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AN EVALUATION OF THE CHILDREN'S ADVOCATE
SCHEME PILOT IN THE AUCKLAND CHILDREN
AND YOUNG PERSONS COURT

NCJRS

JAN 15 1988

ACQUISITIONS

By

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A Study Commissioned by the Department of Justice

July 31, 1985

Abstract

AN EVALUATION OF THE CHILDREN'S ADVOCATE SCHEME PILOT IN THE AUCKLAND CHILDREN AND YOUNG PERSONS COURT

The Advocate Scheme pilot was tested in the Auckland Children and Young Persons Court between November 1, 1984 and April 30, 1985. This report is an evaluation of the effectiveness of that Scheme, carried out for the Department of Justice by the Social Research and Development Trust of Auckland.

The Scheme was designed to overcome some of the inadequacies of existing legal assistance programmes. Ten lawyers were rostered on a regular basis as a team, and a liaison officer was appointed to relate to families and the community. The Scheme aimed to (a) improve the quality of legal representation, (b) improve the quality of the court experience of children, (c) increase family involvement and (d) make use of the contributions of community groups and volunteers.

The Evaluation was a multi-method study, which included structured interviews with court personnel, parent and child interviews, case studies and participant-observation. The research revealed, among other findings, that the number of females had risen, Maori numbers were excessively high and the proportion of Pacific Islands children had increased dramatically in recent years.

The report concludes that rates of legal representation at the child's first appearance, and the continuity of representation for subsequent appearances, have risen significantly as a result of the Scheme. The quality of representation for re-offenders needs some improvement. Children and parents generally assess the quality of their court experience favourably. But levels of family and community involvement have not increased markedly, at least not as a direct result of the Scheme. Recommendations point to (a) alterations to certain court procedures and the advocate roster, (b) an improved information and appointments system, (c) freeing up the liaison officer from clerical duties and (d) a more organised programme of family and community involvement.

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INTRODUCTION

1.1 Overview

1. This report is an evaluation of the pilot Children's Advocate Scheme currently in operation at the Auckland Children and Young Persons Court. Field-work to assess the Scheme occurred between November 1, 1984 and April 29, 1985 - the initial trial period of the Scheme pilot. Analysis of findings and report preparation took another three months. The study was carried out by staff of the Social Research & Development Trust of Auckland, under contract to the Department of Justice.

1.2 History

1. In order to assess apparent shortcomings of the existing legal aid system in New Zealand and consider alternatives, the Planning and Development Divisions of the Department of Justice instituted a review in the early 1980s. The resulting three-volume report, entitled Access to the Law, covered a wide range of contemporary schemes. With regard to the Duty Solicitor programme, the report noted matters such as lack of representation for children and underqualified solicitors, which needed attending to.

2. As a result of the report, the Working Party on Access to the Law was retained. The Working Party gave consideration to how the Duty Solicitor Scheme might be modified. In October 1982 they visited Auckland to discuss proposals with various court officers and community volunteer groups. Members of the Party were particularly interested in obtaining reaction to a proposed CYP Advocate Pilot Scheme. As a result of the visit, the Working Party's Interim Report (December, 1982) set out a detailed blueprint for a pilot scheme, and procedures for monitoring its effectiveness. In 1983, the Advisory Committee on Youth and the Law, chaired by the Race Relations Conciliator Hiwi Tauroa, pointed to similar deficiencies in existing CYP court operations and Duty Solicitor programmes. By 1984, the Department of Justice, acting in conjunction with court staff and the Auckland Law Society, were ready to proceed with the Advocate Scheme pilot.

3. In September 1984 the Department of Justice commissioned the Social Research & Development Trust to carry out an evaluation of the pilot Advocate Scheme at the Auckland CYP Court. The Trust was invited to undertake the study because of their experience in meshing qualitative with quantitative research. The final research design was a mixture of the two approaches, organised in a series of phases from preparation to report. An Advisory Committee of local representatives was established prior to the commencement of the Scheme which gave guidance on evaluation design and techniques.

1.3 Acknowledgements

1. At all levels of organisation, the Department of Justice gave generous assistance in carrying out the Scheme evaluation. The guidance of the Director of Planning & Development, Graham Simpson, and the efforts of Prue Oxley, Senior Research Officer, are gratefully acknowledged. Ted Tuffey of the Auckland Court registrar's staff anticipated virtually every administrative and practical requirement and provided ready solutions. Elaine Paul at Otahuhu smoothed the way for the brief study of the CYP court system there. Clerical staff at both courts took on the additional burdens that the evaluation generated without hesitation.

2. Advocates, judges and other court personnel took time from busy schedules to be interviewed, befriended the Evaluation Team and socialised them into the complexities of CYP Court procedure. Cyril Talbott, the Scheme Liaison Officer helped organise statistical data-gathering in the midst of the swirl of each day's court sitting, and made valuable contacts for the researchers. The Steering Committee provided helpful suggestions regarding the Evaluation set-up and field-work techniques.

3. The children, their relatives and friends who appeared before the CYP court deserve a special word of appreciation for their cooperation, often under trying circumstances, and their willingness to share their feelings about the Court and Scheme.

1.4 The Evaluation Team

The six-month assessment of the pilot Advocate Scheme was coordinated by Dr. Terry Loomis, a social anthropologist, who also served as the principal researcher. He was assisted by sociology student, Su Leslie, who had weekly responsibility for collecting and compiling court statistics and helping with interviewing of children and parents. Carl Raper helped in the design of a coding schedule and carried out most of the computer analysis of quantitative data.

2. EVALUATION AIMS AND RESEARCH DESIGN

2.1 The primary purpose of the assessment study was to determine the strengths and weaknesses of the Children's Advocate Scheme, whether it achieved its objectives and thus whether it could be effective in remedying some of the deficiencies of existing legal aid programmes in the CYP Court system.

2.2 Research Aims

1. The terms of reference for the Evaluation were drawn up by the Department of Justice in consultation with court personnel, lawyers and the Steering Committee. These were as follows:

- 1) To monitor the use of the Children's Advocate Scheme in order to give an overall picture of the extent and nature of the scheme.

- 2) To establish whether the Children's Advocate Scheme has
 - (i) improved the quality of representation in the Children and Young Persons Court;
 - (ii) improved the quality of the court experience for the children and their families;
 - (iii) increased the number of parents or other persons supporting the children at court;
 - (iv) increased the involvement and contribution of community groups and volunteers in the court process;
 - (v) reduced the time taken to dispose of cases.

3. To compare the costs of the scheme with
 - (i) the pre-pilot situation;
 - (ii) duty solicitors and offenders legal aide in a concurrent court;
 - (iii) increased use of duty solicitors as an alternative.

2.3 Expectations to Test

1. The next step in the preparation for research was setting down the specific expectations to test in analysis. This meant, among other things, establishing possible comparisons with other courts and schemes. It also meant making explicit a number of assumptions such as the value of "community involvement" and "at risk" youth, the meanings of which had long since been considered self-evident. At some point in the near future, these assumptions deserve re-examination, but this report can only note the need for such critical reappraisal.

2. When background reports and the terms of reference for the Evaluation itself were reviewed, it became apparent that the Scheme was intended to have the following results which could be used as the basis for evaluating whether the Scheme had been

successful or not:

a) Improved quality of representation for children and young persons

- (1) Increased legal representation in court
- (2) Sufficient time to counsel clients and prepare
- (3) Continuity of representation through each case
- (4) Positive experience of Advocate counselling and representation by children, Polynesians, and parents
- (5) Establish effective contacts between Advocates and other agencies and community groups

b) Improved quality of court experience

- (1) Increased number of parents, other persons supporting children in court
- (2) Increased involvement of community groups and volunteers in court and placements
- (3) Modern, comfortable, less formal physical facilities conducive to better experience of the judicial system by children and parents
- (4) A suitably informal, informative court procedure

c) More effective court operations

- (1) Reduced time taken to dispose of cases
- (2) Advocate scheme cost-effective in comparison with the pre-pilot situation at the Auckland CYP Court, and contemporary CYP Court at Otahuhu (both under the Duty Solicitor Scheme)
- (3) An increase in community, extended family and other alternative placements over social welfare custody or penal detention

These expectations were tested statistically, through interviews and by way of participant-observation at court. They also formed the basis of specific scheme and court comparisons set out below.

3. One of the greatest hurdles to analysis of research findings was separating the Scheme from the Children and Young Persons Court as an institution, the wider Justice system, and the activities of government and community agencies involved in the court. The operations of all these organisations and individuals were bound to positively or negatively influence some of the objectives of the Advocate Scheme. For instance, the degree of parental involvement and the quality of court experience were clearly affected by each individual judge, not the Scheme per se.

4. In the final analysis, the Scheme was part of the entire system. Thus, it must be remembered that such non-Scheme factors had some bearing on whether aspects of the Scheme were successful or not. These factors are referred to in the analysis, and where they reinforce the objectives of the Scheme, they are included in the final recommendations. In essence, however, this is an evaluation of the Advocate pilot in the context of a large, urban court with several judges, many lawyers and court officers, and a large case-load with a significant proportion of Polynesian youth. Whether the same results would be achieved in a much different setting is open to question. The conclusions and recommendations have assumed that the Scheme could be generally implemented in a range of courts with beneficial results.

2.4 Research Design

1. The assessment project was divided into five phases. While a mix of methods was employed, the sequencing of these research phases facilitated the shift in procedural emphasis during the study from quantitative to ethnographic to comparative methods. From previous research experience, such a sequence corresponds with an increasing familiarity by the researcher with the social setting and individuals involved. It also coincides with a greater tendency by social actors to take for granted the presence of the researcher, to behave more "normally" and to be more candid as informants. The phasing further allowed the preliminary identification from file statistics the range of cases and kinds of children appearing at court. From this data, a typology of children/cases could be generated from which case studies were pursued.

2. The phases of the research were as follows:

- Phase I: Preparation and Preliminary Investigation
-- Nov. 19 - Dec. 16
- Phase II: Interviewing and Comparisons (Auckland and
Otahuhu CYP Courts) -- Jan. 14 - Feb. 14
- Phase III: Case Studies -- Feb. 25 - Mar. 24
- Phase IV: Advocate Scheme Re-interviewing -- Mar. 25-Apr. 21
- Phase V: Analysis of Data & Report -- Ap. 22-July 28

2.5 Methodology Used

1. Two qualitative methods were used predominantly during the study. The principal researcher spent considerable time as a participant-observer at court, though not in lawyers' interviews

with children and parents since the presence of a researcher would have been too disruptive. At the mid-way point of the study, a typology of cases/children was constructed from which six cases were selected for follow-up and more in depth interviewing of the children, parents and others involved.

2. The principal quantitative methods employed were administering a formal, structured questionnaire to two samples of children and parents at Auckland, and one sample at Otahuhu. And systematically compiling basic statistical data from case files of those appearing during the pilot scheme. The data gathered included, at least ideally, records kept by the Liaison Officer and the Advocates of their own activities, as well as lists of who was present at court to support the children by the volunteer registrar.

3. Comparative methods included the following:

- a) case statistics from the same court (Auckland) during the Duty Solicitor Scheme in two previous years, to test variations at the same court under the new scheme;
- b) statistics from a different court (Otahuhu) of a comparable case-load and clientele under a Duty Solicitor Scheme, to test the effects of a different judge, setting and legal assistance scheme on a similar population of youth and parents;
- c) examination of differential responses to a formal, structured questionnaire administered to a sample of children and parents at Auckland and at Otahuhu courts, where scheme and court setting are the independent variables; and
- d) testing for variations in response to the same standard questionnaire at the same court at two different points in time -- the middle and the end of the Scheme.

2.6 Collection of Data

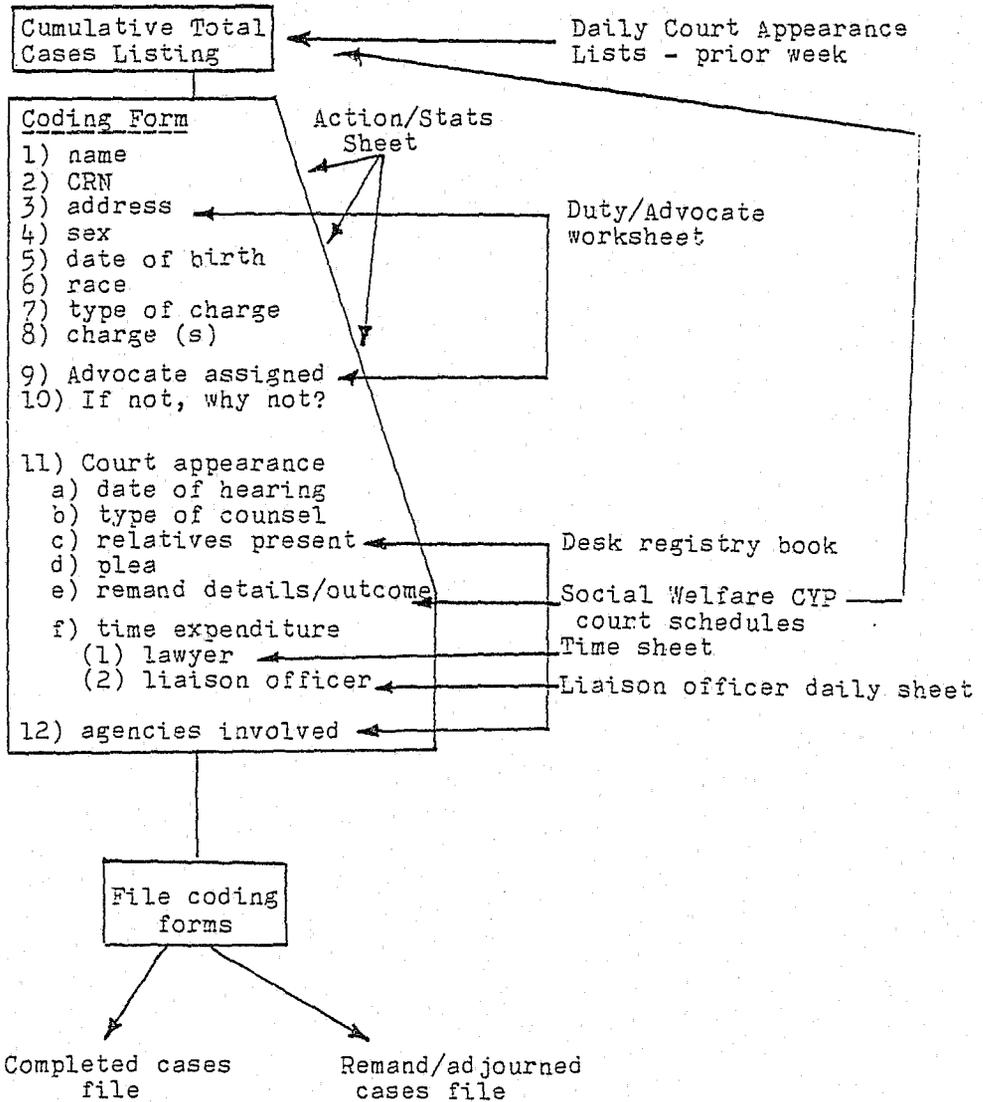
1. There were at least five data sources from which information had to be collected and coded. The first was base-line data from courts in years prior to the scheme, including Census, Social Welfare and Justice statistics as well as published reports from various study groups. The second consisted of statistics from court case records concurrently for Auckland and Otahuhu courts during the pilot scheme. A third source was the tabulated responses of children and parents to a formal questionnaire. In addition there were the responses of various court officers to structured evaluation interviews, records of open-ended case study interviews and notes from participant-observation, all of which had to be considered against the quantitative findings and woven into the final analysis.

2. The collection of base-line statistics was, like the case studies and participant-observation in their own way, a reasonably straight-forward process. But the collection of data on cases arising during the Scheme proved to be a more complicated operation. In the end, a set of procedures was arranged on the basis of the diagram contained in Figure 1. The difficulty was to collect accurate and complete information from several sources at once for cases, some of which were held over for weeks before completion, and all without disrupting the proceedings of the court or the work of the Advocates. The system required several modifications, as indicated in Appendix A. Most of the essential information was eventually obtained, though not always in the manner set down.

Figure 1

Advocate Scheme
Assessment

DATA-CODING PROCEDURES



SCHEME AND COURT DESCRIPTION

3.1 Introduction

1. Within the New Zealand Justice system, the Children and Young Person's Court is unique in a many respects. It is certainly quite different from the District Court in setting, style and procedure. Those readers not familiar with the CYP court are encouraged to briefly review the Children and Young Person's Act to understand how the court is set up, its powers and objectives. The reports by Tauroa (1983) and Access to the Law contain discussions of the main points of the Act and descriptions of courts in action.

2. The intention of this section is to provide a broad description of the Advocate Scheme in operation at the Auckland court, focussing on the various roles, agencies and procedures involved. The section begins with an account of a typical day at court from the viewpoint of someone completely unfamiliar with the court, as most children are at their first appearance.

3.2 A Day at Court

1. Some children receive a written police summons informing them that they must appear in court on a certain date. Most appear as the result of having been arrested, and may have been held in custody up until the time they walk into court. Others arrive alone or with parents and friends, having been remanded from an earlier appearance.

2. Children who have been arrested are often placed in a Social Welfare institution briefly, and then brought to court with other arrest and remand cases in a Social Welfare van. They are usually brought to the custody room by a back stairs, and kept separate from those in the waiting room. The custody area has few chairs, and many children prefer to sit on the floor. Social Welfare custodians stay with them, and bring food at lunch time. One or two close relatives may be permitted to sit with them while they wait their turn to be called. Custody cases are often called early.

3. The child on his own (as 1/3 are) or with relative or friends, has little idea at his first hearing what to expect. He is unlikely to know that he will have the opportunity to speak with a free children's lawyer when he arrives. He may even have difficulty locating the court, since the entrance is not clearly marked.

4. When he reaches the first floor, he is confronted by two large wooden doors with small windows. On one is a hand-written note mentioning something about registration. Sitting on the stairs there are often two or three kids whom he will have to step around. Inside, he is confronted by a large waiting area

containing modern chairs and a number of cubicles and small side rooms. If it is close to court time on a busy day, the area will be crowded with adults, young people and small children sitting or standing around. Two or three people can be seen through a glass window in an office opposite the entry, shuffling papers and talking to people coming in and out. Well-dressed lawyers dash about calling names of people to see. After finding a place to sit, and looking over the noisy scene for a while, he is approached by an elderly lady or a young Maori woman and asked for his name and whether he wishes to speak with a lawyer. If there is sufficient time before court, he may be taken by a lawyer to a small room for a brief conversation about his hearing. If not a lawyer will appear from the courtroom after an hour or so, and ask to interview him. If the child is on remand he has usually been handed a social worker's report to look over and discuss later with the lawyer.

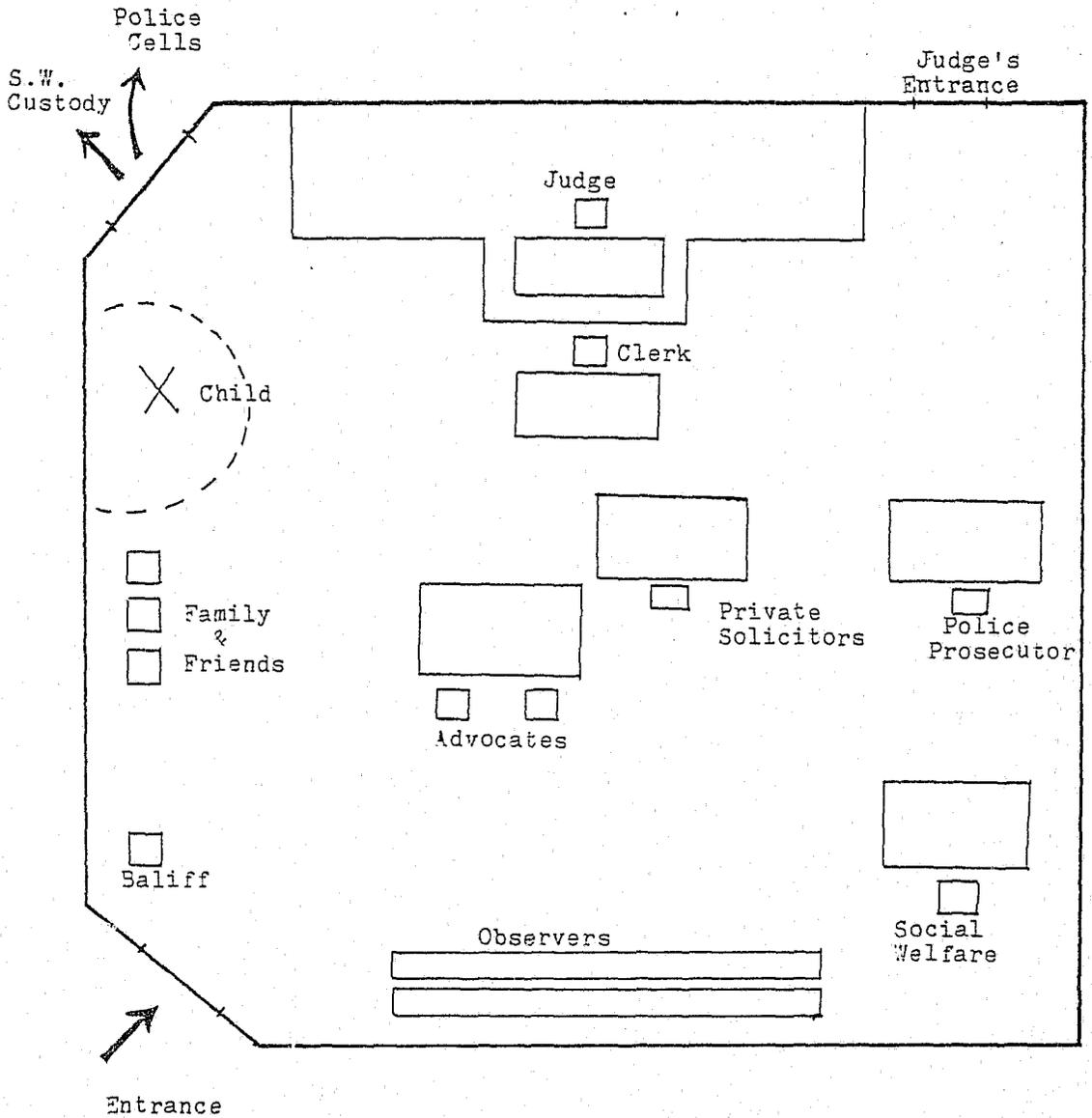
5. The child or one of his parents may have asked the lawyer or someone behind the glass window when their turn would be to go into court, but no one can tell him. He and those with him sit and talk and wait, knowing they must not leave the waiting room in case they are called. Adults and young people sit smoking and talking quietly, while restless children dash about and a baby starts to cry. From time to time, a solidly-built, uniformed police sergeant steps out of the courtroom and calls a name loudly. Sometimes a child and those accompanying him move immediately toward the door. At other times, the sergeant's pronunciation of Polynesian names is so garbled that he must try two or three times before someone responds.

6. The child is ushered into a brightly-lit, wood-panelled room with a low ceiling and carpeted floor. He is only vaguely aware of the decor, since the formally-dressed judge seated behind a raised podium is waiting (see diagram, Figure 2). The lawyer who interviewed him earlier turns from the table where she is standing, smiles and indicates a row of chairs along the left wall. The child looks uncertainly to his parents and glances at the others in the room. The sergeant directs him to stand near the first chair, hands out of his pockets and pay attention to what the judge says. The parents are uncertain where to sit, but the judge invites them to be seated near their child.

7. The judge greets the child, tells him what he is charged with and asks how he pleads to the charge. The child looks to the advocate, who indicates that the child admits the charges as they agreed in their earlier conversation. The judge directs the uniformed police prosecutor across the room to read the details of the charges. While he stands and does so, the youth has a chance to look around at the other people in court. Below the judge at a desk is a young woman surrounded by stacks of files, forms, rubber stamps and a tape recorder. Seated next to the lawyer speaking for the child is a man in a blue, three-piece suit whom he assumes is also a lawyer. Behind the policeman

Figure 2

AUCKLAND CYP COURTROOM



- Liaison Office
- Waiting Room
- Interview Rooms

reading the charges is another table stacked with files like the prosecutor's. A man in a brown suit shuffles the papers and talks quietly to a younger man beside him in casual slacks and an open shirt. Along the bench at the back of the room are seated a woman in a fashionable suit with a brief-case, a man in a tweed coat with a notebook, another man in a dark suit holding some files, another policeman and a young woman in casual dress. Besides the young boy and his mother, this woman is the only Polynesian in court.

8. After the charges are read, the judge explains one or two parts that she says might be confusing, and asks the boy if he understands. The child gives a positive reply, but declines the invitation to give any further explanation of what led to the charges. The judge turns to the adocate, who stands and explains the circumstances of the offense discussed during the earlier interview with the child. The judge says she would like a social worker's report, and the man in the brown suit says "Yes, Your Honour". The judge asks the same man to "suggest a date," and the man reads one off a piece of paper. The judge explains to the boy that a social worker will visit him and his family to prepare report, so when he comes back they will know what is best for him.

9. The judge asks the child's mother if she understands, to which the woman nods affirmatively. Those seated along the back wall stare without expression. The judge smiles reassuringly and asks the mother if she has anything to add. She says apologetically that her son hasn't been in trouble before: "He's a good boy". The woman lawyer thanks the judge and walks out with the boy and his mother, explaining that they will be notified when to come back again. A Maori man comes out of the office and hands the mother a small card, explaining it is her appointment to see the lawyer again before the next hearing. The boy's mother knows she cannot keep the appointment because she can't afford to take time off work again. She thanks the man politely, and she and her son leave.

10. The above description is drawn from many cases coming before the Auckland children's court, and as such is fairly typical. There are many exceptions, of course. The experience of custody cases, repeat offenders, complaint matters and defended hearings, to name a few, would vary considerably in procedure and the way in which the child perceived what was taking place. The intention has been to briefly introduce the unfamiliar reader to the court, and to remind the more experienced person of the novice's viewpoint.

3.3 The Advocates

1. The core of the pilot Scheme are the Advocates, working in conjunction with the Liaison Officer, his clerical assistant and the Senior Deputy Registrar. These people in turn interrelate with judges, police prosecutor, Social Welfare officers, private lawyers, Kokiri workers, community volunteers and others in the day-to-day operations of the Children and Young Person's Court.

2. Ten lawyers worked as Advocates under contract to the Department of Justice. After a few weeks of the Scheme, the Advocates decided to refer to themselves as "children's lawyers," since the term "advocate" was difficult for some children and parents to understand. Most others involved in the court continued to use the terms interchangeably, while many children and relatives referred to the Advocate as a "duty solicitor" or simply, "my lawyer".

3. The Advocates for the pilot were selected by the Law Society from among those who had expressed an interest, and who had some experience and ability in practicing in the children's court. None of the Advocates were "specialists" in the sense that all maintained a private practice which involved other kinds of cases. One or two did spend a majority of their time in children's court matters, however.

