auckland

1 THE GIRLS' HOMES

(a) Testing for Venereal Diseases

It was alleged that testing for venereal diseases, particularly at Bollard Girls' Home, was in effect compulsory, and that this testing always entailed an internal examination of the girls. These tests were conducted without regard to whether or not the girl concerned was sexually active and regardless of her age. The Commission was told that in some cases stirrups were used and that adequate individual counselling was not given.

Girls who did refuse the tests were, it was alleged, punished by being

placed in isolation in Secure cells or were denied privileges, particularly the much sought-after privilege of working in the kitchen.

Venereal disease testing was described to the Commission by a house mistress employed at Bollard Girls' Home until early 1979:

"Yes, I think it is a good thing that they have VD tests. I know some of the girls don't want it and I don't think it should be forced, but I think I've mentioned it before that we have found 12 year old girls with VD. I don't like the fact that they all have to go down together and stand in the room talking about it before they even go in ... some of the more quiet kids will be actually terrified before they go in."

The same residential social worker told the Commission that there was no set procedure for counselling the girls before the testing. She also stated that girls who were obviously virgins were subject to inspection:

"Some girls were adamant about it and would say 'I am a virgin, I really am ... why do I have to go through it?'"

A number of girls who had been in Bollard Girls' Home confirmed this statement made by a former state ward:

"They just said it was compulsory for every girl who was admitted to have a test ... I didn't see why I should have a test."

"I was scared because I didn't know what would actually happen, you know I just didn't like the feel of someone else playing around with me."

And this of a girl of 14 in Bollard after truanting in 1977:

"Well the girls were sort of mucking around outside and would tell everybody all about it. I just went in, had it, and then came out again. I didn't like it at all. I didn't even know we were supposed to have it. It was just like the girls told me. One other time they brought us out and when someone came out the next girl would go in, this girl told me what it was. Everything. She'd been in before."

A senior officer from a female adult penal institution spoke of the complaints of girls who had experienced venereal disease testing at Bollard Girls' Home.

"The main complaint I've had concerning the girls was of course the tests for venereal disease, a common complaint with most of the young girls."

On speaking of the doctors' visits at the adult prison the officer said:

"We have some of the young girls who we almost have to carry along, because they've had experience in the past perhaps in Bollard, and of course other girls have said it's going to be done, you are going to have a test for VD, they are petrified of it."

A former staff member of Allendale Road Girls' Home informed the Commission that in 1976 at that home, venereal disease tests were compulsory and conducted by the same doctor as at Bollard Girls' Home. As far as the girls being counselled before testing she stated:

"Individually I presume that staff members would counsel them but not formally to my knowledge, not within the home."

She concluded that by 1978 compulsory testing had been abolished at Allendale:

"The principal that was there wiped that completely and if girls didn't want to go they didn't have to."

(For the Department's view see page 82)

(b) Provision of Sanitary Napkins

It was alleged that girls at Bollard Girls' Home were not permitted to have a personal supply of sanitary napkins. Girls had to ask for each napkin as it was required, this often being in the presence of a number of other girls. A number of girls told the Commission of the discomfort and extreme embarrassment this caused them. Speaking of the situation in 1978 at Bollard Girls' Home in the Secure block a housemistress said:

"Sanitary napkins were administered one at a time ... The system was: you go with a piece of newspaper to wrap up their soiled sanitary pads which you put in a bucket in the toilet, and they had to ask for another one and that's pretty embarrassing."

A former teacher at Bollard Girls' Home recounted:

"Sanitary napkins were kept in a locked cupboard in the front of the classroom and the teacher with whom I was working at the time had a rule that the girls had to come and ask her for a sanitary towel. I mean they didn't bring them with them from the house or anything like that, they had to ask."

One girl complained that at Bollard Girls' Home:

"The problem is the staff, if you went and asked the staff for one, they were too busy, they'll say go and ask so and so, and you go and ask other staff and they'd say they were too busy too, so you keep waiting and waiting and waiting."

(For the Department's view see page 87)

(c) Secure Blocks at Girls' Home

Complaints in this area centred on admission of girls to the institution through the Secure block, the long hours girls were required to spend in their Secure cells, the duration the girls had to spend in Secure itself and the toileting facilities available in Secure. The Commission heard from an ex-staff member of Bollard Girls' Home that all admissions to the institution were through the Secure block and that the majority of girls admitted spent some time initially locked in the Secure block. She criticised this procedure:

"I think it should be rearranged in some way, I think it's good that they can settle in with just a few girls rather than go into a house of 30 girls ... but I don't think the lock-up bit is necessary."

The same staff member recounted that all girls who absconded were placed in Secure and that she knew of an isolated case where a girl spent six weeks in Secure.

Girls in Secure block ate their meals locked in their cells in close proximity to the toilet bowl, one of which is in every cell.

A practice known as 'cell stripping' was described to the Commission. This

same practice was drawn to the Commission's attention in regard to Owairaka Boys' Home and is therefore described later in this report.

The Commission was also told that at times overcrowding caused by pressure of admissions led to other areas than the Secure block at Bollard being used to house girls in a secure situation. It was alleged that these rooms such as the art recreation room did not have adequate facilities and that during the night girls had to use buckets for a toilet with no provision for privacy.

"It's been five kids in a room, maybe more, and they've had to actually go to the toilet in front of the others on this bucket."

As for the taking of meals in this situation, it was stated:

"They are given their plates so they have to sit on the mattresses and eat with the toilet bucket there, no private facilities or anything."

Pressure of numbers was also given as the cause for girls allegedly having to remain for up to 23 hours a day in their cells at Bollard Girls' Home. While it was not stated that this was usual it was explained that overcrowding and inadequate staffing in Secure areas led to insufficient time to provide proper supervised recreation or gym activities.

(For the Department's view see page 61)

(d) Sexual Indiscretions

It was alleged that there had been a number of incidents where male staff in Girls' Homes had acted improperly by requiring girls to undress in front of them. The Commission was told that where staff were found to have committed

such acts the Department, rather than dismiss them, had merely transferred them to another home.

(For the Department's view see page 88)

2 THE BOYS' HOMES

I Practices and Procedure at the Secure Block Owairaka Boys' Home

Statements were received from residential social workers employed at Owairaka Boys' Home and from boys who had been in the Home. Information given to the Commission highlighted the following practices and procedures.

(a) Admission Procedures

The Commission was told by a residential social worker employed at Owairaka Boys' Home in the Secure block in 1978 that all admissions to the institution were through the Secure block. This procedure was applied to all entrants to the Home whether they entered from the Courts on remand or as young people needing care. Complaints were also made regarding the manner boys were required to undress in view of others as an entry formality.

The residential social worker explained:

"Secure was used as a processing centre for everybody. Some would be there for only a few hours on preliminary assessment by a senior housemaster."

He described the procedure which was applied to every boy entering the institution and was conducted in the open vestibule forming the entrance to the block:

"His clothes were taken off him by one staff member, he is the staff member

who looks after the boy, the other staff member does the paper work in the office ... Sometimes there are as many as 10 people watching the boy getting changed, if he was shy he would be told, 'we are all men together, and don't be shy at all'. The other boys could look out and see the newcomer. There could be two policemen and four or five boys who could see him and also the staff members. His clothes would be put away, he would be given a towel to wrap around him at the end of undressing, and from there the nodding system would be explained to him, and from there he would be nodded over to have a shower, and be issued with a toothbrush and a comb ... after he has been shampooed he has to put some delousing liquid in his hair. After the shower he puts on the supplied shorts and tee-shirt and has to learn to flick the towel and show there is nothing in his shorts. From there he goes to his room. He is not given a special meal if he had just come in after a meal has been served."

A female field social worker charged with delivering boys on Court remand to Owairaka Boys' Home observed:

"I don't know of any occasion when the boys weren't admitted into Secure immediately ... that's even boys who were offended against. As I said there was no distinction made. I was there on a number of occasions ... the boys were actually in the process of stripping, just taking everything off, and that was a fairly humiliating experience with the kids ... they weren't allowed to cover themselves, they'd have to stand up straight and that was pretty awful."

(For the Department's view see page 61 and 86)

(b) The 'Nodding System' (non-verbal communication)

A number of boys and previous staff members described a system of unspoken commands or instructions which they had experienced in Owairaka Boys' Home. The Commission was told that this practice had been used extensively in the Secure block. It involved the staff member requiring the boys to respond to instructions conveyed by a nod of the head rather than the spoken word. Associated with complaints against this system were those claiming that boys were not allowed to speak from cell to cell or to sing or even inquire the time of day. All these factors it was asserted contributed to what was described to the Commission as a 'realm of silence'.

A former residential social worker at Owairaka Boys' Home described the nodding system:

"The Nodding system is a series of nods, which convey instructions to the boys which they are told once or they see the other boys performing tasks by the nodding system. They learnt to do these activities, every activity, by a nod."

The example of showering was given:

"Showering a boy after completion of a run, let's say a morning run (which took place inside a small yard enclosed by rooms in the nature of cells, although not called that) ... I would nod, he would put his towel which was hanging up on the window around his neck, I would then nod again, he would run from his room to outside the shower, where I would nod again he would go inside and have his shower. After the shower he gets a nod to go to the door. I would nod and he would flick his towel to show that he wasn't

carrying a comb or a toothbrush, put the towel around his neck. I would nod again, put his hands inside his trousers, go around to show there were no combs there, I would nod again, he would stand outside the shower, nod again, run to his room. Nod again, into his room."

It was further stated that boys were not permitted to communicate with each other from cell to cell, nor was singing permitted in the cells.

One boy explained that when locked in their cells no-one was allowed to look out the window:

"You're not allowed to look out through the window, if you get caught looking out through the window they'll take that green sticker and you're not allowed to take part in activities."

As related by a former residential social worker:

"When two boys are in a room they can talk but they cannot look out. They are not allowed to talk to one another from room to room. Laughing and loud voices of two boys who were in a room together would be stopped."

In regard to boys knowing the time a residential social worker told the Commission:

"There is a clock in the office but that is for staff use. And of course boys aren't allowed to look out of the window, and you can only see the clock from one side of the courtyard, so it isn't for the boys' use, there are no clocks in Secure."

When asked if boys knew of the passage of days in Secure a former resident said:

"Oh no, when someone goes to Court they say what day, when they go to Court we know what the day is and we just start scratching along the wall."

(For the Department's view see page 65, 70 and 86)

(c) Daily Routine in Secure

A number of statements were received concerning the long periods of time boys spent each day in their cells whilst in the Secure block at Owairaka Boys' Home. The Commission was told that while the boys were in the cells the doors were locked and that meals were eaten in the locked cells in close proximity to the toilet in the cell. Recreational facilities were inadequate or unavailable to many boys in Secure.

A residential social worker described the daily routine in the Secure block in 1978 to the Commission:

"Most of the boys were kept in their cells for at least 23 hours a day. These rooms were locked, and they were out of their cells for that one hour, doing such things as PT, half an hour in the afternoon and 15 minutes in the morning, and in the evening before showers, and for the very short time it took them for comic swaps ... Those are the boys that weren't on special duties or weren't being visited or weren't given time for recreation, which consisted of table tennis in the afternoon ... Meals are eaten in their rooms which are small. Toilet facilities are in the same rooms.

"The system as I recall it, was to put one boy in a room until they were all filled and only then to double up. The boys preferred to be two to a room. Once in a room they tended to stay in that room. There were two occasions only when the boys were allowed out into the sun to read their comics during the time I was there ... I cannot see why they must be locked in all day and not ... allowed to use the yard. They are within a Secure block, even in the yard."

(For the Department's view see page 62)

(d) 'Cell 7'

A number of those interviewed described the use of a special cell at Owairaka Secure block. This was known as Cell 7. It was claimed that this cell was used as a place of isolation and punishment. Boys placed in this cell received no privileges and could not communicate in any way with the other boys. In the words of a former staff member:

"Cell 7 was often used as a room for people who were incessant talkers, or loud talkers, or misbehaving or bad attitude."

A boy described Cell 7 in these terms:

"Number 7, that's the digger, there's no light or anything in there ... There's two beds, they're single, one is on one side of the wall and there's another bed on the other side of the wall, the toilet's in the middle of the two beds. There's a sink joined to the toilet and that was all that was in the cell and a little button ... There was one window there but it had steel up, you know, it was steel and just a little gap in the middle with wire-netting."

Another boy stated:

"For pinching a piece of bread when I tried to stick it down my pants I got caught and brought straight into Cell 7. I was there for two days ... they wouldn't tell us how long we'd be there, we just go straight in ... but it was two days when I went in."

He continued to say that he was not allowed any reading material in Cell 7, that the only time he left the place was for daily showering, he did not have PT and he ate his meals locked in the cell.

A member of staff described how on one extreme occasion force was used to place a boy in Cell 7:

"During exercises I think he showed a negative attitude by not doing his exercises properly. This particular boy was very, very big and very strong, and consequently he didn't like the idea of being put in Cell 7 so he put up a resistance ... The only case where a boy was actually lifted off the ground and put into Cell 7, I can't remember any other time it happened ... After a number of warnings he was told to walk to the Cell. I was on one side of the boy and my fellow assistant housemaster was on the other, the Senior Officer was also in the yard. As we neared the door he seemed to be stopping, was turning back away, or slowed down, and it was then a struggle developed where three of us manhandled the boy into Cell 7 whereupon all his bedding was taken out, comics, everything, except the clothes he stood up in ... He got his mattress back that night ... He was in there for a number of days nearly up to a week I think, that would not have been out of the ordinary. When he was put in there he swore and cursed ... for a number of minutes, but that soon quietened down, and so did the banging on the door which we totally

ignored, however when we gave him his meals he also abused us, as this abuse lessened, it was seen as his attitude improving."

(For the Department's view see page 66)

(e) Physical Disciplining

Apart from the above-mentioned instance the Commission was told of a number of specific cases where staff were alleged to have physically mistreated boys in the Secure block at Owairaka Boys' Home:

"It was not unusual for a boy to be cuffed and I have done this myself. This was the normal way of maintaining discipline.

"He would have been 15, he was doing something wrong in his cell - perhaps talking or looking out. He would have been warned. Mr ... and as I remember it, the other housemaster and I, grabbed the boy. While we were holding him Mr ... hit him about the face ... a number of heavy punches to the face."

(For the Department's view see page 69)

(f) Exercising

The Commission was told by a staff member that physical exercising of the boys took place in the quadrangle of the Secure block. It was claimed that this exercising was excessive and that rigorous exercising was used to punish absconders:

"The boys were given a variety of exercises on the spot, running on the spot,

press ups on the spot, each boy had his own spot. If the boys were generally well behaved, which was usually the case, those with green stickers that is, were selected to play table tennis. Never, when I was there was a ball ever used for exercise or play."

The same staff member explained that frequent absconders were sometimes required to do certain exercises:

"Sometimes it was used for frequent absconders, the exercise was very strenuous, or if boys were noisy in their rooms and they wouldn't be quiet, it was quite common policy to get the boys out and make them run around for a period of time ... On the occasion of a return of absconders the exercises were extremely strenuous and I did see boys get very exhausted. In fact I would have been exhausted after it ... When exercise was a punishment there were no sandshoes issued, but other times sandshoes were offered to the boys and they had a choice to take them or not."

(For the Department's view see page 71)

(g) Duration in Secure

The Commission was informed that boys were not told when they might get out of Secure, either to be placed in the open institution or transferred to another home. The indeterminate nature of restriction to the Secure block had an upsetting and disorienting effect on the boys. It was claimed that boys could spend up to six weeks in Secure and that a two week duration was not unusual.

In the words of a former staff member:

"They were told that if they behaved themselves they would be allowed to go up to the open institution ... it was very indefinite ... Boys often don't know why they are in Secure. They often asked, 'When am I getting out of Secure?' and I would not be able to tell them. They also asked when their social worker would visit them and I couldn't tell them that either. The social worker would give them some information."

As for the total length of time some boys were held in Secure a former residential social worker stated:

"For a first admission he was only there for a few hours if his attitude was good. For an absconder who came back, whose attitude was again good, he would only stay there for a week or ten days ... During the time I was there there was one boy (name supplied) who was there for six weeks. He had absconded ... he eventually went to Kohitere.

"I remember ... (name supplied) aged 14. He was in Secure because he had absconded once. The boy was there because his parents had separated and he was just being looked after. He was there for over one month. Hundreds of boys would have gone through while I was there. If some stayed for say two weeks, I wouldn't have thought this was unusual. But a month or six weeks I particularly noticed."

The Commission heard from boys who claimed to have spent up to four months in the Secure block. The parents of one boy stated that their son had spent February and March 1978 in Secure before being transferred to Kohitere.

(For the Department's view see page 65)

(h) Ages

A number of staff and boys informed the Commission that every boy who came into Secure was treated the same irrespective of his age or his reason for being in the institution. There was no distinction made on the basis of age and the same treatment was accorded to boys regardless of their age.

