

**A Research Report of the Marrickville Legal Centre and the Department of Community and
Aboriginal Education, UTS**

**A joint initiative with the
Association of Childrens' Welfare Agencies**

WORKING TOGETHER

**A Common Field of Practice for Police, Solicitors, Youth Workers, Aboriginal
Workers and other Practitioners providing Legal Support to Young People**

Vol. 1

**Defining the Needs and Issues of Young
People in the Legal System**

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Main Recommendations

1. It be recognised that providing legal support to young people is a specialised field of practice which accordingly requires practitioners to have specialist training.

2. It be recognised that a wide range of practitioners contribute in both distinct and common ways to the provision of legal support to young people. Such practitioners include:
 - police officers;
 - solicitors;
 - detached family counsellors;
 - youth support/outreach workers;
 - youth accommodation workers;
 - home school liaison officers;
 - Aboriginal workers;
 - District Officers and Juvenile Justice Officers;
 - school counsellors.

3. That legal support to young people will benefit from greater collaborative and co-ordinated effort among the different practitioners listed above, which would be promoted by implementation of recommendation 5 (b) below.

4. While each occupation requires its own set of distinct and specialist competencies in the provision of legal support to young people it should be recognised there are also a set of core competencies common to the range of occupations engaged in legal support.

5. **Legal support practice will benefit from:**
 - a) each occupation promoting more training for its respective practitioners to work effectively with young people;

 - b) **a cross occupational legal support training program centered around the areas of competence described and analysed in this report.**

Preface

There are five volumes which make up this research report. Vol. 1 defines the scope and nature of problems and issues faced by young people in the legal system. Vol. 2 presents the main findings of the research. Data was generated by bringing a wide range of practitioners together in a series of workshops. The core areas of competence common to the diverse range of practitioners when providing legal support to young people are described and analysed. Vol. 2 also discusses the merits or otherwise of the qualitative research methodologies employed. Vol. 3 examines Aboriginal perspectives on legal support practice. Vol. 4 presents a range of supplementary research data which is used to validate and challenge the main findings of this project. Vol. 4 includes a literature review with annotated bibliography, survey of legal support training programs, and a report of practitioner's and young person's perspectives on legal support practice. Vol. 5 describes our proposal to develop a cross occupational training program centered around the areas of competence described in this report.

Section 1

Introduction

1.1 The Brief

This Report marks the end of Stage 1 of a Project managed jointly by Marrickville Legal Centre and the Association of Children's Welfare Agencies with funding from the Law Foundation of New South Wales. The Project is undertaking to develop and pilot legal education programs for people working with children and young people in New South Wales. The state-wide project aims to provide for greater access to and understanding of the legal system by children and young people by targeting those who work with them.

The research was undertaken jointly by staff from the Department of Community and Aboriginal Education, University of Technology, Sydney, and Marrickville Legal Centre.

1.2 Background

Legal education for youth workers has been widely identified as essential to the more effective protection of the rights of children and young people. In late 1990 Marrickville Legal Centre, through its Children's Legal Service, focussed resources on a project to develop legal education programs. At the same time as the legal centre was informally investigating training needs for a variety of workers the Association of Children's Welfare Agencies was contemplating a training course on legal issues for youth workers.

At a meeting of workers in the youth sector convened by the Association of Children's Welfare Agencies the view was expressed that past attempts at legal education programs had been ad hoc. A co-operative effort was seen as important to promote more widespread provision and to maximise the impact of education programs.

The quality of work with young people is affected by a number of factors including:

- the 'second rate' status attached to work with young people and welfare in general;
- the lack of cross occupational training for workers who have to operate in an inter-disciplinary manner in the community, but who are educated in isolation;
- the lack of specialist training to help all types of practitioners work specifically with young people.

The researchers did not presume that any single occupation group had greater training needs than another. The Project attempted to take the perspective of a young person who would be faced with a range of workers in the legal and welfare systems. The question was asked: how will education programs have a significant impact on improving the rights and outcomes for young people in the juvenile justice and welfare systems? In answering this question, the Project looked at the training needs of a variety of workers listed below:

- police officers;
- children's solicitors;
- school counsellors;
- detached family counsellors;
- youth workers;
- youth accommodation workers;
- home school liaison officers;
- Aboriginal workers;
- District Officers and Juvenile Justice Officers.