4. The Auckland court sat four days a week, excluding Tuesdays. The Advocates arranged a roster with a fixed pattern of rotation, requiring each to be at court 2-3 days per fortnight (See Figure 3). The usual pattern was for a lawyer to be scheduled for afternoon interviews at the court office the day before s/he was due in court, then the following day at court, and again the next week at court. As the Scheme progressed, most Advocates reported that the amount of outside time for preparation, appearance at other courts and counselling was increasing. This was particularly due to the continuity factor, and greater familiarity with continuing cases or repeat-offenders. The Liaison Officer made it a practice to contact an Advocate to appear for one of "his kids" at Auckland or some other court, even if s/he wasn't rostered the day of the hearing. The Advocates agreed with this extension of the continuity principle. During court, when a case was remanded for a further hearing, the judge cooperated with the police prosecutor and social welfare officer in setting a date which, where possible, coincided with a day the Advocate appearing for the child was rostered.

5. The number of cases dealt with by the court was greatest on Mondays and to a lesser extent Wednesdays. This caused heavier demands on Advocates rostered on those days, and due to the continuity principle, began to cause extended delays for remands scheduled on those days since the same lawyers were rostered on

Figure 3

ORIGINAL ADVOCATE ROSTER RATIONALE

<u>WEEK</u>	<u>DAY</u>	<u>Monday</u>	<u>Tuesday</u>	<u>Wednesday</u>	<u>Thursday</u>	<u>Friday</u>
1		MacLean Willmson.	Goddard	Wells Wallace	Milne Benner	Marks Sharp
2		Brdbent.	Wells	Milne	Marks	MacLean
3		MacLean Willmson.	Goddard	Wells Wallace	Milne Benner	Marks Sharp
4		Brdbent.	Wells	Milne	Marks	MacLean

Source: Advocate Chairman

fixed days. As the lists of remands on their dates grew, the remand periods for Mondays and Wednesdays reached almost two months at one point. Occasionally, a third Advocate was brought in to assist.

6. On a typical day, the Advocate arrives at the court at around 9:15 a.m. and briefly reviews the files of cases to appear that day. Occasionally, interviewing of waiting children and parents is delayed until the arrival of copies of police charges or social welfare reports. The remainder of the time until court begins, usually around 10:15 a.m., is taken up in interviewing children, as well as discussing charges and possible disposition of cases with the police prosecutor and the social welfare officer. The Advocate then sits in court, representing those children whom he has interviewed, and occasionally stepping out to counsel others who have arrived late. After each case is heard, he usually goes outside the court to explain what has happened. Either he or the Liaison Officer then sets an appointment for a further interview if the child is to appear again.

7. At the beginning of the Scheme, it was decided to try to schedule appointments for those on remand for the day prior to their appearance, so they could discuss the social welfare report and any other matters bearing on the case. In practice relatively few children or their relatives attended such appointments. Only those in social welfare custody were brought in with any consistency. For reasons of convenience or cost, most people preferred to appear early the day of their hearing to talk with the lawyer. On heavy arrest days such as Mondays, this often caused court to be delayed for a half an hour or more.

8. Complaints brought by the Police or Department of Social Welfare are different in nature from charges, and not in principle covered under the Advocate Scheme. The same has been true under the Duty Solicitor Scheme. In practice under both schemes lawyers typically advise children and parents before they appear for the first time if they have no other representation. Where warranted, the Advocate then recommends that the parent and/or child be appointed counsel under Section 29 of the Act. Advocates believe that, because of their extended experience at the children's court and their rapport with other agents at court, they are particularly good at handling complaint cases.

9. The Act stipulates that an appropriately informal atmosphere should be maintained at court, and Advocates, judges and other court officers working together over time did practice a more relaxed style of proceedings on the whole. Defended hearings are an exception, with witnesses, recording of evidence and the like. The number of defended hearings increased significantly under the Scheme. Such hearings are time-consuming and one or two lawyers had more than most. For this reason,

the continuity principle had to be compromised, and defended cases redistributed among several Advocates to deal with.

10. Advocates held luncheon meetings on several occasions earlier in the Scheme to discuss practical problems. These meetings were often attended by the deputy registrar, the liaison officer, the principal social welfare officer, the police prosecutor and others. These sessions proved useful in dealing with issues of coordination or understanding between the various court officers, but were phased out in the last half of the pilot as problems became less and work loads increased.

3.4 The Liaison Officer

1. The liaison officer has his office at the Auckland children's court, where he can be available to the public and serve the requirements of the advocates at the same time. The original job description included an emphasis on initiating and maintaining links with voluntary agencies, ethnic communities and the relatives of children in the activities of the court. The pilot was fortunate to be able to obtain the services of a Maori with considerable court-worker experience and community contacts. The Scheme aimed to increase kin and community involvement with the intention of insuring a better court experience and alternative remand and sentence placements to institutionalisation (ie. diversion).

2. One of the concerns prior to the Scheme was that the liaison officer's time would be consumed in clerical duties assisting at court, curtailing his community and kin-group activities. With the added demands of the Evaluation, it was necessary to provide him with a clerical assistant (a Kokiri worker) who soon became a valuable addition to the Scheme.

3. The liaison officer still retained over-all responsibility for maintaining the filing system. His familiarity with the case files was essential in advising enquiring children and parents, as well as assisting the advocates to function effectively in interviews and at court. One of his roles was to maintain lists of those due to appear, and making sure they were notified for appointments with the advocates. He kept an appointment book for this purpose, and had responsibility for making sure the files were updated for counselling sessions and court appearances.

4. On court sitting days, the liaison officer made sure the relevant files were set out for the advocates, and supervised the reception procedure. This often included urgent phone calls from persons who would be late, or advising enquiring children or

relatives about aspects of their case before or after the hearing. Because of his court and community experience, he was often asked by judges or advocates to be in court to advise on the background of a case or advise on the best placement. Alternatively, he might be asked to contact a school teacher or employer for further information while the case was stood down.

5. Though much of the liaison officer's time was taken up with the sheer logistics of preparing for or following-up hearings, his role in insuring continuity of representation was also important. He took it as his task to allocate cases on court day to rostered advocates, making sure remand cases went to the lawyer who had seen the child previously. In addition if he noticed a child on the list who had been seen by an advocate not scheduled for that day, he would call that advocate to inform him that one of "his kids" was appearing. As mentioned previously, this also extended to children appearing in other courts throughout the metropolitan area where sufficient notification was received, where the child himself requested "his lawyer" and where the practice of the advocate did not preclude acting for the child.

3.5 The Judges

1. While in principle a considerable number of judges are qualified to sit at the Children and Young Person's Court, in practice the Auckland courts manager cooperates in usually rostering only the same four or five judges. The judges involved do not necessarily consider themselves "specialists," but having judges experienced in children's matters seems to be best for the children. It is certainly preferred by most of the Advocates, welfare officers, police prosecutor and other officers of the court.

2. There are several positive consequences of this limited roster of judges. One is the fact that it tends to reinforce the continuity of representation principle which is central to the Advocate Scheme. This is one instance in which a larger court like Auckland could present difficulties a smaller court with one or two judges might not. Several years ago, some of the judges at Auckland were instrumental in not only establishing a limited roster, but in seeing that where possible, a child on remand would come back before the same judge for future hearings. This means that a child has a good chance of having the same judge as well as the same lawyer from first hearing to last.

3. The value of this arrangement was particularly noticeable during the conversations in the courtroom between the judge, the child and the advocate at subsequent appearances. If it was the child's first offense, the judge was able to refer back to the initial hearing and pick up the flow of the case, which was helpful to the child and parents. The advocate was also able to

recall his earlier submissions for the judge, and make recommendations on the outcome which are part of an integrated case. A different judge has file notes and perhaps a social worker's report to go by, but some of the old ground must often be gone over in the hearing, which takes time. Participant observation and interviewing, particularly with regard to repeat offenders, seems to indicate that the significance of a sentence -- especially if it involves admonition -- tends to sink in more when the child is appearing before a judge whom he knows and who knows him. Indeed, one of the important tests of the value of continuity of both judge and advocate in any children's court will be the effect this arrangement has on levels of re-offending.

4. The Act calls for an appropriate degree of informality in the children's court. In any court the judge is the key to establishing the style of court proceedings. This means in the terms of the Advocate Scheme that the judge has a considerable influence on improving the quality of the child's experience at court. While this Evaluation is not focussed on judges, it is clear that the particular style of the Auckland judges had a bearing on the objectives of the Scheme. With a limited number of advocates, and the same police prosecutor and social welfare officers, this "team" in conjunction with the judges evolved a particular style of proceedings which they were comfortable with and which seemed to work well. It was quite noticeable when a new judge was present or one of the other court officers was absent that this "team" style and understanding was disrupted, and hearings seemed less smooth-flowing and effective.

5. The advocates for the most part seemed to benefit from this continuity of judges, as did the Liaison Officer. They knew what to expect from various judges and how to approach the hearings. As judges and advocates became more used to operating together, communication was facilitated and a lot of time seemed to be saved during hearings. The judges also seemed to be more willing to advise or reprimand advocates as the occasion warranted without letting court procedures get in the way. The advocates conversely seemed, with one or two exceptions, to increasingly be invited to comment and make suggestions regarding the outcome of the case or placement. This expanding "welfare" dimension is a logical extension of the continuity principle, though it has implications for Social Welfare court functions which will be commented on later.

3.6 Police Prosecutor

1. The police prosecutor is responsible for compiling the list of children and young persons scheduled to appear at court each day, and putting together the relevant files on each. He notifies the court clerk so that court files can be ready at the CYP office. He also coordinates with the Department of Social Welfare prior to court to check if there are any custody cases or overnight arrests which do not appear on the schedule for the day. All of this preparation must be done in less than two hours before court

sits. Under the Scheme, with the large number of interviews to be done before court, there is additional pressure to get the summary of charges and background information to the liaison officer so the advocate files are up to date. This was one point of friction in otherwise harmonious relations between the advocates and the police prosecutor during the pilot.

2. At the court, copies of summaries and reports are distributed and a final check is made with the clerk to insure all cases are listed and have the relevant documentation. When these tasks are complete, the police prosecutor checks with officers who may be required to appear that day and then is free to discuss matters with other court officers. This half-hour of consultation with the Social Welfare officers and advocates was an important aspect of court operations as the Scheme went along. During this time, lawyers asked for clarification of charges or complaints, about the statements children had made to police, added facts, and discussed pleas and sentences. If a denial is involved, they try to agree on a date for the hearing. Prosecutor and advocates also discuss with the Social Welfare officers whether the facts regarding the child are accurate to save confusion during court, the content of the social worker's report and possible placement for remand or sentence cases.

3. The police prosecutor dealt with advocates on a day to day basis, when they needed clarification about aspects of an upcoming case or possible changes to the police charges. The prosecutor also attended several advocate meetings, where problems of procedure were worked out.

3.7 Social Welfare Court Officer

1. The Social Welfare court officer, with his assistant, represents the Department at court essentially in the position of senior social worker. As such, he also represents the social worker who may be involved in a particular case. From Departmental files and the involvement of the social worker, the court officer usually has the most extensive knowledge of the child's background, problems and needs. On this basis, he is able to make recommendations to the court regarding the child's care and welfare. He occasionally brings a complaint, usually against parents or guardians of a child, and in this respect he acts as a prosecutor for the Department.

2. Some of the ways in which the social welfare court officer interacts with advocates are set out above. He is also available to advocates and the liaison officer outside of court hours particularly regarding social workers' reports, placements, children who have absconded, etc. Besides these activities, he regularly attends advocate meetings to discuss procedural matters.

3. In earlier years under the previous Act which tended to limit the scope and powers of the court, the children's court played much more of a "social welfare" function. This meant the senior social worker was in a position to play a prominent role in the outcome of each case. With the advent of the Duty Solicitor scheme, some lawyers began to take a special interest in the children's court, at the same time taking over some aspects of the role which the senior social worker had been playing. With the Advocate Scheme, this involvement has been even more intense and lawyers' "welfare" activities have expanded accordingly. This is most obvious in court when recommendations as to custody are discussed. They have longer to interview children and parents to know their circumstances and wishes, and have time to review reports so they have more to say on the disposition of a case.

4. The result of these developments, combined with consistency of personnel at court and more of a "team" operation, is that the concept of the "welfare" of the child has been broadened by practice to include involvement by advocates, liaison officer and even community groups. The extent to which this is appropriate, and whether or not their advocates' "legal" responsibilities are in any way compromised will be considered later.

THE CHILDREN APPEARING BEFORE THE CHILDREN & YOUNG
PERSON'S COURT

4.1 Introduction

1. The purpose of this section is to present a clearer picture of the children and young persons who appeared before the court as a population, as well as the nature and outcome of their cases.
2. The other purpose is to compare the children's court at Auckland during the Advocate Scheme pilot with previous years at the same court under the Duty Solicitor Scheme, and with the Otahuhu Court also under the Duty Solicitor Scheme.

4.2 Cases

1. First of all, it is important to know how many charges and complaints the court dealt with during the Advocate Scheme and how this compares with previous years. According to Table 4.1, the number of distinct cases at the Auckland court, if projected for the remainder of the current year, is close to the number of cases in previous years. We are not dealing with a sudden increase or decrease in numbers of cases.
2. The number of complaints between November 1984 and April 1985 appears to be down on 1982, the only other year for which recent figures are available. But it is not possible on this basis to establish whether a trend exists.
3. There does appear to be a difference in the ratio between total charges and distinct cases under the Advocate Scheme. Both with respect to previous years at the Auckland court and at Otahuhu, the ratio seems to have been on average approximately two charges per case. Under the Advocate Scheme, once again projecting for a full year, there appears to be a ratio of 1.5 charges per case, down on other years.

4.3 Gender

1. The numbers of males and females appearing at the Auckland childrens court during the pilot scheme is set out in table 4.2. These figures are compared in the table with the same court in previous years, and with the Otahuhu court in previous years.
2. Across both courts from 1982 up to the pilot scheme, the ratio of males to females seems to have remained around 8:1.5 to 4:1.

Table 4.1

Distinct Cases, Charges and Complaints
by Children and Young Persons Court & Scheme

<u>Court</u>	<u>Offenses</u>		
	<u>Total Charges</u>	<u>Distinct Cases</u>	<u>Complaints</u>
AUCKLAND:			
Akld. 1982 (Duty Sol.)	2425	1186	224
Akld. 1983 (Duty Sol.)	2163	1161	-
Akld. Nov 84-Apr 85 (Advoc.)	794	567	64
<hr/>			
OTAHUHU:			
Otah. 1982 (Duty Sol.)	2172	1212	261
Otah. 1983 (Duty Sol.)	2769	996	Missing
Otah. J-F '85 (Duty Sol.)	165	98	Missing
<hr/>			

Source: Department of Justice, Department of Social Welfare

Table 4.2

Distinct Cases By Sex
(Court & Scheme Comparisons)

<u>Court</u>	<u>Sex</u>	<u>Number</u>	<u>Relative Frequency (Percent)</u>	<u>Adjusted Frequency (Percent)</u>
AUCKLAND:				
Auckland Pilot Nov 84-Apr 85 (Advocate Sch.)	M	456	72.3	73.3
	F	166	26.3	26.7
	Missing	9	1.4	Missing
	Totals	631	100.0	100.0
<hr/>				
Auckland Nov 83-Apr 84 (Duty Sol.)	M	457	-	81.9
	F	101	-	18.1
	Totals	558		100.0
<hr/>				
Auckland 1983 (Duty Sol.)	M	960	-	82.7
	F	201	-	17.3
	Totals	1161		100.0
<hr/>				
Auckland 1982 (Duty Sol.)	M	986	-	83.1
	F	200	-	16.9
	Totals	1186		100.0
<hr/>				
OTAHURU:				
Otahuhu Jan-Feb. 1985 (Duty Sol.)	M	88	89.8	89.8
	F	10	10.2	10.2
	Totals	98	100.0	100.0
<hr/>				
Otahuhu 1983 (Duty Sol.)	M	825	-	82.8
	F	171	-	17.2
	Totals	996		100.0
<hr/>				
Otahuhu 1982 (Duty Sol.)	M	979		80.8
	F	233		19.2
	Totals	1212		100.0

Source: Department of Justice

This ratio contrasts with the findings of the Tauroa report (1983:180) that at the Auckland CYP court in 1981, males outnumbered females by three to one. The rate of female youth offending has been somewhat lower during the intervening years.

3. The male/female ratio of 3:1 (75% to 25%) during the Advocate Scheme signals a marked increase in the number of girls and young women appearing at the Auckland court. Whether this is part of a similar trend in other courts, and whether it signals an upsurge in so-called "young female crime" is not possible to say from existing data.

4. Information gathered during January-February 1985 research at the Otahuhu court would seem to indicate an increased number of males over previous years at the same court, but this is likely to be a momentary fluctuation. Certainly, the larger number of young women appearing at the Auckland court between November 1984 and April 1985 cannot be taken as a direct consequence of the Scheme itself.

4.4 Ages

1. The ages of children appearing before the Auckland children's court during the Advocate Scheme ranged from eleven to eighteen years old (Table 4.3). A large majority of those appearing in court were "young persons" under the definition of the Children and Young Persons Act, ie. fourteen years and over.

2. This predominance of young persons is even more striking when compared with the observations of the Tauroa report (1983:180) that only 86% of cases at Auckland in 1981 involved youth between the ages of 14 and 17. Under the Advocate Scheme, after deducting missing cases, over 97% of young people appearing were over the age of 14. In part this may be due to less precise file material on complaints, but the "young person" numbers are still much higher than at the same court four years ago.

3. The mean age was slightly over sixteen years. Only thirteen children under the age of fourteen appeared on charges. Age data is less reliable for those who were the subject of complaints during the six months of the pilot study. However almost all of the 34 missing cases in Table 4.3 were complaints.

4. The average age of those required to attend the Otahuhu Court during the brief period of observation between January and February 1985 was also slightly over 16 years of age. Age distributions for complaints are missing due to the difficulty of obtaining birth date information for such cases.

Table 4.3

Distinct Cases by Age
(Court and Scheme Comparisons)

AGE	Auckland Nov 84-Apr 85 (Advocate)			Otago Jan-Feb 85 (Duty Solicitor)		
	No.	Relatv. Freq.	Adjust. Freq.	No.	Relatv. Freq.	Adjust. Freq.
11	2	0.3	0.3	0	0	0
12	2	0.3	0.3	0	0	0
13	9	1.4	1.5	0	0	0
14	23	3.7	3.9	2	2.0	2.0
15	124	19.9	21.0	24	24.5	24.5
16	205	32.9	34.7	38	38.8	38.8
17	217	34.8	36.8	33	33.7	33.7
18	8	1.3	1.4	1	1.0	1.0
Unknown	34	5.4	Missing	-	-	-
Total	624	100.0	100.0	98	100.0	100.0

Source: Department of Justice

4.5 Race

1. Since the notion of "race" as a social classification is a problematic one, the labelling conventions of the Justice Department and Police have been followed in this report. Even so, data on the race and class position of children appearing at court are not as readily available in published statistics as they might be.

2. It is generally known that the number of Polynesians -- Maoris and Pacific Islanders -- appearing at court are considerably higher than their percentage of the national population would warrant. The figures for the Auckland children's court during the Advocate Scheme are in line with these general observations (Figure 4.4). On the basis of adjusted frequencies, less than a third of the children were Caucasian while almost 50% were Maori, and 18% were Pacific Islands children. The large number of cases on file for which "race" was not recorded mean these figures need to be treated with some caution, though the variation would only be two or three percentage points.

3. To consider how typical the court population was during the Advocate Scheme, it is useful to compare data from the same court in previous years. During the same six months a year prior to the pilot, there were proportionately more Caucasians (36.5%) and fewer Maori and Pacific Island children. The Tauroa report (1983:181) observed that during 1981 at the Auckland court, almost half the children appearing were of Maori origin, over 10% were Pacific Islanders and less than a third Pakeha. This means that over the past four years, Caucasian numbers first increased and then by the Advocate Scheme period, had returned to the 1981 levels. Maori numbers remained high, but as a proportion of all cases declined last year and then returned to the 1981 level during the pilot.

4. Perhaps the most striking finding is the steady increase in both the number and proportion of Pacific Islands children coming before the court since 1981. From just over 10% of cases four years ago, they now are approaching 20%. This trend coincides with concerns expressed by Pacific Islands leaders about their youth in recent years, and with previous research findings by the author during field-work among Cook Islanders (Loomis, 1983; 1984; 1985). To highlight the significance of these figures even further, Maori children are appearing at court in a proportion that is approximately four times their share of the New Zealand population (12%). Pacific Islanders, on the other hand, are appearing at children's court at six times their proportion of the national population (3%).

5. For the Auckland metropolitan area, Maoris are appearing at court at a rate six times greater than their share of the population, and Pacific Islanders three times more. When one

Table 4.4

Distinct Cases By Race
(Court & Scheme Comparisons)

RACE	<u>AUCKLAND</u>						<u>OTAHUHU</u>		
	Auckland Nov 84-Apr 85 (Advocate)			Auckland Nov 83-Apr 84 (Duty Sol.)			Otahuhu Jan 85-Feb 85 (Duty Sol.)		
	No.	Rel. Freq.	Adj. Freq.	No.	Rel. Freq.	Adj. Freq.	No.	Rel. Freq.	Adj. Freq.
Cauc'n	178	28.2	31.7	199	35.7	36.5	13	13.3	13.8
Maori	280	44.4	49.9	249	44.6	45.7	49	50.0	52.1
PacIs	102	16.2	18.2	95	17.0	17.4	32	32.7	34.0
Other	1	.2	.2	2	.4	.4	-	-	-
Missing	70	11.1	X	13	2.3	X	4	4.1	X
Totals	631	100	100	558	100	100	98	100	100

Source: Department of Justice

compares the Otahuhu court in early 1985 (see Figure 4.4) the Pakeha percentage is half that of Auckland, while Maori figures are up slightly and Pacific Island children twice the proportion of those at Auckland. This is undoubtedly a consequence of the fact that Otahuhu serves the heavily-Polynesian South Auckland area.

4.6 Type of Case

1. Children appearing before the Children and Young Persons Court on charges, that is, for offenses rather than complaints, do so either as the result of receiving a police summons or by being arrested. A summons involves consultation with Youth Aid and other agencies before a child can be brought to court, while for an arrest the child is usually in police or Social Welfare custody a matter of a few hours before being brought to court. During the pilot, 6.1% of cases were as the result of a summons and 93% were due to arrests.

2. The only comparative figures readily available are between Auckland court a year ago and under the Advocate pilot, and the brief period of data-gathering at Otahuhu in early 1985. These figures showed that during the Advocate Scheme the number of summons cases were a third less than during the Duty Solicitor Scheme a year earlier. On the other hand, arrests were up 13% during the Advocate Scheme compared with the year before.

3. It is difficult to say with any certainty whether the pilot scheme being in operation at Auckland court had anything to do with such high arrest figures. The comments by Advocates, Social Welfare officers and others in Section 8 of this report indicate that court personnel were not only aware of the increase in arrests, but gave reasons why this was being done by police. Comparing Otahuhu court at the time of the Advocate scheme shows the arrest levels were similar and in fact lower than Auckland a year earlier. Whether the Auckland police were responding to certain aspects of court practice, the Advocate scheme or some other factor is difficult to determine on statistics alone.

4.7 Pleas

1. A majority (85.4%) of children and young persons appearing at court under the Advocate Scheme admitted the charges brought against them (Figure 4.6). The numbers and percentage are almost identical to admitted pleas under the Duty Solicitor scheme at the same court a year earlier. The fact that almost 97% of charges were admitted at the Otahuhu court during the 1985 sample may indicate as much about the approach of the judge, particularly since 40% are unrepresented (Table 5.1), as it does the kind of advice the child received from his solicitor.

Table 4.5

Distinct Cases by Type of Case*
(Offenses Only)

TYPE OF CASE	AUCKLAND				OTAHUHU	
	Auckland Nov 83-Apr 84 (Duty Sol.)		Auckland Nov 84-Apr 85 (Advocate)		Otahuhu Jan 85-Feb (Duty Sol.)	
	<u>No.</u>	<u>Adj Freq.</u>	<u>No.</u>	<u>Adj Freq.</u>	<u>No.</u>	<u>Adj Freq.</u>
Young Person Summons	98	17.5%	34	6.1%	-	-
Young Person Arrest	450	80.4	517	93.0	72	74.2%
MOT	9	1.6	1	.2	-	-
Other	3	.6	4	.7	25	25.8
Total	560	100.1	556	100.0	98	100.0

*Based on first charge when multiple charges.

Source: Department of Justice

Table 4.6

Distinct Cases by Plea to First Charge
(Court & Scheme Comparisons)

PLEA	AUCKLAND			OTAHUHU		
	Auckland Nov 83-Apr 84 (Duty Sol.)		Auckland Nov 84-Apr 85 (Advocate)		Otahuhu Jan 85-Feb 85 (Duty Sol.)	
	No.	Adj. Freq.	No.	Adj. Freq.	No.	Adj. Freq.
Admit	473	84.5	486	85.4	95	96.9
Deny	42	7.5	68	12.0	2	2.0
G	23	4.1	-	-	-	-
O	18	3.2	-	-	-	-
N	3	.5	15	2.6	1	1.0
L	1	.2	-	-	-	-
Missing	2	-	61	-	-	-
Totals	560	100.0	569	100.0	98	99.9

Source: Justice Department

2. The kind of plea a child enters is certainly influenced by the legal counselling he receives. One would expect that with lower levels of representation at Auckland a year ago (Table 5.1), and limited time for Duty Solicitors to counsel clients, admitted pleas would be higher than under the Advocate Scheme. This has not been the case, and suggests that an Advocate's more detailed explanation of the charges and options, and his negotiations with other agencies at court regarding the child's future, may have encouraged some children to admit an offence where they may have not done so previously.

3. There were concerns prior to the Scheme that lawyers serving as Advocates would become too familiar with other court officers as a "team", and fail to take an adversarial position on behalf of their clients. Since the figures on admitted pleas are the same as a year ago, the statistical evidence at least does not bear this out.

4. On the other hand, as the Scheme pilot progressed some judges, lawyers and other court officers commented that a minority of Advocates were being inappropriately adversarial in their approach, and that there were many more denials than previously. The statistical evidence confirms this observation, since denial pleas almost doubled under the Scheme. The evidence further suggests that one or two Advocates were responsible for most of these, but they were also the Advocates with the higher case loads. The greater number of denied hearings heightened concerns for maintaining informality at court. But a number of court officers interviewed (Section 8) also pointed out that the resulting increase in lengthy defended hearings meant an intolerable strain on the court system, to say nothing of the cost of afternoon sittings.

4.8 Remands

1. Often when a child appears before the children's court, the judge holds the case over by placing the child on remand, usually so that a Social Welfare report can be prepared. At the Auckland court during the Scheme, some 60% of cases were remanded to a further hearing, though a third of these were sent to another court (Figure 4.7). This is partly the consequence of the large numbers of children apprehended in Auckland who come to the city centre from outer suburbs or from other towns.

2. One of the aims of the Scheme, as discussed in the following section, was to encourage alternatives to institutional custody. Comparing the Auckland court four years ago with the present, there seems to have been a shift away from remands in custody. The Tauroa report (1983:181) stated that in 1981, 35% of children whose cases were adjourned were remanded in custody. Four years later, during the Advocate Scheme, only 23.8% of remands were placed in Social Welfare or police custody.