A former member of staff cited the cases of three boys aged 13 and one aged 11 who had been in Owairaka Secure when he worked there.

It was claimed that boys from Wesleydale Boys' Home, an open home for boys under 14 years of age, were sent to Owairaka Secure if they were frequent absconders or particularly difficult to manage.

(For the Department's view see page 65 and 74)

(i) Physical Conditions and Clothing

A number of complaints regarding inadequate clothing and unsatisfactory standards of hygiene were made. The design of the cells did not permit proper ventilation, particularly in summer and given that each had a toilet. As described to the Commission:

"Boys were given a tee-shirt and a pair of pants, he didn't have any under-pants ... The clothing issue was a towel twice a week, shorts and a tee-shirt and pyjamas once a week. This was also the same with sheets. The rooms stank anyway, in my view, unbearably ... Stank is the word because of the infrequent changing of clothes, and the fact that the boys ran in their shorts, and after PT in the winter they weren't showered. There was a lack of ventilation

in the room, and their rooms were always locked all day, so it really did stink."

The former officer who made this statement added that the toilets in the cells aggravated the smell.

The mother of one boy observed:

"He told me he had a shower every day but his clothes were pretty smelly. He said he didn't have any underpants on and he had a tee-shirt, no shoes or jandals whatever."

(For the Department's view see page 67 and 79)

(j) Visiting

Parents of boys complained to the Commission about the arrangements for visiting their sons at Owairaka Secure Block. They told of the difficulties caused by inflexible and unrealistic visiting times, particularly when most parents had to travel to the home by public transport across the city. Working parents were unable to visit in the afternoon and there were difficulties in accommodating the needs of younger members of the family who were not permitted to visit. Parents could not get information as to their sons' progress or their future prospects. A number of parents said that staff were negative towards them.

Visiting procedures were explained by a former staff member:

"Visiting hours were every day ... The boys had a right to have visitors.

The visitors were their immediate parents. Friends, brothers and sisters of any age weren't allowed to come in. This was at 3.00 pm in the afternoon."

A mother who visited her son of 14 every two days observed that most of the boys didn't receive visitors:

"I felt very sorry for the other boys that were in there. I also thought well, a lot of these parents could be solo mothers or they could be living out of Auckland, and just couldn't come in for that one hour ... If you had small children you would have to get home before three to be there after their schooling."

She also said that her son's brother and sister were not permitted to visit when they arrived from out of town. She complained that no-one at the home would tell her how long her son would be in Secure or how he was progressing.

"When I first went there my impression was that I was a bad mother, it seemed as if they thought, 'here's one of the bad mothers of these boys' ... they were very cold."

(For the Department's view see page 74)

(k) Education

Staff members and parents asserted that there was no formal or informal education or instruction at Owairaka Secure. The irony of this was pointed out, in that many of the boys first came to the Homes because of their absence from school as truants. Many of the boys had severe reading disabilities which could have been assisted even by short term remedial exercises.

"There is no schooling in Secure for the boys who are there, no matter how long they are there."

Of her son a mother observed:

"He had no schooling at Owairaka (Secure). This is something that shocked me, it's because parents at home didn't send their children to school that after three days they got a letter of absence. If your child is away from school you are taken to court and the child is sent to Owairaka or Homes like it, and yet, when they go in, there is no schooling there. He never had any as long as he was in and that was two months."

(For the Department's view see page 77)

II Practices and Procedure at Wesleydale Boys' Home, Auckland

Specific complaints were made in respect of a number of practices which for a time were applied at Wesleydale Boys' Home in Auckland. Wesleydale is a short term remand Home for boys aged 10-14 years. Staff members who spoke to the Commission claimed that the following practices had continued despite their complaints.

(a) Boxing Matches

The Commission was informed by two former school teachers, a former residential social worker and various boys who had worked or resided at Wesleydale Boys' Home of a certain type of boxing match conducted at Wesleydale Boys' Home.

It was claimed that on some occasions, boys who were eventually returned to the Home after absconding were required to take part in organised boxing matches against selected opponents. It was alleged that these matches were arranged so that the absconder would be beaten in a fight which a number of the other boys in the Home were permitted to witness.

The matches were described to the Commission by one of the former teachers:

"When you get a lot of absconding and strapping doesn't work, and being off privilege for a week doesn't work, then you can always try the boxing match ... I think it is one of the cruelest things I've seen done. They get the runaway back and in the meantime while the boy was away, another boy is chosen because he and the runaway are about the same size, but psychologically and physically he's a bit stronger. They've usually had a confrontation and the one chosen has previously beaten him in a confrontation. So you've got two boys the same size to go into a boxing ring but one is scared and not quite capable of handling himself as well as the other. In the meantime the boys are told off or in some cases taken off privileges. They're allowed to come to school but they stand in line for morning tea and they don't get it, or they stand in line after lunch for half an hour or they stand in line in the morning for an hour and this is all done because one boy absconded. And imagine when the kid comes back, there's a lot of hatred for that boy when he comes back. Then when he is returned they take him down to the gym and they put him in the ring and everybody in there has a hatred for the absconder, so the cheering is for the boy who is chosen from the Home to fight. In most cases the absconder is given a hiding, he gets a thorough hiding."

The teacher went on to explain that the match was stopped at the point of submission:

"When the child is crying, he's probably got a bloody nose, or he's going to have a thick lip for a couple of days and they feel he is not going to abscond again, then they stop it."

Another teacher stated:

"A lot of the boys talked about it. Actually one boy was fighting in the gymnasium with a bigger boy and he broke his arm. He broke his arm because they were made to box one another, fight one another, and they were the biggest boys they had at the Home."

In the words of one former resident:

"If you ran away from there you have to stand up against you know, the best fellow there that can fight, you know boxing ... He was the best there. He used to box before Wesleydale."

(For the Department's view see page 71 and 73)

(b) Disciplinary Measures

A number of people told the Commission of what they considered to be unduly harsh methods of discipline or punishment employed at Wesleydale Boys' Home.

A former school teacher described two instances to the Commission:

"I unfortunately witnessed a couple of strappings there. Unfortunately in one case I was physically sick. I happened to be in my office at the time when two boys had been returned from their absconding. They were taken into

the recreation room ... these boys were in there and they were initially strapped on the hands and refused to answer questions. Then they were told to bend over which they refused to do, so two of the housemasters were called in and both of them were used to throw the boys over the bed, one to pin him down and the other to hold his hands and the strapping was carried out. The boys of course were screaming at this stage ... For me it was the most violent beating I've ever witnessed.

"I also have another case of a chap who refused to bend down and was flung to the floor and he held on to Officer at the time who was watching. Officer took him by the head and hit his face onto the floor and he came to the school with bruise marks on his jaw and he could hardly open his mouth. This was an extreme case of violence ... It was very common to see boys with bruises on their bodies."

A boy related that he had received twelve strokes on the buttocks with a strap as punishment after absconding. He also alleged that a fellow absconder had received strokes with a cricket bat which caused bleeding.

"We had a shower and that's when we saw all the blood down his pants and dried blood stuck to his legs."

A couple who lived in the proximity of Wesleydale Boy's Home recounted their experience some years back of finding a boy of approximately 11 years of age on their property:

"He was like a cringing little dog, soaked wet, bleeding, bruised and he hung on to me and he said, 'don't let those men get me mister, sir, don't let those men get me sir ...'. So the wife undresses him and as I say he was shaking wet. He had come over a creek and through a wire fence where he had cut

himself, they were fresh cuts, but when she stripped him off, he was badly bruised, his thighs with old bruises, these were old bruises, and when the wife was washing him down the calves of his legs were all knotted. When she touched his legs he called out in pain ... I felt them and they were just like knots. I said, 'How did you get those?' He said, 'well, you get that for punishment, you do the press-ups, until you can't do any more.'

His spouse continued:

"I've never seen anything like it, he was in a shocking state, he really was ... They were bruises, yellow and old bruises ... that's bruises from the knee up to his thigh, I mean you wouldn't get them falling over."

She went on to say that the boy had told her that the bruises were caused by his being hit by the staff.

Her husband told of how he had made a number of attempts to help the boy, after he had been returned to the Home, but that each time his offer was refused. He described this as follows:

"We promised, I promised him that I'd go and see him so I got in touch with the Principal of the Home, explained who I was, told him that if he wanted any character references I could get character references and he said - 'No' - I couldn't see the boy ... The reason given that I couldn't see the boy was that I had unsettled him, I could write to him if I wished ... I didn't want to do anything I just wanted to see him and bring him some books you know, because he'd said he was running away, he was wanting to go home ... I felt that I could have done something for that kiddie, I don't know what, but even if I had been able to visit him.

"We thought we betrayed him actually by telling him that we would help him and then the next thing these two constables showed up and they took him away ... Finally they told us that he had been shifted to another Home.

"That was the last information we had about him. And of course, we had no children at home and we could have, well I felt we could have at least done something for him, taken him out or have him for a meal or take him to sport."

A teacher described a system termed 'off privileges' applied to boys who had absconded:

"The 'off privileges' boys come out of breakfast, they do not line up with the rest they line up facing the wall or in some corner. The boys then go into school, then the 'off privileges' boys go to work. It could be mowing the lawn and I've seen them do the football field during the day, or it could be in the garden. When the boys come out of school at ten o'clock for morning tea and for play the 'off privileges' boys stand again facing the wall or out in the sun or wherever they're put, and they don't have morning tea. Then they go out and they continue their work until 12 o'clock then they come back and they all go into lunch. They come out of lunch and then from 12.30 pm the ordinary boys would play other games while the 'off privileges' boys again stand facing the wall out in the sun. Then we go into school and they go out and they continue pushing the mower or as the case may be gardening ... 'Off privileges' boys continue their work until 5 o'clock in the afternoon ... So yes, it could go eight hours, it could go from eight in the morning till five o'clock in the afternoon that they're pushing lawnmowers. In this time they don't have morning or afternoon teas. Push-mowing is a continuous thing, they would go right round the Home."

The former teacher went on to describe an incident involving a particularly difficult and disturbed boy:

"The housemaster put a bench in the middle and made this kid run and jump over to the other side and back. I believe from the boys that he started straight after breakfast which would have been about 8.15 ... From the school we noticed that he didn't stop his running and jumping till nine o'clock. When he came into school he burst into tears and had an asthma attack ... We rushed him out and got him over to the Boys' Home and he was put to bed. An hour later they found that he had absconded."

(For the Department's view see page 69)

(c) Standing on the Line

A former school teacher who is also a JP and a holder of the Queen's Service Medal described how the boys stand on a line at the Home. The Commission was told that this was a disciplinary and control measure whereby the boys were required to stand and remain on a line painted on a tar-sealed area at Wesleydale. This practice continued in summer and in winter without shoes, regardless of the cold:

"When I first went down I first saw it but I couldn't believe it. I couldn't believe that anyone could do that to children, because that's all they are, children! Now even out in the cold, as long as it's not raining, they're made to stand out there. I call it Hitler's little acre, because to me that's all it is, it's just a square, tar-sealed ground and these boys are made to stand in a straight line from there to here and you go out of line and somebody comes up and pushes you into line and if you talk, and if you're eating an

apple you must stand still and eat it, and if you spoke before the apple was all gone, well you stay there a bit longer and if you don't listen they push you up against the wall."

She explained that the boys ate their morning and afternoon teas in this manner, standing on the line. She continued to discuss footwear:

"They definitely don't have any shoes at all. Now we can all walk around with shoes on and our feet are frozen, but those children are made to stand out there with no shoes on."

(For the Department's view see page 72)

3 RACE AND CULTURE

An over-riding concern behind Acord's representations was what was seen as a failure by the Department to recognise and provide for the racial, ethnic and cultural identity of children and young people who were placed in the Homes. This concern took two forms, one being specific allegations of cultural denigration and the other the general lack of recognition and practice of Maori and other Polynesian cultures in the administration of and philosophy behind the Homes. It was stressed by Acord that while children and young people in the Homes were predominantly of Maori or other Polynesian backgrounds the Homes were not run in a way which recognised the particular cultural needs of these groups.

A number of people from Auckland's Maori and other Polynesian communities came to the Commission to express their views on the treatment of their children in the institutions. These included community leaders and workers, representatives of church groups, professionals, and parents of children in care.

The following excerpts from statements made by some of these individuals are representative of the common concern expressed to the Commission:

A Maori woman who had worked at Owairaka recalled the way a staff member had spoken to boys:

"He was continually saying to the boys - "Hey fella, you go and switch that switch, big light come on." He thought that was a big joke, it sickened me and it sickened a lot of the boys. They all knew what electricity was. And lots of silly little things - "Don't lick your spoon clean boy, you've got a knife there, you use that, you use this ..." They really just used to belittle them by speaking Pidgin English to them and some of those boys that come through there, not all of them were illiterate or close to being illiterate."

She spoke of the rapport boys had with Maori members of staff:

"The boys feel a little bit more secure when K brings his guitar and they have an afternoon session and the boys relate well to this. I know they're only little things but they're human things and that's what we're talking about after all, isn't it."

She related how she and others tried to get up a Polynesian club:

"We wanted the kids to start up a Polynesian club but then when I approached the Principal and the Vice Principal about that they said - "No, we're living in a moving world, we don't have these boys here long enough to teach them any kind of culture at all."

A Maori woman with 20 years experience in residential institutions gave her

impressions to the Commission:

"I have always been a very, very small voice in the wilderness. But when all this came out, I felt there is a reason for this coming out. It's not because they were actually getting at us individually, on a personal basis, but it's overall on how we should be able to help our young people ...

"You go along accepting these things, but until you have your own teenagers, then it was really brought home to me, it was really hammered into me, by my own teenage son, that you just don't treat the young people like that."

"The Homes can't even understand the Pakeha's problems, let alone those Maori boys and those Island boys. Do you know, there are some very, very good boys in there, there are some very intelligent boys. But because they are being so put down, they feel, they are no good ... I will agree that the behaviour of the boys of today is totally different to the behaviour of the boys ten years ago. Why? It's our society that's made young people like this. Don't say it's because of those young people. I won't agree on that, and I won't accept it. It's society of today that has made our young people what they are today."

She recounted the problems that Maori staff members encountered in the lack of communication with their senior officers:

"I said to them, look, you're like a crayfish. The crayfish has got big long legs, and the next size and the next size, but they are all working for it. They can't see what I am trying to point out, but this is me, as a Maori, this is the only way I can explain."

She observed that many Maori staff members left the service because they could

not fit in with its structure:

"We are losing them in this way. They come in and disagree with the situation and rather than make a Federal case out of it they leave rather than stay."

A Maori community leader who runs an alternative Home for young people in Auckland made the following comments on the question of the institutions and race and culture.

"The children who I see have all been through the social welfare Homes, I feel that nothing has been done for them, that they have learnt nothing about themselves, they haven't learnt that they are Maori, they haven't learnt how to cope, they don't even know the basics of life, and it is like a real training again.

"People who are in charge of these institutions have been trained on purely Pakeha values to the neglect of Maori values, I don't think Maoris have participated in decision making as far as the training of these people go. Just to quote a case Dr Fraser MacDonald asked if we would participate in a training programme for Counsellors for the Drug clinic, so that we could give a Maori dimension to the programme for trainees, and I think that this is valuable and I think this is required at all levels, in every system of our New Zealand society, not only for welfare Homes but for education, and all systems, I think there is a definite need for the Maori value system to be involved, become an integral part of training and this, the Homes I think that we envisage, would be entirely different from the Homes that are now being run, again on typical Pakeha value systems.

"Homes could be run entirely on Maori spiritual lines, and when I talk about

spiritual I don't really mean God or Jesus or a kind of concept that Pakeha's might have, but I mean relating back to nature understanding what it is all about, showing respect for nature, because it is from our natural resources that we get our survival so we must therefore respect it, nurture it, care for it, and these are the kinds of Homes I would like to see in the social welfare field.

"I see a need to find a name that embraces love, togetherness, sharing, for the sake of them all, not just for the individual. I think too much emphasis is being placed on the individual and not enough on giving them the opportunity to participate in group decision making.

"We need to bring in our old people, who have been slammed by Pakeha society as being a lot of humbug, and because of this I think we have tended ourselves to reject the part that these people have played, and if we can bring them back into the fold again, I can't see anything but good coming out of this."

Another woman spoke of change:

"The urgent need is that we need an alternative to the way these Homes are run, and of course the urgent need is finance to establish these kinds of Homes and the programmes that we envisage.

"The point I am trying to make is that now we recognize that there is an urgent need for change, and out of that urgent need surely the finance should be given, we are saying let us run the homes, let us have our values implanted in our children, but help us to get the wherewithal to do it, the finance like Betty Wark should have got and is only just beginning to get now, and of course we would have to depend on Pakeha expertise. Now this is where we are

all working together. But as I said once the problem is recognised and we are saying we can handle it, provided we have the financial backup, because we just haven't got it."