1.3 Why Read This Report ?

We hope this report will:

- be read by practitioners, policy makers and trainers who work with young people. We see this report being equally relevant to police officers, solicitors, youth workers alike;
- advance a concept of legal support as a field of practice in which legal and para-legal practitioners perform fundamentally similar roles;
- identify and define core competencies required by legal and para legal workers who work with young people;
- encourage a holistic or multi-disciplinary approach to legal education for workers;
- be a resource and tool for the development of curricula not only for a second stage of this Project but for all interested education and training providers.

1.4 What is the distinct contribution of our research project?

At the outset of the project it was suggested by several workers, policy makers and academics that there had been sufficient research into the training needs of legal and para-legal workers. We did acknowledge that there were a lot of legal training and curriculum materials around. Furthermore, it was suggested solicitors, police officers and social workers already had the benefit of accredited professional training. They did not need any training, it was the para-legal workers (youth workers, Aboriginal field officers etc.) who needed the training.

These sort of comments didn't match what the literature was saying. Other research (O'Connor, 1986 & 1988; Cashmore and Bussey, 1992; Youth Justice Coalition, 1990) pointed to a lot of young people experiencing the legal system as bewildered, disempowered victims. Young people clearly were not finding that "professional" legal practitioners were better or even different to other legal practitioners. A theme running throughout the literature was that young people were less concerned with the amount of knowledge, status and professional training a legal worker had but more concerned with their ability to handle a situation, address a problem, communicate and relate, empathise and understand, analyse and act.

Acknowledging, however, the significant amount of work already done in identifying the knowledge workers should have about the law we decided the best contribution our research could make was to try and take the perspective of a young person and

define the legal support roles they seek workers to play. This led to roles and areas of competence being broadly defined and to a crossing of occupational boundaries.

Our research has not developed detailed checklists of skills and knowledge respective practitioners need when providing legal support to young people. Instead it has 'captured' and described the roles and competencies that are fundamental to all types of practitioners (solicitor, police officer, youth worker alike) when working with young people in the legal system.

The research clearly points to the need for practitioners of different types to work in a more collaborative and co-ordinated way together. One strategy to promote more collaboration is to create opportunities for the different workers to learn about aspects of legal support together. There would be a strong interest in such a cross occupational training program as indicated in the following quote from one of the research workshop participants.

... we are all sitting in our perceived training areas. I'm a trained youth worker, [you're a] trained solicitor, trained policeman - - but the very fact that we're all getting on here is because we're utilising our knowledges and maybe in terms of training there should be a mixture of people constantly doing the same training rather than a package for the police to train and a package for his load and so on. Maybe we all need to be the trainers of each other.

Section 2

Young People and the Legal System

2.1 Introduction

Young people are currently high on Australia's national social agenda. With record youth unemployment rates (see 2.2 below) there have been a spate of government led policy and research initiatives. New youth employment and training programs are being touted by government's as solutions to the problem of the accelerating slide of significant parts of Australia's youth population into a growing underclass. The spectre of a growing youth underclass has obvious implications for those working in the legal system, whatever their political colour. For some working in the legal system, a growing youth underclass means the need to introduce more measures of control and intervention. For others, the increasing marginalisation of Australian youth means there is an even greater urgency to reform the system so that it offers young people some possibilities of independence and basic rights.

Against this backdrop we intend in this chapter to offer only the sketchiest outline of young people in Australia's social and economic system, and in particular in the legal system. With all the policy and research activity others elsewhere have already described and analysed this in a most comprehensive manner. Refer to the annotated bibliography. Prominent texts include the 1990 *Kids in Justice* report, O'Connor and Tilbury's (1986) national survey of *Legal Aid Needs of Youth* and Alder's et. al. (1992) *Perceptions of the Treatment of Juveniles in the Legal System*.

As other reports before us we wish to emphasise the need for the legal system and those who are working in it to recognise the distinct nature of young people's legal needs who are disadvantaged by race, class, gender or/and other factors. Having recognised the distinct nature of young people's need, there is therefore an imperative to develop more legal strategies and services that are specific to young people.