Table 4.7

Distinct Cases by Type of Remand
(Court & Scheme Comparisons)

TYPE OF REMAND	Auckland Nov 84-Apr 85 (Advocate)		Otaguhu Jan 85-Feb 85 (Duty Sol.)	
	No.	Rel. Freq.	No.	Rel. Freq.
S.W. Inst. Custody	61	9.7%	4	4.1%
Police Inst. Custody	1	.1	-	-
Kin/guardian or at large	133	21.1	20	20.4
Community Inst.	22	3.5	-	-
Bail	39	6.2	3	3.1
Remanded to Another Crt.	122	19.3	1	1.0
Other	5	.8	-	-
Disposed of One Hearing	226	35.8	67	68.4
Missing	22	3.5	3	3.1
Total	631	100.0	98	100.0

Source: Dept. of Justice Statistics

3. However, the Auckland figure under the pilot Scheme is still over four times higher than custody remands at Otahuhu in early 1985. Remands in the care of relatives make up a similar proportion of cases at both courts.

4. With respect to efficient court operations and the benefits of not having children caught up in the justice system longer than necessary (see Tauroa, 1983), there are reasons for disposing of cases in the first hearing. In 1981 the authors of the Tauroa report (1981:181) found that only 16% of cases at the Auckland court were completed at the child's first appearance. In 1985 during the Advocate Scheme, more than twice as many cases (35.8%) were disposed of at the initial hearing. However, this figure is still almost half that of the Otahuhu court (68.4%) during the same period.

4.9 Sentences

1. Table 4.8 Sets out the kinds of sentences handed down at the Auckland and Otahuhu children's courts since 1982, including all forms of final outcome to the cases. When the two courts are compared over the past three years, it appears typical that 10-15% of cases are dismissed or discharged under Section 35 of the Children and Young Persons act. During the Advocate Scheme, however, the proportion of such outcomes is half as much.

2. Admonishing and then discharging children without further penalty is one of the most usual sentences utilised at both courts over recent years. The average seems to have been around 20% of cases, and at Auckland during the pilot scheme the proportion was similarly just over 18%.

3. There were several notable differences in patterns of sentencing during the Advocate Scheme at Auckland. One was a major reduction in those sentenced to corrective training and periodic detention compared to previous years at the same court and at Otahuhu. A second difference was the marked increase in community service sentences over earlier years at Auckland. And thirdly was the dramatic increase in the number of fines levied (26.4%), double the proportion at Otahuhu and well up on previous years at Auckland.

4. Sentences involving Social Welfare custody during the Advocate Scheme were double those of previous years, and there was a significant increase in children placed under Social Welfare supervision. However, the numbers under supervision were well below similar kinds of sentences at the Otahuhu court.

Table 4.8

Distinct Cases By First Sentence - Outcome
(Court & Scheme Comparisons)

	AUCKLAND						OTAHUHU					
	Auckld 1982		Auckld 1983		Auckld NB4-A85		Otahu 1982		Otahu 1983		Otahu J-F 85	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Dismissd w/drawn	176	14.8	161	6.5	32	5.1	136	11.2	107	10.7	1	1.0
Dischg Sec.35	53	4.5	56	4.8	19	3.9	19	1.6	30	3.0	-	-
Admon& Dischg	210	17.7	271	23.4	90	18.3	200	16.5	181	18.2	44	44.9
Imprisd	16	1.3	33	2.8	7	1.4	19	1.7	14	1.4	-	-
Periodic Detn	70	5.7	81	7.0	3	.6	84	6.9	69	6.9	2	2.0
Comnty Serv	4	.3	6	.5	19	3.9	4	.3	7	.7	2	2.0
Corrtv Trng	47	4.0	43	3.7	4	.8	40	3.3	38	3.8	1	1.0
Probatn	59	5.0	37	3.2	13	2.6	38	3.1	34	3.4	1	1.0
Order CUFS	119	10.0	101	8.7	59	12.0	88	7.3	114	11.4	9	9.2
Fined	287	20.6	213	18.3	130	26.4	197	16.3	123	12.3	10	10.2
Order Made	4	.3	1	.1	4	.8	1	0	-	-	1	1.0
Commtd S.W.	18	1.5	25	2.2	23	4.7	47	3.9	36	3.6	5	5.1
Supervsn S.W.	159	13.4	143	12.3	83	16.8	418	34.5	244	24.5	-	-
Totals	1186	100%	1161	100%	486	100%	1212	100%	996	100%	98	100%
Sent to Other Ct					124							
Other Missing					12							
					9							

145

*Auckland NB4-A85 complaints included

Source: Department of Justice, Department of Social Welfare

5. When sentences are grouped into broad types (Figure 4.9), it is clear that most sentences delivered at the Auckland court, like Otahuhu, are of the community type. However, the proportion (63.2%) at Auckland is still well below the percentage of community sentences at Otahuhu in early 1985. Since institutional sentences at both courts are similar proportionately, financial sentences at Auckland court seem to have been utilised at the expense of community sentences to explain the difference in community sentences.

4.10 Type of Counsel

1. As a background to assessing continuity of representation and other Scheme objectives (Section 5), it is useful to note the kinds of legal representatives present at the Auckland children's court during the Scheme. The number and percentage of Advocates representing the child at the first appearance and all appearances is remarkably high -- 98% of first appearances if missing cases are deleted. For all cases, even on the basis of relative frequency, Advocates still represent the child 95% of the time (Table 4.10).

2. During the six months of the Scheme, records show that seven private solicitors acted for the child. There were even two Duty Solicitors appearing at court. One child is recorded as refusing legal representation.

3. The relatively large number of cases in which the legal representative was unknown is unfortunate. It is difficult to know whether this missing information is the result of poorly recorded data on the file, or that the child was actually unrepresented or had his own lawyer. Lacking any other indicators, it is advisable to be conservative and assume that at least half of the "unknown" cases were unrepresented and most of the remainder not by an Advocate.

4.11 Age by Other Factors

1. When remands are examined on the basis of age distributions (Table 4.11), a number of facts become apparent, though the large number of missing cases make firm conclusions impossible. Firstly, those cases which actually were remanded beyond an initial hearing largely involved youth fifteen years of age or older (91%). It is not surprising, then, that these age groups predominate in all sentence types. Of the 28% of cases remanded in custody, and the 60% placed with kin or on their own recognisance, most were 15 or over.

Table 4.9

Sentence Types
(Court & Scheme Comparisons)

<u>SENTENCE</u>	AUCKLAND			OTAHUHU		
	No.	Relv Freq	Adj Freq	No.	Relv Freq	Adj Freq
Community Sentence	306	48.5	63.2	79	80.6	80.6
Institut'l Sentence	37	5.9	7.6	8	8.2	8.2
Financial Sentence	141	22.3	29.1	11	11.2	11.2
Other Crt, Other, etc.	147	23.3	Missing	-	-	-
Total	631	100.0	100.0	98	100.0	100.0

*Key:

Community Sent. = probation, disqualified from driving, community service, guardianship of S.W., supervision of S.W., suspended sentence, TCUIC, admonished and discharged, information withdrawn, admonished and TCUIC, charge not proven, dismissed, live where directed, convicted and admonished.

Instit'l Sent. = imprisonment, non-residential periodic detention, residential periodic detention, corrective training, detention Sect. 48, cumulative imprisonment, returned to care, admonished and returned to care.

Financial Sent. = Fined, admonished and fined, ordered to pay restitution.

Other = Sent to D.C., other court, deported, psychiatric testing, not resolved by end of Pilot, etc.

Source: Department of Justice

Table 4.10

Type of Counsel at the Auckland
CYP Court During the Advocate Scheme

<u>COUNSEL</u>	First Appearance			All Appearances		
	<u>No.</u>	Relv <u>Freg</u>	Adj <u>Freg</u>	<u>No.</u>	Relv <u>Freg</u>	Adj <u>Freg</u>
Advocate	595	94.3%	98.2%	930	94.6%	97.3%
Private Lawyer	7	1.1	1.2	18	1.8	1.9
Duty Solic.	2	.3	.3	3	.3	.3
Legal Aid	1	.2	.2	4	.4	.4
Refused Rep'n	1	.2	.2	1	.1	.1
Unknown or inapplicable	25	4.0	Missing	25	2.5	Missing
Total	631	100.1	100.1	981	99.9	99.9

Source: Department of Justice

Table 4.11

Count Row Pct Col Pct Tab Pct	Types of Remand by Age Under the Advocate Scheme								Row Total
	Ages								
Remands	11	12	13	14	15	16	17	18	
S.W. Custody	1 1.3 50.0 0.4	0 0.0 0.0 0.0	2 2.7 20.0 0.7	2 2.7 18.2 0.7	19 25.3 28.8 7.0	29 38.7 28.2 10.7	21 28.0 27.6 7.7	1 1.3 100.0 0.4	75 27.7 100.0 0.4
Police Custody	0	0	0	0	0	0	1 100.0 1.3 0.4	0	1 0.4
Self-Kin	1 0.6 50.0 0.4	0 0 0 0	1 0.6 10.0 0.4	3 1.8 27.3 1.1	40 24.4 60.6 14.8	66 40.2 64.1 24.4	53 32.3 69.7 19.6	0 0 0 0	164 60.5
Comnty	0 0 0 0	2 6.5 100.0 0.7	7 22.6 70.0 2.6	6 19.4 54.5 2.2	7 22.6 10.6 2.6	8 25.8 7.8 3.0	1 3.2 1.3 0.4	0 0 0 0	31 11.4
Column Total	2 0.7	2 0.7	10 3.7	11 4.1	66 24.4	103 38.0	76 28.0	1 0.4	271 100.0

Percents and totals based on responses
218 valid cases 406 missing cases

Source: Department of Justice

2. It is interesting, however, that when one turns to community type remands it is the younger age groups which are more often involved. Thus, all the twelve-year-olds, 70% of those aged 13, and 55% of 14 year-olds were given community remands. The remainder were placed with kin or on their own. This seems to be the result of the fact that younger children are less often repeat offenders requiring custody, and an interest by the court in keeping young children either with relatives or in non-institutional situations.

3. When sentences are examined on the basis of age (Figure 4.12), it is apparent that certain sentence types are more usually applied to younger children and other types are reserved for older youth. Once again, the large number of missing cases means that we have only possible trends. In general younger children tend to receive community-type sentences, while older youth receive institutional and financial sentences. It should be emphasised that of course this is an over-all tendency.

4. As a result, the handful of children between 11 and 13 who were actually sentenced all received community sentences (for instance, community service). A further 83% of 14-year-olds received a similar type of sentence. At the other extreme, almost all the financial sentences were given to youth 16 and over. Obviously, it is older youth rather than children who have some kind of job from which penalty payments or compensation can be extracted. Institutional sentences are also restricted to older youth by law.

4.12 Race by Other Factors

1. When pleas are broken down by racial group (Table 4.13), Caucasians tend to admit charges slightly more often than Maoris and Pacific Islanders, and enter fewer denials. Though their numbers are different, Maori and Pacific Islands children admit about the same relative percentage of charges. However, Pacific Islanders tend, in view of their share of cases, to deny charges somewhat more than others. Of denial pleas, over 50% were entered by Maoris. Maoris also entered 66% of the no pleas.

2. When remands are examined on the basis of the race of the child, certain trends become clear. For instance, according to the Tauroa report (1983:181), at the Auckland court in 1981 a higher portion of Maori children were remanded in custody than Pakeha or Pacific Islands children. Under the Advocate Scheme (Table 4.14), the same thing is true. Almost 59% of custody remands involved Maori children, considerably higher than their share of remands would suggest. Caucasians were also slightly above their share of cases, but Pacific Islanders remanded in custody were much lower than their proportion of remand cases.

Table 4.12

Types of Sentence by Age
Under the Advocate Scheme

Sentence	AGES								Row Total
	11	12	13	14	15	16	17	18	
Count	2	1	7	5	49	58	36	0	158
Row Pct	1.3	0.6	4.4	3.2	31.0	36.7	22.8	0	42.2
Col Pct	100.0	100.0	100.0	83.3	69.0	43.6	24.2	0	
Tab Pct	0.5	0.3	1.9	1.3	13.1	15.5	9.6	0	
<hr/>									
Institul	0	0	0	1	14	10	8	3	36
Sentence	0	0	0	2.8	38.9	27.8	22.2	8.3	9.6
	0	0	0	16.7	19.7	7.5	5.4	60.0	
	0	0	0	0.3	3.7	2.7	2.1	0.8	
<hr/>									
Financl	0	0	0	0	8	65	105	2	180
Sentence	0	0	0	0	4.4	36.1	58.3	1.1	48.1
	0	0	0	0	11.3	48.9	70.5	40.0	
	0	0	0	0	2.1	17.4	28.1	0.5	
<hr/>									
Column Total	2	1	7	6	71	133	149	5	374
	0.5	0.3	1.9	1.6	19.0	35.6	39.8	1.3	100.0

Percents and totals based on responses
304 valid cases 320 missing cases

Source: Department of Justice

Table 4.13

Plea by Race During the Advocate Scheme Pilot

RACE	PLEA				Row Total
	Admitted	Denied	No Plea	Proven	
Caucasian	Count	142	17	4	163
	Row Pct	87.1	10.4	2.5	31.3
	Col Pct	32.0	26.6	33.3	0
	Tot Pct	27.3	3.3	0.8	0
Pacific Isdr	Count	80	14	0	95
	Row Pct	84.2	14.7	0	18.2
	Col Pct	18.0	21.9	0	100.0
	Tot Pct	15.4	2.7	0	0.2
Maori	Count	222	33	8	263
	Row Pct	84.4	12.5	3.0	50.5
	Col Pct	50.0	51.6	66.7	0
	Tot Pct	42.6	6.3	1.5	0
Column Total	444	64	12	1	521
	85.2	12.3	2.3	0.2	100.0

Missing observations = 103

Source: Department of Justice

Table 4.14

Remand Type by Race During the Advocate Scheme Pilot

REMAND	RACE				Row Total
	Caucasian	Pacific Is	Maori	Asiatic	
	Count				
	Row Pct				
	Col Pct				
	Tab Pct				
S.W.-Police Custody	22 30.6 29.7 8.4	11 15.3 17.5 4.2	40 54.8 32.5 15.3	0 0 0 0	73 28.0
Self/Kin or Guardian	40 24.8 54.1 15.3	45 28.0 71.4 17.2	74 46.0 60.7 28.4	2 1.2 100.0 0.8	161 61.7
Community	12 44.4 16.2 4.6	7 25.9 11.1 2.7	8 29.6 6.6 3.1	0 0 0 0	27 10.3
Column Total	74 28.4	63 24.1	123 46.7	2 0.8	261 100.0

Missing cases = 413

Source: Department of Justice

3. Another tendency regarding remands is for Pacific Islands children to be placed with kin, a guardian or on their own more often than the other two groups. In general more Maoris and Pacific Islanders tend to be remanded with kin and guardians than Caucasians (54%). Caucasians make up proportionately a much high share of community remands, particularly when compared with Maoris (7%). In general, there is a tendency for Maoris to be placed in custody, or with Pacific Islanders in the care of kin or guardians, while Pakehas tend to receive more community remands.

4. Not surprisingly, sentences considered on the basis of race tend to correspond with observations about remands. However, Pakehas receive sentences somewhat more often than their proportion of total sentences, and Maoris slightly less. Even so, of those institutionalised 64% are Maori, a much higher percentage than their share of all sentence types. Caucasians, on the other hand, are placed in institutions much less often.

5. With financial sentences, it is a slightly different story. Some 60% of Pakehas sentenced have to pay fines or compensation. Even so, the proportion of all financial sentences is shared equally between Pakehas and Maoris. Pacific Islanders are much more likely to receive community sentences than the other two groups, at a rate of some 20% above their share of sentences. Of Pacific Islanders sentenced, 56% were given community sentences. Maori numbers are still high in this sentence category, but proportionately just about equal to their share of all sentences.

Table 4.15

Sentence Type by Race During the Advocate Scheme Pilot

SENTENCE	RACE			Row Total
	Caucasian	Pacif Is	Maori	
Community Sentence	44 28.0 34.9 11.9	41 26.1 56.2 11.1	72 45.9 41.9 19.4	157 42.3
Instit'l Sentence	7 19.4 5.6 1.9	6 16.7 8.2 1.6	23 63.9 13.4 6.2	36 9.7
Financial Sentence	75 42.1 59.5 20.2	26 14.6 35.6 7.0	77 43.3 44.8 20.8	178 48.0
Column Total	126 34.0	73 19.7	172 46.4	371 100.0

Missing cases = 324

Source: Department of Justice

KEY ISSUES REGARDING THE EFFECTIVENESS OF THE ADVOCATE SCHEME

Introduction

The purpose of this section of the report is to consider evidence from case statistics and interviewing having bearing on the effectiveness of the Scheme as set out in the aims of the Evaluation (Section 2).

5.1 Legal Representation

1. The question of whether there has been a significant improvement in legal representation for children under the Advocate Scheme must take into account both quantitative and qualitative considerations. The question of quality of representation will be reserved for the following section, where the comments of children and parents during interviewing will be discussed.
2. The Department of Social Welfare has for some years maintained a record of levels of legal representation at each court. From these records, it is possible to compare courts under the Duty Solicitor and Legal Aid schemes with the Auckland court under the Advocate Scheme pilot (Table 5.1). One of the most significant findings is the dramatic increase in the level of legal representation during the Advocate Scheme to 94.6%. This compares with 59.9% during all of 1984 (which even includes two months of the new Scheme) and 69.8% in 1981.
3. The Auckland 1984 representation rate under the Duty Solicitor/Legal Aid schemes matches that of Otahuhu during early 1985 and is higher than Otahuhu in previous years. Since 1981, Otahuhu has shown a marked improvement in the rate of legal representation. Legal Aid, which has hovered around 20% prior to the Advocate Scheme, was hardly used at all under the Pilot.
4. How many of these legal representatives at the Auckland court were actually Advocates must also be examined. According to Table 5.2, the 631 cases generated a total of at least 980 hearings. Of these 930 or 95% the child was represented by an Advocate. A further eighteen had their own lawyer, three had a Duty Solicitor and four had a Legal Aid appointment. In the missing cases category for subsequent hearings, there may well be non-Advocate representation but these cannot be confirmed from the existing data.
5. Of course the intention of the Scheme was for one lawyer to represent each child from the beginning to the conclusion of the case through subsequent hearings. The fact that some cases

Table 5.1

Levels of Legal Representation by Distinct Cases
(Comparison of Courts and Schemes)

	<u>Total Cases</u>	<u>Legal Rep.</u>		<u>Legal Aid</u>	
		<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>
AUCKLAND:					
Advocate Sch. Nov 84-Apr 85	631	597	94.6	1	.2
Duty Sol/Adv. 1984	1283	768	59.9	319	24.9
Duty Sol. 1981	1250	872	69.8	251	20.1
<hr/>					
OTAHURU:					
Duty Sol. Jan-Feb.85	98	59	60.2	14	14.3
Duty Sol. 1984	1102	614	55.6	243	22.1
Duty Sol. 1981	1241	392	31.6	47	3.8
<hr/>					

Source: Department of Social Welfare, Department of Justice

Table 5.2

Type of Counsel During the Advocate
Scheme for All Hearings

HEARING NUMBER	COUNSEL				
	<u>Advocate</u>	<u>Private</u>	<u>Duty Solicitor</u>	<u>Legal Aid</u>	<u>Unknown</u>
1	595	7	2	1	25
2	247	6	1	2	-
3	72	4	0	1	-
4	16	1	0	0	-
	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
Total	930	18	3	4	25
Percentage	95.0	1.8	.3	.4	2.6

Source: Department of Justice

involved two or more Advocates raises the question of just how closely the principle of continuity of representation was followed. In Table 5.3 we see that a creditable 88.9% of cases involved only one Advocate representing the child. Since 226 cases were disposed of on the first appearance (Table 4.7), that leaves 335 cases which went to two or more hearings but retained the same Advocate. Since there were 405 remand cases (including "unknown"), the continuity rate is actually 82.7% of all multiple hearing cases. Of the remaining cases, 34 (8.4%) had two Advocates and 2 children had three Advocates. Of the 34 cases where information is missing, almost half involved private lawyers, Duty Solicitors, etc.

6. The figures just discussed show the importance of distinguishing general rates of representation from the question of continuity. A modified Duty Solicitor scheme might be able to increase representation levels but would be unlikely to have much positive effect on continuity of representation.

7. The real test of continuity comes when re-offenders are considered separately from other cases (Table 5.3). There were relatively few such cases during the six months of the pilot scheme, but for such children the situation is quite different. Only 6 (15%) had the same Advocate, while fully 85% had two or more Advocates. It should be borne in mind, however, that the Duty Solicitor scheme only deals with first appearances (at least in principle) and therefore would likely have a corresponding continuity rate of virtually nil. Continuity of judge is also low for repeat offenders. As will be discussed later, continuity of judge and continuity of solicitor go hand in hand, particularly in a larger court.

8. These data give no indication of trends over time, but can form the basis for the kind of ongoing monitoring recommended at the conclusion of this report.

5.2 Quality of Court Experience

1. Another key issue which the evaluation research set out to test was the extent to which the Advocate Scheme has improved the quality of the court experience of children and their parents. Since such an issue is difficult to quantify, it was considered useful to turn to how children and parents themselves evaluated their own experience at court. A sample of most children and some parents was interviewed at Auckland and Otahuhu courts during a two-week period in late January, 1985. This was midway through the pilot scheme.

Table S.3

I. Number of Advocates Per Case

<u>ADVOCATES</u>	<u>Number</u>	<u>Relv Freq</u>	<u>Adj Freq</u>
1	561	88.9%	94.0%
2	34	5.4	5.7
3	2	0.3	0.3
Other or unknown	34	5.4	Missing
Total	631	100.0	100.0

II. Cases of Re-offending

	<u>Number</u>	<u>Percent</u>
A. Cases with Same Advocate	6	15%
Cases with Different Advocate	33	85%
Total	39	100%
B. Cases with Same Judge	6	15.4%
Cases with Different Judge	20	51.3%
Not sure	13	33.3%
Total	39	100.0%

Source: Scheme Liaison Office Files, Department of Justice

2. The questions selected as having most bearing on the issue of court experience were (a) whether the individual felt they understood the proceedings [cross-checked against a ranking exercise of their recall of judge's decision], (b) whether they felt the judge had taken time to understand their point of view, (c) whether they felt able to relax and speak up if they wished, and (d) whether they felt they had received a fair hearing.

3. The responses to these questions are set out in Table 5.4. One significant finding immediately apparent for the Auckland court is that children were much less positive in their reflections on their experience than parents. For instance, two out of three children felt they understood fully what was happening in court, while 88.9% of parents said they understood everything. It is sobering that one in three children during the Scheme felt they were unclear about some or most of what had transpired.

4. Children were then asked to recall what the outcome of the hearing had been, particularly the judge's decision. These responses were rated on a 1-5 scale by the researchers according to how close their answers came to covering the main aspects of the outcome on file. The children sampled had a slightly better recall of what had transpired in court than they thought. Over 60% were aware of all or virtually all the salient aspects of the judge's decision and final outcome. However, 7.5% were totally lost and could remember nothing about the outcome, while 1/3 were aware of about half or less of the important facts of the outcome of their case. We are dealing here with recall, which is not necessarily an true indicator of whether the young people surveyed actually understood what had been decided, or what consequences the hearing would have for them.

5. When asked whether they felt the judge had communicated adequately with them personally, 3/4 said the judge had taken time to understand their point of view at least in part. But 20% stated categorically that this had not been the case.

6. Fewer than a third of children interviewed at the Auckland court felt it was alright to relax and speak up if they had something to say, whereas half the parents gave a positive response to this question. However, the highest proportion of children (69.8%), in summing up their experience, said they had received a fair hearing regardless of the judge's decision. Another 13% felt that this had at least partially been true. Therefore, 83% of children felt reasonably satisfied they had received a fair hearing, and almost 90% of their parents felt similarly.

Table 5.4

Quality of Court Experience Based On
Parent/Child Interview Responses

AUCKLAND COURT

<u>ISSUE</u>	<u>Child's Response</u>		<u>Parent's Response</u>	
	<u>No.</u>	<u>Adj. %</u>	<u>No.</u>	<u>Adj. %</u>
A. Understood Proceedings				
1) Yes	36	67.9	16	88.9
2) No	5	7.4	0	0
3) Some/most	6	11.3	1	5.6
4) Very little	6	11.3	0	0
5) No resp.	0	0	1	5.6
	53	100.0	18	100.0
B. Judge Communicated				
1) Yes	26	49.1	10	55.6
2) No	11	20.8	1	5.6
3) Partially	15	28.3	6	33.3
4) No resp.	1	1.9	1	5.6
	53	100.0	18	100.0
C. Relax/speak up				
1) Yes	16	30.2	9	50.0
2) No	23	43.4	3	16.7
3) A little	14	26.4	5	27.8
4) No resp.	0	0	1	5.5
	53	100.0	18	100.0
D. Fair hearing				
1) Yes	37	69.8	15	83.3
2) No	6	11.3	1	5.6
3) Partially	7	13.2	1	5.6
4) Not sure	3	5.7	1	5.6
	53	100.0	18	100.0

Source: Department of Justice :

7. It is difficult to assess the true significance of these responses taken by themselves, and the extent to which they indicate success or failure for the Scheme. For one thing, comparative data is not available for the same court under the previous legal scheme. Such questions should certainly be considered for any future monitoring of the Scheme to see whether people's evaluation is changing.

8. Furthermore, it is clear that the individual judge has a significant influence on proceedings, so once again it is difficult to separate out the role of the Scheme per se in quality of court experience. The judge's influence was certainly apparent during participant-observation, and may in part explain the difference in interview responses between the Auckland and Otahuhu courts (Table 5.5). At Otahuhu, where a significant proportion of children are unrepresented and others have only spoken with a Duty Solicitor briefly, Judge Mason places a greater emphasis on informality and usually "interviews" the child during the hearing.

9. Unlike the Auckland results, responses regarding court experience between children and parents are quite similar. Children's responses are also considerably more positive than those of children appearing at the Auckland court. Only 5% felt they didn't understand court proceedings, and a little over half felt they could relax and speak up. This is still a much higher proportion than at the Auckland court. The difference in responses may be more apparent than real due to the difficult conditions under which interviewing was carried out, and the tendency for child respondents to give more perfunctory answers due to lack of privacy and time (See Appendix A).

5.3 Parent & Family Involvement

1. The evaluation study was to examine whether or not the Advocate Scheme had served to increase the number of parents and other persons supporting the child at court. Unfortunately, as with one or two other key issues, there is a lack of data on previous levels of parental, extended family and friend involvement upon which to make a firm assessment. Furthermore, the more orderly reception procedure at the Auckland children's court was only established midway through the pilot scheme, so information acquired is not entirely reliable.

2. From the data that was collected (Table 5.6) it seems that approximately half the children appearing were accompanied by one or both parents at least for their initial hearing. Another 5% were accompanied by parents and/or extended family.