Again on alternatives a prominent citizen offered the following:

"I think that if our country is going to look at its problem then we must look at it through the eyes of the indigenous people. So I'm here to promote and push a point of view that I see as being totally Maori. The alternative that I would like to propose is that we the Maori people have complete control over the whole aspect of what is happening in our society today regarding Maori children. I do not say that I can give you the answers now, I think that the Maori people must be brought together for our country, and that they must look at this problem collectively. In the light of what we had in the past, and when that is done, then collectively the Maori people can come back to a Commission like this and then we look at it, and we look at it together."

(For Department's view see pages 93 and 95)

IV THE RESPONSE OF THE DEPARTMENT OF SOCIAL WELFARE TO THE COMPLAINTS

After interviewing those people brought to the Commission by Acord in February and April 1980 and after receiving from Acord an extensive summary of the issues raised during those interviews on 26 May 1980, the Chief Commissioner wrote to the Director-General of Social Welfare advising him of activities to that date. The Director-General was requested to provide information regarding the policies and practices of the Department in respect of the residential homes. An extended questionnaire was attached to this letter covering the matters which had been brought to the Commission's attention by Acord. The Director-General was also advised at this time that the Commission wished to interview the following Departmental Officers on the practices, policies, systems and procedures employed in the Homes:

The Divisional Head responsible for the Administration of the Homes

Superintendent of Owairaka Boys' Home

Superintendent of Wesleydale Boys' Home

Superintendent of Bollard Girls' Home

Superintendent of Weymouth Girls' Home

Superintendent of Allendale Girls' Home

The Doctor currently responsible for VD testing at Bollard Girls' Home

The Officer in Charge of Secure in Owairaka Boys' Home

The Officer in Charge of Secure at Bollard Girls' Home

The Head of Owairaka Home Visiting Committee

A particular member of staff, Owairaka Boys' Home

The Principal of the Kohitere Training School

On 28 November 1980 the Commission received a full written reply under the signature of the Director-General of Social Welfare to the questionnaire

(240 questions in all) mentioned in the above letter, and which is dealt with later in the report.

OVERVIEW OF RESIDENTIAL FACILITIES OF THE DEPARTMENT OF SOCIAL WELFARE

As a preface to the Department's reply to the questionnaire the Director-General provided the following explanation of the function and nature of residential facilities:

"There were 7,031 children and young persons under the care and control of the Department as at 30 November 1979. Of these 5,973 were under our guardianship by court order, 611 were in care by agreement with the parents, and 447 were temporarily held in care as a result of court proceedings. Of this total of approximately seven thousand children and young persons, nearly three thousand (2,891) resided in foster houses in the community, over a thousand (1,151) were on trial placement or living with parents or relatives, 778 were in family group Homes (units for five to eight children and young persons owned by the Department and operated by foster parents), 107 were in local short-stay regional institutions (e.g. Owairaka, Wesleydale, Bollard in Auckland) and 348 were in longer-term national institutions. The remainder were in employment situations in the community (687 in boarding schools, in private institutions, on probation etc.)

"Our fifteen short stay regional institutions are relatively small units. Owairaka Boys' Home in Auckland with a total capacity for 43 young people in open accommodation and 18 in Secure is the largest, The smallest is Arbour House in Greytown with a capacity of 16 pre-school and primary school children. Eight of the 15 regional short stay units have accommodation for 25 children and young persons or less.

"In the larger centres and more particularly in Auckland the regional institutions are very largely catering for young persons on remand from the courts or pending court proceedings. The length of stay can vary from 24 hours to two or three months, or even six months in exceptional circumstances. However, most young persons are spending a period of from one to four weeks whilst an assessment process is undertaken to determine the most practicable placement for them in the future. Most of the young persons admitted have some serious difficulties in their home situations, most have a poor educational history, and many at the time they are brought into care are either truuanting from school or are unemployed. It is characteristic of young people coming into our care that they have come from home situations where they have developed few specific interests, hobbies or acceptable skills. Many have very real difficulties in inter-personal relationships and frequently there are real disturbances of behaviour and personality. Many of the young persons coming into care in the Auckland situation have a history of previous admissions and often a substantial history of offences against the law.

"The programme of our residential care facilities for these young people is to support a process of assessment of the young person and his home situation that can assist social workers and the court towards practicable plans for the future that will help the young person to live successfully in the community and without offending. Counselling with personal problems, an ordered life pattern and environment, a good recreational and activity programme, some basic or remedial education, helping with work in the kitchen or grounds of the institution, and social skills training are major components of the total programme.

"Residential care is an attempt to meet special needs and circumstances of children and young persons. It is an evolving resource. The cost of care

is high primarily because it is staff intensive (e.g. on the basis of staff salaries alone the annual average cost per occupied bed was recently calculated at \$15,739). As a Department we are concerned to ensure that the scarce resource of residential care is developed and used to best effect for the total number of children and young persons who come to notice. I should perhaps mention that for some time I have been concerned about the numbers of young persons coming into our care in the Auckland area and whether our institutions serving that area are being used to best effect. To assist me in reviewing this I arranged for a research exercise to be undertaken involving the co-operation of the police, the courts, and field and residential social workers to provide information regarding all children and young persons appearing before the Auckland Courts during the period 10 March to 4 May this year and all who were admitted to our Auckland institutions during this period. The material arising from this survey is still being processed but I hope that the final report will contribute usefully to future planning for development and use of institutions in the Auckland area."

The following is a list of all residential institutions administered by the Department as at 31 March 1982:

INSTITUTIONS OF THE DEPARTMENT OF SOCIAL WELFARE AS AT 31 MARCH 1982

These are National Institutions - all others are Regional Institutions
Strathmore Girls' Home with 18 beds now part of Kingslea complex

Name of Institution	Location	Capacity		Teachers	Purpose
		Open	Secure		
Bollard Girls' Home	Auckland	30	4	2	Remand and short term care girls 10-17
Allendale Road Girls' Home	Auckland	22	3	2	Remand and short term care girls 10-17
Owairaka Boys' Home	Auckland	43	18	2	Remand and short term care boys 14-17
Wesleydale Boys' Home	Auckland	24		2	Remand and short term care boys 10-14
Cornwall Park Reception Centre	Auckland	20		1	Short term care pre-school children
Weymouth Girls' School	Manurewa	60	19	6	Long term training girls 13-16
Hamilton Girls' Home	Hamilton	30	4	2	Remand and short term care girls 10-17
Hamilton Boys' Home	Hamilton	42	4	3	Remand and short term care boys 10-17
Tower Hill Reception Centre	Hamilton	22		NA	Short term care primary school children
Holdsworth School	Wanganui	58		5	Long term training boys
Arbour House	Greytown	16		NA	Short term care primary school and pre-school children including handicapped
Beck House	Eskdale, Napier	24		3	Long term training school boys 9-13 years
Hokio Beach School	Levin	60	2	7	Long term training boys 12-14
Kohitere	Levin	110	12	8	Long term training boys 14-17
Epuni Boys' Home	Lower Hutt	42	4	3	Remand and short term care boys 10-17
Wellington Girls' Home	Wellington	36	4	2	Remand and short term training girls 10-17
Christchurch Boys' Home	Christchurch	29	5	2	Remand and short term training boys 10-17
Kingslea	Christchurch	76	13	8	Long term training girls 14-17
Dunedin Girls' Home	Dunedin	16	2	NA	Remand and short term training girls 10-17
Dunedin Boys' Home	Dunedin	18	4	NA	Remand and short term training boys 10-17

THE CHANGING ROLE AND FUNCTION OF THE DEPENDENT INSTITUTION

The following paper provided by Mr Arthur Ricketts, Principal of Owairaka Boys' Home documents 20 years of change at Owairaka Boys' Home and gives an insight into the problems of the remand and short term Homes from which the majority of the complaints received by the Commission emanate.

"In New Zealand the dependent institutions have always existed to serve the local needs of the district. In the last 30 years the place and function of the short term institution has turned a full circle and at present these institutions are in a state of confusion and indecision.

"The Dependent Institutions have always had to justify and explain their existence. These Institutions have been in the unenviable situation where field staff see the non use of the facility as a criteria for their own success. This doing away with residential care and keeping everybody in the community is a state which will never be achieved and in my mind should not be attempted. Social Workers need to be told that residential care is important in the total scheme. That there is a definite place for foster care, family home care, short term residential care and long term residential care and they should know how to use each one effectively.

"The dependent institutions are a misunderstood and misused facility.

"The confusion starts because they mean different things to different people and their task is complicated by different expectations.

"The police see the Home as a place to put someone to teach him a lesson and keep him under control. He does not want to chase the offender again

or find him committing further offences while waiting to appear at Court. He also expects the Home to produce the person at Court.

"The Magistrate expects the young person to appear from a Home reasonably respectful, repentent and not to appear before him again.

"Neighbours of the Home expect to see the young people as being under control and not absconding through their property or breaking into their houses and converting their cars.

"The Home staff feel they should adopt a caring but firm attitude towards those in care.

"The Local Director expects a service of diagnosis and treatment as well as a custodial service - and different local Directors emphasise different areas.

"The Social Worker will empathise with his own particular cases and the individual's needs. Some will expect strict discipline and so on, others will expect the opposite. The institution has to adapt or appear to adapt to all these expectations and is often handicapped by not having its task defined.

"The dependent institution is further disadvantaged by the fact that outside the knowledge of residential care is usually based on what is done in long term institutions. It is a mistake to compare both and to assume they are both doing the same thing - only one to a lesser degree. The distinguishing features of dependent institutions in New Zealand are as follows:

- 1 They are quite different from long term institutions.

- 2 They vary in many ways from district to district.
- 3 They change their function.
- 4 The change in function shows clearly in Auckland district first, and moves down the country - Hamilton, Wellington and Christchurch. The function of the Dunedin Homes do not seem to change much.

(This fact of change of overall function appearing first in Auckland, was confirmed by the Principals' Conference in 1978).

"Because the short-term institution is tied closely to the community and the field of work, the change reflects what is happening in the community and field work.

"Many of the changes manifest themselves slowly in dependent institutions and it is only recently that the totality of many changes have crystalized. Some changes have crept up slowly and some have come about dramatically. There have been changes in three areas - the institutions, the community and the field services.

"The institution changes I refer to are the increase in staffing, the standardised timetables, and the relating of institution workers to social workers' salary scales. They are now Residential Social Workers with increased status and aspirations.

"The changes in the community are the existence of a wide range of community resources and different community expectations.

"The changes in the field services involve the new Act which has replaced the Child Welfare Act. This has provided a new philosophy, new practices

and new demands. The scene has so changed, and the dependent institutions function is, or should be, so different that there should never be any question of returning to, or providing the type of service it used to give.

"I consider that most of what we used to do is now being done by alternative care. Short term training of the old type is an area from which we have withdrawn, are withdrawing or from which we should be withdrawing.

"To give some idea of the type of change that has taken place within the dependent institutions service and functions, I outline the following patterns based on the figures from Owairaka. Looking back 20 years to 1959 Owairaka was operating as follows:

"Owairaka Beds 42, staff 11, boys admitted in one year 145, ages 8-17. Majority of cases were state wards being prepared for foster care.

The average stay was 3½ months. The range 1-12 months. During the year only four boys were re-admitted. Europeans 75%. Maoris 25%.

We never saw ex-Hokio or ex-Kohitere boys. There were no secure rooms.

"All admissions were seen by a psychologist who came every day and reported to the Home on the treatment recommended while in the Home.

"All boys attended local schools, Owairaka School, Kowhai School or Mt Albert Grammar School. There was a working boys wing and six attended work. We

held fortnightly camps twice a year at Hunua. We had our own softball club, "Owairaka Rivals" and own uniforms and played in Auckland 5th grade competitions; also an indoor basketball team at the YMCA gym. The boys played soccer for a YMCA team.

"The home could be described as a type of boys club with accommodation attached.

"The programme was group living, directed towards adjusting boys through group activity and planned therapy. It all appeared to work and produce the required results.

"10 Years Later - 1969

Aged 10-17. Beds 62 (1959 - 42), staff 26 (1959 - 11). Admissions per year 516 (1959 - 145). Average stay six weeks (1959 - 3½ months). Secure rooms 6. Re-admission rate approximately 25 in the year. More remand cases than state wards. Polynesians 70% (1959 - 25%), European 30% (1959 - 75%).

No longer mainly short term training for foster care.

"There had been a change to a remand and assessment type of Home. Hundreds of assessment and recommendation reports were supplied by Home staff to field officers. The psychologist attended daily but his reports were supplied to the field officer on placement suggestions and not to the Boys' Homes as a guide to treatment. Camps were no longer practical because of the turnover and the new admission rate. Outside teams were no longer possible. Schooling was provided on the property. There were no working boys. Full night

staff coverage became essential. This change slowly moved down to Hamilton and Epuni. Owairaka supplied the field with the service they required. The function was thrust upon the institution and it was an important part of the whole.

"Eight Years Later 1971 to April 1978

"In 1976 Wesleydale took the 10-13 age group. Ages at Owairaka became 14-17 years. Staff 39 (1969 - 26).

"Admission per year 614 (1969 - 561). Average stay 3-4 weeks (1969 - 6 weeks), Secure beds 18 (1969 - 6). Polynesian mainly Maori 80% (1969 - 70%), European 20% (1969 - 30%). Re-admission rate was 210 that is over one third of the admissions had previously been in residence. Of the 210 who had previously been at Owairaka 110 had been in residence twice, 33 had been in residence three times, 10 four times and one five times and two six times.

"This does not include the fact that some had already been in Wesleydale prior to admission to Owairaka. It also does not show the numerous ex- Holdsworth, ex-Hokio, ex-Kohitere, ex-Waikeria and ex-periodic detention cases.

"On 6 April 1978 when the above figures were extracted, there were 52 boys in residence at Owairaka. Of the 52 in residence:

23 were in Owairaka for the first time;

19 were there for their second time;

6 were there for their third time;

1 was there for his fourth time;

1 was there for his fifth time;
2 were there for their sixth time.

"This means that half of those in residence were re-admissions.

"To come up to date, the figures for the year January 1978 to 31 December 1978 show the following development. The admission rate for the year (not counting ex-Wesleydale, ex-Holdsworth, ex-Hokio, ex-Kohitere etc) was 628. Of this number 155 were admitted for the second time, 71 for the third time, 24 for the fourth time, six for the fifth time and eight for the sixth time. It is significant that whereas in 1977 one third were re-admissions the percentage has risen in 1978 closer to half being re-admissions. It is also significant that many were admitted for the second, third or fourth time within the same year. The following table shows the re-admission figures for the same cases during the same year:

Table Showing Those Admitted More Than Once in 1978

Those admitted for second time in 1978	-	63
Those admitted for third time in 1978	-	5
Those admitted for fourth time in 1978	-	5

This means that 73 cases had been returned at least several times within the same year, some only a few weeks after leaving the institution.

"The figures for Wesleydale up to April 1978 show a similar trend.

Wesleydale was opened in 1976 and at April 1978 had recorded 80 re-admissions made up as follows:

52 were re-admitted for second time

21 were re-admitted for third time

5 were re-admitted for fourth time

1 was re-admitted for fifth time

1 was re-admitted for sixth time

"This means that in two years of its operation, a quarter of all admissions were re-admissions. This is significant when we are talking about children in the 10-13 age range who have yet to reach Owairaka.

"The question to ask is what has happened in the social work field for dependent institutions to be receiving these cases and what is required of the institution?

"I mentioned changes having taken place. There have been slow changes in the field over a period of 20 years which together represent substantial change. There has also recently been sudden and dramatic changes. The slow changes I refer to over 20 years is the build up of community resources - most of them designed to keep children out of institutions, e.g. the psychological services, visiting teachers, special classes expanded, adjustment classes, schools for maladjusted children, psychiatric services, epilepsy associations and hostels, hearing loss detection service, teacher trained to detect problems early, trained social workers, church social services and social workers, youth aid, J teams, school counsellors, citizens advice bureaux, family home growth (there are now 24 in Owairaka contributing district), foster parents federation, voluntary social work help, to name some. These have slowly achieved what they set out to do - that is to provide community expertise and support to keep children in the community.

"The dramatic changes mentioned have come about from the field workers implementation of the Children and Young Persons Act 1974. This, as you are aware, is a community orientated Act with emphasis on building up and using community resources. With the Act came the disappearance of the child welfare officer type of field worker and the arrival of a new breed of social worker. This new breed is literally doing what the Act requires, which includes persevering with cases who some years ago would have quickly been assessed and placed under guardianship or seen as long term cases and moved to national institutions. Today these types of cases are involved with the dependent institutions in a kind of recycling process. This means that the action is happening in the districts and the dependent institutions are part of it.