A central theme of this report is that young people view the legal system in a holistic and integrated way. Young people do not make the sharp distinctions between different parts of the system and different workers in the system in the same way as adults do. From their perspective there are mostly 'good' workers and 'bad' workers. Sure, they understand that police officers and youth workers officially have different roles but unofficially they know that their roles are often similar - both can be friends, mentors, advocates or oppressors. Consistent with this theme this chapter attempts to sketch the legal system in its entirety, highlighting issues, seen from the perspective of a young person, that are common to the system's different parts and different workers.

2.2 The Distinct Nature, and Scope of, Youth Needs

For the purpose of this report we asked whether there was a special competence required by workers in the legal system to work with young people versus working with adults. To help answer this question we needed to examine the notion that youth have distinct legal needs.

Youth is not a construct recognised in law. The law only distinguishes between the rights and responsibilities of minors and adults. Discussion of the legal needs of youth has been dominated by: the differing legal status of adulthood and childhood, youth's overinvolvement in the criminal justice system and the separate children's court jurisdiction. In consequence youth's needs for legal services has been defined by their involvement in the criminal justice and child welfare systems. There has been little consideration of whether there is any congruence of need or experiences between those aged 15 to 17 and those aged 18 to 24 years, or whether youth as a group experience distinct legal needs extending beyond the criminal justice and child welfare system, nor whether youth legal needs are being met by existing legal services.

In a national survey of legal aid needs of youth O'Connor and Tilbury (1986) conclude that youth as a group experience a pattern of legal needs that differ qualitatively and quantitatively from those of non-youth. They argue that this distinct pattern of legal need is due to the transitional life cycle phase and the socio-economic factors associated with youth. They examine youth's interaction with key social institutions - family, education system, labour market, accommodation, income,

criminal justice system, child welfare system. The survey indicates that youth are experiencing problems in relation to the key institutions in our society. Their legal problems extend beyond difficulties with the criminal justice and welfare system. Youth clearly perceive themselves as experiencing abuses in the labour market, the consumer market and accommodation. They frequently report harassment by the police. Disadvantaged youth experience differentially higher rates of such problems.

Children and young people are disadvantaged in participating in the legal system. Raynor (1989) suggests the following factors disadvantage them:

- * their minority;
- * physical and economic inabilities;
- * lack of knowledge about the legal process;
- * limited language and comprehension skills;
- * their deference to authority figures;
- * their suggestibility and fear.

But the above list of factors are not necessarily specific to young people. The relative disadvantage faced by a recently arrived NES migrant elderly woman who has worked under factory foremen all her life compared to a wealthy 18 year old who has just started his law degree is far more significant than any general disadvantage faced by young people compared to adults.

People working with young people are then faced with the question of which factors contribute most to the youth needs profile - age, race, gender, class, disability, sexuality? Rob White (1987) suggests it is not a matter of which factor contributes most but recognising how they all interact. He identifies four different types of youth need. There are a) needs shared in common with the rest of the population; b) needs based upon, and created by, the position of young people in the human development cycle; c) needs derived from the lack of acknowledgement of young people's rights to have their general needs fully met; d) needs resulting from being part of broader layers of the population which suffer from systematic disadvantage and/or oppression. In order to meet these needs a worker should work on several levels. On one level the worker engages in both service provision and political action to overcome the disadvantages specific to young people. On another broader level a worker engages in political action together with other activists seeking social justice. White asserts that a social change perspective would mean that a priority area of youth work should be to actively work toward the improvement of the position of the least powerful and most disadvantaged groups of young people.

The current NSW government recognises youth affairs as a specific policy and program area. In a 1991 Youth Affairs Policy Statement (NSW Government) Greiner, the then premier, claims "it is the first time any Australian government has set out to develop a specific comprehensive Youth Affairs Policy of its kind." A question that can be posed is why have a youth affairs policy? Do young people have specific needs and issues? Answering this question would form the basis for a policy. Greiner says, "the merit of a Youth Affairs Policy is that it looks at these issues specifically from the point of view of the particular needs, problems and aspirations of young people." But he also states that it is not useful to view a 'youth problem.' "I would suggest that the real problem relates to the rapid change in our society - in technology, the labour market and mostly in our basic values."