Table 5.5

Quality of Court Experience Based On
Parent/Child Interview Responses

OTAHUHU COURT

ISSUE	Child's Response		Parent's Response	
	No.	Adj. %	No.	Adj. %
A. Understood Proceedings				
1) Yes	33	82.5	14	87.5
2) No	1	2.5	1	6.3
3) Some/most	4	10.0	1	6.3
4) Very little	2	5.0	0	0
5) No resp.	0	0	0	0
	<hr/> 40	<hr/> 100.0	<hr/> 16	<hr/> 100.0
B. Judge Communicated				
1) Yes	34	85.0	14	87.5
2) No	3	7.5	0	0
3) Partially	3	7.5	2	12.5
4) No resp.	0	0	0	0
	<hr/> 40	<hr/> 100.0	<hr/> 16	<hr/> 100.0
C. Relax/speak up				
1) Yes	23	57.5	10	62.5
2) No	9	22.5	2	12.5
3) A little	8	20.0	4	25.0
4) No resp.	0	0	0	0
	<hr/> 40	<hr/> 100.0	<hr/> 16	<hr/> 100.0
D. Fair hearing				
1) Yes	34	85.0	13	81.3
2) No	1	2.5	0	0
3) Partially	2	5.0	2	12.5
4) Not sure	3	7.5	1	6.3
	<hr/> 40	<hr/> 100.0	<hr/> 16	<hr/> 100.0

Source: Department of Justice

Table 5.6

Presence at Auckland Court of Relatives and Others
During the Advocate Scheme Pilot*

RELATIONSHIP	No.	First Appearance		All Appearances	
		Relv Freq	Adj Freq	No.	Adj Freq
Kin, Friends, or Guardian:					
*Parent	287	45.5%	52.4%	424	50.7%
*Sibling	10	1.6	1.8	17	2.0
*Guardian	5	0.8	0.9	8	1.0
*Friend	7	1.1	1.3	10	1.2
*Other Relv	20	3.2	3.7	27	3.2
*Parent+Kin	12	1.9	2.2	25	3.0
Gov't or Comnty Agency:	31	4.9	5.7	43	5.1
Unaccompanied	176	27.9	32.1	282	33.7
Other persons	1	.2	.2	1	.1
Missing	83	13.2	Missing	-	-
Total	631	100.0	100.0	837	100.1

Source: Liaison Office Reception data

* Based on individuals recorded by receptionist as present
for a specific case; total cases included

3. It is generally known that judges of the childrens court prefer parents to be present for their child's hearing. Lawyers and the Liaison Officer alike usually inform relatives of the reasons they should attend court. Parents are responsible in law for their children, and society in general enjoins parents to care for and support the children when they are in difficulty. However, during the Scheme 28% of children appearing at court were unaccompanied. From interviewing, this seems to be the result of family circumstances (lack of funds, work commitments, other children to care for, etc.) more than parental neglect. Admittedly, there are a minority of instances in which parents are unable to cope with their children and have given up on them.

4. On the basis of the data to hand, it must be said that the Scheme has been less successful than hoped in involving parents and other individuals. A prime reason for this seems to have been that there was never any systematic programme or set of procedures for increasing their level of participation. There was a hope expressed that this would happen, and judges emphasised the point, while the Liaison Officer was left to make what parental contacts he could.

5. In contrast where such programmes do exist, or where the court and outside agencies work together to increase such involvement, levels of parental and extended family attendance are higher. At the Otahuhu court, for instance (Table 5.8), Judge Mason is quite insistent that parents or relations be present. During the brief period of field-work in early 1985, more than one case was postponed until parents could be at court. As a result, at least on a small sample of cases under the Duty Solicitor Scheme, parental participation was 25% higher than at Auckland and the rate of unaccompanied children was 20% below the Auckland court. Whether this aspect of the Advocate Scheme shows improvement under an organised parental involvement programme will need to be part of any ongoing monitoring (See Appendix A).

5.4 Community Groups & Volunteer Involvement

1. Similar comments apply with regard to the intention of the Advocate Scheme to involve community groups and volunteers. Unfortunately, the available information about such participation is not very complete.

2. There is the additional difficulty of determining who are "community" groups and individuals versus State agencies, since many receive government funding and are active in the community. On the basis of available information (Table 5.7), a wider range of groups and agencies seems to have been active at the Auckland court than at Otahuhu (Table 5.8). But the numbers, at least those recorded as present for a particular case, are relatively low.

Table 5.7

Level of Government Agency & Community
Group Involvement in Cases During
Advocate Scheme Pilot*

<u>AGENT</u>	<u>No.</u>	<u>Relv Freq</u>	<u>Adj Freq</u>
Maatua Whangai	4	0.6%	5.3%
Maori Affairs	5	0.8	6.6
Church	5	0.8	6.6
Kokiri	1	0.2	1.3
Maori Wardens	7	1.1	9.2
Social Welfare	40	6.3	52.6
Youthline	1	0.2	1.3
Arohanui	3	0.5	3.9
Odyssey House	1	0.2	1.3
Other	9	1.4	11.8
Missing	555	88.0	Missing
	<hr/>	<hr/>	<hr/>
Total	631	100.1	99.9

Source: Liaison Office Reception data

*Based on agencies or groups recorded by receptionist as present
for a specific case; all appearances including remands included.

Table 5.8

Presence at Otahuhu Court of Relatives
and Others, Jan. - Feb., 1985

<u>RELATIONSHIP</u>	<u>FIRST APPEARANCE</u>			<u>ALL APPEARANCES</u>		
	<u>No.</u>	<u>Relv Freg</u>	<u>Adj Freg</u>	<u>No.</u>	<u>Relv Freg</u>	<u>Adj Freg</u>
Kin, Friends, or Guardian:						
*Parent	73	74.5	78.5	92	71.9	74.8
*Sibling	3	3.1	3.2	4	3.1	3.3
*Guardian	0	0	0	1	.8	.8
*Friend	1	1.0	1.1	1	.8	.8
*Other Relv	2	2.0	2.2	5	3.9	4.1
*Parent+Kin	3	3.1	3.2	4	3.1	3.3
Gov't or Comnty Agency	3	3.1	3.2	4	3.1	3.3
Unaccompanied	8	8.2	8.6	12	9.4	10.0
Missing	0	0	0	5	3.9	missing
Totals	<u>98</u>	<u>100.0</u>	<u>100.0</u>	<u>128</u>	<u>100.0</u>	<u>100.0</u>

Government Agency & Community Group
Involvement at Otahuhu Court
Jan. - Feb., 1985

<u>AGENT</u>	<u>No.</u>	<u>Relv Freg</u>
Maatua Whangai	3	2.9
Maori Affairs	1	1.0
Maori Wardens	2	1.9
Social Worker	1	1.0
Foster Parents	1	1.0
Other	1	1.0
Missing	94	91.3
Total	<u>103</u>	<u>100.0</u>

Source: Department of Justice

3. Participant-observation at the Auckland court suggests that these figures understate the true number of groups and volunteers actually present at court. Their presence was either not recorded by reception, or as is often true, they were present for one case and also advised on others. Such groups were also consulted, often by telephone, regarding remands or sentence placements without actually appearing at court. Midway through the Scheme, Judge Wallace also requested that Kokiri workers be rostered on a daily basis at court, and for virtually every hearing thereafter, one or more Kokiri workers were present. The fact that only one such person is recorded as involved in a case (Table 5.7) shows the tenuousness of the recorded data.

4. Nevertheless, many community groups and volunteers feel that they are not adequately consulted or included in the operations of the childrens court. Certainly there are no programmes such as those being experimented with at the Henderson and Otahuhu courts, particularly regarding remand and sentence placements in the community or among kin. In view of the statistical evidence available, and the lack of any systematic way of consulting or involving such groups, their assessment of their participation as peripheral and hit-and-miss is probably accurate.

5.5 Time to Dispose of Cases

1. When the Advocate Scheme was set up, it was hoped that one of the benefits would be a reduction in the time taken to dispose of cases. The concern was not merely for more efficient court operations, but effective justice. The Tauroa report warned of the effects of having children caught up in the court system so that they became socialised into it and hardened offenders.

2. Once again, there is a lack of information about the pre-Scheme situation at the Auckland court from which to make comparisons. Certainly, comments by advocates, judges, and other court officers indicate that if anything, the Scheme has extended the time taken to dispose of cases. Section 8 discusses the reasons why court officers interviewed feel this has been so.

3. As a basis for future monitoring, Table 5.9 sets out the time gaps between first and second hearings at the Auckland and Otahuhu courts. Cases dealt with at the first appearance have been deleted. At both courts, a considerable majority of children have a subsequent hearing within three weeks of their initial hearing. For Auckland, the figure is about 65% while at Otahuhu (during a brief sample period) almost 90% of cases had a second hearing within three weeks.

Table 5.9

Comparison of Times Between First and
Second Hearings at Auckland and Otahuhu Courts

<u>WEEKS</u>	<u>AUCKLAND</u>		<u>OTAHUHU</u>	
	<u>No.</u>	<u>Relv Freq</u>	<u>No.</u>	<u>Relv Freq</u>
1	34	13.5%	5	17.2
2	98	39.0	14	65.5
3	30	12.0	7	24.1
4	20	8.0	3	10.3
5	10	4.0		
6	17	6.8	39	100.0
7	6	2.4		
8	7	2.8		
9	29	11.6		
Total	251	100.0		

Source: Department of Justice

4. It is disturbing, however, that close to a third of children had to wait a month or more for their second hearing under the Advocate Scheme. Some ten percent had a delay of over two months before their next hearing. It is doubtful that the Scheme in itself was responsible for such delays, but consideration must be given to whether an emphasis on quality of representation tends to lead to more time taken for each case, and indeed more time at each hearing. There may be a point at which one value begins to erode the other.

5. The time which Advocates report spending in interviewing their clients and in court hearings is set out in Table 5.10. Again, the data is most useful as a basis for future monitoring. Most advocates spend either five or ten minutes interviewing, and similar amounts of time in court. While the times are clearly shorthand estimates by busy lawyers, they are indicative of the kinds of time that are involved per case.

6. Lawyers prefer to spend more time discussing a case or a social worker's report with the child. But most interviews are held on the day of the hearing in spite of attempts to have the Liaison Officer set appointments for the day before. This means advocates seldom have all the time they would wish to talk with the child and his parents. Even so, Table 5.10 indicates that about 10% of interviews take over fifteen minutes. Most of these interviews would have been appointments the afternoon prior to the hearing at the court, or at the lawyer's own office. Advocates often mentioned the additional out-of-court time which the Scheme generated, but recording such time proved impossible.

7. The average time a court case takes is between five and ten minutes, according to both advocates' records (Table 5.10) and participant-observation. There are many cases which must be stood down or postponed for various reasons, or which clearly require a social worker's report, and which can be dealt with quickly. Those hearings which take longer than fifteen minutes (6.5%) are relatively few, though there is no pressure to complete cases in a set time. Those which take the longest are typically defended hearings, which can last several hours on an afternoon until early evening. The concern of judges, lawyers and other court officers is the disruption such hearings cause to the court calendar, and problems maintaining the advocate roster which jeopardises the continuity principle.

8. Comparative data for Otahuhu court was not recorded, but participant-observation indicates that hearings average longer at Otahuhu because of Judge Mason's discussions with children and parents, and his longer explanations of his decisions. Shorter hearing times at Auckland seem to be facilitated by Advocates having more time to interview clients than Duty Solicitors at Otahuhu, and pre-hearing discussions among Advocates, police and social welfare officers regarding how

Table 5.10

Time Advocates Spend Counselling Clients
at the Auckland Court

<u>TIME</u>	<u>Count</u>	<u>Percent of Responses</u>	<u>Percent of Cases</u>
1-5 minutes	134	22.3	29.5
6-10 minutes	342	56.8	75.6
11-15 minutes	67	11.2	14.7
16-20 minutes	20	3.4	4.4
21-30 minutes	22	3.7	4.9
Over 30 minutes	17	3.0	3.6
Total Responses	602	100.0	132.8

Time Advocates Spend in Court
Per Case

<u>TIME</u>	<u>Count</u>	<u>Percent of Responses</u>	<u>Percent of Cases</u>
1-5 minutes	250	42.3	57.6
6-10 minutes	266	45.0	61.3
11-15 minutes	37	6.2	8.6
16-20 minutes	15	2.6	3.4
21-30 minutes	14	2.4	3.2
Over 30 minutes	9	1.5	2.1
Total Responses	591	100.0	100.0

Source: Liaison Office Files

each case should proceed. This daily procedure became an increasingly important feature of the Scheme as court officers became accustomed to working with one another as a "team".

5.6 Comparative Costs

1. The evaluation study was also asked to examine the costs of the Advocate Scheme in comparison with other legal assistance programmes. In the final instance the Department and community will have to decide whether the benefits of the pilot scheme are worth the additional financial outlay, if any.

2. There is no doubt that the Advocate Scheme has proven more costly to operate than either the Duty Solicitor or Offenders Legal Aid programmes at the Auckland court. It was not possible to obtain comparative data for the Otahuhu court during the Advocate Scheme. As Table 5.11 demonstrates, the Advocate Scheme was almost exactly twice as costly as each of the other two schemes based on figure from 1984. Calculations of costs for the table were worked out by Ted Tuffey, Assistant Senior Deputy Registrar as set out in Appendix B. However, the pilot scheme is meant to replace the Duty Solicitor programme, and since Advocates handle virtually all complaints at the first appearance even though complaints are not part of the Scheme, it could be argued that the Advocate Scheme covers most of the work of the other two. It would be fairer, then, to compare the Advocate Scheme with the combined total of the other two programmes which are quite similar.

3. Monthly averages mirror these same cost differences. The original figures from the court registrar's office gave the monthly average for the Advocate Scheme as \$7100 per month, but it is assumed that this was an error in calculation. Pay scales were changed during the Advocate Scheme, raising rates for Duty Solicitors. However, Advocates have indicated that in view of the additional time and work involved, their rates will also need to be reviewed.

4. The cost-effectiveness of the Advocate Scheme can also be assessed on a per case basis (Table 5.11). The assistant registrar estimates that Offenders Legal Aid for children made up 11.8% of the 3556 legal aid applications in 1984, or 209 cases. Of the three schemes, Offenders Legal Aid is the most expensive per case. Presuming that Advocates and Duty Solicitors were involved in every case appearing at court, it looks as though the Duty Solicitor scheme is the least costly. However, the Duty Solicitor representation rate during 1984 was less than 60% compared with 94% for Advocates. When these figures are taken into account, the two programmes are more comparable in expense, with the Advocate Scheme costing \$59.88 per case and the Duty Solicitor Scheme costing \$51.76.

Table 5.11

Comparative Costs of Legal Assistance Schemes
at the Auckland Childrens Court

	ADVOCATE SCHEME (Nov 84-Apr 85)	DUTY SOLICITOR SCHEME (6 months 1984)	OFFENDERS LEGAL AID (6 months 1984)
Total Cost	\$35,574	\$17,340	\$17,880
Monthly Average	\$5,929	\$2890 (new scale)	\$2,980 (old scale)
No. of cases	631	558	209
Cost per case	\$56.37	\$31.07*	\$85.55

* Presuming a Duty Solicitor was involved in each case. The legal representation rate under the scheme was actually 60%, compared with 95% for Advocates.

Source: Department of Justice statistics; Registrar's Office, Auckland District Court

5. It should also be borne in mind that the costs of the Advocate Scheme underwrote a roster of ten specialist lawyers working as a team, versus a rotating roster of two different Duty Solicitors each month. When all these factors are taken into account, the Advocate and Duty Solicitor Schemes are certainly comparable in cost. The Advocate Scheme has additional benefits including a higher rate of representation, continuity and an ongoing team of specialists.

5.7 Re-offending Rates

1. Whether the Advocate Scheme pilot achieved its aims is not merely a matter of how children and parents felt about their court experience, or of dollars and cents. An important concern is to see that, as a result of improved representation and court experience, fewer children stay in or return to the judicial system.

2. Once again, there is little information to hand on rates of re-offending over a period of time at the Auckland children's court. For this reason it is not possible to establish trends prior to and during the Advocate Scheme. As a basis of future monitoring, however, we do know that 39 children appeared at court on new charges after an earlier case had been dealt with. This is a ratio of 6.2% of all cases during the six-month pilot. If cases which were dismissed for whatever reason are separated from those which received a sentence, the rate of repeat offending goes up to 9% of children sentenced.

3. It is likely that such rates of re-offending would not be influenced by quality of legal representation and court experience alone. Programmes involving relatives and community groups in remands and sentencing are likely to have a beneficial effect on the extent to which children re-offend. Programmes such as those at the Henderson and Otahuhu courts, as well as a modified Advocate Scheme as indicated in the recommendations section of this report, should give early indication whether this is likely to be so.

ASSESSMENTS BY CHILDREN AND PARENTS APPEARING
AT COURT

6.1 Introduction

1. This section of the report presents information from interviews with children and parents at the Auckland court during two weeks in late January, 1985 and again for a week in early April. The same questionnaire was also administered to a sample of children and adults at the Otahuhu court during the same two-week period in early January.

2. In most respects, for instance age and sex, the sample population of 53 children at Auckland was similar to the total population during the Scheme. With respect to race, slightly more young people interviewed were Pakehas (35.8%) than the total population appearing at court, and slightly fewer (36.6%) were Maoris. The Pacific Islands proportion was about the same. Approximately 45% were appearing for the first time, and 55% had been at court before and were usually on remand.

3. Of the 18 parents or other accompanying adults interviewed, most were mothers and only two were not a parent. From observation, it was usual for the child to be accompanied by the mother if a parent was involved. The ethnic background of those interviewed at the Auckland court was weighted somewhat toward Maoris (55.6%), with 27.8% Pakehas and 16.7% Pacific Islanders.

6.2 Information About the Scheme

1. Generally speaking, the evidence from interviews indicates that parents or guardians are better informed about the services available through the Scheme than the children attending court. This is to be expected in the sense that most of the official communications about the case are with the parent or guardian of the child.

2. The very basis of the Advocate Scheme is that, in principle at least, every child who comes to court is assured the right to counselling by an Advocate if s/he wishes. And furthermore, that the child should be represented by that same lawyer until the end of the case, unless s/he chooses otherwise. In practice the Scheme comes reasonably close to the ideal, with the possible exception of re-offenders.

3. One would assume, then, that it would be important for children coming to court to know that such counselling was

available. This would certainly seem to be one of the essential functions of the Liaison Officer. However, as Table 6.1 illustrates, only 64.2% of children interviewed at the Auckland court knew they could consult with a lawyer when they arrived. Fully one third had no idea that such counselling was available. This percentage compares with 75% of the 40 children interviewed at Otahuhu who said they knew beforehand they could talk with a lawyer when they arrived. The situation at Auckland would not be serious if all children were accompanied by a knowledgeable parent or guardian. But Table 6.5 below shows that almost 1/3 of children are unaccompanied at court, so they are likely to be confused about what will happen when they arrive. For over half of the children sampled, it was their first appearance.

4. It was initially intended that among his other duties, the Liaison Officer would inform children and parents summoned to appear at the children's court about services under the Scheme. That this was not done effectively is evidenced in Table 6.1 in that fact that most children and parents who knew about the court lawyer were informed by kin/friends or "other" sources. Several mentioned the police summons sheet as a source of their information about legal assistance. Those who had been at court previously knew from experience a lawyer was available to discuss the case. Several children and parents couldn't remember how they knew about the Advocate, and may have talked with the Liaison Officer by telephone.

5. When asked whether they were aware it was a free service, one third of parents knew that it was (Table 6.1). Only half the children interviewed were aware the Advocate was free. It is unlikely many children would have been overly concerned about this question, though a few parents mentioned having initial anxieties. Pacific Islands parents or other kin were more likely to be confused on these matters.

6. Since the value of continuity of representation aimed for in the Scheme has to do with insuring better quality representation, one might assume that children on remand and their parents would be assured that they are likely have the same Advocate when they return to court. Table 6.1 shows that if we exclude those whose case has been completed, a considerable majority of children on remand (34%) were unsure who would represent them at their next hearing. This wasn't just a problem for the young people. A similar proportion of parents sampled had no idea who their lawyer would be. Appointment cards were available and many Advocates used them to arrange an interview prior to the next appearance. But, it was not organised in such a manner that each child on remand was briefed before s/he left court, another task presumably for the Liaison Officer.

Table 6.1

Information Received About the Advocate
Scheme by Children & Parents

ISSUE	No.	CHILDREN		No.	PARENTS	
		Relv Freq	Adj Freq		Relv Freq	Adj Freq
Know lawyer available						
a) yes	34	64.2	64.2	15	83.3	83.3
b) no	16	30.2	30.2	2	11.1	11.1
c) unsure	3	5.7	5.7	1	5.6	5.6
Total	53	100.0	100.0	18	100.0	100.0
How heard of lawyer						
a) Lias.off.	1	1.9	1.9	2	11.1	11.1
b) clerk	1	1.9	1.9	0	0	0
c) police	4	7.5	7.5	4	22.2	22.2
d) s welf.	2	3.8	3.8	0	0	0
e) comnty	1	1.9	1.9	1	5.6	5.6
f) kin/fr.	8	15.1	15.1	4	22.2	22.2
g) media	1	1.9	1.9	1	5.6	5.6
h) other	12	22.6	22.6	5	27.8	27.8
i) didn't know	23	43.3	43.3	1	5.6	5.6
Total	53	100.0	100.0	18	100.0	100.0
Told service free						
a) yes	30	56.6	56.6	13	72.2	72.2
b) no	15	28.3	28.3	3	16.7	16.7
c) unsure	8	15.1	15.1	2	11.1	11.1
Total	53	100.0	100.0	18	100.0	100.0
Same lawyer next time						
a) yes	9	17.0	17.0	4	22.2	22.2
b) no	2	3.8	3.8	0	0	0
c) unsure	18	34.0	34.0	6	33.3	33.3
d) not aplc	24	45.3	45.3	8	44.5	44.5
Total	53	100.0	100.0	18	100.0	100.0

Source: Evaluation field-work interviews

6.3 Physical Setting

1. There has been criticism in the past that the physical facilities at various children's courts was not conducive to the intentions of the Act nor a beneficial experience by children. The Tauroa report (1983:185) among others points out that courts like the old set-up at Auckland are uncomfortable, crowded, lack privacy and mix children with older offenders. According to the Tauroa committee, the old Auckland children's court was one of the worst in New Zealand and a "disgrace". It was for these reasons that renovations were carried out at the Hobson Street facility, and children's court moved there in 1984. Statements about the aims of the Advocate Scheme and the guidelines for the Evaluation indicate the importance of the physical setting in providing a better experience at court for young people and their relations.

2. There is a general tendency in all interview responses for parents or guardians to be less critical than children, and the same is true with respect to the physical facilities at court. For instance, over half the young people interviewed rated seating at the renovated Auckland building either very poor or just fair (Table 6.2). Most parents preferred to make no comment one way or the other. Interestingly enough, children's responses to the question of seating comfort both at Auckland and Otahuhu, where facilities are more rudimentary and over-crowded, were virtually identical. One would surmise from this that, for most young people, a waiting room is a waiting room, no matter how contemporary the chair design or how subtle the colour combinations. It might also be argued that Otahuhu is not nearly as bad as the Auckland court was prior to renovations.

3. Not many of the children interviewed at the Auckland court had had first-hand experience of the secure areas though more parents did. Of young persons with experience in these areas, no one rated them "good". More than 2/3 of parents interviewed thought that these areas were either fair or good.

4. Privacy with friends and relations was rated as reasonably good by children and parents at Auckland, particularly when compared with interview results from Otahuhu. There are a number of smaller side rooms with seats and coffee tables, as well as recesses at the ends of the waiting room, where family groups can get away by themselves. Over half of children and 2/3 of adults thought such privacy was fair to good, though a quarter of children still rated it poor.

5. Facilities for privacy when discussing a case with one's lawyer were rated highest of all at the Auckland court. The renovated building provides for a number of sound-proof interview rooms which clients clearly appreciate. While 1/3 of Otahuhu children rated privacy with their lawyer "very poor," only 13.2% of Auckland children did so.

Table 6.2

Children/Parents Evaluation of the Physical Setting
at the Auckland CYP Court

FACTOR	CHILDREN			PARENTS		
	No.	Reltv Freg	Adj Freg	No.	Reltv Freg	Adj Freg
Seating Comfort:						
Poor	19	35.8	35.8	0	0	0
Fair	17	32.1	32.1	2	11.1	11.1
Good	11	20.8	20.8	0	0	0
N.A.	6	11.3	11.3	16	88.9	88.9
Totals	53	100.0	100.0	18	100.0	100.0
<hr/>						
Secure Comfort:						
Poor	5	9.4	9.4	3	16.7	16.7
Fair	7	13.2	13.2	7	38.9	38.9
Good	0	0	0	7	38.9	38.9
N.A.	41	77.4	77.4	1	5.6	5.6
Totals	53	100.0	100.0	18	100.0	100.0
<hr/>						
Privacy W/Kin, Friends:						
Poor	14	26.4	26.4	3	16.7	16.7
Fair	19	35.8	35.8	7	38.9	38.9
Good	14	26.4	26.4	7	38.9	38.9
N.A.	6	11.3	11.3	1	5.6	5.6
Totals	53	100.0	100.0	18	100.0	100.0
<hr/>						
Privacy W/Lawyer:						
Poor	7	13.2	13.2	0	0	0
Fair	15	28.3	28.3	7	38.9	38.9
Good	28	52.8	58.2	9	50.0	50.0
N.A.	3	5.7	5.7	1	5.6	5.6
Totals	53	100.0	100.0	18	100.0	100.0
<hr/>						
Amenities:						
Poor	12	22.6	22.6	7	38.9	38.9
Fair	15	28.3	28.3	4	22.2	22.2
Good	9	17.0	17.0	1	5.6	5.6
N.A.	17	32.1	32.1	6	33.4	33.4
Totals	53	100.0	100.0	18	100.0	100.0

Source: Advocate Scheme Evaluation Interviews

6. Since in courts with large case-loads, children and parents have to be on hand often for many hours, the amenities provided can be quite important. Children and parents were most critical of such things as the inadequacy of signs indicating the direction to toilets, and the lack of food and drink facilities. Food and drink is provided for those in custody by Social Welfare. But on days with heavy case-loads, the general waiting room can be crowded with families with small children. Since there are not set appointments for hearings, and court can sit well into the afternoon, only those with an older son or daughter along can send out for food, drink and other necessities. If court sits into the afternoon, it is typical for the waiting room to be closed for an hour and everyone put out on the street. Little wonder those interviewed were critical.

7. An unexpected opportunity arose during field-work to test how responses might change if the physical setting were altered. Midway through the first fortnight of interviewing in late January, the air conditioning broke down and it was necessary to shift court to an auxiliary district court two blocks away from the renovated children's court. The researchers administered exactly the same questionnaires, and the only variable different in the analysis was that of physical setting.

8. The district courtroom itself was modern but more formal in arrangement, with a witness stand, rows of seats behind a railing for a jury and a higher judge's seat than at the children's court. The waiting area was a long corridor lacking sufficient seats, with two small rooms for lawyers and no reception desk. The custody room was small and crowded.

9. Comparisons of children's evaluations of the two settings are shown in Table 6.3. Expectedly, the seating arrangements at the district court was not rated highly. The secure areas were mostly graded by those held in them, and neither location was assessed positively. Neither did the children vary greatly in their opinions about which location was better regarding privacy with kin and friends. Besides seating, the other difference was the more positive assessment of privacy with one's lawyer at the renovated children's court. Amenities were, if anything, given a slightly better rating at the district court.