"I consider that the dependent institutions could become a very active agent in this process - at the moment I presume none is very sure what the field worker requires of them. They could become a very useful part of field social work providing strong back up and persevering services with difficult cases who do not respond easily to community orientated help. The dependent institutions are not really geared for this and this could account for some of the re-admission rate. If the institutions in the districts are developed to operate within a recycling framework, recidivists and re-admissions could become the recognised and acceptable materials which they work and channel back to the community resources and not the material at which we shrug our shoulders and steer towards the national institutions. From the point of those working in the dependent institutions this requires readjustment to the view of the new breed of social workers, a recognition of the new view of the Act and seeing the institutions in the districts as a major part of the whole scheme of district social work."

DEPARTMENT'S REPLIES TO THE QUESTIONNAIRE

The following are extracts from the Department's written reply to the Commission's list of questions on various aspects of practices and procedures in the Homes. Quotations from staff members made during the Commission's interviews have been included under various headings of this section.

SECURE FACILITIES

Secure accommodation is necessary to cover a wide range of needs. Some youngsters on admission are highly disturbed, acting out and aggressive, others openly threaten violence and to abscond. A number of sophisticated serious offenders need to be segregated pending an appearance in court. Often very little is known about the personalities and problems of many young persons who are being admitted by the police, and how they will react, and a short period in the Secure unit may be necessary bearing in mind the Department's responsibility to the young person, to the others already in residence, the courts, the police and the community.

There are secure facilities in 14 of the Department's 22 institutions. The institutions having secure units are those which cater mainly for young persons aged 14 and up to 17 years. Many of the secure units have been subject to extension and improvement of facilities or plans are currently in hand for improvement: Christchurch Boys' Home (1980) an extra three beds plus recreation/exercise facilities, Hamilton Girls' Home roof over exercise yard 1980 and two beds outside secure used as semi secure, Owairaka Boys' Home 1978/9 ventilation upgraded, and further additions planned. At Hamilton Boys' Home the unit now has 3/4 semi secure beds and a new recreation room and common room, while in Weymouth there have been administrative additions in 1980 and the upgrading of

existing rooms has begun. Six beds are being allocated permanently to remand cases and the exercise yard is being roofed. (1980-81).

Plans are in preparation or discussion stage for Kohitere (extension and upgrading), Bollard (semi secure), Kingslea (complete renovation and additional facilities), Epuni Boys' Home (additions), Dunedin Boys' Home (complete rebuild of unit).

The time a young person may spend in a secure room in any 24 hour period will very much depend on the reasons why he or she is being held in the secure unit in the first place.

An outline of the daily routine in Owairaka secure unit is:

- 6.40 am - 20 minute PT session and shower
- 7.50 am - breakfast
- 8.30 am - cleaning room, yard, or kitchen
- 9.15 am - room check and put gear away
- 11.00 am - book or comic change
- 12.00 noon - lunch
- 1.30 - 2.00 pm - recreation room, table tennis etc
- 2.00 - 2.30 pm - visitors or PT and shower (visitors may come every day to see a boy if they wish)
- 3.15 - 4.15 pm - visitors (weekends)
- 3.20 pm - book or comic change
- 4.00 pm - room search
- 5.00 pm - tea
- 6.30 pm - run around before shower
- 7.30 pm - books, comics or letter writing
- 9.00 pm - lights out

Apart from these routine activities boys sometimes have extra activities such as feature films.

Bollard Daily Programme in the Secure Unit

- 7.10 am - awaking time, showers, cleaning
- 8.00 am - breakfast, radio on till 8.30 am
- 8.30 am - cleaning routine continues
- 9.00 am - girls to court or clinic on Tuesday and Thursday
- 10.00 am - morning tea, initial interviews with girls, if cleaning done - girls may write letters, read, do art
- 11.30 am - radio on through rest of the day
- 12.00 am - lunch
- 12.45 pm - girls in courtyard, free exercise
- 1.30 pm - recreation, scrapbooks, four square, craftwork, art room
- 5.00 pm - dinner, visitors permitted
- 6.00 - 8.00 pm - evening recreation programme in groups whenever possible
- 8.00 pm - bed, radio on
- 9.00 pm - lights out (flexible)

The following are available and may remain with a girl in her room:

- Books and magazines
- Jigsaw puzzles
- Chalk and duster
- Family photographs and letters
- School work and stationery
- Knitting, handiwork, typewriter if approved by Senior Officer

The difference between the programmes of Owairaka and Bollard illustrate the diversity in secure unit programmes. The routine and programme will vary greatly from day to day depending on the numbers and type of young person being

admitted. Some of the units will be empty while the young people are in the school programme, and be returned to secure during the evening to ensure they do not depart under cover of darkness. Other programmes will have a variety of activities taken by part time staff, visitors may be permitted at any time, and the time period set aside for any activity may be radically different.

In the three secure units attached to Kohitere, Kingelea and Weymouth a varied programme operates, including activity, schooling, rest and counselling. Quite often the young people will be involved in group activity, e.g. mealing, recreation, art, craft, but there will be occasions, for particular reasons, why some young person will be kept apart from others.

In the longer term units a full days schooling plus time for homework is required. Some young persons leave the units and return to them after school. In the shorter term units the teaching staff are required to visit the unit and where appropriate, considering the age, status and condition of the young person, to set work which can be attempted. It will be readily appreciated that the brief period young persons are in a secure unit, the emotional state often accompanying them, and the circumstances of admission, militate against an effective educational experience.

In some institutions young persons have been known to request isolation as a form of 'time out', initially to sleep, and then to think before becoming involved. 24-36 hours is not uncommon in these circumstances and the young person would be left to sleep.

The Department requires all young persons in secure to be sighted once every half hour during day hours 6 am - 10 pm, and once asleep at night at hourly intervals. (F 7 06)

Young persons will be told why they are in secure but sometimes it is not possible to give a definite time period. In these cases, staff would explain the circumstances governing continued stay. Unless a young person was being held in secure for a definite period pending a court appearance, staff would be working towards placement in the open institution as soon as possible.

There will be occasions when young persons are admitted to a secure unit as punishment, particularly for serious offences committed within the institution or following absconding. Admission would be by the duly designated senior officer at the time.

The age of the child is one important factor to be considered in deciding whether or not a young person should be admitted to secure. Generally speaking children below the age of 13 years would not be admitted to a secure unit, except in very special circumstances.

The Department expects that wherever possible meals should be taken together with the staff. Unfortunately we have experienced staff being attacked during these periods and the senior officer in charge must be left to decide whether at any particular time young persons eat communally or in their own rooms.

Some residences have fixed visiting hours but these are for general guidance only. The normal procedure is for visitors to be welcomed at any reasonable time. Some restrictions have had to be placed on who visits a young person in secure because of space limitations and the difficulty of maintaining control and supervision.

All young persons are not admitted through secure at Owairaka. The secure unit is often the intake point for new admissions, and only when the young

person has been interviewed, his/her state is assessed, background ascertained, and reasons for admission that a decision is made about admission to secure or open institution. This is often reviewed within hours and at least once a day.

The minimum duration in secure may be as little as one hour. We have no average figure we can quote covering all of our institutions which have secure facilities and there is understandably a high degree of variability because of the range of situations and needs which we are attempting to meet. The duration of stay in security would not normally exceed a period of five days. In 1977 and 1978 we had two long term placements of some months duration where we were obliged to hold young persons on capital offences.

CELL 7 AT OWAIRAKA SECURE

All the secure rooms in Owairaka are either 80 or 90 square feet. Room 7 is 80 square feet. It is a two-bed room.

Because room 7 does not face into the main courtyard it is used to isolate boys who are playing up and generally disturbing the others. It would also be used as the ninth room of the unit. The decision is made by the senior officer on duty.

In theory a boy could remain in room 7 for his total period in secure, but in practice the periods are rarely more than a day or two ... He is told it really depends on him. Most of our secure units do not have the physical set up of Owairaka where nearly all the rooms face a courtyard. Therefore in the other units if isolation is necessary it is achieved in a different way. Other units do not have an equivalent of room 7. It must be stated that room 7 was not

built with the intention of using it for isolation. It serves that purpose reasonably well because of its situation.

'Cell stripping' does occur at intervals in order to remove articles which may be used to inflict injury either on staff or the young person, or to severely damage the cell.

An officer from Owairaka Boys' Home spoke of one of the problems associated with the Home's Secure block.

"That unit was built with a flat roof and heating in the floor and the sun used to belt down on the roof in the summer time, and they were like ovens inside, and the Department knew it fairly soon and tried to do something about it, and being in the room was pretty hot and sticky and so they were issued with running shorts or football shorts, and T-shirts, when they had underpants they complained about it being too hot and sweaty they were always taking them off, I might have said don't issue them, I don't know if I did, I don't remember now, I certainly knew they didn't have them, but it seemed to be more comfortable."

His comments on the use of 'Cell 7' were as follows:

"It is handy if a bloke is performing and you don't want the noise to spread around the place, but it's about the best room in the place, it has got an outside window, it used to be the old medical room which is bigger than the rest, it has got two beds in it. A lot of boys prefer it, it is nice to go in there, and it is used as an ordinary bedroom, because you are supposed to put one in a room, while we have got single rooms and we start to double up so that would be used as an ordinary bedroom."

He spoke of a review of secure facilities which took place in 1979 and of plans at that time to build a new institution.

"We were just holding the fort hopefully until they got it built. But when it became pretty clear that it wasn't going to go ahead we just said well it looks as if we are going to stay and let's get this place done and that is what has happened. There were changes, the attendants and the housemasters were all ungraded and all became social workers, they became residential social workers, the whole status changed. Their pay changed and I was given senior people in secure unit on every shift and then you could treat them professionally and get something going, and until then they were just attendants with very little career structuring at all ...

"It has always moved like this, always improved, and if you ask me next year there will be things we have dropped off now, and added on next year because we have got to keep moving, and there might have been a bit of help from the publicity but it wasn't because of it."

On the question of toilets in Secure block cells he said:

"The alternative is to bring them out. If they want to go to the toilet they have got to ask to come out. I think they mightn't be in the right place, they mightn't be big enough rooms, they mightn't be private enough. You know the Polynesian attitude towards this sort of thing and food is another point, but we did ask boys how they felt about it and I think half were for it and half were against it. You see as far as we were concerned the toilet was always the thing that got you into trouble, they asked, 'please can we go to the toilet', and they're gone. Well that's where they do what they shouldn't be doing, so the other alternative is to have pottys in the room, and potty parades."

An officer from Bollard Girls' Home explained the use of the Secure block at that institution in the following terms:

"All girls are received through the admission block which is a secure unit. They don't necessarily go into the secure unit but they are received through there. The younger ones we don't put through there unless they are in for something very serious like assault or something like that. And they can be very very disturbed too, and we put them through, it may be just overnight ...

"There are many reasons. Usually the girls that come have been on the run. Some of them on the run for weeks, some have been on the run for months. And they are in a pretty dirty state. Not dirty, filthy would be the proper word I suppose. And they obviously have not had a decent nights sleep and they obviously haven't had any decent meals and we find that if they are down there, and even if they are down there for 24 hours, and they have say a good night, nine, ten hours of sleep and some, three or four good meals, then you can talk to them and they become more settled ...

"If you put them straight into the institution I'm afraid they would be out of the gate before the police car. I mean you know there are the practicalities of the thing. I mean you know you've got to ... and you've also got to take into consideration the other girls that you have in the institution."

DISCIPLINE AND PUNISHMENTS

Any form of corporal punishment must be approved by a senior officer within restricted limits before it is administered. This is recorded in a punishment register and is sighted by visiting social work inspectors.

Most punishments are by withdrawal of privileges, early bed, no television, extra chores etc, or in residences where a token economy is in operation, punishment will be built into the system by withdrawing credits. All these kinds of punishments are entered in the Day Books for the information of other staff.

Any form of punishment administered has the primary aim of improving behaviour and as Departmental officers are acting in loco parentis in these situations, appeal rights are considered to be totally inappropriate. This does not prevent young persons from raising with senior staff or the Principal, questions relating to what they may consider an injustice.

There is no list of punishable offences or punishments. Every young person is different and an action committed by one, who may suffer a small loss of pocket-money may not be considered as an offence if committed by another, but may be seen as an action requiring the young person to be counselled, ignored or diverted.

Verbal belittling is not approved in any circumstances.

The general rules of the Home are explained to young persons on admission. Punishable offences tend to be very similar to behaviour which would warrant some kind of punishment in his own home or community, e.g. assaulting others, wilful damage, theft, breaking into.

On return from absconding any action taken will consider the needs and state of the young person and also the rest of the group. There is no set punishment for absconding. An absconding may be the point from which some very effective progress can be made. On the other hand a group absconding resulting in damage to property, theft and vehicle conversion or even violence may require punishment.

The controlling Officer is required to report to the Director-General all cases where young persons have been dealt with by staff in an inappropriate way. Staff have been reprimanded, transferred and dismissed, or their resignation called for in such cases.

Any staff member who is involved in any such action is required to report the circumstances. Quite often the young persons themselves will mention something to a staff member and this is followed up. Although staff have a loyalty to one another they are upset when a fellow member acts inappropriately towards the children in care, and these matters are raised either for prompt action if this is required or through case discussion or staff training sessions. The Department endeavours as much as possible to have senior officers available to give effective staff oversight.

Staff would be dealt with in terms of section 56 of the State Services Act 1962. They may be reprimanded, fined, dismissed or transferred, depending on the severity of their actions.

Children and young persons may complain to any person, to any officer or a social worker or parents or the visiting committee, or the teacher.

Boxing is not encouraged as a sport within our institutions. It is not used as a means of punishing those who misbehave, break rules or abscond.

To the best of our knowledge, boxing as a means of punishment has happened on two to three occasions some time ago, but was not approved and was stopped.

A strenuous period of exercise may be used, more to get rid of surplus energy which is being misdirected. Experience shows that young persons quite often

see this as a challenge not a punishment. Where the Department has been aware of excessive exercise being demanded, staff have been disciplined.

Mowing lawns has been used as a punishment, normally in a situation requiring a boy to be away from others, or to work off surplus energy.

Standing in line. Sometimes there may be group situations which require a 'cooling' period and if staff coverage is minimal this may be an effective and simple way of coping.

In discussions with the Commission an employee at Owairaka Boys' Home made the following comments about allegations of physical mistreatment of young people at the Home:

"Yes it might happen without me knowing but you see that the problem was say six years ago they (staff) came in with no experience. They had to learn on the job and they had to learn not to hit a boy. They'd say, but he said so and so to me, I'd say, 'well look you don't touch them then they learnt.'

"I'm professionally trained and I made sure I was, and I know what I am doing it for and what the consequences are aimed at, but when you've got people that have all different attitudes towards punishment, some are vindictive some could be sadists you wouldn't know, so therefore you say you don't touch them. I have reasoned at stages, why not give the boy a whack on the bottom and have done with it. I wouldn't let the staff decide that. In fact the staff were never allowed to do it anyway, it was only me who could do it anyway.

"For 10 years I never used the strap. When I went to Owairaka if a boy had to be strapped you rang the District Officer who came out to see the boy and

he got six on the bottom by the other man who came with him, and it got written in the punishment book. I said that's not going to happen under me, no and I put up with murder."

Disciplinary measures at Bollard Girls' Home were explained in the following manner:

"Well with girls discipline is a thing that you have got to have a good look at, for instance we don't use our secure unit as a punitive measure. Girls, if they are naughty girls they don't go to the secure, in some cases, yes, maybe they do, it depends. Sometimes adverse behaviour reactions to different situations, and a girl breaks a window or lashes out at somebody or something like that she is virtually telling us that she wants a bit of time out on her own, she wants to get away from the group. I guess we haven't got any punishments, I guess that we can take privileges away, we can take weekend leave away from the girl, and perhaps we can stop a girl from going to the movie, we don't often do things like that."

A representative from Wesleydale Boys' Home explained the organised boxing matches to the Commission:

"Staff said 'Well, its got to be controlled, you've got to have the proper gear, proper gloves and proper mouthpads, and you know only a minute ... It was controlled and by a proper housemaster in those days, as they were called ... They were equally matched. Weightwise, heightwise, and reachwise. The older boy, what I mean by an older boy, would be 13, they were both 13 year olds, had been in the Home for a lengthy period and he was a trustee, he was going home weekends, and so it was controlled for about two minutes and that was it."

DIFFERENTIAL TREATMENT

In many of the residences the age difference is very small e.g., Owairaka 14-16½ and there may be very little difference, but where there is a substantial difference the programme will recognise this i.e., less strenuous activity, smaller groups, or even placing the younger child under the supervision of one staff member, or with a woman staff member. Early bed.

Young persons who are in residence on remand are encouraged to take a normal part in the activity and life of the institution.

Regarding custodial care, there is very little difference from the policy stated above. The basic consideration is that they are children and young persons and need to be treated as such. As much as possible allowances are made for individual differences and an attempt is made to meet individual needs.

If a child or young person comes into care primarily as a result of factors within his background, he is not retained in residential care for longer than it takes to find a placement in a family home or foster home.