6.4 Legal Representation

1. The sample of children and parents were also asked for their opinions regarding the quality of legal representation they received. Once again, there is no data readily available upon which to make a comparison, but monitoring in future could occasionally test clients' impressions and thus provide useful feed-back to Advocates.

Table 6.3

Comparison of Children's Evaluation of
Physical Facilities at Renovated Auckland
CYP Court and District Court

FACTOR	CYP COURT		DISTRICT COURT	
	No.	Percent	No.	Percent
Seating Comfort:				
Poor	8	24.2	11	55.0
Fair	11	33.3	6	30.0
Good	10	30.3	1	5.0
N.A.	4	12.1	2	10.0
Totals	33	100.0	20	100.0
<hr/>				
Secure Comfort:				
Poor	4	12.1	1	5.0
Fair	3	9.1	4	20.0
Good	0	0	0	0
N.A.	26	78.8	15	75.0
Totals	33	110.0	20	100.0
<hr/>				
Privacy W/Kin, Friends:				
Poor	10	30.3	4	20.0
Fair	11	33.3	8	40.0
Good	9	27.3	5	25.0
N.A.	3	9.1	3	15.0
Totals	33	100.0	20	100.0
<hr/>				
Privacy W/Lawyer:				
Poor	5	15.2	2	10.0
Fair	6	18.2	9	45.0
Good	20	60.6	8	40.0
N.A.	2	6.1	1	5.0
Totals	33	100.0	20	100.0
<hr/>				
Amenities:				
Poor	11	33.3	1	5.0
Fair	7	21.2	8	40.0
Good	3	9.1	6	30.0
N.A.	12	36.4	5	25.0
Totals	33	100.0	20	100.0

Source: Advocate Scheme Evaluation Interviews

2. The first issue covered in Table 6.4 is the question of when children and parents had an interview with their lawyer. The results confirm that a considerable majority of children (92.5%) and 3/4 of their parents discussed their case with a lawyer the day of the hearing. Most of these interviews, of course, were with Advocates. These hearing-day interviews all take place in less than an hour before court, and sometimes during a recess or when one Advocate manages to slip out of proceedings for a few minutes. The Liaison Officer has attempted to arrange a system of appointments before the day of the hearing, but few have taken advantage of them.

3. Perhaps it is not surprising, then, that a quarter of children interviewed and slightly more parents felt they did not have adequate time to discuss the case with their lawyer. Clearly alternative arrangements will have to be made, hopefully along the lines set out in the recommendations at the end of this report.

4. During the interview itself, around 60% of both children and parents stated that they had encountered no difficulties in being understood or putting their point of view to the Advocate. Each child was specifically asked whether s/he felt there was any difficulty in communication or understanding because s/he was a child. It should be a concern to Advocates that some 13% of the sample were definite that there had been problems, and a further quarter said there had been a little difficulty in communicating. In effect the "generation gap" seems to be as much if not more of a problem in lawyer-child communication as ethnic factors.

5. Of those respondents surveyed who were Polynesian, only a small proportion reported serious difficulties in being understood because they were Maori or Pacific Islander, though 10% did say there were a few problems. Similar results were obtained at Otahuhu, where proportionately more Maoris and Pacific Islanders were interviewed. However, previous research experience would indicate that such questions may not be answered truthfully if they are likely to cause affront.

6. When asked whether they had encountered problems understanding English during the interview, more than half the children said there had been no difficulties. However, over 15% did admit that this had been either a small or major problem. This included Pakeha children who were put off by some of the confusing terms used by the lawyer, or in the social welfare report. It must also be remembered that most of the Pacific Islands young people appearing in court are second generation migrants, and generally at home speaking English. One would expect parents to have greater difficulty, and this was found to be the case during participant-observation. However, the court interpreters were seldom called in since a friend or relation was

Table 6.4

Assessment of Legal Representation at the
Auckland Court by Children and Parents

<u>ISSUE</u>	<u>CHILDREN</u>		<u>PARENTS</u>	
	<u>No.</u>	<u>Percent</u>	<u>No.</u>	<u>Percent</u>
When discuss the case --				
a)more than day before crt.	2	3.8	1	5.6
b)day before	2	3.8	1	5.6
c)hearing day	49	92.5	14	77.8
d)other	0	0	2	11.1
Total	<u>53</u>	<u>100.0</u>	<u>18</u>	<u>100.0</u>
Adequate time to discuss --				
a)Yes	39	73.6	11	61.1
b)No	13	24.5	5	27.8
c)Unsure	1	1.9	1	5.6
d)No resp	0	0	1	5.6
Total	<u>53</u>	<u>100.0</u>	<u>18</u>	<u>100.0</u>
Problem being understood --				
a)yes	7	13.2	2	11.1
b)no	31	58.5	11	61.1
c)a little	14	26.4	2	11.1
d)no resp.	1	1.9	2	11.1
Total	<u>53</u>	<u>100.0</u>	<u>18</u>	<u>100.0</u>
Not understood re. Polynesian --				
a)yes	2	3.8	0	0
b)no	21	39.6	12	66.7
c)a little	5	9.4	0	0
d)no resp/na.	25	47.2	6	33.3
Total	<u>53</u>	<u>100.0</u>	<u>18</u>	<u>100.0</u>
Problems with English/terms--				
a)yes	2	3.8	0	0
b)no	30	56.6	10	55.6
c)a little	7	13.2	0	0
d)no resp/na.	14	26.4	8	44.4
Total	<u>53</u>	<u>100.0</u>	<u>18</u>	<u>100.0</u>

Source: Evaluation field-work interviews

usually brought along to translate for the older person. None of the parents interviewed with the questionnaire said they had language difficulties, though they may have been reluctant to discuss their problems. Most older Cook Islanders at court did comprehend what was taking place, even though they had difficulty making themselves understood.

7. The author has been asked by the Department to comment on research findings regarding language problems and interpreters in view of Maori being permitted to be used in court in the future. Two points can perhaps be made. The first is that interpreters are occasionally essential in a case. They certainly facilitate communication that might otherwise slow down proceedings. But they can usurp the supportive role of a family elder or friend. They often play more of a symbolic function in the sense of forcing the court to recognise the standing of another language besides English, and another culture besides the Pakaha. This is the second point. The courts have a large clientele of people from different Polynesian cultures, and language is a key to maintaining the viability of those cultures in contemporary society. Formally recognising these languages in court is likely to be less a matter of passing information to old people, and more a matter of opening another avenue of cultural identity and pride in our multicultural society.

6.5 Kin and Community Involvement

1. The sample of young people and parents or guardians was asked to indicate who was present during lawyer interviews and the court hearing. This was done for two reasons, one of which was as a cross-check on information being collected by the reception officer. The other was to give children a chance to respond to assumptions in the Scheme and propounded by adults that relatives and community volunteers ought to be more involved in cases.

2. The sample in the middle and then at the end of the Scheme revealed that of those present in counselling with the Advocate, half were parents or guardians (Table 6.5). According to children interviewed, the next largest group were friends. Other kin do not seem to have been much involved, though under the "Other" category for both children and parents were included two or three community volunteers. Once again, the same 1/3 of children accompanied at court were counselled by the Advocate on their own. As mentioned in the earlier discussion on communication, this places an additional responsibility on the Advocate to establish understanding, and this in turn requires that there is sufficient time to talk.

Table 6.5

Who Present at Lawyer Counselling and in Court
Based on Child/Parent Interviews

ISSUE	CHILD		PARENT	
	No.	Percent	No.	Percent
Counselling--				
a)parent/guardian	27	50.9	9	50.0
b)brother/sister	1	1.9	0	0
c)other relations	1	1.9	0	0
d)friends	4	7.5	0	0
e)social worker	1	1.9	0	0
f)other	3	5.7	8	44.4
g)child alone	16	30.2	1	5.6
Total	53	100.0	18	100.0
Was Their/Your Presence Helpful--				
a)yes	28	52.8	12	66.7
b)rather not pres.	3	5.7	1	5.6
c)not sure	6	11.3	2	11.1
d)no resp/na.	16	30.2	2	11.1
Total	53	100.0	53	100.0
Who Present in Court --				
a)parent/guardian	24	45.3	17	94.4
b)brother/sister	1	1.9		
c)other relations	1	1.9		
d)friends	2	3.8		
e)other persons	9	17.0		
f)no resp.(unacc.)	16	30.2	1	5.6
Total	53	100.0	18	100.0

Source: Evaluation Field-work Interviews

3. Just slightly over half the children questioned at the Auckland court stated unambiguously that the presence of others during legal counselling had been helpful. The 30% non-response was from unaccompanied children. The fact that 17% of children interviewed were unsure or negative about having someone else present is reason to reconsider the common assumption that relatives, friends or community volunteers ought always to be present. Note that a similar percentage of parents or guardians felt similarly hesitant. There are often matters, for instance involving complaints or the details of a charge, when a child prefers to speak confidentially or may be pressured by an adult.

4. From the statements of children, slightly fewer parents appear in court than attend legal counselling, and a greater number of "other persons" than kin are present in court with the child. Analysis of data shows these are not members of government agencies or community groups per se. They are often neighbours, representatives of voluntary agencies, etc. Most parents interviewed were present in court. And approximately 1/3 of children sampled appeared unaccompanied, making the quality of representation an even more critical issue.

CASE STUDIES

7.1 Introduction

1. The case study method was included in the Evaluation design because time required for quantitative base-data collection and interviewing precluded extended participant-observation uninterrupted by other research business. The aim was to provide a further qualitative dimension to the study which would aid in understanding the significance of statistical data and interview responses.
2. Within the constraints mentioned earlier, case studies were carried out to the extent that they usefully illustrate certain strengths and weaknesses of the Scheme. The selection of the original typology of cases remains a reasonably comprehensive profile of the kinds of children coming before the court. For that reason, the case studies presented below, based on real children, tell us much not only about aspects of the Scheme, but similar "types" of children. Ideally, for the method to be most effective, interviewing and participant-observation over an extended period of time is required for each case. The procedure deserves to be attempted in some future compatible study.

7.2 Mata

1. Introduction. The case of Mata highlights the difficulties that arise for a boy and his family when aspects of the court system don't proceed quite as they should. This case illustrates among other things the difficulties a child had understanding what was happening to him, how these may have been exacerbated by a change of advocates, why appointments are not always kept, and the inappropriateness of the uniformed baliff in a children's court.
2. Mata was born in Rarotonga and came to New Zealand when he was only a year old. At fourteen, he is a shy, slightly-built boy, the oldest of six children. The rest of his brothers and sisters were born in New Zealand. Mata's mother, Vaine, was born on an outer island in the Cooks, but moved to Rarotonga where she married Mata's father. They lived with Mata's paternal grandfather for a year, helping with the family shop before emigrating to New Zealand to look for work.
3. As has been the case for many working class Pacific migrants, the family was forced to move often since they couldn't afford a place of their own. This had the effect of repeatedly disrupting Mata's education and friendships. When the family first arrived in Auckland, they stayed with Mata's father's oldest brother and

his family in Kingsland. For two years, the two families and another relative shared the rent and crowded conditions. When Mata's uncle decided to return to Rarotonga to help in the family shop, they had to move to another rented house in Kingsland. Mata's father had by this time managed to find a permanent job as a driver. After eight months, they were given notice to move. They found a house in Point Chev, but had to shift again in less than a year because a motorway was to be built through the area.

4. They were placed in an emergency house in Ponsonby, but with the renovation boom in the inner city in the late 1970s, others needed the house and they had to get out. They found a run-down old place in Grey Lynn where they stayed another four months, until friends told them about a block of flats in Ponsonby. The family had by now grown to eight, but they lived together in the one room and kitchenette for three years. Eventually, the health inspector visited and said they would have to leave. At the time of the field-work interviews, the family had just been placed in another emergency house in West Auckland, meaning Mata had to move schools again. His mother says they are still on the Housing Corporation waiting list, but after several shifts this is unlikely.

5. Mata attended primary and intermediate school at different schools in inner city Auckland. Until the family's latest move, he had been attending Seddon High School. His favourite subjects were science and woodwork, while he did poorly in maths and didn't like social studies. He got on reasonably well with his teachers at Seddon, but enjoyed it mostly because he had friends there he knew from earlier years. On the other hand, that is one reason his mother is glad they have shifted, so he can get a fresh start away from the friends she believes led him astray. Vaine says Mata is not much of a student, but he does well at drawing and art, and enjoys fixing things with his hands: "When there is nothing to do, he just goes and gets a piece of paper and starts drawing or figuring out how to fix something". Mata says he plans to continue at school, but more to please his mother than anything else.

6. The family used to attend church when Mata was younger. His father insisted on it, like in the islands. But in recent years, they have stopped going because they have moved around so often and lost touch with the original congregation. Neither of his parents are active in Cook Islands community affairs or enua (island) association activities. Mata scoffs at the suggestion that he would be involved in a culture troupe, enua, or church youth group: "I don't have time for that kind of stuff". He never has had many close friends. He knew some of the members of the King Cobras in his old neighbourhood, but never joined. He frequented the local space invaders shop, but "I didn't hang around with the others because they were street kids and that". His one close Cook Islands friend lives in the central city, but they seldom see one another now that he is living in West Auckland.

7. Mata first got into trouble with the law during school holidays a year ago. He was hanging around with a group of acquaintances, and they decided to find some paint and experiment with graffiti art at their local school. One of his friends got the idea from watching a television documentary about "bombing" in New York. The others wrote on the wall, while Mata coloured in a figure on the bitumen of the playground. A woman saw them and warned them to stop. Later, they were picked up by the police and the woman was with them.

8. For Mata, it was a frightening experience. He recalls being taken to the police station and threatened because they thought he was lying. A detective behind a desk was very angry with him. At one point, he pulled a baton from the drawer and slammed it on the desk to indicate what might happen if he didn't speak up. Later, he slapped Mata hard on the chest several times and then kicked his chair. He was told he would probably get a spell in prison for what he had done. He subsequently learned he was accused of being involved in a robbery at the school. The two arresting officers took him back home and made him climb in through a broken window to let them in. They searched the apartment and then took him back to the police station. His mother had become worried, taken the three children and walked to the station. When she returned home, she was very upset and angry at what had happened. When they brought Mata back, he came running from the car to tell her what had happened. But they warned him to keep his mouth shut, or they would take him away again.

9. Mata and his mother went to court on the bus, while her small son looked after the two youngest children. They had been notified by the police of the date of the hearing. Vaine recalls after they had been at court for a half an hour or so, a Maori man [Liaison Officer] asked if they wanted to see a lawyer. A woman lawyer introduced herself and they discussed the case in an interview room. This was over quite quickly, and Vaine says she didn't understand much of what would happen. Mata listened to them talking, but didn't understand what it was all about. He remembers the waiting room seats were comfortable, but the "big kids" made him nervous.

10. When his name was called by a policeman, Mata says "I was scared, boy. My heart as beating fast." The uniformed sergeant told him where to stand and to pay attention to the judge. Mata remembers the judge was a man. He recalls most of what he said, particularly not to hang around with the kids who did the painting at the school. His mother sat nearby, but didn't say much. There were other people in the court, but neither he nor his mother knew who they were. Mata was remanded for a social worker's report. A social worker did come to visit, and also one of the policeman who threatened him, Mata recalls.

11. For the next hearing, Vaine did not attend the appointment with the lawyer the day before because her husband was working, she didn't want to leave the babies and transport was difficult. When she and Mata arrived at court, they found that they had a different lawyer [Advocate] to represent them. The other woman was on holiday. According to Vaine, she did not comprehend everything this second woman was saying either: "That was a very short time too. You know...she didn't take much time. All the time she was hurrying, you know; someone was needing the room". Mata again "didn't understand what they were saying". He cannot recall talking over any social worker's report before they went into court.

12. This time, they had to wait much longer for their case to be called. Again, a policeman called them in, and Vaine remembers she was very nervous. The woman lawyer was there, and the same judge up front, but they didn't know anyone else there. Another policeman read out the charges, and the judge asked Mata how he was getting along. He did not speak to Vaine, but told Mata he would have to do some community service. Mata remembers him saying "Stay out of trouble, and listen to your mother." Several weeks after the hearing, having moved from the central city, they still had not had a second social worker's visit as they had been told, nor had they heard anything further about arrangements for Mata to do his community work at the school. The court appearance about the burglary was set for over two months after the first hearing, and Vaine doesn't know why they have such a long wait [delay in remands on Mondays to maintain advocate continuity].

13. A subsequent conversation with Mata revealed the likely extent of his confusion over what had been happening to him, and the probable consequences of changing advocates had for him:

Mata: How do you say that word --'confessed'?

TL: That's right.

Mata: What's that mean?

TL: It means that you admit that you did something.

Mata: Yeah. Well, I said I did one [theft] at the school. That's all.

TL: When was that? Before the painting?

Mata: It was before...Oh, if it was "after" I did the painting, what's that mean?

TL: It means first you did the painting, and then you did the other thing.

Mata: Nah! It was before the painting.

One wonders how well Mata would have been able to cope with legal interviews, or been too clear about the charges or his plea without understanding the meaning of such concepts. Mata does not know who will represent him at his next appearance, though he agrees it would be good to have one of the lawyers who is already familiar with the painting incident. But after having to move house again, shift schools, lose a best friend and a newspaper route which provided the only pocket money he has ever had, Mata is resigned. Whatever happens, he feels there's not much he can do.

7.3 Dianne

1. Introduction. A good many of the children who come before the court do so for the first time, and often the disposition of their cases is fairly straight-forward. However, sometimes the shy demeanour of child and relatives covers up tensions within the family which complicate sentencing and placement. The following case raises questions regarding placement, and whether better consultation among court officers would have achieved better results. This is a case in which the liaison officer might have been able to play a useful role advising the advocate, if he had been familiar with the family situation.

2. Dianne is a sixteen year old Samoan born in New Zealand. She has lived in the same house in Ponsonby virtually all her life. Her father bought the large, old villa soon after he arrived in New Zealand, and has now paid off the mortgage. Dianne's mother came to New Zealand in 1974, but has been back twice -- once for a visit and once when her mother was ill. Besides the four children, a cousin is staying with them. Dianne is pregnant, and her boyfriend is also living with the family. Dianne's parents have recently separated due to disagreements over what to do with her.

3. Dianne attended a Catholic primary school and then went to Auckland Girls Grammar for several years. She says she got on well with her teachers and friends. Her favourite subjects were Science and Maths, and her worst was English. Dianne excelled at athletics, and was particularly good at softball: "I played since I was a kid. I always wanted to join a club."

4. A year ago, Dianne and some of her friends decided they were fed up with school and bored with home life. The four boys and four girls left school and lived together at a friend's house for three months. The school authorities reported them missing, and after the Youth Aid section of the Police finally located them, Social Welfare brought a complaint against the parents of the children.

5. Dianne says her parents knew about her living arrangements, and were very upset. Like many Samoan parents, her mother and father had high hopes that their daughter would progress far with a good education. Her mother says Dianne enjoyed school but got mixed up with kids who were a bad influence on her. When she found out Dianne had left school and moved in with a boyfriend, she was furious:

"Make me sick! I said to her, 'Alright, you can't live like that for your whole life.' Because she's too young; no one to look after her. She alright to come back here, because this [home] belong to her. It's no good going around like that -- shift the one place, shift the other place -- It's no good! She's very, very young!"

6. According to Dianne, her father insisted that she be sent back to Samoa [as many Pacific Islands families do with or without court approval, to avoid the shame and as an alternative to other kinds of sentences]. Dianne refused to go and her mother supported her. A social worker got them all together for a family conference. Dianne was brought home by the social worker: "When we came and talked to them, Mom and Dad had an argument and that's how they got separated". Her mother eventually agreed to allow Dianne's boyfriend to live with them, rather than have her always running away to be with him.

7. Late last year, Dianne and two of the friends she had been living with went to a downtown department store and took some clothing and other items, which they stuffed in a bag. They fancied the items, and it was fun to see if they could get away without paying. They were reported by store security staff, and called to appear at the children's court. One friend went to Australia to escape having to face the charges.

8. Dianne had been to court before on the complaint matter, and this time came alone because she said her mother was working. But her mother says Dianne wanted to go alone. She assured her mother she would be alright, and not to bother coming. She did not know about seeing an advocate before she came, and neither she nor her parents were contacted by the liaison officer about all attending the hearing. Her mother is on an unemployment benefit, and would have attended except for Dianne's attitude.

9. Dianne was not sure what to do when she arrived, so sat in the waiting room until court started. No one from the office spoke to her, but eventually a woman lawyer took her to an interview room to discuss her appearance. She was then told to wait until her name was called. The seats were comfortable, she recalls, but there were too many people. After about two and a half hours, she was called into the court by a policeman. She remembers that "I knew pretty much what was going on [during the hearing]. But when they were calling names outside, I was afraid I missed mine because I couldn't understand [the policeman's pronunciation of Polynesian names]. She says

she didn't have any idea who all the other people were in court. She just paid attention to the judge and her lawyer. Afterwards, she understood most of what had taken place. But she says no one spoke with her or explained what would happen next. She was admonished and told she would appear again for sentencing if she got in trouble within six months.

10. Dianne's mother is disappointed that Dianne has thrown away a chance for a good future. She wanted her to finish school, and become qualified in typing, music or some other useful subject. Her husband was too lenient with her. He still wants to send Dianne back to Samoa, but Dianne's mother won't allow it: "She is born and raised here, and this is where she belongs. She can hold onto her culture here; that's a good thing". Dianne sees little of her boyfriend, because he works nights and sleeps all day. She is nervous about having her baby in a few weeks, but beyond that she has no plans for the future.

7.4 Aroha

1. Introduction. This case involves a repeat-offender who had been at court several times prior to the Scheme pilot. As with many such children encountered during the Evaluation, the roster system failed to provide the continuity of representation this child needed. The fact that she saw three different advocates may have been an exception, but such cases are when continuity is needed most.

2. Aroha is a fourteen year old Maori girl who has been in difficulty with the authorities for several years. Even so, she hardly fits the image of a hard-bitten, juvenile offender. She harbours no grudge against "society", nor is she a criminal forced to live off stealing and trickery. If anything her regular appearances at court stem from an uncompromising rejection of any authority or rules which might constrain her irresponsible life style.

3. Aroha's mother came to New Zealand in her early twenties and was soon married. She and her Maori husband separated when Aroha was two years old, but never got a divorce. Aroha is the youngest of three daughters and one son by the marriage. Several years ago, Aroha's mother and her boyfriend took the children and moved to Auckland in search of work. They are now in their second state house, in one of the larger Housing Corporation suburbs. The household resources are fairly meagre. As Aroha's mother sums up, "we're pretty much on the breadline here".

4. The other children have had minor encounters with the law, but nothing like Aroha's troubles. Aroha started becoming defiant and rebellious over two years ago. She didn't want to be told what to do, and lost interest in school. When she had enough, she just left to be with her friends. Her first appearance in court involved a complaint against her mother that Aroha was a truant from school and unsupervised. This was the first of a series of appearances at court involving charges including petty theft, car conversion, and glue sniffing.

5. Eventually, Aroha was put under the supervision of the Department of Social Welfare, and subsequently made a state ward. She has defiantly refused to remain in any institution or foster parent situation. She is quite aware that, because of her young age, the Court is restricted in how it can deal with her. She has been at Bollard often, and staff there see little hope for her. Every time she arrives, she soon absconds taking someone with her. Aroha's mother is concerned for her future. She holds out the hope that somehow Aroha's maturity and "street-wise" attitude will see her through. When she does run away from an institution or foster home, she invariably returns to her mother. They get on well together, though her mother admits to having developed nervous symptoms in recent months with all the stress. Aroha's social worker believes Aroha's mother has no guiding influence over her, and hinders the work of others by covering up for Aroha.

6. A number of agencies have been involved in efforts to help Aroha, including Maatua Whangai and the Department of Education. Her recalcitrant attitude and continued offending have created tensions and highlighted differences in approach among these agencies. The CYP court has done about all it can under the circumstances. The last time Aroha appeared for burglary and car conversion, she says she was given "a real ticking off" by the judge. The judge suggested that if she continued on her present course, when she came of age she would likely to be locked away for a time.

7. The liaison officer for the pilot scheme has become quite familiar with Aroha's case. "She's one of the regulars," he says. He has had few direct dealings with her, but has advised one of the advocates regarding the background of the case. He has consulted with some of the agencies involved, and knew she was "back on the street again" in spite of her last appearance and sentence.

8. Aroha and her mother had become accustomed to seeing a progression of lawyers under the Duty Solicitor scheme. The situation has not improved much during the Advocate Scheme pilot. Two recent appearances occurred over the Christmas holidays, during which there were roster changes due to several advocates taking their annual holidays. One of the lawyers taking their duties then went on leave. One of the advocates, who could not rearrange his schedule when Aroha was to appear again, stated "unfortunately, your clients don't always re-offend

on your scheduled day at court". When Aroha was to appear a third time for sentencing, she was represented by another advocate. On this occasion the roster change was due to her previous advocate being tied up in a lengthy jury trial requiring a replacement. When interviewed, the advocate recalled little of the hearing except that the charges were not serious, and as a state ward, the result was virtually a foregone conclusion.

9. Aroha says she has no time for school. She is just biding her time until she is old enough to hold a regular job. Meanwhile, she continues to live the life she prefers and just accepts the consequences. Regarding the court and advocates, her mother says they have tried to help, and done about all they can. She feels they have probably suffered because they haven't had one lawyer who took time to learn the background and understand Aroha. "They're always too rushed when you talk with them. They see her file [indicates two inches thick] and they only look at the papers on top". As a result, she doesn't put much stock in lawyers, and prefers to speak up for herself in court.

7.5 Jane

1. Introduction. The following case is the story of another young woman who has appeared in court several times. This time there was continuity of representation, at least during the Scheme pilot, and a perceptive placement. While not a fairytale ending, the results seemed promising.

2. Jane is a fifteen year old Pakeha girl who looks and acts mature beyond her years. She has only recently appeared at the CYP court on her first criminal offense, though she has been under Social Welfare care for some time. Her parents separated when she was only two years old, and her mother moved to Australia with Jane's two sisters. Both parents remarried, and for several years the girls were sent back and forth to live with each parent. More recently, Jane has been living with her grandparents, though she is not happy there. With no permanent home or sense of family belonging, she has grown more emotionally unsettled. Of her family history, Jane says

"I was passed back and forth so many times, I can't remember how long I stayed with anyone. Everyone got so they were expecting too much from me, keeping my school grades up and that. And passing me back and forth from house to house....They didn't care how I felt."

3. Since her periodic moves were disrupting her school-work, her performance got worse and worse. She eventually received an exemption from the Board of Education to be able to leave school earlier than the legal age. Her real interest is horses. She has ridden them, owned two her father bought for her, and

shown them for several years. She worked at a stables for awhile and her boyfriend is a jockey.

4. Jane did not like living with her grandparents, so she ran away several times. Eventually, she was called into court as the subject of a complaint. She had been living on and off with her sister, but Social Welfare was given leave to place her somewhere else, and a couple of foster homes were tried. Jane kept running away and living a virtual nomadic existence among a group of young people who regularly resorted to crime to survive.

5. At her first appearance in court last year, Jane recalls she didn't know what to expect. "Just come in and sit down and wait for your name to be called". She ended up waiting a long time. The Duty Solicitor spoke to her briefly before they went into court: "It had little to do with me. Just between Dad and him and the judge".

6. Shortly after the pilot scheme had begun, Jane came to court again on a drug possession charge. She was accused of having a large quantity of pills, but said she only had two or three with her. By this appearance, she knew the procedures. "You get there early, and you're the last one to go through. They should at least put your name down in a time slot, and tell you to get there by then". On this occasion, her social worker was with her in court and when they spoke with the advocate. The two of them did most of the talking in court. This time, the judge recognised her and talked to her during the hearing. Jane's father has not chosen to be present during recent appearances.

7. Jane's advocate has been practicing in the children's court in Auckland and elsewhere for a number of years. The work is an important part of his practice. The first time he interviewed Jane on the drugs matter, she was nervous and distressed. They discussed the circumstances of the case for about ten minutes before court, and her sister was with her. The advocate recalls, "She may have been suffering withdrawal, perhaps. She was a real mess. She was jumpy....She wanted to go with her sister, and her sister wouldn't have her. I think she was very confused. Quite honestly, I don't know how I could have gotten through to her so that she really understood the situation". At the hearing, Jane was placed in Social Welfare custody to get her away from an unsavoury boarding house in which she was staying.

8. A fortnight later, Jane was returned to court for sentencing. The same advocate sat down with her and discussed the social worker's report. Her advocate remembers this time, Jane was much more subdued and communicative. Jane says she understood what was happening in court, and why she was put in Social Welfare custody again. With her outdoor background and love of horses, everyone agreed to an alternative placement with a

group on a farm just outside of Auckland. Jane enjoyed looking after the younger kids there, and shifted her horse nearby so she could care for him and occasionally go riding with her boyfriend. The people at the farm helped her get a part-time job cleaning a motel for spending money. She was due to return to court in three months to see what progress she was making. Jane's advocate said "She didn't deserve the situation that has befallen her over recent years. She was a naive person who has grown up a lot because she has had to".

7.6 Henry

1. Introduction. This is the story of a young man who has already been in and out of court and institutions most of his teenage years. He is a boy who is struggling for a sense of identity and self-worth, without much idea about his future. The case illustrates the value of continuity of representation and the role played in his life by a concerned advocate.

2. Henry is a sixteen year old youth who identifies himself as a Maori, though his natural father is a Pakeha. He was abandoned when he was two months old, and brought up by his mother's sister and her husband. They eventually adopted him, but he was never accepted by his adoptive father. Apparently, Henry has suffered increased emotional problems as he has matured because of the trauma of his earlier life.

3. He first came to the attention of the court four years ago for a burglary incident. During the next two years, he appeared several times on a variety of charges including unlawfully taking a motor vehicle, burglary, theft, misuse of stolen documents and offensive behaviour. He was eventually placed under the guardianship of the Social Welfare Department. Community care fostering failed, and he was placed with a voluntary agency. He promptly ran away, and was placed under closer supervision at The Glade. Henry resented the stricter controls, and was subsequently allowed to live at home. A year ago he was sentenced to periodic detention and placed in another community hostel. He hit the streets again, and after further offenses which occurred during the pilot scheme, was remanded to Owairaka boys home. He expected to be sentenced to a term at a work farm.

4. Henry has attended several schools, including a boarding school and a special school. Asked about his favourite subjects he says he didn't have any because he never attended. At the alternative school, he recalls "You could do what you wanted. Didn't have to go to school. You could choose whether you would register for a class. Quite a crazy school". He decided himself that he would leave school and look for a job, because he was always getting into trouble with school authorities.

5. When he was younger, he was a good sprinter and enjoyed softball. He gave all that up when he quit school got involved in criminal activities. He managed to get the occasional job, but never lasted long. He was sacked from a freight transport firm for allegedly stealing a truck. He was then placed on a work scheme, but chose to leave. He was dismissed from his next job at a small factory for always being late. The last money he earned was working for the Moscow circus as a labourer. He has a few friends around the city whom he sees from time to time. He has never been part of a gang, nor involved with the "street kids" scene. He is pretty much a loner, joking that he is "hooked on crime".

6. Henry commits offenses with such regularity now that it is difficult for court records, the liaison officer and the Advocate's roster system to keep up with him. The advocate who handles most of his appearances first represented him prior to Christmas, when she was filling in for another advocate who was on holiday. This incident had to do with stealing a chequebook and trying to cash some cheques. She says,

"Henry is one of those kids who is impossible to place, because he's now of an age where he won't stay put, he's got strong ties on the street, and the placements all seem to break down....His way of life at the moment is living by burglaries and taking cars."

Shortly after the holidays, she appeared for him at the Auckland District Court. She considers he was lucky only to have received probation. However, there were a number of other matters pending. Two weeks later, Henry was represented by one of the other advocates because his regular lawyer was not rostered and could not attend court when notified by the liaison officer.

7. In early February Henry was again brought in for stealing a bicycle, and scheduled to appear when his regular lawyer was rostered. She says Henry is becoming a "familiar face" at court: "He thinks of me as acting for him. He's been quite easy to talk to". A further fortnight later, he had to appear on a matter in the Takapuna court which had been held over from several months before. Henry was asked if he had legal counsel, and he gave the name of his advocate. She states, "He thinks of me as his lawyer, you see. He's not silly. He'd remembered my name". The liaison officer at the Auckland court notified her, and she was able to rearrange her private practice to be present. But Henry had other ideas in the meantime. According to his advocate,

"The judge put it off until Friday, and they contacted me. And I turned up on Friday, and he had escaped about an hour before. And I saw him in the street the next week, and I said, 'You little brat. Where were you? I went all the way to the North Shore court'. And he laughed and I said 'Oh well, I suppose you and I will be catching up in due course".

8. A week later, Henry was back in custody. He says he doesn't know why he does all these things; he just does them because he feels like it. He is beginning to feel comfortable with all the welfare and court personnel he has gotten to know by name. Henry likes to impress others with his record and familiarity with justice procedures and welfare institutions. He is diffident about what has happened to him, but is quite worried about being sent away to a work farm. His advocate sums up how she sees their relationship:

"He understands what's happening and he knows the ropes. He likes having me turn up, because he knows I'll stand up and say on his behalf what he wants said....He knows his lifestyle is going to keep bringing him back to court, and he likes to have a fair hearing. I think he thinks he's getting that, which is the main thing."

8.

EVALUATION BY COURT PERSONNEL AND RESEARCHERS

8.1 Introduction

1. Earlier sections presented experiences and assessments of the Scheme by children and parents, based on interviews and case studies. In this section the reflections of the various personnel involved in operations of the court will be surveyed, along with assessments of the researchers on key aspects of the Scheme.

2. Should the Scheme be replicated in other locations, each court and the personnel involved will likely devise their own ways of working together and arranging the details of administrative procedure. The aim here is to highlight what those who actually experienced the pilot project thought were the major strengths and weaknesses of the Scheme. On this basis, it is hoped that an informed decision can be made about whether the Scheme should be continued, and the modifications that might be required if it is.

3. The following comments are based on structured interviews with judges, lawyers, social welfare officers, police, liaison officer, community volunteers and others early in the Scheme and then in the final month of the pilot. Their remarks tended to focus on similar concerns, which have been grouped into the following topics: (a) court procedure, style and facilities; (b) the roster system; (c) scheduling; (d) the role of the advocate; and (e) involvement of relatives and community, and the role of the liaison officer.

8.2 Court Procedure, Style and Facilities

1. While the physical facilities at court were not specifically part of the Evaluation brief, it was clear from the comments of several individuals who had practiced at old court that the renovated facilities were a considerable improvement. The office next to the court with files for advocates and reception, the more comfortable waiting room and private counselling rooms were all appreciated.

2. Some individuals felt there were still improvements that could be made. A community volunteer commented that while the new facilities were an improvement, there had still been no major change in the physical setting of the court. It was still too stiff and formal for the young persons, particularly regarding seating arrangements and the judge sitting high up. This person

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stand during the hearing, while at Otahuhu they are allowed to be seated with their relatives. A judge similarly remarked on the need for more "obvious" seating for parents, who often don't know what to do when they enter court. And the child ought to be permitted to sit with them.

3. Another person observed the close link between the renovated court facilities and the aims of the Scheme. In particular the present court setting provided a better experience for the children with more comfort, privacy, separation from adult criminals, and a less "adversarial" court setting. In practice, however, all these values go by the board when the children's court has to be held at the District Court. This happens on average at least once a month, due to legal holidays, illness of a judge, air conditioning problems and other reasons. So long as such "exceptions" take place with regularity, the Scheme will not be as effective as it could be. The new courts building planned for Auckland will undoubtedly go a long way toward solving such problems.

4. As mentioned in a previous section, an attempt has been made at the Auckland court to see that the number of judges rostered to sit is limited for greater continuity and experience. Most of the court personnel interviewed felt that this had been an important move, and did much to augment the continuity of advocates. One judge expressed the opinion that there were still too many changes to the roster, and it needed to be made more rigid. Judges also needed to encourage a greater degree of informality than pertained at the moment, particularly through the language they themselves used, how they communicated to the children and their efforts to involve relatives and friends in the proceedings.

5. The style and atmosphere of court proceedings have an important influence on the child, perhaps even moreso than words and official forms. Marshall McLuhan's contention that "the medium is the message" is particularly true of the children's court. The fact that most authority figures at court are Pakeha, that the child must stand with hands out of his pocket, that the judge is raised up and all address him/her in deferential tones, that everyone at court wears a "uniform" including the casually-dressed community worker --all these things communicate implicit messages to the child.

6. The messages are not necessarily obvious to court personnel because they are the medium by which they do business, procedures which have evolved over years and whose significance is taken for granted. Little attention is paid to the impact of the physical setting or proceedings, except perhaps to say they ought to be "less formal." By this, court personnel usually mean there ought to be more explanation and talking to the child. But s/he is already being bombarded by non-verbal messages. Some of these

reinforce what the court is trying to do (or at least, it is hoped they do), while others contradict or challenge what is being said and done. A judge on a raised platform in sombre dress to whom everyone defers certainly reinforces the seriousness of the offense and sentence. But the same person is required to be friendly and understanding. The message to the child can be misinterpreted, regardless of what is intended.

7. Of course, children coming before the court are from different social backgrounds, so the messages they receive are varied. The danger is that certain groups, especially the uneducated, the working class and the Polynesian, may receive consistently negative messages through the physical setting, appearance and style of proceedings. These messages in turn undercut the stated intention of serving the welfare of the child. A child who cannot understand many of the terms being used, who is counselled by an expensively-dressed lawyer, or who sees only Pakehas at court will be understandably reluctant to have complete confidence in the judicial system.

8. The Scheme was never intended to address or solve such problems. But the emphasis on the quality of the child's court experience, appropriate informality and an improved physical setting call attention to issues which must be considered in a concerted investigation if the effectiveness of the children's court is to be improved.

9. The judge is an important influence on the style of proceedings. Four judges have regularly been rostered together at Auckland, and they have evolved the general approach now taken. It was apparent as the Scheme progressed that these judges and most of the advocates achieved a close working relationship which off-set the formality of the setting, as well as permitting the relaxation of stiff procedures and jargon. Consultation and collegiality among court personnel were strengths most people commented upon, and this in turn was beneficial to the court experience of most children.

10. On the negative side, when a strange judge was sitting the flow of proceedings was interrupted. Hearings had a more formal, tense feel and court officers were less certain what to expect or how to act. Similar effects came from having a different police prosecutor while the regular person was on leave. These changes are perhaps more disruptive in a court where a "team" has had considerable experience working together, and undoubtedly are less helpful to children appearing. For this reason, suggestions that the Department of Social Welfare and perhaps Police might begin rotating court staff regularly are to be discouraged if the Scheme is to be effective.

11. The child may also misunderstand what is taking place at court because of that bane of all bureaucracies - jargon. A persistent error by some personnel is assuming that the proceedings are for the sake of the judge, not the child and his relatives and friends. While a certain amount of decorum is required in any court, the pontified legalese resorted to especially by certain visiting lawyers and police was clearly inappropriate. Nor do the regular personnel escape blame. When there is a busy day with a heavy case load, it is easy to slip into procedural jargon to speed things along, leaving the child and parents staring with blank looks. Few laypersons would be any the wiser for hearing a rapid succession of phrases such as "leave to place...I think I should call for a report...stand this matter down...remand...can you suggest a date...a Section 29 appointment might be appropriate... that the matter under consideration is straight-forward for court personnel. But it is discourteous and disquieting to the child and his family to have to listen to this hocus pocus and then receive a brief explanation from the judge before they are told they can leave. This hardly seems to satisfy the requirements to explain matters under Section 40 of the Act. The Otahuhu court procedure of explaining each step of the proceedings and asking if they are understood before continuing might be more effective as a means of involving the child and parents, even if it is not as efficient time-wise.

12. Social workers' reports are another source of dis-information for the child and his relatives because of the obtuse language in which they are written. Once again, the problem stems from the assumption that the reports are only for the judge to read. It has for some time been the practice for lawyers to discuss these reports with their clients. Indeed, access to them (if not comprehension) is guaranteed under Section 42 of the Act. The senior social worker at the Auckland court has attempted, with mixed results, to get his colleagues to prepare more intelligible reports. Nevertheless, the role of the advocate as an interpreter and counsellor has had to expand, and remand interviews have become more time-consuming.

13. One further aspect of court procedure deserves comment and that is the matter of privacy. Section 23 of the Act stipulates that proceedings will not be open to the public. The Tauroa report (1983:170) emphasised the necessity of privacy for the child, those in custody, family groups and the like. Presumably this would apply equally to the hearing itself. However, the Working Committee on Access to the Law (1984:43-4) noted the opinion held by some that a more open court assures greater public accountability. There is the potential here for the right to privacy and involvement of the community to conflict.

14. Two observations can be made. The first is that too often during the Scheme, the court was crowded with policemen, private solicitors, social workers and others who had nothing directly to

do with the case under consideration. For the most part, they were sitting in the court because the waiting room was crowded or they did not wish to sit with the public. The presence of these extraneous persons can be intimidating to the child and his relatives, and should be more strictly controlled.

15. The second observation is that the assumptions underlying community involvement deserve to be more thoroughly discussed by all parties before "opening the court". Having unrelated community persons sitting in court may do little for public accountability, and even less for the child. In fact, the position of the Liaison Officer was created specifically to assure that such groups and individuals did have access to the court in supporting the child and his parents, and providing alternative placements to institutionalisation. Apart from one or two pilot schemes elsewhere, the implementation of effective community involvement in the operations of the children's court seems still to be far off.

8.3 The Roster System and Continuity

1. Most of those interviewed at the middle and end of the pilot agreed that continuity of representation was one of the principal benefits of the Scheme. It saves the advocate time in preparation and interviewing, facilitates greater rapport between lawyer and client, means the advocate is familiar with the background of the case from one hearing to the next and thus results in more effective representation. As one person stated, before the pilot scheme, the child usually had a different lawyer or none each time he came to court and experienced himself being put through an impersonal system. Now, he can expect to be represented by "his lawyer" right the way through.

2. An Advocates meeting in early March agreed that the benefits of the Scheme are most noticeable when the child and his parents come back for a subsequent appearance or on another charge. They have already established a relationship, the advocate knows the child and is aware of the background facts. It is also more difficult for clients to invent stories or bend the truth, since the advocate knows the case record.

3. A roster system was worked out at the beginning of the pilot. The roster was built on a fixed-assignment rationale, in that each advocate was at court on the same days each fortnight. The liaison officer had an important role to play in maintaining continuity through the roster system. His tasks included (a) making sure each child had an interview with a lawyer before his hearing, (b) if there was a remand, making sure each child had an appointment to see an advocate before the next appearance, (c) insuring the files were updated so advocates had all the information they needed, and (d) contacting an advocate if a

child they had previously represented re-offended and was to appear on a day on which the advocate was not rostered.

4. A roster with fixed assignments works well if the case-load is evenly distributed. In actual fact there was an uneven distribution of cases at the Auckland court, with heavy days on Mondays and to a lesser extent Wednesdays. This consistent pattern of unequal case-loads could not be handled by a fixed roster where continuity of representation was the guiding principle. The reason is quite obvious. If the same three or four advocates are scheduled to appear on Mondays on alternating weeks, then every case in which there is a remand to another hearing must be scheduled for a Monday so the same advocate represents the child. There can only be so many cases dealt with in one court sitting, and because there were a larger number of cases on Mondays, there were more remands. As future Monday sitting dates became full, postponements got longer and longer. By the mid-point of the pilot, remands for Monday appearances were being delayed up to two months to maintain continuity of legal representation.

5. The reason for the large number of children appearing on Mondays is the high number of arrests over the weekend, when more young persons tend to be out and about getting into mischief. But most court personnel interviewed also suggested that the Monday build-up was because of the police tendency to arrest rather than summons or other measures. Certainly Table 4.5 confirms that the majority of children coming before the court do so as the result of an arrest. Arresting the child supposedly is preferred by police since it circumvents the time-consuming consultations with Youth Aid and other agencies before a summons is issued.

6. Neither is a fixed-assignment roster system able to cope very well with an increase in no pleas and denials, which has occurred to a certain extent under the Scheme. It could be argued that with more time to counsel the child and more effective representation, these trends are to be expected. But defended hearings are usually long and take more preparation time. When the majority fall on Mondays simply by the law of averages, the continuity of the roster system is placed under further pressure. Since two of the Monday advocates generated more than their share of defended hearings, the problem was compounded.

7. On occasions when the backlog of defended hearings became too great, they were redistributed to other advocates to handle. This was one of several practical necessities which meant changing the roster system contrary to the continuity principle. Other reasons for altering the roster were listed by advocates and other court officers at their March meeting:

- a) the demands of private practice which meant that appearances in other courts sometimes conflicted with the roster assignment; in particular
- b) high court and custody cases, which can last for days, or when cases began generating too much outside work that the advocate had to take time off to deal with matters from private practice;
- c) illness;
- d) holidays, particularly Christmas when two advocates took a majority of cases for two or three weeks;
- e) re-offending, when a child represented by an advocate was due to appear again on a day on which the advocate was not rostered;
- f) requests by relatives that the advocate who had originally represented a child appear for him on a related or separate matter on a non-rostered day; and
- g) since there were relatively few indictable offenses, one advocate was assigned to these regardless of the roster because she specialised in such matters.

8. These exceptions aside, the principle of continuity was maintained quite well by the roster system, as the figures on legal representation in Section 4 attest. But as indicated in the last paragraph, familiarity with a case and the people involved tends to generate additional tasks outside of rostered time. That plus the fact that work could often not be completed during the advocate's period of duty, meant a build-up of outside work. This problem was handled in at least three ways. The first was that advocates simply did the extra work and did not record the time for reimbursement. Secondly, most advocates put some of the burden on the liaison officer to follow up the details of a case and make necessary arrangements. And thirdly, files for action were sometimes tagged and left for the advocate rostered the next afternoon to deal with.

9. Some of the problems experienced as a result of the pilot roster can be solved by simply rotating the assignments of advocates on a longer-range rationale. For instance, an individual might be on duty on a Monday one week, Wednesday the next, then a Friday. At any one time, remand delays would probably be no longer than three weeks. Several advocates suggested that having someone assigned on a "floating" basis would relieve some of the burden of Mondays, but the floater would have to be on a consistent pattern to maintain continuity of representation. If the entire roster was rotational, such a person would seldom be required.

10. In fact an extra advocate was quite often brought in on heavy case-load days. To be available, such a person has to devote considerable time to children's court work, and this raises the question of specialisation. Clearly, if most of the advocates only practiced at the children's court, fewer would be required and outside practice would not disrupt the roster. Few people interviewed recommended such a move, however. Reasons against specialists centred on the dangers of losing perspective, the positive value of having a broad background of experience, and low pay scale. There was some sympathy for having one or two specialists within a team of advocates.

8.4 Scheduling and Appointments

1. Some of the same factors that disrupted the roster system caused difficulties in daily scheduling. Advocates pointed out that when there is an overload of cases on a particular day, the value of the Scheme to provide quality representation is undermined. If they have to rush from one interview to the next, the child feels "processed" and there is not much difference from the Duty Solicitor scheme. Therefore, it is important not only to arrange a more flexible roster to cope with heavy days, but to even out the daily case loads.

2. To begin with, the matter of high proportions of arrests will have to be taken under review. It would be unacceptable to hold children in custody until a day when there was a lighter case load. One advocate pointed out that the current review of social welfare legislation and the CYP Act may result in it being less advantageous for police to arrest children.

3. The pilot scheme was initially organised in such a manner that those children coming up for a remand hearing on a certain day would be given an appointment to discuss the case with an advocate the afternoon before the hearing. The liaison officer was given responsibility for making sure everyone knew about these appointments. But as everyone interviewed commented, the appointments system had fallen down because few children and the parents were actually turning up. Instead, they were arriving on the day of the hearing usually a half an hour before court and expecting to talk with their advocate. On heavy days, this meant that advocates were so overburdened they had inadequate time to devote to any child. It also meant that court was often delayed in starting, proceedings were disrupted if advocates had to interview people they hadn't had time to counsel, court regularly extended into the afternoon, people were kept waiting long hours and costs of the Scheme increased since advocates had to be paid extra. In the afternoons when no one showed up for appointments, advocates had little to do.

4. According to the liaison officer and some of the advocates interviewed, it appears most children and their relatives did not keep appointments either because of the inconvenience or the cost of coming to court two days in a row -- or both. Many of the families coming to court do not have adequate transportation, income, child-minding facilities or can afford to take off work to enable them to attend an appointment. Night sittings are being tried in some courts to try to increase parental involvement, and this might be extended to appointments. It would be more costly and disruptive to the private practice of advocates, however. A simpler solution would probably be to set appointments for early on the day of a child's appearance and delay court half an hour on Mondays.

5. Other efforts have been made to cope with scheduling difficulties which have arisen. Judges have asked the prosecuting agencies to try and direct their summons cases to days other than Mondays and Wednesdays. They have also suggested that Social Welfare try to bring complaint matters on Thursday or Friday, unless the child is in temporary custody. It was further agreed after several weeks of the Scheme that sentencing and probation reports at District Court would be scheduled for 2:15 in the afternoon. This saves the advocate and client sitting around all afternoon, and since it is the same day the advocate is rostered at children's court, gives him time to get from one building to the other. It does mean the lawyers have to stay into the afternoon, which adds to the costs of the Scheme.

6. The problem of long waiting periods for the child and his parents was mentioned by the Advisory Committee on Youth and the Law (1983). The Committee stated that people became tired and upset waiting long hours, and it was insulting and irresponsible not to look after their needs better. A number of judges and advocates mentioned the need for some kind of system of hearing appointments, though the practical difficulties are considerable. Sometimes cases go more quickly than expected, people don't show up or are late, or an advocate is delayed at another court. It is unlikely that general jurisdiction judges, or other court officers with busy schedules, would be able or willing to be at the children's court all day long. But the present unstructured situation is unacceptable. Arrangements such as those at Otahuhu, where complaint and custody cases are dealt with first and others told to be present at 11:00 should be considered.

8.5 The Advocate Role

1. Court personnel were asked to summarise the strengths of the pilot scheme. Not surprisingly these tended to centre on the

role of the Advocate and his/her relationships with other court officers and agencies. For instance, the advocate chairman offered the following comments:

"First, you've got a small nucleus of lawyers who are familiar with the practice and who understand procedures including complaints, and who can explain them (time permitting) to clients. You've also got judges who understand complaints, and that's not something that has always happened.

"Secondly, we've got continuity which I think is important.

"Thirdly, we have better quality of representation. Under the Duty Solicitor scheme, people were rostered much less frequently. Often they simply didn't turn up, or they were unfamiliar with CYP court procedures. For that reason, representation was patchy. The Law Society attempted to screen duty solicitors to get people who were interested and experienced. But the Advocate Scheme has been much more successful with regard to the quality of representation which the children and parents receive".

2. At least one judge and two other advocates reiterated the better attention given to complaint proceedings under the pilot scheme. Because he is more experienced in such matters, he can give better advice to children and parents, give closer scrutiny to Social Welfare recommendations on behalf of the client, and provide the judge with useful suggestions. Under the Duty Solicitor scheme, the lawyer tended to be more of an onlooker.

3. The role of the Advocate as a communicator was emphasised by some. A community worker stated that most young people are not aware of what is happening to them at court, because they lack adequate information and explanations. Many of the court officers who deal with them are unskilled in communication and tended in the past to neglect their presence at court. The Advocates have been at least some help in overcoming these difficulties. Others stressed the value of a small group of experienced lawyers working with the children, and the identity that often builds up over time for "my lawyer". It was felt by some that advocates would benefit from some special training in dealing with language and communication difficulties.

4. On the negative side, one advocate mentioned that the pay scale was still about half the standard rate for private practice. Some considered their involvement in the scheme as a form of legal aid work, which they enjoyed but which also had a tendency to encroach the private practice they needed to live. Others had decided to make children's court work a major part of their practice, but still hoped for improved pay. It will certainly be important for the future of the scheme to provide a fee scale that will sustain advocates of ability and experience.

5. Because of the nature of the Scheme, the advocate is more familiar with the background of the case, has usually discussed the options with the child and his parents at some length, has read the social worker's report and may have been advised by the liaison officer regarding alternative placements for the child. As this counselling dimension of his role has evolved, there has been a certain amount of criticism from at least one of the social welfare officers at court that the advocate is encroaching too much into the domain of Social Welfare. There is certainly room for cooperation and offering suggestions at court. But the contention is that there ought to be a clearer line of demarcation than exists under the pilot scheme. If a matter is placed in Social Welfare hands it is their responsibility to do the best for the child. If the placement is direct from the court then that is the court's responsibility. These changing roles and responsibilities are not simply the result of the Scheme, but the Evaluation report may be an opportunity to consider these matters before the Scheme is implemented widely.

6. In fact running through the comments of various court personnel about the role of the advocate was a certain degree of ambivalence. A couple of individuals thought the Advocate should stick to "legal" matters, while others thought the Scheme tended to place too much emphasis on legal proceedings within what was essentially a "welfare" court. Some thought a prime value of the Scheme was the team cooperation which had developed, while others warned about too much consultation and not defending the rights of the child. One individual thought advocates were intervening too much in welfare matters, and were making the children's court more of a "legal forum".

7. It seems clear that the Scheme has accelerated changes in the roles of key personnel at the children's court, particularly by expanding the involvement of advocates, liaison officer and perhaps community groups in what were formerly Social Welfare functions. These changes have been underway for some time, and indicate a broadening of responsibility for the welfare of the child to include other court officers, relatives and the community. With proper steps to insure ongoing cooperation, these changes are to be welcomed.

8. Most court personnel interviewed pointed to the emergence of a dedicated, consultative "team" as one of the major strengths of the Advocate Scheme. There are certainly a number of practical benefits from such an approach. When the various court officers have a chance to discuss cases before court begins, hearings proceed more efficiently. Other than on extremely crowded days, there is little doubt that the child's experience at court is enhanced by this spirit of cooperation. As noted earlier, advocates' and judges' meetings outside of court tended to include representatives of most other agencies. Recommendations at the end of this report affirm this practice.