All children and young persons have equal right of access to any form of activity/treatment. Because of the number of Maori and Polynesian children and young persons in care, the content of group activity may well have a bias towards their cultural interests e.g., carving, tukutuku work, canoe building, but all are encouraged to participate regardless of race.

VISITING

The Department goes to great lengths in encouraging family relationships and

the significant adults in a child or young person's life are often quite remiss in honouring promises to visit. There are limits to the amount of time social workers can spend in encouraging parents to visit. As part of the normal programme children and young persons are encouraged to visit their homes as often as this seems to be beneficial.

The Department has never excluded any member of the family intentionally to deny access. There have been problems of accommodating large numbers and some restrictions on the number at any one time are seen as reasonable in order to maintain control. Quite often the members of the family can upset a child or young person and staff are left to 'clean up'. There may also be good reasons why the extended family should not be given access because this restriction is requested by the natural parents.

There is no laid down policy, but as part of our concern to keep families together, any gathering of a family which is of significance is seen as an occasion when no child or young person should be prevented from participating unless there are very good reasons. The Department often goes to considerable trouble and expense to ensure that children and young persons in care get the opportunity to attend such family gatherings.

In the long term institutions there are some restrictions on the giving of money and valuables because this tends to undermine the pocketmoney system, and raise enmity in children or young persons who do not receive in kind. Also on provision of tobacco. Other items, providing they do not form a potentially offensive weapon are, within reason, permitted.

In the short term residences - valuables may not be handed over, but there is no objection to soft toys, posters, books etc. With the quick turnover of young persons in court remand situations there are real difficulties in handling

things such as fruit, on a personal basis. The young persons have more than enough to eat, including fresh fruit provided by the Department.

In the regional institutions children or young persons will be permitted to ring home provided the number of calls is reasonable. In the long term institutions phone calls home are quite common.

A member of the staff from Owairaka Boys' Home described visiting procedures at the Home:

"The letter to parents said parents only unless special arrangements are made with the Principal. The reason for that is, there are all sorts of problems. First of all there are gang members who turn up and you can't just say 'No'. We have to have some restrictions, so it is parents only. Parents ring me, asking can I also bring under school age children. And if they ring and say look he is very attached to his sister or his grandma, it's okay, if grandma turns up, she is told look I'm sorry unless I hear from the boy's mother if it is all right you can't see him. I have numerous rings from in-laws and people like that who say, from parents, don't let my mother-in-law near him, you know, she is not to interfere any more I have had enough of her and you shouldn't let the boy see her. And quite often they are at loggerheads with their relations so they are screened that way."

On the question of visiting outside the set visiting hours of 2-3 pm, he said:

"There is a bit of a technique about it, I might have been wrong but I always used to make it difficult to start with, because somebody would ring up and say they couldn't come when they could. Therefore, I would say look I am sorry, those are the visiting hours we haven't got any staff on tonight and so on, if

they argued long enough and convinced me, I would say all right but as a policy I didn't say yes that is okay. It was only to make them make an effort themselves and to see whether they really could come in the visiting hours, but you know unless it was a pretty timid kind of person they could have persevered and got it changed to suit themselves."

An officer described visiting at Bollard Girls' Home in the following terms:

"Any time, we do like them to ring, I guess most of our visiting is done after tea at night and that is why I haven't got visiting hours. I think the important thing is that the parents come, and in just about all cases both parents are working, and so they come after tea at night. But we certainly haven't got visiting hours. If the parents ring up and say well what are your visiting hours, we just say whenever you like as long as you give us a ring, and we don't like them coming between 12 and 1, because of our lunch, and we don't like them coming between 5 and say 6 because of tea, and the routines that happen round that time. But no we haven't any visiting hours."

SCHOOLING

The Department endeavours to provide either a school opportunity within the residence or at an outside school. Any young persons wishing to attend even though over 15 years of age, are encouraged.

It will be appreciated that a very different situation exists between schools in the regional institutions and the institutions for extended care. In many of the regional institutions it is extremely difficult to give a young person a meaningful experience within a school setting because of his or her emotional condition which is not conducive to learning and the short duration of stay.

In some secure units a teacher is permanently available in which case a full school day is worked, five days a week. In most the teacher will visit the young person and after assessing his/her capacity to study, give or set work to be attempted. The residential social work staff will assist. In effect the young person is being placed on correspondence lessons but has the availability of a teacher each day to give encouragement and help and set additional work. The number of hours varies from 1-4 per day depending on the number in secure, and the availability of a teacher. The staff student ratio varies from about 1-8 to 1-15. Generally it is at the level of 1-10. We consider that any ratio over 1-12 is undesirable in terms of meeting educational needs.

The short stay which so many young persons spend in a secure unit, and the small number in residence in a secure unit each day make it impossible to provide more than this.

The District Senior Inspector of Schools is kept in touch by the Inspector Supervising Special Education who has specific responsibility for schools in Department of Social Welfare institutions. The District Senior Inspector can authorise extra assistance whenever this is justified. The Department of Social Welfare Head Office approves of extra 'Fee for Service' staff who provide remedial programmes after school and in the evenings, as well as part time tuition for exam pupils.

Of the three extended care institutions catering for boys and girls, the length of stay in only two make it practicable for anyone to attempt School Certificate or University Entrance. In Weymouth and Kohitere, a small percentage undertake some School Certificate subjects. In 1978, in Kingslea 21 youngsters attempted School Certificate subjects. During 1979 the numbers attempting some subjects for this exam dropped to eight. Any young person

with the ability and motivation is helped in every way possible.

A young person educationally ready to take University Entrance or Bursary is rarely likely to be resident in one of our institutions long enough to do the examination, but University Entrance passes have been known. In fact few young persons admitted are academically inclined at University level.

Remedial teaching is the responsibility of the class teacher, but the Department of Social Welfare may approve additional teacher time for remedial work.

HEALTH AND CLOTHING

The Department allows a very generous issue of clothing suitable for climate, activity and age. For practical reasons there is no standard list for children and young persons in institutions, but there is a standard list readily available to social workers for all children and young persons placed in foster homes.

Underwear is normal issue, but on occasions it has not been issued. This was not seen as a punishment, but rather as a move to increase the comfort of youngsters in a secure unit which was quite hot in summer. This unit has now been fitted with extensive ventilation.

In the short term institutions very little footwear may be issued because the child or young person may bring a pair of shoes, sandals, or sneakers on admission that are quite suitable for general wear.

In the long term establishment a full range of shoes, slippers and sports wear is issued.

The issue of clean clothes varies. Underwear twice weekly. Shorts once or twice weekly, Pyjamas - weekly. Socks as frequently as necessary - sometimes none are issued as children or young persons prefer jandals or bare feet. School clothes probably have to last five days. If for any other reason a complete clothes change is required it is issued.

One person has specific responsibility for oversight of medical matters. Several staff have first aid training and the Department encourages all staff to extend their knowledge and competence in this area. On admission children and young persons are given a thorough medical examination by a doctor and any follow-up action required is taken.

All Departmental facilities are provided with toilets sufficient in number for the use of residents and staff and located so as to give maximum ease of access. They are usually located in school areas, general recreation areas, and sleeping areas as well as general ablution areas.

In secure units wherever possible the Department has installed toilets to avoid young persons having to ask if they may use the toilet, or the degrading practice of issuing buckets.

Because of the need to be able to fully supervise anyone in a secure room, the toilet cannot be placed in a separate room, therefore it is inevitable that young persons do in fact sleep in rooms which have the toilet in them. In the main however, because a room is usually occupied by one young person, the toilet is not shared. There will be occasions though where two young persons will, because of necessity, be placed in the same room and in these circumstances they may ask to be toileted in the ablution block.

In emergency situations where young persons must be admitted to a secure unit and normal accommodation is not available the use of a communal room becomes necessary. In these circumstances it is normal practice for them to be toileted before going to sleep, and it would be rare for the young person to have to use a container during the night.

In normal circumstances no young person would be expected to toilet in the presence of another. Occasionally where overcrowding occurs in regional institutions, two young persons will be held in one room. If there is a toilet installed the young person will have to use the toilet in the presence of the other resident, but if a youngster objected the staff would arrange for alternative facilities to be used. The use of a slop bucket would be a rare occurrence, and would occur only in extreme circumstances after 10 pm at night and before 6.30 am.

From time to time some youngsters will need to eat in their rooms, but the toilet may be covered. There is never any reason why a container of toilet waste should be in the room during daylight hours as staff would be available to allow the young person access to toilet facilities.

With the quantity of food made available at regular meals it is very doubtful if any child or young person could be considered as 'hungry'. It is common practice for children to have 'milko' at about 10 am and 3 pm and this may consist of either fresh fruit, buns, dried fruits and maybe soups or cocoa on colder days in winter. If a child complained of 'hunger' this could indicate the desirability of having the child medically examined, or it may indicate that the child is seeking a little extra attention.

TESTING FOR VENEREAL DISEASES

VD testing is not routine on admission, but will be done if there is suggestion the girl concerned may have been at risk.

The procedure is not always internal pelvic examination.

Stirrups have been regularly used in the past in some institutions. Their use is now not favoured but this would still be a matter for the discretion of the medical officer for a specific reason.

The type of tests and methods used are a matter for decision by the qualified medical practitioner. The Department has been informed that blood tests have limited use in detecting VD.

Either the doctor or the nurse provides appropriate health counselling on an individual basis.

Girls are not assumed automatically to be 'at risk' - but some definitely will be and in those cases the Department has a duty to protect a young person's physical health and also the health of other people.

The Department expects the doctor or nurse to provide a girl with sufficient knowledge so that she can appreciate the reasons for tests, and what they may reveal. Girls appreciate being informed and treated intelligently and when they know why something is being done they are more likely to co-operate. Please refer to Circular 1980/51 attached.

Contraceptive advice will be given by the doctor or nurse to any girl considered

to be sexually active and at risk. The Department's attitude to the delicate nature of this subject is outlined in Circular 1980/51 paragraph 4.4. A copy of this circular is available to doctors who are counselling young persons in the Department's care.

If a girl is seriously considered to be a VD carrier and she refuses an examination she might be placed in the secure area until such time as discussion could take place with the doctor. It is more likely however, that she is in the secure unit and may be kept there until the medical examination was complete. As VD is a communicable disease the Department feels it has a responsibility to the child and the community to see that treatment is given.

Girls who refuse the test are prevented from working in the kitchen.

The following statements were made to the Commission by the medical practitioner currently responsible for the health of the girls at Bollard Girls' Home. She is a specialist in obstetrics and gynaecology and her duties include checking for venereal diseases when appropriate.

The Commission wishes to make it quite clear that the allegations made as to venereal disease testing at Bollard Girls' Home on page 15 do not involve practices or procedures employed by this medical practitioner. She was appointed in 1980 after the beginning of this enquiry and any comments in this report do not refer to her.

On the question of venereal disease testing she said:

"When I question the girl, you get so used to talking to girls, young girls, if you feel that this girl has had sex, or she says she has had sex, I ask her

was your partner clean or something and they say no, but if they have had sex I do check, because I say it is good for them and it is also good for the staff. About 80% have had sex, and they are quite frank about having had sex ... I think that if they have had sex it is necessary, I feel this because quite a number of them are having sex without contraception, and I ask them about it, I talk to them about contraception ... I don't believe in forcing any girl to be examined and I don't think that is the right way to go about examining any young girl, and I don't want to give any girl a psychological hang up, I don't think it is right, but, and if some girl just outright refuses, I tell her that this is not right ... If she says she won't be examined she won't be examined, but I make a note and I sent a note about this girl to the Principal. I say that she doesn't want to be examined, and I am not for tying any girl down and examining her, but I don't think it is right for the staff, and the rest of the girls to have a girl there who hasn't been checked, that I feel very strongly ... As I said some of the girls are very happy to have a VD test they are delighted to know that they are clear, I will make this quite clear, and some of the girls will meet me in the corridor and say, I'm all right I'm all right, Yes you are okay or something like that, they are delighted to have it."

As to the incidence of venereal disease amongst the girls she said:

"I asked them to look through the books, from February, it is seven months I have been there, and I have had 11 cases of VD, and in my own private practice, and in St Helen's because I do the St Helen's ante-natal classes, and I look after girls in Bethany, I haven't had 11 in the last so many years ...

"In a week I see about say roughly about eight to ten and then from February, I have been working, that is approximately 30 weeks."

On the method employed for testing she said:

"I think they had a routine which was before my time, I was told about it, there was one physical examination and one VD examination, that was the wrong thing it should have been all in one. If the girls did need to be tested, if she needed to go to the dentist, and she needed VD, the checks should have been done in the regimented manner you know you go from the top then to the bottom, if she has got ingrown toenails then treat them, I mean that sort of a thing ... Yes I do a full check, and I don't think it is right doing bits, because there was one girl who had rheumatic fever at Allandale, well that is important, very important to be treated because it can be a heart ailment later on ... Internal pelvic examination is what I do, an internal proper with a speculum to see that there is no signs of any shanker or anything which is the VD sore, for a full check up I have a good light, to examine her with, and quite a few of the girls have ordinary infections like thrush, and some of them are girls who run around and don't wash themselves properly."

She also gave her view of untested girls working in the kitchen:

"No I don't think she should be there. I go one step further, why in the kitchen? I don't know about towels, one girls uses another girl's towel, why the kitchen, I don't think she should be, I am being quite dogmatic about that. If she has had sex and she refuses to have an examination, I think the whole staff is at risk let alone the other girls. She is at risk to everybody."

PRIVACY AND MODESTY

At the point of admission when many older difficult and disturbed young persons have to be checked for concealed weapons, and also for bodily infections, it is often necessary for staff to observe children. This is done as unobtrusively as possible.

Girls tend to want privacy - boys tend not to be so concerned. To a large degree the amount of privacy required is dictated by the children and young persons themselves. Staff endeavour to cater as sensitively to a child or young person's right to privacy as the exigencies of the situation make practicable.

While the Department never condones belittling of children it is possible that staff members have made belittling remarks - staff are trained to appreciate the damaging effect this can have on relationships generally. Under provocation, as staff often are, verbal remonstrations may not always be as controlled as desirable.

Using children's names is encouraged - just as children and young persons are encouraged not to use the subservient 'sir' or 'matron' but to address staff by name.

The Department has always insisted that a child or young person has a legal name, and he is entitled to it, and to the correct pronunciation.

Unfortunately many people find correct pronunciation of some names difficult no matter how hard they try.

In most institutions the supply of sanitary napkins is available to girls, but in some it has been necessary to restrict access and in these cases supply is readily available on request to duty staff.

LEGAL ISSUES

The Department interprets being 'in loco parentis' as having the duty to perform all those functions necessary to enhance the social, cultural, spiritual, physical and mental development of any child or young person placed under the guardianship or the care of the Director-General - in the same way as good parents would do by keeping some semblance of balance, and yet through Departmental resources often being able to provide the little extra which many deprived and damaged children and young persons need.

Social work field staff are frequently asked by parents for advice about legal representation when their children are appearing before the Children and Young Persons Court. The procedures for obtaining legal advice, legal aid, or representation are explained in detail.

If a ward of the Director-General of Social Welfare is involved in any court action our instruction is that he/she should have legal advice and, where necessary, representation.

The procedure in cases of staff assaulting children is for the controlling officer to report the matter to Head Office with full supporting documentation, evidence of witnesses, a statement from the child or young person and any other children or young persons concerned, and a full explanation from the staff member.

The Director-General then decides what further action is to be taken and whether the officer is to be charged with an offence under the State Services Act 1962.

If a staff member is accused of a sexual offence and initial inquiry suggests it may well have occurred, a decision would be made in Head Office as to whether the staff member is to be suspended from duty pending a full Departmental investigation, or whether the police should be asked to action the complaint.

A child can lay a complaint against a staff member merely by reporting the matter to any other member of staff or to a social worker, or member of the visiting committee.

Staff, who after appointment are considered to be unsuitable, may not have their appointment confirmed as probationers, they may be transferred from residential care duties; or employment may be found in another part of the Public Service. All reasonable efforts are made to ensure that no unsuitable staff member is retained in residential social work.

(As to laws relating to education). Because many children and young persons coming into care, either temporarily or permanently have had unsuccessful school experiences, the Department has been extending its school facilities within its own residences to ensure access to schooling. Where appropriate, children and young persons may continue to attend their own school, or may be enrolled in a school in the community. For the majority however, the Department provides schooling on the premises.

The attitudes of children and young persons to the classroom do not make the task of a teacher an easy one and many people with a successful teaching

record find they do not enjoy working with our youngsters. Occasionally through staff turnover and the unavailability of suitable replacements, a school programme will suffer interruption.

The Department acknowledges its responsibility to provide continuity of education and maintains a close link with senior staff in the Department of Education so as to ensure that we have access to the best teachers, advisors and specialists available.