9. However, there seems to be a valid concern expressed by some lawyers and community volunteers that the advocate needs to retain a degree of independence in order to adequately represent the child. This is one of the arguments put against having advocates specialise in the children's court. It is also a point of caution to be considered by those who warn that the court has been "too adversarial" in the past, and must become more informal. At least three persons interviewed felt that this "team" approach could very easily lead to pressures on the advocate to be less outspoken and insistent on the rights of his client. This is likely to take the form of both peer and judicial pressure. During the pilot, it was a common talking point among various court officers that certain advocates were being inappropriately adversarial and generating too many denial pleas. At least one judge suggested that a mistake had been made with regard to one appointment for this same reason. In view of these pressures, advocates should at least hold their own meetings to discuss their approach to the court. It might also be useful to retain the title of "Advocate" as a reminder of their primary role at the court.

8.6 The Liaison Officer, Parental and Community Involvement

1. The role of the Liaison Officer has proven to be essential to the effectiveness of the Advocate Scheme. His coordination and communication functions have the potential for providing much more effective justice for children. Unfortunately, this potential was not completely fulfilled during the Scheme pilot. The difficulties encountered by the liaison officer are as instructive as his successes for the future of the Scheme.

2. In practice the liaison officer role seemed best suited to supporting the advocates in court work and relating to children and relatives who appeared at court. It was weakest in the task of increasing the involvement of parents and community groups. Put simply, administrative coordination and assisting the court tended to take precedence over access and community development functions. The phrase "administrative coordination" is meant to include helping children and relatives understand aspects of court procedure, and putting them in touch with an advocate.

3. More than one lawyer commented about the important part the liaison officer played in coordinating the work of the advocates. These functions included keeping records up to date and preparing files for court hearings, maintaining communication among the advocates regarding matters such as roster changes, and advising on action to be taken on cases. He was particularly helpful in organising defended hearings (ie. insuring witnesses were present, preparing files). His advice on placements was particularly useful in light of his contacts in the Maori community and his familiarity with community groups. All told, these activities were the practical ways in which the liaison

officer helped maintain continuity of legal representation, and a certain degree of community involvement.

4. One of the aims of the Scheme pilot was to increase the involvement of parents and other family in legal counselling, court proceedings and placement decisions. Those personnel interviewed who had been active in the court for a period of time were skeptical that the numbers of relatives turning up at court had increased as the result of the efforts of the liaison officer. Those who did show up were probably better informed about procedures. But if there was any increase in parental say in what happened to their child, the judges, advocates and social welfare officers were as responsible as the liaison officer. Advocates mentioned the irregular schedule of the liaison officer, that he was not consistently available when needed, particularly in the afternoons when clients were due to be seen. The clerical assistant tended to be gone at the same time, leaving the office unattended for hours. This practice, combined with closing the office and waiting room during the lunch hour [even when court was in session], meant that many children and their parents were frustrated in their attempts to obtain assistance.

5. In certain instances the participation of parents and extended kin was excellent, but these exceptions were often the result of the personal contacts of the liaison officer. What is required for the future of the Scheme is a more systematic programme of parental involvement. This would begin with adequately informing them about the advocate service, as well as the assistance they might expect from court workers and the liaison officer. It would include a better-organised reception procedure, so that advocates know who is present at court; a more effective appointments system and practical help so relatives can attend court; and regularly consulting with social workers and families (particularly Maoris and Pacific Islanders) regarding remand and sentence placements.

6. Whether the liaison officer was effective in increasing the level of community involvement in the court is difficult to assess, since there has always been unclarity in the Scheme about what is meant by "community participation". There has apparently been pressure by some community agencies for greater access to the court, and participation in decisions about what should happen to certain children. The Steering Committee for the Scheme pilot clearly had in mind that they should be more involved. The liaison officer did keep in close contact with several, informing them when children in their care were due to appear, making appointments and asking whether they could take a child for placement.

7. The question remains whether the occasional participation of such agencies adequately deals with the concern for community involvement expressed in the aims of the Scheme. After talking about the concept for so long, it might be appropriate to think about what practical forms it might take. For one thing, there are no fully-fledged "diversionary schemes" in place such as those being experimented with in West Auckland (see Purolainen, 1983), or the pilot programme currently underway at Otahuhu under Judge Mason's guidance. While there are regular coordinating meetings of agency representatives and Judge Wallace at the Auckland court, it may be some of these organised programmes have some value in conjunction with the Advocate Scheme.

8. The issue of community involvement, along with parental and extended family participation, highlights a dimension of the liaison officer's role which was perhaps overlooked when the Scheme pilot was set up, and that is his community development function. There were critics who warned from the beginning that his contacts with families and the community would be overwhelmed by "clerical" demands. There is no doubt that a clerical assistant was essential to the pilot. But involvement with cases, files and advocates activities at court must remain an essential part of the liaison officer's role. What is required is that the liaison officer have community development skills, time, financial resources, and administrative support to systematically network community and family contacts, and facilitate their engagement in court proceedings where appropriate. The Maatua Whangai community development model for work among Maori people suggests one way this might be organised.

SUMMARY OF FINDINGS

The following itemised statements are a listing of the major findings from the pilot scheme Evaluation. In view of recent concerns over the numbers of Maoris and Pacific Islanders in custody and before the courts, a further elaboration was considered necessary on so-called racial statistics (See Appendix A).

9.1 General

1. The number of cases dealt with during the Advocate Scheme pilot showed no significant increase over previous years. The average number of charges per case was lower than averages for the past three years.
2. For the first half of the 1980s, the ratio of boys to girls appearing at Auckland and Otahuhu children's courts was about 4:1. There was a dramatic increase in the number of young females at Auckland during the Scheme, where the ratio was 3:1.
3. During the period of the Scheme, of the cases at the Auckland court where "race" was recorded, 49.9% were Maoris, 18.2% were Pacific Islanders and 31.7% were Pakehas. Maori children are appearing in the children's court at a rate of over four times their share of the New Zealand population. Pacific Islands children are appearing at court at a rate which is six times greater than their percentage of the population. And Pakeha children are appearing two and a half times less than their share of the national population.
4. With respect to types of case, 6.1% of charges were as the result of a summons and 93% were arrests. Slightly over 10% of all cases involved complaints. Arrests during the Scheme were up 13% compared with the Auckland court a year earlier.
5. A majority of children (85.4%) admitted the charges brought against them, and 12% entered denials. The number of denials is almost double the number of denied pleas of a year ago.
6. Slightly more than one third of cases dealt with (35.8%) were disposed of in one hearing. The figure is double what it was in 1981. 21.1% of children were remanded on their own recognizance or in the care of relatives or guardians. In 1981, 35% of cases were remanded in custody, while during the Advocate Scheme pilot the level of custody cases was only 23.8%.

7. At the Auckland children's court during the pilot, 9% of cases were dismissed, withdrawn or discharged. A further 18.3% were admonished and discharged, 12% ordered to come up for sentencing if called upon within a specified time, and 26.4% were fined. The percentage of children imprisoned (1.4%), given periodic detention (.6%) or corrective training (.8%) is dramatically reduced from previous years. Fines have increased as have community-type sentences.

8. Some 95% of children appearing at the Auckland court during the Scheme were represented by an advocate. Most of the remainder had private representation.

9. Those cases remanded beyond an initial hearing most often involved young people who were fifteen years or older (91%). Most of the children remanded in custody were fifteen or older while younger children tended to be given community remands or were placed with relatives. A similar trend was obvious with respect to sentencing. In addition, sentences involving fines were almost always given to a child sixteen or older.

10. Approximately 59% of remands in custody involved Maori children, Pakehas were slightly more than their share of all cases, while Pacific Islanders were less likely to be remanded in custody and more likely to be placed with relatives. With regard to sentences, 64% of children who were institutionalised were Maoris while Pakeha numbers were much lower than their share of cases. On the other hand, 60% of Pakeha children had to pay fines or compensation. Pacific Islanders were much more likely to receive community-type sentences.

9.2 Improved Quality of Representation

1. The level of legal representation has increased significantly as a result of the Advocate Scheme. Under the scheme, 94.6% of all cases at the Auckland children's court were represented by an advocate, compared with 59.9% in 1984 and 69.8% in 1981 at the same court under the Duty Solicitor scheme.

2. The continuity of legal representation by advocates representing children appearing more than once was maintained at a reasonably high level, though there is room for improvement. Of all multiple-hearing cases, 82.7% had the same advocate for every hearing. Of the remaining cases, 34 (8.4%) had two advocates and two children were represented by three advocates. Continuity of representation tends to break down most often when repeat-offenders are involved.

3. Most children and parents interviewed at court were positive in their assessment of their advocate's counselling prior to their appearance. On the other hand, the appointment system does not seem to be working effectively, which causes backlogs on sitting day and thus complaints that youth and relatives do not have enough time to discuss their case. Advocates themselves have expressed similar concerns, and scheduling will have to be looked at. A minority of those interviewed indicated certain communication difficulties between generations, or because of cultural differences. Selection of advocates in the future should seek out those with skills and experience in these areas and special training is recommended.

4. Advocates themselves, as all the other court personnel and community volunteers interviewed, feel that the quality of representation has improved. Most point to the "team" approach at court as one of the more positive developments. Some advocates point to the identity which repeat-offenders build up with "their lawyer". In view of the low rate of continuity for most repeat-offenders, this seems to have been the exception rather than the rule.

9.3 Improved Quality of Court Experience

1. Lacking information upon which to make comparisons, it is difficult to say with total certainty how much the Scheme has improved the quality of court experience for children and their families. Interviews with court personnel tend toward a positive assessment, while the results of interviews with children and parents are mixed. Participant-observation and case studies also turned up mixed results.

2. There is no doubt that the "team" approach in court was helpful in encouraging consultation among court officers and with the child and his family prior to the hearing. Discussions about the circumstances of the case and outcome took place during the hearing in a relatively informal atmosphere. In this atmosphere, and if the advocate has had sufficient time to counsel with his client, many children and parents are likely to have a better experience than under the Duty Solicitor scheme.

3. However, the style of proceedings is still inappropriately formal, particularly with regard to the role of the uniformed baliff, seating for child and family, and the disruptive influence of too many extraneous onlookers in court. The liaison officer functions were not organised sufficiently to provide useful information to every child and his relatives about the court procedures and services under the Scheme. Since the roster system was overburdened by heavy case-load days and appointments were not kept, advocates often did not have enough time to discuss the case with clients in the brief period before court began.

4. The most positive sign from questioning children and parents is that most feel when the hearing has concluded they received a fair hearing, and 3/4 of young people thought the judge had taken time to talk to them and understand their point of view. On the negative side, one in three children said after their court appearance they were unclear about some or most of what had happened. A similar proportion had difficulty recalling most of the important facts about what that judge had decided. Repeat-offenders and children in custody were often very cynical about court personnel and proceedings.

5. Whether this mixture of results is an improvement on the past is difficult to tell. The Scheme at this point undoubtedly requires sorting out of scheduling, appointments and the roster system. Regular coordination meetings among court personnel are also warranted, along with advocates who are carefully chosen for their experience with young people and trained in the special communication needs of their clients.

9.4 Increased Numbers of Parents & Other Supporters

1. Once again, there is little information about what family participation was like before the Advocate Scheme from which to make a comparison. The situation during the pilot can be summed up by saying that for some time now, judges at the Auckland court have made concerted efforts to encourage greater family participation at court. Police, social workers, lawyers, the liaison officer and community workers are all aware of this emphasis, and communicate the importance of family involvement to their clients. It is this concerted effort, rather than any particular aspect of the Scheme itself, that has accounted for any increase there might have been.

2. Having said this, the level of family participation in advocate interviews and court appearances is not very impressive. From cases recorded during the pilot scheme, approximately 28% of children were unaccompanied for their hearing. In those cases where children were accompanied, it was almost always a parent. Extended kin were notably absent from a court with a high proportion of Maori and Pacific Island children. It is quite probable, if the brief Otahuhu comparison is any indication, that the involvement of relatives may be higher in other courts where the Duty Solicitor scheme is operative. In part that is an indication of the influence particular judges have on family participation, as well as the existence of special programmes for insuring they are consulted and involved.

3. As the Advocate Scheme was originally conceived, the liaison officer has a key role to play in furthering family participation. During the pilot, he was most effective in providing information on court procedures to those who came and

asked, and at relating to those extended kin groups with whom he was already familiar. It was the Social Welfare court officers and social workers who consistently provided the most useful information and consultation to families regarding their case.

4. Family involvement was not increased as much as it could have been for lack of an effective programme of information, reception, appointments, liaison between various court personnel and parents about placement, and follow-up. The problem of administrative and clerical work consuming too much of the liaison officer's time was anticipated by the Steering Committee and advocates prior to the Scheme. Co-opting a Kokiri worker as a part-time clerical assistant was never a satisfactory solution.

9.5 Increased Involvement/Contribution by Community Groups

1. There is no comparable background information to make a firm comparison about whether the involvement of community groups has increased. Data gathered during the Scheme is sketchy, but it appears as though programmes like Maatua Whangai and Maori Wardens, and community agencies such as Arohanui were involved as much by their own initiative as by court invitation. Community groups themselves certainly do not feel that their involvement or contribution have increased significantly under the Scheme.

2. Judge Wallace has initiated occasional lunchtime consultative meetings with various representatives of the government and community agencies operating at the court. These sessions are a step in the right direction, according to agencies interviewed. They are not formally part of the Scheme pilot, but do indicate the need for a systematic programme of consultation and involvement with outside agencies, if their resources are to be utilised effectively. The liaison officer was a participant in these meetings, and by the end of the Scheme pilot, was beginning to formulate a network of contacts that was providing useful alternative placements.

3. There are no organised "diversionary schemes" being run at Auckland as in some other courts. There might be a value in considering such a scheme on a trial basis. There is, however, a certain amount of concern on the part of senior social workers at court that areas of Social Welfare expertise and responsibility are being encroached upon by non-specialists, or without adequate forethought and coordination.

9.6 Reduced Time to Dispose of Cases

1. On a day-to-day basis, cases are being disposed of within about the same amount of time as previously, according to various

personnel interviewed. There was a fear at the beginning of the Scheme that advocates would slow proceedings down because they would be more familiar with the circumstances of each case. If this has been a difficulty, it has been on heavy case-load days. None of the court personnel interviewed indicated there was a problem in this regard.

2. Defended hearings are more time-consuming and difficult to schedule in a busy court such as Auckland. There has been a substantial increase in such cases, and thus the Scheme has indirectly slowed down the disposal of such cases because of continuity of representation.

3. In general attempting to uphold the principle of continuity of representation with a fixed-assignment roster in conjunction with regular overloads of cases on Mondays has caused an increase in remand times. There were times during the pilot when children were being remanded to dates two months hence, because the dates in between for their advocate were filled.

4. The essential question is how to weigh up efficiency over against effectiveness. If cases are taking longer are the children having a better court experience and are rates of re-offending declining. The question of re-offending rates will have to wait the results of future monitoring. But when the lengthy remand periods for some children are viewed against the Tauroa report's warning about youth being socialised into the court system, it is clear some revisions to rostering will be required.

9.7 Cost Comparisons

1. The Advocate Scheme pilot was about twice as costly in total as the Duty Solicitor scheme a year earlier at the same court. The comparisons were based on the new rates applying for the latter scheme. On a per-case basis, when actual representation rates are taken into account, the two schemes turn out to be quite similar in cost. The Advocate Scheme cost \$59.88 per case while the Duty Solicitor Scheme cost \$31.76 per case.

2. Whether the Advocate Scheme is more cost-effective depends on what results are expected. Declining re-offending rates would be one test, but the data will not be available until the Scheme has run awhile longer. If one means that there are increased levels of legal representation, considerably better continuity of representation and reasonably positive assessments of court experience by clients, then the Scheme is certainly cost-effective. If one includes family participation and community involvement as criteria, then the findings are not as conclusive.

3. The question is whether the Advocate Scheme, with the recommended revisions below, can provide a better programme base from which to continue to make improvements than the Duty Solicitor Scheme. Or whether the increased use of duty solicitors, on their own or in conjunction with various participatory schemes, is a viable alternative. The experience from courts such as Otahuhu and Henderson should be assessed before a final decision is made. The evidence at present would appear to favour the Advocate Scheme.

RECOMMENDATIONS

10.1 Introduction

1. The following recommendations are based on an analysis of Evaluation findings together with the suggestions of court and community personnel with first-hand experience of the Scheme. These recommendations attempt to take account of the actual court circumstances in which the Scheme was tested and to generalise from there.
2. Undoubtedly, certain recommendations would have to be tailored to suit the individual court. The underlying assumption is that the Advocate Scheme will proceed, either as a replacement or in conjunction with other programmes.

10.2 Court Procedure

1. Depending on case-load, Courts which implement such a scheme should arrange to schedule certain types of cases at appropriate times of the day and week in order to shorten the length of waiting by the public, encourage family involvement and ease the pressure on advocate interview time.
2. There should be a consultation and review committee convened by a regular judge of the Children and Young Persons Court, made up of representatives of advocates, Social Welfare, Police, liaison officer, court-workers and community groups. Besides coordination and solving procedural problems, this committee would take under consideration such matters as improving the quality of court experience for children, increasing involvement by families and community groups, and maintaining an appropriate style of informality.
3. With regard to style of proceedings, each court should have a non-uniformed bailiff calling the child into court. This person should be tutored in Polynesian greetings and the pronunciation of Polynesian names, and preferably be bi-cultural. A court worker, community volunteer or Social Welfare officer would be suitable. Regular children's court judges should be provided similar tutoring, and follow Judge Mason's practice of formally greeting all relatives, whether Pakeha or Polynesian, using the appropriate phrase. Adequate seating clearly designated should be available for the child and his family, and the child should be permitted to sit with his family. Judges or their designated representatives should control access to the court by persons not directly involved in the case under consideration.

4. Suggestions that Police prosecutors or Social Welfare court officers be rotated on a regular basis would be counter-productive to the establishment of close "team" cooperation at the children's court, and should be strongly discouraged.

10.3 Advocates

1. Auckland children's court judges, advocates, the Steering Committee and the Law Society should be asked to recommend a list of criteria for the selection and training of future advocates. Selection criteria should include giving precedence to lawyers who are interested in making the children's court a major part of their practice, have a demonstrated ability to communicate with young people, and have some practical experience working with Maori and Pacific Islands people. Lawyers who are bi-cultural would be of particular value to the Scheme.

2. Every advocate should be required to participate in an orientation course before he begins his practice. The course might be included in the curriculum of a university law school, or provided by an organisation such as the Pacific Islanders Educational Resource Centre. It should include current sociological perspectives on New Zealand society, crime and the clientele of the children's court. The advocate would also be involved in cross-cultural experiences, basic training in one of the Polynesian languages, communication skills, visiting Social Welfare homes and community centres, and practical experience observing at a children's court under the Scheme.

3. There is a need to retain qualified and experienced advocates if the Scheme is continue to achieve its goals. Children's court must not be allowed to become the "poor relation" of the Justice system, but rather be given priority so that children are provided alternatives to a life-long career of criminal behaviour. In addition the continuity and consultation principles of the Scheme place far greater demands on the time of advocates. For these reasons, pay scales should be set which are at least the average for those prevailing in private practice. Time spent preparing cases and consulting with clients outside of rostered hours, as well as travel costs, should be adequately compensated.

4. The roster system should be revised on the basis of a rotational assignment pattern, as discussed in this report. In view of the high proportion of changes to the roster system caused by commitments to private practice, consideration should be given to only appointing advocates who are prepared to make children's court activities at least 50% of their practice.

5. The afternoon rostering of advocates for interviews at the court should be stopped. The current practice of designating one advocate as "on call" at his own office each afternoon for essential consultations should be continued. Appointments should be set for the hour prior to court on the day a child's hearing is scheduled. In courts with regular days of heavy-case loads, consideration should be given to delaying court for a half an hour on that day and underwriting the costs of afternoon sitting if necessary. The results of experiments at other courts with alternatives such as night sittings should be taken into consideration.

10.4 Liaison Officer

1. At every court where the Scheme is implemented, a qualified full-time secretary/clerk should be appointed to work with the liaison officer. One of this person's responsibilities would be insuring that data essential to the ongoing monitoring of the Scheme is coded from files and reception records.

2. The parties indicated in paragraph 10.3.1 should also be asked to suggest criteria for the selection of liaison officers under the Scheme. It is recommended that criteria such as administrative skills, organisational ability, a bi-cultural background and community development experience be included.

3. These criteria will likely mean that the salary grade for this position will have to be raised. Travel costs and other expenses associated with the liaison officer's community and family contacts should also be met.

4. The liaison officer, with the assistance of the consultative committee mentioned earlier, should work out a coordinated plan for communicating with and involving community groups in court procedures. Particular consideration should be given to alternative placement possibilities. The results of recent "diversionary schemes" should also be evaluated with an eye to how they might augment the aims of the Advocate Scheme.

5. The liaison officer, particularly in larger metropolitan courts, should place a priority on networking among the various ethnic communities and extended family groups. It is obvious that some of the experimental programmes being tried with Maori marae and whanau will not be appropriate for involving Pacific Islands kin groups and communities.

6. A comprehensive information system should be set up at each children's court, administered by the liaison officer. This system would include information letters to each child and family

translated in different languages, a brochure about the children's court and Scheme also in different languages, a properly-organised reception and registration procedure, and a follow-up and appointments procedure when hearings are concluded.

7. To facilitate the participation of low-income persons and beneficiaries, consideration should be given to subsidising the costs of their court attendance, along the lines of witness fees at District Court.

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APPENDIX A

METHODS AND FUTURE RESEARCH

APPENDIX A

FIELD-WORK METHODOLOGY AND FUTURE RESEARCH

A.1 Introduction

1. This appendix discusses in greater detail some of the field-work methods employed in the Evaluation. Some of the difficulties encountered in the research are mentioned, along with suggestions for further research. As indicated in the body of the report, the appendix begins with a statement about the study of race, class and ethnicity in New Zealand, and the implications for government policy.

A.2 Research into Race, Class and Ethnicity

1. Any kind of social reasearch these days which touches on these concepts individually or in relation to one another is moving into an area of theoretical controversy. And since theory informs the practice of social science, such controversies are bound to influence the way one sets up a study, the kind of questions one addresses and the results one expects. The difficulty is compounded if the researcher sets out to study an institution such as the Justice system which uses concepts like "race" in particular ways, assuming that the meanings are self-evident.

2. Furthermore, political representatives and the general public share some of these same perspectives. Their assumptions about what the research ought to look at, and what sort of conclusions should be reached, are all shaped by how they conceive of race, ethnicity and class. They are usually taken for granted and unquestioned ideas --what Alvin Gouldner once called "domain assumptions". These ideas are just the commonsense way everyone views the social world. They are often outmoded ways of understanding society by the standards of current social thought, and usually take a bit of a jolt to change them because they are so deeply entrenched.

3. In New Zealand one such idea is that "race" and "ethnicity" are real things in the sense of being natural physical or cultural properties an individual is stuck with his entire life. But these concepts are really social categories whose meanings change as political and economic relationships change. The recent controversy over Census Department questions about race and ethnicity is an example. When one stops to consider just who is or is not a Maori or a Pakeha, what a "Caucasian" is, who decides who is what, and when the terms are relevant and when they are not, it becomes obvious we are dealing with social labelling.

4. Another "ruling idea" is that race, ethnicity and class are somehow completely separate realities existing side by side. Admittedly, one may influence or have vaguely to do with the others, but no one is sure how. This kind of thinking is at the root of what Robert Miles (1982) has called the "race relations" approach to social research and public policy. The worry seems to be class analysis of society might somehow overshadow real problems of discrimination and "racial" or "ethnic" identity. This leads to pre-judgmental research on "Maori" problems and "majority Pakeha values" with lots of statistics manipulated to back up the findings.

5. Present concerns about the high number of Maoris and Pacific Islanders coming before the courts or ending up in prison are an example of how public perceptions and institutionalised concepts make alternative approaches to research and analysis difficult. The categorisation of "Maori" and "Pacific Islander" is taken as unproblematic, and furthermore as the key factor which accounts for why these individuals are in trouble with the law. If this is the case, it is difficult to see why all Polynesians are not in prison. The answer is usually some form of "relative deprivation" theory, which no matter how liberal, stems from old racist notions of differential evolution and racial supremacy.

6. An alternative perspective would be to look to economic and political factors bound up with class position as an explanation for why so many Polynesian children are "offending". From this viewpoint, racial and ethnic labelling becomes an important mode of class relations in New Zealand. This approach has been spelled out in a preliminary fashion elsewhere (see Spoonley, 1982; Loomis, 1984). It is little wonder that virtually no studies or data exist about the social class of young offenders, or the relationship between their class position and ethnic background. The real tragedy is that, however significant so-called racial factors may be, we may be attempting to treat the symptoms of social inequity rather than the root causes.

A.3 Selection of Comparisons

1. Comparisons are useful when trying to determine whether the data or behaviour being observed are "typical," and thus how widely one's conclusions may apply. Comparisons are also useful for control purposes, so that specific variables such as the difference in court setting and scheme can be tested.

2. Comparisons were first set up, as indicated previously, between the Auckland Children and Young Persons Court during the scheme pilot and the same court during the same six-month period a year earlier. The only major differences were that the earlier court sat in the main district court building, and the Duty

Solicitor Scheme was operative. Various reports contained comments about the harmful influence of the physical arrangements at the district court. But, since no survey of clients' attitudes was carried out, it was not possible to compare this factor except during two days when court was moved from the renovated premises to an auxiliary district court. Since in all other respects the two courts were quite similar, variations in factors such as pleas, remands, sentences and levels of legal representation would probably be due to differences in legal assistance scheme.

3. The time difference between Auckland during the Advocate Scheme and earlier years could have influenced results, for instance trends in numbers of girls and Pacific Islanders appearing, as well as possible adaptations to the Duty Solicitor scheme. For this reason, it was decided to gather data from a contemporary court where the Duty Solicitor scheme was operating, and Otahuhu was selected.

4. When all major variables were taken into account, it seemed that there were sufficient similarities to make the comparison valid. Where there were differences, these seemed to be of a nature where contrasting with Auckland would also be instructive. The two courts were similar in regard to administrative set-up, court personnel (except scheme lawyers), annual case-load, types of charges and complaints, and child clientele (sex, race, age). They differed with regard to physical facilities and style of court proceedings, though in neither case dramatically.

5. More importantly, they differed in that modifications to the Duty Solicitor scheme and other experiments at Otahuhu made it a useful comparison as an alternative to the Advocate Scheme. Duty Solicitors did make it a practice to advise people appearing on complaints, and a special roster of persons qualified and interested in CYP court was drawn up by the Law Society. As well, pay scales were increased significantly during the period of the Evaluation. In addition, various agencies are more active at Otahuhu, particularly Maatua Whangai and Maori Wardens. And Judge Mason had initiated a pilot programme to involve relatives and the community in remands and sentence placements.

6. Subsequent to analysis of findings, the final recommendations in this report have assumed that experimental programmes at other courts would probably augment whichever legal assistance scheme was adopted. The task is to select the most effective scheme.

A.4 Questionnaires and Case Studies

1. Due to time and funding constraints, and the difficulty of coding open-ended interviews into quantifiable results, it was

decided to test what children and parents thought of the Scheme and the court by means of a formal, structured questionnaire. The intention was to keep the instrument reasonably brief and simple, so that conversation could take place and more persons could be interviewed. The questionnaire was "formal" in the sociological sense of controlling variations in how questions were asked and answers coded. But, from the suggestions of the Steering Committee and the previous research experience of the principal researcher, a number of techniques were utilised to establish rapport and encourage more authentic responses.