INTERNAL REGULATIONS

There are no statutory regulations gazetted under the Children and Young Persons Act 1974 for this purpose. All residences are covered by the practices laid down in the Residential Social Workers Manual. The Principal of each residence is required to elaborate on procedures and practices and through staff induction, training and supervision to ensure that these are adhered to.

There are no minimum standards in the form of gazetted regulations but guidelines and instructions are issued through the Residential Social Workers Manual.

Each secure unit has a diary in which the time of admission and discharge of every young person is noted together with the reasons for admission. Also recorded are any significant incidents or events in respect of the young person. This record is scrutinised by visiting inspectors.

Each residence is required to record punishment in the punishment register which is inspected by social work inspectors.

Children and young persons on admission will be made aware of what they are

expected to do, what they may and may not do, and the general arrangements relating to visitors, letter writing and so on.

Notices are being placed in all residences giving the full names, addresses and telephone numbers of all visiting committee members and inviting anyone to approach them if they wish.

Wherever possible the Department will discuss with parents its proposals for the child or young person. This may be of a more general, rather than specific nature, but in cases where psychiatric treatment, surgery, etc are concerned these matters are discussed. The parents wherever possible, are fully involved in planning for the future of their child.

Parents will be told of their right to visit and of our expectations that they will; also of their right to send letters to their children and to consult a lawyer on any matter. Naturally our objective is to work constructively with parents, and unless a parent's interest was clearly upsetting and damaging to a child or young person, involvement is encouraged.

Many of the communal facilities of our institutions are available to community groups and organisations, and it is common for our residents to be involved in activities centring on the gymnasium, swimming pool or sports field. Outside teams are welcome visitors for a wide range of sporting activity. Religious groups and cultural groups are also welcomed as are volunteers and students in training. Service clubs often adopt an institution as part of their programme, and this may involve the presence of members over a lengthy period while a project is being undertaken, or while activities are being organised with the children and young people in residence. At Owairaka the local Rotary club holds its weekly meeting in a large recreation room, and has done so for some years.

An 'open day' when the institution is thrown wide open for the general public to visit is a fairly common thing, and voluntary organisations from time to time raise funds using our facilities and grounds.

COUNSELLING

In the larger residences Senior Counsellors are on the staff, but in the regional institutions counselling is undertaken by the residential social work team, senior staff, or by professional consultant staff such as psychiatrists and psychologists. Play therapists and field social workers will also be involved.

Psychologists are allocated to each Home on a part time basis and as required by the Department of Education Psychological Services.

Staff training in counselling techniques is an important part of the Department's staff training programmes both within residences and at the Residential Staff Training School at Levin. New staff coming through induction training into residential social work, are given many hours preparation in basic helping skills of which counselling is one.

Children and young persons who have been admitted because of disturbed behaviour often need time to settle and show whether the behaviour appears to have some relation to events and circumstances prior to admission, or is a continuing feature of established response to life. Observation is essential before any effective counselling is undertaken.

Regarding VD counselling in the larger residences where full time nurses are available, they perform this task assisted by the Senior Counsellor when

appropriate. It may also be done by an experienced staff member who is competent and relaxed in this aspect of our work, or it may be done by the doctor if there is sufficient reason.

Where a girl is pregnant, the long term nature of her condition and other considerations make it necessary that a decision is made as to who will do any counselling. It may be decided that the field social worker will provide this, and that the residential staff will provide the support, or a specific person will be assigned the task of counselling and supporting the girl. The same conditions apply in relation to counselling after abortion or after giving birth.

The Department is confident that the general approach by residential social work staff in dealing with children and young persons who are in crisis is one of warmth, and caring. Staff show concern for them, endeavour to provide for their needs and respond in ways which will help them to develop self respect.

STAFF

The Department looks for mature, well adjusted, reasonably intelligent people who on interview and by virtue of background evidence indicate that they have acceptable motivation for undertaking the task of residential care with difficult children and young persons. We also look for qualities of character which make for success in establishing effective relationships with others, the physical and emotional stamina to cope with the task, and a diverse range of skills which assist staff to work with children and young people. It is hoped that staff will also have at recruitment or gain early in their career, practitioner training in social work. This is still a scarce commodity in New Zealand but opportunities are slowly expanding.

Desirable qualities and qualifications are: Understanding, empathy, judgement, outgoing personality, warmth and kindness, tolerance, humour.

Applicant's showing aggressive, stubborn and inconsiderate traits, inappropriate responses to difficult behaviour, a desire for conformity, to reform, 'do good', are treated very warily.

Qualifications are not taken in isolation but considered as one important factor in the background of applicants. Naturally the more related the qualification is to working in a residential social work setting the better.

The Department does not pursue a policy which gives any more prominence to one particular ethnic group than another. All appointments are on merit, but the percentage of Maori and Polynesian staff members in our residences suggests that there is a much higher percentage than in the general work population.

Advantage is taken of the presence of Maori and Polynesian members on our staff to incorporate their knowledge and skills into the staff training programme. Many courses include topics and discussion designed to increase knowledge and awareness of Maoritanga and Pacific Island cultures. Local Maori and Pacific Island groups give valuable assistance.

There is no compulsory training programme of Departmental courses but all staff are encouraged and given incentive to attend. Each Principal is required to conduct an ongoing staff training programme which meets the needs of staff working as a team and staff are required to participate as a condition of service. The regional staff training supervisor conducts short courses and seminars dealing with specific areas of need, as indicated by staff. The Residential Staff Training School at Levin provides a full range of courses

over the complete year for every level of the Department's residential operation.

The staff training programmes within residences or at the Residence Staff Training School cover theories of child and adolescent development, the psychology of working with the disturbed, and meeting the special needs of children and adolescents.

Staff members work from a basis of concern and involvement with children and young persons rather than power over them, but in ensuring that an atmosphere exists in which everyone can feel reasonably secure, a measure of control and routine is necessary in a larger group care situation.

The Principal is responsible either to the Director-General direct, or to the Local Director in the case of regional institutions, and has certain responsibilities which may be delegated to defined levels. In general terms staff powers are akin to those of parents or teachers, with the exception that they have an additional responsibility to the courts and the community for young persons who are temporarily in custody and may need to be restrained.

Staff unsuitability usually becomes evident during the 12 month probation period, and reports at four, eight and 12 months are designed to highlight strengths and weaknesses. If the unsuitability were apparent during this time the Department would ask the State Services Commission to agree to the annulment of appointment. Staff personal assessments which are done each year are also designed to help staff and the Department to evaluate performance. Senior staff are encouraged and expected to be honest in their assessments so that staff can be well aware of their shortcomings. If these amount to unsuitability, quite often the person concerned will see that there is little, if any future in the job for them, and either they will look for another

position, apply for a transfer or resign.

In a situation where an officer appeared incapable of recognising or accepting unsuitability the Department would initiate action to remove the officer from the position. The type of action would depend on the degree of unsuitability, whether it was general or specific, and would need to bear in mind that the officer concerned also has rights which have to be taken into consideration.

CULTURE AND MAORITANGA

About 45-75% of children in the Homes are Maori but it varies considerably and may be as low as 30% on occasions. About 5-10% are of Pacific Island origin.

The percentage differs from Home to Home.

There is a geographical factor and also an age factor. To the extent that institutions are serving South Island populations the percentages are much lower.

The percentage of staff with some Maori or Polynesian ancestry is about 30%.

Regarding Maori or other Polynesian input into policy-making. Policy on a national basis is decided at Head Office level after widespread consultation with districts which often takes the form of conferences and seminars. These are attended by representatives of varying groups and cultures who contribute to the input before decisions are made.

Within the residences all staff members are encouraged to take part in case and staff conferences where internal policy options are discussed.

In departmental courses for residential staff there is provision for topics, discussions and presentations which extend the knowledge and awareness of other cultures.

Departmental policy has always favoured children or young persons being involved in any family event or cultural event which is of significance to the family and where the presence of the child or young person is desired and is practical.

In many of our residences the efforts to ensure cultural identity have possibly stressed acknowledging the needs of the majority (Polynesian and Maori) but this is not seen as disadvantaging the Pakeha, but rather serving to enrich his experiences. The Department attempts to encourage a range of cultural activities with the aim of helping all children and young persons to develop an identity of their own and an appreciation and understanding of the ethnic background and culture of others.

Children and young persons are encouraged to speak their own language. Unfortunately very few do or are able to.

Maori or Pacific Islanders may be involved in specific parts of the programme, on occasions in helping difficult individual children or young people, but not in policy making or any formal administrative way unless they are appointed to Visiting Committees.

Fish is part of the normal diet, but many of the Homes use recreational outings to the sea or rivers as an opportunity for relaxation with the residents, a chance to gather pipis, pauas (toheroa in season) or other sea foods and to cook and eat them.

RE-ADMISSIONS

The regional institutions provide a wide range of services for children and young persons in crisis and can be regarded as having a remand and assessment function. Admission is not designed to be a cure for whatever ills may have brought the child or young person into care, therefore, bearing in mind age on admission, background and offences, and that 80% return to the community within a short period of time it is not surprising that many children and young persons are admitted to an institution more than once. Without taking a specific period for each institution it is not possible to answer e.g., a child may come into Wesleydale at age 11 years in 1976. He may reappear in Owairaka nearly 4½ years later.

Because Bollard and Allendale do assessments designed to indicate potential for resettlement in the community or the need for extended care it is to be expected that most of the admissions to Weymouth will have come either through Bollard and Allendale or similar institutions.

'Care and protection' cases tend not to be admitted or retained at our regional institutions. The general tendency is for our regional institutions to be catering for children and young persons who are 'acting out' - beyond parental control, absconding from home or staying out, truanting, offending against the law, gang membership, etc.

The fact of entering a Home does not of itself indicate that the child or young person's chances of offending or re-offending are heightened or lessened. All factors prior to, during and after residence play a part and must be analysed and understood before any specific event can be blamed for subsequent behaviour.

FORMAL SUBMISSIONS

Both Acord and the Department of Social Welfare were invited to present submissions on the interpretation of the various international instruments on human rights which had formed the framework of the original representations. The most important of these were:

The International Covenant on Civil and Political Rights,

Article 7 - Cruel, inhuman or degrading treatment

Article 9 - Liberty and security of person

Article 10 - Dignity of people in custody

Article 19 - Freedom of opinion and expression

Article 27 - Minority cultures

The International Covenant on Economic, Social and Cultural Rights,

Article 12 - Physical and mental health

Article 13 - Education

In keeping with the non-judicial nature of the Commission's enquiry these submissions were not received in an adversarial manner. Accordingly no counter or cross arguments as such were presented.

Counsel for Acord, Mr A Shaw, made both written and oral submissions to the Commission. These submissions included a general appraisal of obligation under international instruments on human rights and an analysis of the specific allegations made by Acord in light of New Zealand's obligations under the above mentioned Articles. The submissions also included a detailed analysis of the jurisprudence of the European Commission of Human Rights and the European Court of Human Rights. Counsel for the Department, Mr Hooker, presented written submissions both as to the applicable domestic law and

and the interpretation of the Articles of the International Covenants. Both sets of submissions were carefully prepared and were of great assistance to the Commission regarding the relevance or otherwise of much that had been brought to its attention and in clarifying the nature of the function of the Commission in considering the standards of human rights that New Zealand should seek. The following is a summary of the respective submissions with reference to individual Articles:

ARTICLE 7 OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

Article 7 "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation."

SUBMISSIONS OF THE DEPARTMENT ON ARTICLE 7

"The issue is whether any of the 'acts or omissions', treatment, or punishment can be considered to have been:

- (i) cruel, or;
- (ii) inhuman, or;
- (iii) degrading.

1 It is submitted that whether a punishment or treatment is cruel, inhuman or degrading depends to a significant degree, not only upon the nature of the punishment or treatment but upon the attendant circumstances and setting.

2 Further, terms like cruel, inhuman or degrading are not objectively static but acquire meaning from society's evolving 'standards of conduct'.

3 While New Zealand does not have a Bill of Rights or Constitution to protect 'fundamental freedoms', each and every member of the community is protected from cruel, inhuman or degrading treatment by Statute and Common Law.

4 Cruel is defined in the Shorter Oxford English Dictionary as follows:

"Cruel - 1. Disposed to inflict suffering; indifferent to or taking pleasure in another's pain; merciless, pitiless, hard-hearted. 2. Fierce, savage. 3. Severe, vigorous. 4. Painful; distressing."

5 The following factors may be relevant in considering whether the treatment or punishment is cruel:

- (1) whether the method of punishment is inherently cruel or severe.
- (2) whether the punishment is excessive, disproportionate or unnecessary.
- (3) whether the punishment is unacceptable to society
- (4) whether the punishment is being inflicted arbitrarily.

6 Degrading is defined in the Shorter Oxford English Dictionary as follows:

"Degrade - 1. To reduce from a higher to a lower rank, to depose from a position of honour or estimation. 2. To lower in estimation, character, or quality; to reduce in price, strength, purity, tone etc. 3.(a) To reduce to a lower organic type. (b) To reduce to a form less capable of transformation. 4. To wear down (rocks etc) by surface abrasion or

disintegration. 5. To descend to a lower grade or type; to degenerate."

7 It is submitted that treatment or punishment can only be seen to be degrading if it is aimed at or intended to reduce or infringe the normal dignity of the person degraded.

8 Inhuman is defined as follows:

"Inhuman - 1. Of persons: Not having the qualities proper or natural to a human being; destitute of natural kindness or pity; brutal, unfeeling. (b) Of actions, etc: Brutal, barbarous, cruel. 2. Not of the ordinary type."

9 The term therefore means to treat or punish in such a manner as to be less than human, i.e. to force the inmate to act in a non-human manner, for example to force a child to eat off the floor.

10 Conduct only becomes degrading when it has reached a certain point of severity.

11 In summary it may be said that inhuman treatment is treatment causing severe suffering, torture is an aggravated form of inhuman treatment, and degrading conduct is conduct which grossly humiliates.

SUBMISSIONS OF ACORD ON ARTICLE 7

Counsel for Acord submitted that the following practices and procedures which Acord had brought to the Commission's attention were in violation of Article 7.

1 Admission Procedures at Uwairaka Boys' Home

It was submitted that the admission procedures viewed as a totality constituted 'degrading treatment' in terms of the Covenant. Reference was made to the removal of boys' clothes in clear view of others and it was stated that this practice aggravated the degree of degradation in the case of Maori and Polynesian boys whose cultural background would make this treatment even more humiliating and debasing in their eyes. The Commission's attention was drawn to statements made by experts as to the particular modesty and shyness of Maori children being nude in front of others. It was submitted that the undressing procedure had no valid medical purpose and that it was calculated to humiliate the boys and establish the authority of the institution over the individual. The treatment was therefore excessive and unnecessary and attained a level of disproportionality inherent in the notion of degradation.

Another feature making up the totality of the admission procedure was the taking away of personal effects and clothing on admission. It was claimed that this together with the non-issue of underwear and the delousing procedures while not degrading in themselves did constitute degrading treatment when viewed in light of admission procedures as a whole.

2 The 'Nodding' System

It was stated that boys who were subjected to this system were made to feel inferior and that their creative wills were seriously interfered with. The submission was made that when all aspects of the nodding system were considered together with the fact that the system was applied to young people then the system should be stigmatised as being 'cruel, inhuman and degrading treatment' within the terms of the Covenant.

3 Toilet Facilities

It was submitted that toilet arrangements in the Secure block at Owairaka Boys' Home in particular constituted 'degrading treatment'. The two factors relied on in making this submission were the fact that meals were eaten in close proximity to the toilet and that when the cells were shared it was necessary to use the toilet in front of another person.

4 Exercising

It was submitted that the bench-jumping incident at Wesleydale Boys' Home (see page 40) amounted to 'cruel treatment' particularly considering that the boy involved had recently eaten and was an asthmatic. Further it was argued that the lawn mowing of the rugby field for up to eight hours with a hand mower at Wesleydale Boys' Home amounted to both 'inhuman and cruel' treatment or punishment.

Disciplinary exercising in the Secure block at Owairaka Boys' Home (described on page 28) was said to be excessive to a degree that it constituted 'cruel' treatment or punishment particularly when it was considered that it was performed on concrete without footwear.

5 Physical Mistreatment

Reference was made to incidents at Wesleydale Boys' Home (page 36), Owairaka Boys' Home (page 27), and Bollard Girls' Home (page 20). The Commission's attention was drawn to the severity of the acts complained of and to the fact that they involved children and young people, particularly at Wesleydale Boys' Home which caters for boys under 14. In relation to Bollard Girls' Home

it was submitted that the alleged sexual assaults were 'degrading'. In light of all these factors it was argued that the physical mistreatment in the Homes amounted to 'sometimes cruel, sometimes inhuman and sometimes degrading' treatment or punishment.

6 The Boxing Matches

The following was said of the practice of arranging boxing matches which were alleged to have taken place at Wesleydale Boys' Home (page 34).

"In our submission this type of treatment or punishment is such that no human being, least of all a child in a Social Welfare Home should have been subjected to, and in our submission this practice constitutes not only a cruel punishment or treatment, but also an inhuman one."

7 Isolation in Secure Block Cells

Submissions in this area were based on the allegation that boys at Owairaka Boys' Home were subjected to 'solitary confinement', when locked for up to 23 hours in their cells. It was contended that the conditions of 'solitary confinement' which children in the care of Owairaka Boys' Home were subjected to amounted to 'cruel' and 'degrading' treatment or punishment. It was further contended that in cases where boys spent over a month in Secure the treatment or punishment attained the level of intensity necessary to be labelled 'inhuman' as well as 'cruel' and 'degrading'. Counsel supplied the Commission with detailed legal submissions on the issue of solitary confinement. These submissions involved a study of solitary confinement in terms of New Zealand's domestic law, particularly within the terms of section 17(1) of the Crimes Act 1961 which provides that:

"No offender shall be sentenced to solitary confinement."

Reference was also made to the Penal Institutions Act 1954 and regulations thereunder which set the limits for the use of solitary confinement in prisons in cases of offences against prison discipline. The point was made by counsel that except in very exceptional circumstances solitary confinement is not accepted domestically as a legitimate punishment, and never in respect of children.

Reference was also made to various international instruments which dealt with the concept of solitary confinement including the United Nations standard Minimum Rules for the Treatment of Prisoners adopted in 1955, and updated in 1977. The Commission's attention was also drawn to the United Nations 'Draft Principles on Arbitrary Arrest' 1962.

Recent cases under the European Convention on Human Rights decided by the European Court and Commission on Human Rights were canvassed in detail as interpretive guides to Article 7 in the area of solitary confinement. Discussion centred on the Eggs case and the Baader-Meinhof case, (references). It was argued that while it emerges from the jurisprudence of the European Court and Commission that solitary confinement is not illegal per se, it is well established that the total conditions of each particular case must be looked at and violations found where the conditions and surrounding circumstances so warrant. The following passage from the European Commission's report in the Baader-Meinhof case was cited, (page 156).

"Prolonged solitary confinement is undesirable especially where the person is detained on remand. However, in assessing whether such a measure may fall within the ambit of Article 3 of the Convention in the given case, regard must be had to the particular conditions, the stringency of the measure, its conditions, its duration, the objective

pursued and its effects on the person concerned. Complete sensory isolation coupled with a complete social isolation can no doubt ultimately destroy the personality, thus it constitutes a form of inhuman treatment which cannot be justified by the requirements of security."

Counsel for Acord invited the Commission to be guided by the above principle when considering violations of Article 7 of the International Covenant on Civil and Political Rights in respect of the total conditions and circumstances described by people with personal knowledge of Secure blocks.

8 Cell 7 at Owairaka Boys' Home

It was argued that the above submissions made in respect of solitary confinement and their violation of Article 7 applied with greater force with respect to conditions in Cell 7.

"In our submission the conditions of Cell 7 are calculated to produce extreme mental and psychological effects."

It was claimed that as there was no prospect of leaving Cell 7 the level of pain and suffering was more severe and deprivation of liberty more aggravated. Accordingly, counsel argued that a child being locked in Cell 7 for any longer than six hours would be subjected to 'cruel inhuman and degrading' treatment or punishment under Article 7.

9 Venereal Disease Testing

It was argued that the method and manner of Venereal Disease testing, particularly at Bollard Girls' Home (page 15), was humiliating and absolutely unjustifiable

on medical grounds. This level of humiliation was exacerbated by the young age of those subjected to the tests and by the fact that the tests were carried out in a manner which the girls themselves perceived as being humiliating, demoralising and a form of punishment. Accordingly it was submitted that in all the surrounding circumstances and factors the testing constituted 'degrading' treatment or punishment under Article 7.

10 Provision of Sanitary Napkins

The system of distribution and disposal of sanitary napkins at Bollard Girls' Home (page 18) was described by Counsel for Acord as a practice which amounted to 'degrading' treatment.

ARTICLE 9 OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

Article 9

- 1 Everybody has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedures as are established by law.
- 2 Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.
- 3 Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to

release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

- 4 Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.
- 5 Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

SUBMISSIONS OF THE DEPARTMENT ON ARTICLE 9

- 1 The provisions contained in this Article are secured by Statute and Common Law in New Zealand.
- 2 Children are at all times in the Department's care following the use of a legal process and have therefore not been 'arbitrarily' arrested. This provision does not deal with persons in lawful custody, as is the situation with children in the Director-General's institutions, but rather is aimed at controlling the means by which persons are placed in custody. The provision has no application to the matter before the Human Rights Commission.

SUBMISSIONS OF ACORD ON ARTICLE 9

Detailed arguments were presented on the nature of obligations under various parts of this Article.

Consideration was given first to the second sentence in Article 9(1) - "No one shall be subjected to arbitrary arrest or detention."

Reliance was placed on the writings of eminent commentators, such as Dr Hassan, as to the meaning of the word 'arbitrary' in the above provision. Counsel asserted that the meaning to be ascribed to the word 'arbitrary' was not that it merely involved questions of illegality, but that it also connoted a standard of justice and reasonableness. It was argued that the absence of appeal review and due process of law involved in the concept of 'arbitrary' is designed to protect individuals from both illegal and unjust acts.

In the case at hand it was asserted that children and young persons in Secure Blocks are detained in that their right to 'liberty and security of person' was impaired. It was therefore further argued in the case of children and young persons, other than those on court remand, that this detention was arbitrary because there was 'no legal authority to lock these people up in solitary confinement ... The Crimes Act specifically makes it unlawful for the imposition of solitary confinement as a punishment except when in accordance with the Penal Institutions Act'.

Apart from the detention being illegal it also constituted 'arbitrary detention' in that it was unjust and unreasonable because no grounds for the detention needed to be given, and the length of detention was undetermined. Furthermore there was ^{no} procedure by which the detention could be challenged, and that this fact supported counsel's view that the whole system is arbitrary.

Consideration was then given to the third sentence in Article 9(1).

"No one shall be deprived of his liberty except on such grounds and in

"accordance with such procedure as are established by law."

It was submitted that the deprivation of liberty which occurs when children and young people are placed in 'solitary confinement' or Cell 7, cannot be said to be on such grounds and in accordance with a procedure as is established by law because there is no legal authorisation to detain them in such a locked up situation.

Argument then Moved to Article 9(4)

"4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful."

Counsel argued that there was no reviewing authority possessing the characteristics of a court by which the children and young persons in Secure blocks could practicably test the lawfulness of their detention and the conditions placed upon their liberty. Reference was made to the recent Uruguay case before the United Nations Committee on Human Rights which referred to effective remedies and it was asserted that the situation in Secure blocks was in violation of Article 9(4).

ARTICLE 10 OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

Article 10

"1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

2. (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons; (b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.
3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status."

SUBMISSIONS OF THE DEPARTMENT ON ARTICLE 10

- 1 This Article deals with persons who are subject to lawful custody, and the conditions in which they shall be kept.
- 2 It is not possible to adequately define or reflect a standard of the 'inherent dignity of the human person', but rather one must consider each and every case on its particular facts.
- 3 The Article also relates to keeping apart accused as against convicted persons. Such terminology is not appropriate to the children and young persons area, but in the context of the Children and Young Persons Act, this means separating those who are subject to hearing and disposition from those whose case has been heard and disposed of.
- 4 There is no provision or guideline in the Children and Young Persons Act to keeping separate the two classes, but one must ask whether such an approach is necessary or desirable. In light of the fact that actions are governed by what is in the interest of the child rather than a

punitive framework, compliance as a matter of policy is inherent in the policy and action taken.

SUBMISSIONS OF ACORD ON ARTICLE 10

In dealing with the nature of obligations under Article 10(1) Counsel put it to the Commission that when looking at the concept of 'the inherent dignity of the human person' one must view it as a wide ranging concept encompassing the physical, mental, social and moral welfare of an individual. In support of this interpretation reference was made to principle 2 of the United Nations Declaration of the Rights of Children which speaks of the need for the physical, mental, moral, spiritual and social development of children 'in conditions of freedom and dignity'. It was argued that this indicated the ambit of the concept of human dignity.

In the context of Article 10 it was submitted that there is an obligation to provide a social environment in the place of detention in which the potential of the individual is encouraged and fostered. Reference was made to the United Nations Standard Minimum Rules for the Treatment of Prisoners and to the fact that Detention Centres should be remedial and reform based.

The broad submission was made in relation to all the practices which were said to be in violation of Article 7 that should the Commission not find that any of those acts or practices did not come within Article 7 then it should look at them in the light of Article 10(1).

Brief submissions on Article 10(3) were based on the view that children and young people in Social Welfare Homes were not accorded treatment appropriate to their age. The admission procedures through Secure blocks and venereal disease testing were cited as examples.

ARTICLE 19 OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

Article 19

- "1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of his choice.
3. The exercise of rights provided for in paragraph 2 of this Article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary. (a) For respect of the rights or reputation of others.
(b) For the protection of national security or of public order (ordre public), or of public health or morals."

SUBMISSIONS OF THE DEPARTMENT ON ARTICLE 19

This Article is an extension of Article 17 and covers individual aspects to protect individual thoughts and views; private and political. In the context of this very broad provision each case must be viewed only on its merits and it is not possible to submit any broad interpretation to assist.

SUBMISSIONS OF ACORD ON ARTICLE 19

In relation to the right to 'freedom of expression' in Article 19(2) Counsel argued as follows: "The word expression must be broken down into its component parts and freedom of speech is part of one being able to express oneself and the nodding system impairs the right to freedom of speech."

ARTICLE 27 OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

Article 27

"In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language."

SUBMISSIONS OF THE DEPARTMENT ON ARTICLE 27

1 This Article protects the rights of minorities to practice and retain their own customs, rights and thus preserve the individual character of their group.

In the context of the present setting, children are in the Department's custody following due process of law and following the Department's charter, we are obliged to act in their best interest and as the circumstances reasonably dictate.

SUBMISSIONS OF ACORD ON ARTICLE 27

The submission under this Article was couched in the following terms: "A high proportion of the children in the Homes are Maori and other Polynesian and there is no encouragement, in fact there is discouragement of the use of culture and of the use of their customs, their language, their songs in Social Welfare Homes." The assertion was that in the Homes there were no positive steps taken to advance the right to practice or manifest one's culture and religion as distinct from an absolute denial of that right. It was argued

that this was sufficient to constitute a violation of the Article.

ARTICLE 12 OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Article 12

"1. The States parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

- (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
- (b) The improvement of all aspects of environmental and industrial hygiene;
- (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
- (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness."

SUBMISSIONS OF THE DEPARTMENT ON ARTICLE 12

A The provisions of this Article are to a large extent embodied in statute law in New Zealand; for example, there are numerous regulations in respect of safety at work, the control of epidemic disease and the provision of free and subsidised medical services available to all.

B It is not possible adequately to define or measure the 'highest attainable standard of mental and physical health'. The standard would depend on economic and political considerations which may vary from time to time. It is submitted that the highest attainable standard of physical health

can be achieved by a high standard of hygiene and cleanliness within the Department's institutions. It is further submitted that by means of supervision and frequent inspection the high standards of cleanliness and hygiene required by the Department are consistently and thoroughly satisfied. The Department as custodian of the children in its institutions acknowledges a special responsibility for the health of the children and sets standards which conform to Article 12. Cleanliness of secure units is a matter which rates a high priority, and the health of the children in residential care is testimony to the high standards which are maintained throughout the Department's institutions.

SUBMISSION OF ACORD ON ARTICLE 12

It was argued that various conditions and practices in the Homes did not constitute the 'highest-attainable standard of physical and mental health' under Article 12(1). As a basis for this contention the Commission's attention was drawn to the practice of using the same cleaning apparatus for all the toilets in the Secure block at Owairaka Boys' Home. It was also claimed that the eating of meals next to toilet bowls and the system of sanitary napkin disposal were grossly unhygienic.

The further contention was made that there was nothing to show that steps were being taken to fully realise the improvement of all aspects of environmental hygiene under Article 12(2)(b).

ARTICLE 13 OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Article 13(1)

"1. The States parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace."

SUBMISSIONS OF THE DEPARTMENT ON ARTICLE 13

A This Article recognises the right to education. This right is embodied in statute law in New Zealand.

B The Department of Social Welfare has over a period of many years increased the educational opportunities of children coming into care, who for many reasons cannot be placed in ordinary schools. The majority of departmental institutions have their own school on the premises which ensures much readier access to education. The Department of Education has responsibility for the appointment of teachers, for inspection and the professional standards of the school, and departmental inspectors act as advisors to this department in educational matters.

Because teaching children in residential care is not an easy task, from time to time some difficulty is experienced in recruiting suitably qualified and talented people, but in emergencies residential staff have assisted to keep the school programme going.

The Department endeavours at all times to ensure that the legal

requirements for the education of children in residential care are met.

C Certain institutions have 'secure' units where children and young persons may spend varying periods of time. The functions of the secure unit are several and may not be consistent at that particular time with the provision of 'formal' education in a school setting. Nevertheless, the Department recognises the right of the child or young person within the secure unit to receive education and makes provision for continuation of education as far as possible. Correspondence Course material and personal tutoring is available if the child or young person is willing to engage in those activities. If he or she does not wish to take part in educational activities, the matter is left in abeyance until the child or young person is removed from the secure unit. As these periods in 'secure' are in the majority of cases short, i.e. under three days (and these may include non-school days) the interruption to formal schooling is negligible for most children or young persons.

D The Department of Social Welfare, therefore, complies with Article 13 of the treaty to the fullest extent possible in the various circumstances presented in its function as the caretaker of children and young people who are frequently mentally disturbed, socially disruptive or so unused to any form of mental discipline that formal education is impractical.

SUBMISSIONS OF ACORD ON ARTICLE 13

Objections under Article 13(1) were primarily in respect of the lack of educational facilities within the Secure block at Owairaka Boys' Home. The point was made that many of the boys passing through the block were there under truancy complaints yet while detained in the block they received no

education. This lack of any educational facilities of any type, it was argued, did constitute a denial of the right to education within Article 13.

VI

THE COMMISSION'S VIEW

The Commission, as has been stated previously, is not a judicial body and it does not have the function of establishing breaches of international law. Accordingly the enquiry leading to the preparation of this report was not conducted in an adversarial manner with evidence being taken under oath and the right of cross-examination or rebuttal of specific allegations.

However, the Commission does have the function of reporting to the Prime Minister under section 6(1)(a) of the Human Rights Commission Act 1977 on:

"Any matter affecting human rights, including the desirability of legislative, administrative, or other action to give better protection to human rights and to ensure better compliance with standards laid down in international instruments on human rights."

The Commission has the further function under section 78 of the Act to publish reports "in the public interest or in the interests of any person or department or organisation."

After considering all the information put before it during this inquiry and the representations made, the Commission is of the opinion that some practices and procedures are of such a nature that they raise serious and substantial questions regarding this country's "better compliance" with the standards set out in Articles of United Nations Covenants on Human Rights, as ratified. The Commission will therefore forward this report to the Prime Minister for consideration by the Government with recommendations that certain action be taken in terms of section 6(1)(a) and section

78 of the Human Rights Commission Act 1977.

The provisions of the United Nations Covenants and the allegations made that are of particular concern are as follows:

THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

Article 7 (Which refers to cruel, inhuman or degrading treatment or punishment)

- * The 'nodding system' of non-verbal commands that was in practice at Owairaka Boys' Home Secure Block.
- * The arranged boxing matches which occurred at Wesleydale Boys' Home.
- * The physical exercising and physical treatment as described on pages 27, 28, 29, 36, 37, 39 and 40 of this Report.
- * The punitive long-term use of 'Cell 7' at Owairaka Boys' Home.

Article 9 (Which refers to the right to liberty and security of person)

- * The confining of children and young people to Secure Blocks in the absence of legal rules or regulations governing the grounds for or duration of that detention, coupled with the lack of practicable means of seeking independent judicial or other review of that detention.

Article 10 (Which refers to humane treatment and respect for the inherent dignity of the human person)

- * All those practices and procedures mentioned under Article 7.
- * The admission procedures at Owairaka Boys' Home as outlined on pages 21 & 22
- * Venereal disease testing procedures at Bollard Girls' Home.

- * Toilet facilities in Secure Block Cells particularly when shared.
- * Isolation in Secure Block Cells.

Article 27 (Which refers to the rights of minorities)

- * The lack of recognition, overt or otherwise, of differing cultures and ethnic backgrounds in the administration of some Homes.

THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Article 12 (Which refers to the right of everyone to the highest attainable standard of physical and mental health)

- * The standards of the physical and mental environment as described in the Secure Blocks at Owairaka Boys' Home and Bollard Girls' Home.

Article 13 (Which refers to the right of everyone to education)

- * The lack of 'education facilities', more particularly in Secure Blocks.