2. The intention was to administer questionnaires to every child appearing on randomly selected days during a fortnight in late January at Auckland, and again for a week in early April. It was hoped that about one third of parents or guardians could also be interviewed. During the same first fortnight, the questionnaire was also administered two days a week at Otahuhu. The practical difficulties for two interviewers proved considerable, but in the end some 70% of children appearing were spoken with.

3. Case studies were arrived at by creating a matrix of key variables from base-data sources on previous court populations, and from an interim analysis of cases to the mid-point of the Scheme. In view of the pattern of variables (two sexes, three racial groups, etc.) and for manageability in field-work and reporting, it was decided to limit the cases to six. The factors taken into consideration in devising the case-study matrix were as follows:

- (1) age - one under 15, two 15, three 16 or over
- (2) gender - three males and three females
- (3) race - two Pakehas, two Maoris, two Pacific Islanders
- (4) record - three first time, three prior appearance

The final configuration selection was two children of each race, a male and female each, one first appearance and one prior.

4. The original design called for more intensive involvement in the lives of children and their families than was eventually possible. The intention was to spend time in the homes, schools, and among the peers of children interviewing and observing. This would have taken several weeks for each child, and only a month was available. In practice the principal researcher sat in on the initial hearings of five of the six young people, all of whom were also interviewed at court with the standard questionnaire. Their background and files were outlined. Then appointments were made at home or institutions for extended, open-ended interviews with the children and a parent/guardian. In three cases follow-up interviews were possible. The Advocate of each child was also interviewed about the case. In two cases it was also possible to be present for the final hearing.

A.5 Formal Interviewing

1. Discussions with the Steering Committee, attendance at Advocate meetings and initial contact with various individuals involved in the children's court made it obvious that there were many people who felt strongly about aspects of the pilot scheme. It was decided to devise a formal though open-ended interview format with which to include the evaluations of various individuals playing key roles in the court and Scheme. Appendix C contains copies of these interview schedules.

2. After preliminary observation at court and talking with personnel involved, the range of key roles (judge, advocate, police prosecutor, social welfare officer, liaison officer, community volunteer, etc.) became clear. Appointments were made to interview court personnel at Otahuhu as well. For the Advocate scheme, interviews were held toward the middle of the pilot and again at the end in April to see whether individuals' assessments had changed. Most judges and advocates were interviewed at least once, and advocates were asked for their comments on several specific issues during the meetings.

A.6 Participant-Observation

1. It is often said that participant-observation is the essence of anthropological field-work. It is also time consuming, costly, and requires considerable forward planning. The resulting analysis is seldom simple, easily quantified or conducive to clear-cut policy recommendations. For these reasons, the method is usually watered down or avoided, particularly in social impact and evaluation research.

2. There was insufficient time in this study, given all the other data to be collected, to do justice to the method. Nevertheless, it was decided to include as much involvement in court activities as possible. The principal researcher was involved continuously in the liaison office and court for the first two weeks of the study in December, and again for a fortnight at Auckland and Otahuhu in January. For the remainder of the project, he observed the activities of other court officers besides being at court once or twice weekly until the end of the field-work.

3. One of the most valuable aspects of participant-observation was the initial period of familiarisation and "socialisation" into the proceedings of the children's court. Notes from this experience were used to shape the final form of the questionnaire for children, as well as forming the basis of the description of the Scheme and court in the section to follow.

A.7 Research Difficulties

1. The principal hindrance to the Evaluation was the inconsistent manner in which the statistical data-gathering system on current cases was put into operation (see Introduction). It was a difficult arrangement of procedures to formulate in the first place, because the data were coming from several sources at once and involved several people playing their part in recording the information. The liaison officer and his clerical assistant were consulted about procedures with the files, the advocates (who had to fill in information) and reception lists. The system was reasonably simple, but required consistency and attention to detail. A weekly meeting was set for the research assistant and clerk to code information and fill in gaps. The end result was that, in spite of sufficient time during court and in afternoons, data was recorded in a slipshod fashion and often inaccurately. The clerk was almost never in the office for the weekly coding session. In consequence the part-time research assistant had to do twice as much work. The principal researcher had to continually monitor the system and help the assistant, thus having less time for case studies and participant-observation.

2. The Evaluation was to study family and community involvement, but at an early stage it was realised there was no reception procedure for recording who was accompanying the child. It took the liaison officer several weeks to put such procedures in place, after which receptionists and procedures continued to change. In many instances, the information was not sought or not recorded. As a result, serious qualifications have had to be made in this report with respect to findings on parental and community participation.

3. A multi-method research design turned out to be more complicated to coordinate than had been anticipated. Continual problems were experienced in balancing the time demands of qualitative field-work activities against the fixed procedures of the quantitative methods. But it was the analysis of findings more than actual field-work that turned out to be the most complex operation. For instance, there was the difficulty of wedding questionnaire responses about hearings with case studies and participant-observation, and then testing these against interviews with court personnel. In future sufficient funding must be allocated to multi-method studies to do justice to qualitative methods and to allow the team of researchers to complete the entire analysis together.

A.8 Future Research

1. At several points in this report, the importance of monitoring the Scheme in future was indicated. Forms for collection of basic statistical information about children and their families should be revised to include data on social class (eg. income, occupation, position, educational background). This information could be gathered as part of a carefully run reception and registration procedure. The latter will be important if we are to learn anything about trends in the level of parental and community involvement.

2. The large number of Maori children and the sharp increase in the proportion of Pacific Islands children appearing at court are alarming. Various diversionary and family involvement schemes have been experimented with among Maori people. However, little research has been done on second-generation Pacific migrant children who now make up over 1/3 of the migrant Polynesian population in New Zealand. In particular studies should be carried out with young offenders from two or three of the main islands groups on family background, their relationship to their extended kin group and ethnic community institutions, whether or not they have rejected these and why, and the possible roles family and community could play in their rehabilitation.

APPENDIX B

COST ESTIMATES



DEPARTMENT OF JUSTICE

DISTRICT COURT

Private Bag/Box J, AUCKLAND

Telephone 778830

In reply, please quote

19 April 1985

Memorandum to: Dr T. Loomis
The Social Research & Development Trust

Through - The Registrar, District Court

CHILDRENS ADVOCATE

You have requested information about the cost of previous systems of legal assistance in Children and Young Persons Court.

OFFENDERS LEGAL AID

A total of 3556 applications were made during 1984 (2/12 of which the Childrens Advocate Scheme was in operation). Of these 11.8% were for Children & Young Persons Court actions and to find the exact cost would take a considerable time. I am confident the cost is about \$2980 per month (using the "old" scale of fees). Revised estimates using the new fees could not be accurately calculated for a few months yet.

DUTY SOLICITOR

Separate details were not kept for the Children and Young Persons Court. The fees were \$14 for the first half hour and \$12 per half hour thereafter and now are \$16.50 for the first half hour and then \$14 per half hour.

Two duty solicitors were assigned to the Children & Young Persons Court each day (4 days per week). Advice I have from Court Clerks allows me to estimate a cost of \$2460 per month (old fees) or \$2890 per month (new fees).

CHILDRENS ADVOCATE SCHEME

Payments to advocates (at \$43 per hour) from 1 November 1984 until 30 April were \$35,527.44 which is about \$7100 per month.

Note: "Complaints" are not part of the advocates scheme and an application for legal assistance in those matters must be made under the Civil Legal Aid Act.


(E.B. Tuffey)
Assistant Senior
Deputy Registrar

APPENDIX C

FIELD-WORK INSTRUMENTS

Date _____

Court _____

CHILDREN'S INTERVIEW

A. Personal Information

- 1) CRN _____ 2) XRN _____
- 3) Surname _____ First _____
- 4) Sex: Male _____ Female _____ 5) D.O.B. _____
- 6) Race _____
- 7) Present address _____
- 8) Parent(s)/guardian address _____
- 9) Your contact phone _____

B. Counsel

- 1) Is this your first appearance in the CYP court?
 - a) yes _____ b) no _____
- 2) If you have appeared before, when was that?
 - a) day _____ month _____ year _____
 - b) no prior appearance _____
 - c) don't know _____
- 3) The Duty Solicitor programme has been in existence for some time so young people can see a lawyer (and now this court is trying a new Children's Lawyer or Advocate scheme). Did you know you could talk over your case with a Duty Solicitor or Children's Lawyer before you came to court today?
 - a) yes _____ b) no _____ c) not sure _____
- 4) How did you hear about the Children's Lawyer or Duty Solicitor?
 - a) information letter _____
 - b) liaison officer contact _____
 - c) court clerk/officer _____
 - d) police/summons _____
 - e) social welfare _____
 - f) kokiri worker _____
 - g) matua whangai _____
 - h) other community group _____
 - i) friends, relations _____
 - j) media _____
 - k) other _____
 - l) didn't know _____
- 5) Were you told in the beginning that the service was free?
 - a) yes _____ b) no _____ c) not sure _____
- 6) Who was your lawyer in your last appearance?
 - a) Advocate/Children's Lawyer _____
 - b) Duty Solicitor _____
 - c) own lawyer _____
 - d) court-appointed lawyer _____
 - e) unrepresented _____
 - f) don't know _____
 - g) not applicable (first appearance) _____

7) Were you represented by a CL/DS in court today?

- a) yes _____
- b) no _____
- c) not sure _____
- d) own solicitor _____
- e) court-appointed lawyer _____
- f) unrepresented -----

8) When did you discuss the case with him/her?

- a) more than a day before the hearing _____
- b) the day before (L.O. appointment) _____
- c) today (day of appearance) _____
- d) no interview before the hearing _____
- e) by phone _____
- f) unrepresented _____

9) Did you feel you had enough time to discuss your case with your lawyer before your court appearance?

- a) yes _____
 - b) no _____
 - c) not sure _____
- comments: _____

10) Was there any time during your meeting with the lawyer when you felt you weren't being listened to or understood because you were a young person?

- a) yes _____
 - b) no _____
 - c) a little, perhaps _____
 - d) no resp. _____
- Comments: _____

11) Was there any time during your meeting with your lawyer when you felt you weren't being listened to or understood because you were a Maori, Pacific Islander, etc.?

- a) yes _____
 - b) no _____
 - c) a little, perhaps _____
 - d) no resp/not applic _____
- Comments: _____

12) Did you have any problems understanding your lawyer's English?

- a) yes _____
 - b) no _____
 - c) a little, perhaps _____
 - d) no resp.,not applic _____
- Comments: _____

13) (see next page.....)

13) Who was present in the interview --- and would you say they were helpful or would you rather they weren't there?

	(1) helpful	(2) rather not there	(3) not sure	comments
1) parents/guardian				
2) brother/sister				
3) other relations				
4) friends				
5) church volunteers				
6) kokiri workers				
7) matua whangai				
8) social worker				
9) police				
10) other _____ _____				
11) no one else				

C. Court Appearance

1) How would you rate the court facilities?	<u>very poor</u>	<u>just fair</u>	<u>good</u>	<u>n.resp.</u>
a) seating comfort and space	_____	_____	_____	_____
b) comfort in secure areas..	_____	_____	_____	_____
c) privacy with relations and friends.....	_____	_____	_____	_____
d) privacy with lawyer.....	_____	_____	_____	_____
e) food, drink and toilet facilities.....	_____	_____	_____	_____
f) other _____.....	_____	_____	_____	_____

2) Who came with you into the courtroom?

- | | |
|-----------------------------|------------------------|
| a) parents/guardian _____ | f) kokiri worker _____ |
| b) brother?sister _____ | g) matua whangai _____ |
| c) other relatives _____ | h) social worker _____ |
| d) friends _____ | i) Arohanui _____ |
| e) church volunteers. _____ | j) other _____ |

3) Did you feel you understood what was happening in Court?

- | | |
|----------------------|-----------------------------------|
| a) yes _____ | Comments: _____

_____ |
| b) no _____ | |
| c) some _____ | |
| d) very little _____ | |
| e) no resp. _____ | |

4) What did the judge decide?

5) Did you feel the judge took time to understand your point of view?

- a) yes _____
- b) no _____
- c) partially _____

6) Did you feel you could relax a bit and speak up if you wanted to or if asked to ?

- a) yes _____
- b) no _____
- c) a little _____
- d) not sure _____

7) It's important that we understand what you think...Why were your parents/guardian /relations present in court?

- a) comfort me, lend support _____
- b) give information _____
- c) other _____
- d) not present _____

8) Why were kokiri, matua whangai, community volunteers, wardens there?

- a) comfort me, lend support _____
- b) give information _____
- c) other _____
- d) not present _____

9) Whatever the judge decided, did you feel you were treated fairly?

- a) yes _____
 - b) no _____
 - c) partially _____
 - d) not sure _____
 - e) no resp. _____
- Comments: _____

10) If you were told to appear again, will you have the same lawyer?

- a) yes _____
- b) no _____ (including other arrangements)
- c) don't know _____
- d) not applic/case concluded _____

D. Future Contact

1) (If relatives present) Would you be willing to be interviewed at your home to help us with our study?

- a) yes _____
- b) no _____
- c) not sure _____
- d) interviewed at court _____

2) We still want to interview some children further so that we can understand their point of view and experiences with the court. Would you be available for another talk if chosen?

- a) yes _____
- b) no _____
- c) not sure _____
- d) remanded/sentenced elsewhere _____

PARENT/GUARDIAN INTERVIEW

A. Personal Information

1) Surname _____ First _____

2) Address _____

3) Phone _____ 4) D.O.B. _____ 5) Sex: M _____ F _____

6) Race _____ 7) Relation to child _____

B. Counsel

1) Did you know you and your child could discuss your case with a CL/DS before you came to Court for the hearing?

2) How did you hear about the CL/DS?

- a) information letter _____
- b) liaison officer contact _____
- c) court clerk/officer _____
- d) police/summons _____
- e) social welfare _____
- f) kokiri _____
- g) matua whangai _____
- h) community agency _____
- i) friends, relations _____
- j) media _____
- k) other _____
- l) didn't know _____

3) Were you told in the beginning that the service was free?

- a) yes _____
- b) no _____
- c) not sure _____

4) Who represented your child at his/her last appearance before this one?

- a) CL _____
- b) Duty Sol. _____
- c) own sol. _____
- d) court-appointed lawyer _____
- e) unrepresented _____
- f) no prior appearance _____

5) For this appearance,

a) Reason you chose a CL/DS? OR Reason you didn't?

6) When did you discuss the case with your lawyer?

- a) more than a day before _____
- b) the day before _____
- c) day of the hearing _____
- d) by phone _____
- e) no interview before hearing _____
- f) unrepresented _____

7) Did you feel you had enough time to talk over your case with your lawyer?

Comments: _____

- a) yes _____
- b) no _____
- c) not sure _____

8) Was there any time during your meeting with the lawyer you felt you weren't being listened to or understood?

Comments: _____

- a) yes _____
- b) no _____
- c) a little _____
- d) no resp. _____

9) Was there any time during your meeting with the lawyer you felt you weren't being listened to or understood because you were Maori, Pacific Islander etc?

Comments: _____

- a) yes _____
- b) no _____
- c) a little _____
- d) no resp./na. _____

10) Did you have any problems understanding your lawyer's English?

Comments: _____

- a) yes _____
- b) no _____
- c) a little _____
- d) no resp/na. _____

11) Who was present during your child's interview?

- a) parent/guardian _____
- b) brother/sister _____
- c) other relations _____
- d) church vol. _____
- e) friends _____
- f) kokiri workers _____
- g) matua whangai _____
- h) social worker _____
- i) Maori warden _____
- j) other _____

12) Do you think your presence was helpful, or perhaps you should have waited outside? Why?

- a) helpful _____ Comments: _____
- b) rather not there _____
- c) not sure _____
- d) not present/n.a. _____

13) What about the others there? Why?

- a) helpful _____ Comments: _____
- b) rather not there _____
- c) not sure _____
- d) not present/na. _____

C. Court Appearance

1) If NOT AT COURT the day of your child's appearance, what was the reason?

- a) work _____
- b) illness _____
- c) family problems _____
- d) lack transportation _____
- e) too busy _____
- f) other _____

2) If at Court but NOT IN THE HEARING, what was the reason?

- a) didn't know I could _____
- b) too frightened/ashamed _____
- c) language problems _____
- d) lawyer said not to _____
- e) illness _____
- f) children to watch _____
- g) other _____

CYP Advocate Evaluation

Date _____

Court _____

Judges, Lawyers, Police, Liaison Officer,
Social Welfare Interview

(to be taped)

A. Personal Information

1) Surname _____ First _____

2) Office address _____
_____ Ph: _____

3) D.O.B. _____ 4) Ethnic origin _____

5) Occupation/Position _____

B. Court Operations

1) Could you describe your duties and activities in the
Childrens and Young Persons Court system?

2) Who are the major agencies and personnel involved in the
CYP Court system? And their roles?

- 3) What recurrent problems have you become aware of in the day-to-day operation of the CYP court system generally?

C. Scheme Evaluation

- 1) Why was the CL/DS Scheme set up? What problems was it supposed to overcome?

- 2) What are the primary aims of the Scheme?

- 3) What is your role within the Scheme, or how do you fit in with it?

- 4) From your own experience, what are the strong points of the (pilot) Scheme as it is now functioning?

- 5) Could you recall some of the initial teething problems that had to be overcome which other courts might possibly avoid?

- 6) Where are there still persisting problems which have yet to be solved? (examples, data, etc.)

- 7) What do you recommend should be done?

D. Auckland Court - Advocate Scheme

- 1) One of the aims of the pilot is to guarantee that each child is represented, and that the quality of representation and preparation time is improved? Is that happening?

- 2) The Scheme is intended to insure continuity of representation. Is that being achieved, and have there been any problems?

- 3) One ideal is to foster a less formal, less adversarial style in Court to provide a better experience for the child. Is that happening and is the Scheme having anything to do with it?

- 4) How have the new facilities improved on the old set-up, and where are there still problems to deal with?

- 5) The Scheme encourages the involvement of parents/relations at Court. Why do you think they should be involved, if at all?

- 6) Practically speaking, how have you noticed parents being involved? In lawyer interviews? Court? What do they contribute? How is their presence taken into account?

- 7) The Scheme also encourages the involvement of community groups and more community placements? Why do you think they should be involved, if at all?

- 8) Practically speaking, what roles have such people played and how many community placements are there?

9) What contacts have you had with the Liaison officer?
What role does he play?

10) Children's Lawyer:

a) What about rostering matters -- afternoon time. heavy days,
reasons for changes of assignments, DC sentancing, etc.

b) Sufficient time to counsel client and prepare -- liaison
officer setting appointments, parents/kids not keeping
appointments, s.w./police custody cases arriving late, etc.

c) Difficulties maintaining continuity of representation,
including DC, liaising with other courts, etc.

d) Relations with liaison officer, other groups/agencies, etc.

E.

Otahuhu Court (Duty Solicitor Scheme)

- 1) Do most children get represented under the Scheme? Interviewed? Why/How or Why not?

- 2) What about the problem of continuity of representation. Why is that an issue and what steps have been taken to deal with it under the Scheme?

- 3) There seems to be acceptance for the idea that the CYP court should be less of an adversary style and more informal and consultative. Is this a problem under the DS Scheme? Why? What attempts have been made to modify the style of proceedings?

- 4) I understand there were problems with the physical set-up at the Otahuhu court. What modifications have been made? How have these helped and what yet needs to be done?

- 5) How much are parents/relations involved in cases? Do judges, lawyers, clerk encourage this? Why? How successful?

- 6) I understand Judge Mason has made certain efforts to involve community groups and volunteers? What has he done? Why? How successful?

- 7) The CL Scheme is interested in encouraging more community placements, including relatives and community groups. Is this a concern at Otahu and what is being done?

CHILDREN'S INTERVIEW

Background Information

- 1) CRN case summary data
- 2) QHC entire record
- 3) Field-work interviews (Phase II): child, parent

Residential Situation

- 1) How old are you?
- 2) Where were you born?
- 3) Where have you lived, for how long, and who with?
- 4) What is your parents' marital status? (where live?)
- 5) What are their occupations?
- 6) (non-custody) Could you list the people living here, their ages, and your relationship to them?
- 7) How would you say your parents get along?
- 8) What family activities can you recall recently, like trips, recreation, visits to relatives?
- 9) Have you been aware of any family problems over the past year or so?

Activities

- 12) Are you still at school? What year?
- 13) What are/were your favourite subjects? Worst?
- 14) How do/did you get on with your teachers? Classmates?
- 15) Why are you continuing at school? OR Why have you left?
- 16) Are you active in any sports?
- 17) What do you like to do with you free time, weekends?
- 18) Do you belong to any clubs, groups? Any hobbies?
- 19) Do you go to church? Why/why not?
- 20) Do you have a job? How much do you earn? What do you do with the money?
- 21) Do you have some friends you hang around with? What kinds of things do you enjoy doing? Where do you go?

Encounter with Law

- 1) When did you first get in trouble with the law?
- 2) Tell me what happened?
 - a) Who were you with?
 - b) Where were you?
 - c) What did you do? Why?
 - d) How were you caught?
- 3) What did the police do? Say? What was their attitude toward you?
- 4) Was anyone else involved, like social welfare? What did they do?

Court Appearance

- 1) Could you recall the first time you went to court:
 - a) Who went with you?
 - b) Describe waiting room/custody - space, people?
 - c) How did you feel? Did you know what to do? Who helped?
 - d) When did a lawyer talk to you? What happened?
 - e) Who was with you? Did you understand what was said?
- 2) Who called you into court? Your reactions?
- 3) Who was present in court? Why?
- 4) Who was the judge? His/her attitude, procedure?
- 5) Could you recall the details of what happened?
- 6) Did you understand everything? How did you feel?
- 7) What did the judge decide?
- 8) What happened afterwards? Who spoke to you? Helped?
- 9) (If remand) How long? Social worker/probation visit?
What happened? Who else has helped? What was the final outcome of the case?
- 10) (If custody) How long have you been here? How many other kids are here? How treat you here? How do you feel about it?

Present Situation

- 1) What is your parents' attitude now? Other relations?
- 2) Do you see your friends? Their attitude?
- 3) Have you made new friends? Do they know about your troubles with the law?
- 4) How has it affected our school situation?
- 5) What about your job? Future job prospects?
- 6) What do you want to do now?
- 7) How has your life been affected by what has happened?
- 8) How would you sum up your feelings about the Childrens' Advocate and your court experience?

LAWYER/S.W. INTERVIEW

Background Information

- 1) Court file, lawyer's notes in liaison office
- 2) s.w. report, etc.

Questions

- 1) Age
- 2) Occupation
- 3) Professional background
- 4) Could you recap the facts of the case (see file)
- 5) When did you first meet _____? Who accompanied?
- 6) Length of interview? What was discussed?
- 7) What were your impressions?

Court Experience

- 1) What happened in court?
- 2) Who present? Who was the judge?
- 3) What was your basic submission? s.w.? police?
- 4) What was the style of the proceedings?
- 5) Was _____, family, others involved?
- 6) Do you think your client understood what was happening?
- 7) What do you think _____'s response was to his court appearance?
- 8) What happened afterwards?

Subsequent Experience

- 1) Have you had any further dealings with _____ since that first appearance? (eg. remand, sentencing, etc..)
- 2) What happened in these subsequent appearance(s)?
- 3) What was the final outcome of the case? Any further incidents?
- 4) How would you summarise _____'s experience of the CYP court and the Pilot Scheme (your role) in particular?:
 - a) beneficial or not, why?
 - b) what about adequacy of outcome/placement, etc.?
 - c) extent and effectiveness of parental, community, liaison, relatives involvement?
 - d) what about the child's future now?

PARENT/GUARDIAN INTERVIEW

Background Information

- 1) Phase II interview

Family Background

- 1) Age? Where born?
- 2) When and where did you marry your spouse?
- 3) What places have you lived, years, and own/rent?
- 4) What is your present marital status?
- 5) What jobs have you and your spouse had?
- 6) Income? Benefits?
- 7) What problems have you had in your family recently?

Child's Background

- 1) What kind of child was _____?
- 2) How did he get along with his brothers, sisters, friends?
- 3) How did he get along with you and your spouse?
- 4) How did he do at school? Best subjects? worst?
- 5) When did you first become aware of problems?

Court Experience

- 1) Tell me what happened with this (latest) trouble with the law?
- 2) Any idea why? What led up to it?
- 3) Tell me about the people you have had to deal with? What did they do? Their attitudes? Helpful/unhelpful? (eg. police, s.w., liaison officer, comm. groups)
- 4) What was your court experience like:
 - a) what were your first impressions?
 - b) reception procedures?
 - c) physical facilities?
 - d) what happened with the lawyer? what said? attitude? etc.
- 5) During your appearance in court...
 - a) how were you brought in? how received in court?
 - b) who were the people present? why?
 - c) what went on? lawyer/judge/prosecutor/s.w. statements
 - d) style of proceedings?
 - e) did you understand what was happening? chance to speak?
 - f) what did the judge decide?
 - g) who spoke with you/helped afterwards?
- 6) How would you summarise your impressions, experience?
- 7) What has happened with the case now?
- 8) How has _____ been doing? school? work? friends? home?
- 9) How do you see the future for him?

CHILDREN ADVOCATE SCHEME - ACTION | STATISTICS SHEET

SURNAME _____ FIRST NAMES: _____
 PARENTS PHONE NO: (WORK) _____ (HOME) _____ (OTHER) _____
 CRN (S) _____ XRF _____ SEX _____ DOB _____
 RACE _____ TOC _____ CHR(S) _____

ADVOCATE ASSIGNED: _____ IF N/A - WHY NOT: _____
 CHILD ADVISED - DATE PHONED _____ DATE OF LETTER _____
 PARENT ADVISED - DATE PHONED _____ DATE OF LETTER _____
 COMMENT: _____

Date of hearing	Type of Counsel	Parent present	Relevant details / outcome of hearing	OUTSIDE TIME	Length of sitting	Length of Court

AGENCY INVOLVED: _____

PLEA	ADMITS	DENIES	
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FOSTER PARENTS Kokiri Arohenui MAORI AFFAIRS CIURUA
 FRIENDS AT COURT Other: _____

SERVICE PROVIDED: _____

REPORTS SUBMITTED TO COURT: (SOURCE) _____ (DATE) _____

GENERAL: _____

DUTY ADVOCATE - C.Y.P. COURT.

Complaint: Y N DATE: _____

NAME _____ AGE: _____

Accompanied By _____

ADDRESS _____ PHONE: _____

With whom Living _____

State Ward: Yes No

AGENCIES Involved: Foster parents Kōkiri Māori Affairs Church Arohanui
Friends at Court Other

Charge(s) _____

Plea _____ Admit Deny No Plea

Legal Aid: Required Not Required

Bail: Required Not Required

School: _____

Work: _____

Unemployed: _____ Benefit: Yes No

Previous Convictions: Yes No

Court Decision:

Remanded To: _____ C.Y.P. / D.C.

Report: Social Welfare Probation

NOTES:

LAWYER'S SIGNATURE

AUCKLAND OCF TIMESHEET

XRF _____

Lawyer's Time

Child's Name: _____

	1st Appearance	2nd Appearance	3rd Appearance	4th Appearance
Interview Time				
Court Time				
Telephone Time				
Other Time				

Liaison Officer's Time

Counselling at Office

Telephone Time

Visits

Other