VII

CONCLUSIONS AND RECOMMENDATIONS OF THE COMMISSION

*"He kokonga whare e kitea,
He kokonga ngakau e kore e kitea."*

("The corners of a house can be seen, the corners of the heart are not seen").

The subject material of the representations was of a serious and complex nature both in fact and law. The Commission was always mindful that it was dealing with the rights of children and young people and that the children and young people involved were predominately of Maori or other Polynesian backgrounds. The Commission was therefore not only dealing with the susceptibilities of youth but also with the recognition and appreciation of minority cultures in a multi-racial society.

The Commission recognises the difficulty of the Department in running residential institutions particularly those institutions which have a short-term function. This difficulty is graphically set out in the paper by Mr A Ricketts which is contained in this report. It is also appreciated that some - but not all - of the children and young people involved are those for whom no other arrangements for care can be made. To that extent they represent the most intractable problem cases. The co-operation of Departmental Officers towards the enquiry, particularly Mr J Scott, Director of Residential Services, is greatly appreciated. Throughout, the Commission has been impressed by the quality and forthrightness of Departmental Staff who appeared before it. Their assistance has been invaluable to the preparation of this report.

Furthermore it is acknowledged that many, if not all, the practices and procedures which formed the basis of the representations by ACORD have

been eradicated, and the Department has embarked on a programme of innovative change. The Commission is gratified both by the seriousness which the Department accorded the inquiry and by its willingness to reconsider practices and procedures which came to light during these proceedings. It is hoped that this inquiry has demonstrated to the Department the value of an independent review, such as this by the Commission, of undesirable practices and procedures which may have become accepted simply through familiarity, oversight or lack of communication.

The recommendations in this section are made in light of both the need to ensure New Zealand's future better protection of human rights and better compliance with standards laid down in international instruments on human rights; and the Commission's function under section 78 of the Human Rights Commission Act to make reports in the interest of any Department.

1 THE PHILOSOPHY OF THE HOMES, CULTURE, COMMUNITY AND FAMILY

- (a) Positive steps should be taken in the Homes to recognise, appreciate and foster the rights of minorities to practice their culture, such an approach should be a major consideration in the administrative policy of the Homes. The success of residential care to a large degree hinges on this consideration.
- (b) The Homes should be protective, never punitive, and should provide for the needs of each child or young person as an individual with individual requirements.
- (c) The involvement of the extended family goes hand in hand with cultural emphasis in the Homes. Every possibility must be taken for families

to become positively involved with their children in care. At the time when young people are in need of a great deal of support they suffer separation. The first step would be to show families that they are welcome, accepted and essential to their children's future.

One of the dangers of legislation such as the Children and Young Persons Act 1974 is that it can have a contrary effect to its original intention. Even with the best of intentions there can be paradoxical consequences for an Act intended to apply child care measures of a welfare nature to alter a situation previously seen in terms of a justice model.

Mr B Jordan, Sociology Professor Exeter University, at the 'Rights of the Child and the Law Conference' organised by the Human Rights Commission in 1979 commented on the risks in this interventionist approach by the state in the English context, in the following terms:

"I am suggesting that when the field of State child care work comes to be seen primarily in terms of the deviant behaviour of certain parents and certain children, this exacerbates the existing problem of shared responsibility and leads to greater reliance on compulsion, and on Court Orders which clearly demarcate responsibility and confer control taking it entirely from parents or from the children themselves and giving extra power to the State. Even the voluntary element in substitution of care becomes difficult, and the notion of short-term assistance to parents by voluntary receptions into care falls into disrepute. So does rehabilitation with families of longer stay children. More children now stay in care until they reach the age of majority. These are all changes in practice which have come about against the avowed intention of legislation."

It is the Commission's view that this situation exists in part in New Zealand under the Children and Young Persons Act 1974. The Commission therefore recommends that every effort should be made to supplement or support parental care in an effective way before any official action on substitute state care is considered. Initial concentrated assistance to parents will in some cases obviate the

need for formal state intervention and consequent admission to residential care. 'Agreements' under section 11 of the Children and Young Person's Act 1974 provide the machinery for this approach. Section 11 permits the consensual involvement of parents or anyone having custody and the Department of Social Welfare to make arrangements for the care or control of a child or young person. The wishes of the child are to be considered and the agreements have the advantages of encouraging parental involvement and providing a more flexible option to formal custodial orders. It is the Commission's view that this option should always be put to parents by Departmental Officers before more formal steps are taken. Resources applied to family assistance should be a high priority in child-welfare policy.

A similar recommendation to this was made in the 'Child in Care' section of the final report prepared by the New Zealand National Commission for the International Year of the Child 1979. On page 110 of the report the following recommendations were made:

- "1 That full and active support be provided for parents who need help, advice, etc to enable the child to be kept in its own home.
- 2 That regular educational campaigns be conducted to promote knowledge and public understanding of how individuals can help in the prevention of children coming into care.
- 3 That steps be taken to promote better public relations and understanding on behalf of children in care."

(d) Every effort must be made to encourage and foster community involvement with the Homes. The Commission was aware from the statements

made to it by Maori and other Polynesian staff members, parents, and community leaders that there was suspicion and resentment amongst these groups, of the Homes and their administration. This can only be dispelled by a more open approach by the Department and a recognition and utilization of the resources of these groups. These groups must be involved on their own terms and within their own cultural contexts. This of course will be a great challenge to the Homes as they now exist, but it is a challenge which must be met. Any shutters to criticism must be lifted, and the staff encouraged to adopt the view that they can be helped in their work by concerned individuals and groups in the community.

2 A GUARANTEE OF BASIC RIGHTS AND LEGAL SAFEGUARDS

- (a) Article 2 of the International Covenant of Civil and Political Rights establishes that New Zealand has international legal obligations to provide effective legal remedies to those whose rights or freedoms under the Covenant are threatened. From the matters disclosed by this enquiry the Commission is greatly concerned about the practical existence of such effective legal remedies for children and young people in care under the Children and Young Persons Act 1974, in particular under section 103 of that Act. While section 4 of the Children and Young Persons Act enunciates the broad principle that the interests of the child are to be paramount, the Act contains no statutory or regulatory provision setting out the standards of treatment for children and young persons in Social Welfare Institutions. It is acknowledged that the Department does have its own internal manual, but this is without force of law and in the Commission's experience the contents seem not to be widely known amongst Departmental staff.

The Commission therefore recommends that consideration be given to the enactment of detailed statutory or regulatory provisions establishing the legal rights of children in state care, to a minimum standard of treatment and to recourse to an independent judicial or quasi-judicial body to consider whether that minimum standard is not accorded them. Any protection of these rights must be by way of a practicable system providing an effective legal remedy. The current Visiting Committees, which of course have their own value, do not appear to provide this at present.

It is envisaged that such a protective system, possessing the impartiality of independence would assist the children and young people, and also the officers of the Department.

- (b) Regulations ensuring these rights could be made under section 105 of the Children and Young Person's Act. The Commission commends the following basic rights for children in care, as suggested to it by Pauline Tapp, Barrister, during the inquiry:

- "i The right to separate representation in any legal action concerning the care of the child; to be consulted on all decisions concerning him/her; to be informed of his/her rights in a manner and language which he/she can understand.

- ii To have regular and sustained contact with his/her family, including persons who the child regards as "family" unless a court has determined that such contact would not be in the child's best interests.

- iii To receive adequate health, social and educational services continuously and according to his/her requirements.
- iv The right not to be put in solitary confinement.
- v The right that every disciplinary measure taken against a child be in the child's interest and in conformity with internal rules made pursuant to regulations under the Childrens and Young Persons Act. A copy of the rules to be posted in a conspicuous place in the institution and a copy to be given to each child and his/her parents. The rules to be written in a manner and language which the child and/or his/her parents will understand.
- vi The right to communicate confidentially with his/her advocate, the director of the institution and the staff etc."

3 REGULATION OF SECURE BLOCKS

As an extension of the above recommendation there is a compelling need for the legal regulation of all procedures relating to Secure Blocks. At present children or young persons can be detained in Secure Blocks in the absence of any legal rules regulating their detention. This is particularly so in the instance of those who are not on remand pursuant to a Court Order.

Regulations governing Secure Blocks should provide a higher minimum standard of protection for children and young persons, than those applying to adult prisoners in penal institutions. Particular

attention should be paid to the control of detention in Secure Blocks for disciplinary purposes. Any detention in a Secure area must be for a finite maximum period. Clocks and calendars should be on display. Meals should be eaten outside cells which contain toilets.

4 ADMISSION TO THE HOMES

- (a) Admission to the Homes should not be effected by processing through or placement in Secure Blocks as a matter of course. The administrative convenience of this might be evident, but it is wrong in principle as it places the immediate emphasis on detention and punishment. Admission through such blocks can only be counter-productive to good standards of care particularly when one considers that many children enter the Homes because they have been mistreated or abandoned by adults. Assessments should be made positively and not on a presumption of wrong-doing.
- (b) The children should receive on their admission a simple, explanatory, colourfully illustrated information brochure. At Owairaka Boys' Home there is a small booklet You and Owairaka provided. This is a good step in the right direction, but its layout and style are forbidding. This information should be given in cartoon strip form and in the simplest language. It is significant that the normal reading material provided in the Homes consists of comics. Apparently this is considered the appropriate sort of reading material for the children in accordance with their general level of literacy and language skills. Hence it would seem obvious that the rules and regulations, the duties and rights and responsibilities that come from being in a Home, should be communicated in a similar way. The present booklet used at Owairaka

Boys' Home might be modified and kept as a supplement to a more basic introduction and explanation of procedures and rights at all homes. The tenor of the booklet should indicate the philosophy behind the Home, and should engender a spirit of hope.

5 DISCIPLINE

Some disciplinary practices should not be allowed in any circumstances, as for instance the system that applied in the Secure block at Owairaka of all instructions being given by head nods. Strict discipline may well be necessary, but methods should be reasonable and seek to encourage a sense of dignity and self-worth. Children should not be treated as recalcitrant adults. Staff should never physically or verbally abuse those in their care.

6 VENEREAL DISEASE TESTING

- (a) Procedures for venereal disease testing should never involve elements of compulsion or coercion. Each girl should be treated individually with extensive and sensitive counselling to meet her particular needs. Mr D G Bonham, Head of the Auckland Post Graduate School of Obstetrics and Gynaecology in response to a formal enquiry from the Commission emphasised "the importance of kindness, calmness and matter-of-factness about this type of examination."
- (b) There are no clinical grounds, according to medical information supplied to the Commission, for withdrawing privileges from untested girls. There is, likewise, no medical justification for preventing these girls from working anywhere in kitchens. The Director of the Department of Health, Health Promotion Division, advised the Commission that "provided

proper hygiene techniques are observed, the risk of transmission of infection via food is so negligible that the majority of doctors permit patients confirmed as V D cases to continue at a job involving food handling." Dr F Wilmott specialist in venereology in Auckland, who assisted the Commission greatly on this question, confirmed the above, and went on to give his opinion that in this area the Venereal Disease Regulations 1964 were obsolete.

7 EDUCATION

- (a) It was ironic that young people in Owairaka Boys' Home Secure Block received no education of any type, when in many cases they are placed in the institution for persistent truancy. Rehabilitation and the restoration of self-esteem would be served by the provision of educational facilities in Secure Blocks. The Commission recognises the practical difficulties of providing such facilities, but it is essential that basic educational material, particularly in remedial reading assistance, be made available to every young person in a Secure Block. This cannot be done except by the provision of highly qualified educational staffing on a generous scale, such as one to three.
- (b) It is realised that the difficulties in these institutions are many, such as age variation, lack of past attainment, the brief times some will be at the institution, involvement with Court appearances, interviews with lawyers and welfare officers etc. Nevertheless we are sure something better can be provided, and careful consideration to special types of programmes should be given by the education authorities. Specialist teaching services need to be provided in substantial numbers, because it must be recognised that all of the children in the Homes

will have learning problems. There is a unique opportunity to alter the situation for them at this time. For many it may not work no matter what is done, but a real effort at the very beginning of their being in the Homes has to be made if there is to be hope for the improvement and development of any substantial number.

8 STAFF

- (a) Staff involved in the residential Homes must be of the highest personal and professional character. They should be drawn from the widest cross-section of society and advertisements for staff should be placed more widely than is now the case. An advantageous pre-requisite for any staff appointment could be a bi-cultural background with a particular knowledge and interest in Maori or other Polynesian cultures and value systems. Military backgrounds, as have been sought in the past, should not be seen as being normally suitable. Communication and social skills such as flexibility, adaptability and sensitivity should have precedence over administrative or authoritative skills.
- (b) The staff training programmes should be compulsory for all despite difficulties with replacement or substitute officers.
- (c) Multi-cultural studies should be an integral and important component of all staff-training programmes, they should be seen as relevant to all aspects of such programmes and not simply as one separate topic among others.
- (d) Career structures and salaries should recognise the vital work which officers perform, with skills in relating to young people taking a

significant place in promotional evaluation.

- (e) The Commission discerned a need to clarify and co-ordinate the roles of social workers in the field and residential officers in the Homes. This became most obvious in the Commission's discussions with officers from both sides of the service who described a conflict of roles, or at least tensions between their functions. Some steps need to be taken to clarify their respective roles to ensure that each better understands the other's function, and to seek ways of both relating more directly to the child in care. How this is to be done is clearly a question for professional consideration, but perhaps the 'gap' between the two services might be partially closed by increased career structure mobility between them.

A THOSE INTERVIEWED

1 Suggested by Acord

The Commission saw and heard or received written submissions from the following individuals either appearing on behalf of Acord or of their own volition:

15 children and young persons who had been placed in an institution
(8 male, 7 female)

6 parents or foster parents of those children

10 present and past staff members of Auckland institutions, being residential social workers, teachers and service staff

3 social workers

2 concerned neighbours

Amongst prominent members of the professions and community organisations who gave their time and assistance were:

Ms P Tapp	Barrister, Senior Lecturer in Law
Mr B McLean	Barrister and Solicitor
Mr G McGee	Barrister and Solicitor, Playwright
Professor Werry	Psychiatrist
Ms D Awatere	Child Psychologist
Ms W Pokroy	Child Psychologist
Ms R Bonita	Medical Researcher
Mr R Nairn	Senior Tutor Behavioural Sciences

Dr F Wilmot Venereologist
Dr Ellis-Pegler Specialist Infectious and Communicable Diseases
3 Superintendants of Adult Prisons
Mrs A Tia JP Community Worker
Mrs B Wark Arohanui Trust Incorporated
Ms V Kupenga Legal Community Worker
Mrs M Szazy Community Leader
Mr E McLeod Auckland District Maori Council
Mrs L Brown Community Worker
Ms T Harawera Auckland Maori Youth Council
Ms H Jackson Community Leader
Mr D Gooder Guidance Counsellor
Community Volunteers Incorporated
New Zealand Counselling and Guidance Association

Most Reverend Paul Reeves, Archbishop of New Zealand
Rev Dr G A W Armstrong
Father Vincent J Hunt
A C Barrington
Ms M Baker Christchurch Catholic Commission for Justice
and Development

2 Approached by the Commission

Professor D G Bonham Postgraduate School of Obstetrics and Gynaecology
(Auckland)
Department of Health
Police Department

3 Requested of the Department of Social Welfare

Mr J Scott	Director of Residential Services
Mr P Woulfe	Principal Kohitere Boys' Home
Mr A Ricketts	Principal Owairaka Boys' Home
Dr N Thakurdas	Obstetrician and Gynaecologist (Auckland)
Mr T Waetford	Superintendent Wesleydale Boys' Home
Mr K Woods	Superintendent Bollard Girls' Home
Miss J Hough	Superintendent Allandale Girls' Home
Mr M Powierza	Superintendent Weymouth Girls' School
Two officers	from the Secure Block, Owairaka
An officer	from the Secure Block, Bollard
Mr R Magness	Visiting Committee Member

B INSTITUTIONS VISITED

During the inquiry the Commissioners took the opportunity of visiting and inspecting a number of institutions administered by the Department. During these visits the Commissioners were able to view all available facilities and discuss any details with the staff who were at all times helpful. The following is a list of the institutions visited together with a brief description of their capacity and function:

1 April 1980

AUCKLAND	Capacity		Teachers	Purpose
	Open	Secure		
Bollard Girls' Home	30	4	2	Remand and short term care girls 10-17
Owairaka Boys' Home	44	18	2	Remand and short term care boys 14-17
Wesleydale Boys' Home	24		2	Remand and short term care boys 10-14
Weymouth Girls' Home	60	13	6	Long term training girls 13-16
OTHER				
Hokio Beach School	60	2	7	Long term training boys 12-14
Kohitere	110	12	8	Long term training boys 14-17
Epuni Boys' Home	42	4	3	Remand and short term care boys 10-17
Wellington Girls' Home	36	4	2	Remand and short term training girls 10-17