This document, the NSW Government Youth Affairs Policy Statement, 1991 (YAPS) outlines the NSW Government's youth affairs policy, principles, objectives and initiatives which support young people aged between 13 and 24. The 1990/91 State Budget document *Programs for Young People*, records more than 30 NSW Government agencies providing nearly 190 programs for young people. More than \$2.6 billion (approx. 20% of the State's Consolidated Revenue) is spent on programs for young people.

NSW, compared to other states, has the largest population of youth in Australia. There are approximately 1,071,600 young people aged between 13 and 24 living in NSW which is 32.9% of the Australian youth population (3,256,800)

The 13 to 24 age group represents approximately 18.6% of the total NSW population. In 1989, 17 year olds were the largest group in this range.

Young people are a significant part of the population. They are the subject of government policies and programs. There is widespread rhetoric about the importance of young people because they represent the country's future. Yet as a group, measured by their status and rights, they remain marginal.

According to the 1989 national inquiry into youth homelessness conducted by the Federal Human Rights Commission there is a growing underclass of young people. But it is important to note that legal problems youth experience are not evenly distributed throughout the population, but associated with factors such as gender, ethnicity, race, class and labour market status.

The scope and nature of youth legal needs are discussed in more detail in the following sections. Here it is fitting to conclude with a description of the enormous disadvantage young people experience in the labour market. This has direct relevance to young people's participation in the legal system. Unemployment, low income levels and dependency on social institutions does and will further contribute to the number of young people offending and becoming vulnerable to abuse, and therefore, in need of care.

Youth unemployment has reached levels worse than those recorded in the Great Depression. Youth unemployment reached 20.7% in 1933. In June, 1992 the unemployment rate for 15-19 year olds was over 34%.¹ This is also to be compared with the national unemployment rate of 10.1%. The relative disadvantage of young people in the labour market and the consequences for their place in the wider social and economic system is obvious.

2.3 Youth Legal Problem Profile

Youth most frequently seek assistance with criminal law problems, and motor vehicle and traffic related matters, and to a lesser extent family law problems. This contrasts with the predominance of family law and civil problems for persons 25 years and over. Additionally, youth are presenting to Community Legal Centres with tenancy and consumer problems. The problem profile of male and female youth also differs, and to a lesser extent NES youth: female and NES youth have a substantially lower involvement in the criminal justice system.² Although Aboriginal young people constitute less than 4% of the total youth population in NSW, they, mostly for street offence convictions, make up over 25% of the juvenile detention centre population.

"As a proportion of the whole population, young people are more often perpetrators of crime than any other age groups. They represent 44% of all lower court convictions, a large number of them (24%) relating to drink-drive offences. The number of young people in juvenile detention centres (418) has risen by 18% over the last two years."

¹ This is the full time unemployment rate - that is, of all teenagers who were either working full time or looking for full time employment, 34% could not find a full time job. (Source: ACOSS Impact, Aug. 1992, v. 22. n. 7).

² For more details see O'Connor and Tilbury (1986).

2.4 The Need to Improve the Legal System for Young People

“A recent study of the legal system’s treatment of young people highlights a number of ways in which they are routinely denied essential rights.”³

“For homeless young people, our legal system is generally experienced as something that gives other people - police and welfare agencies - power over them, rather than used as a means of protecting themselves and their rights.”⁴

When considering the level of sustained critique of the legal system and its relationship to young people one cannot help concluding that the challenge for those working in the system who have young people’s interests in mind is huge. Legal support workers, as we will be calling them in this report, require a high level of competence not only in their face to face dealings with young people but in their complex dealings with the system as a whole.

People who work with kids who have run foul of the law have long seen a need for reform to the system of juvenile justice. These young people, they claim, have particular needs which have not been met by society and have been largely ignored by the legal system.

The Youth Justice Coalition (1990), in a broad ranging review of the system of juvenile justice in NSW, found that the 'legal framework of the justice system is inadequate'. They were critical of the levels of police violence and abuse, and of the large amount spent on institutions while such a paltry amount was spent on community based programs. Overall, they expressed a real concern that the law, its procedures and its administration need to improve.

What exactly needs to improve? When reviewing the literature it is apparent that workers are calling for all aspects of the system, from legislation to program delivery to improve.

³ From Impact, v. 22, n. 7, Aug. 1992 describing the new report by Alder et. al. (1992).

⁴ Brian Burdekin, Human Rights Commission (1989) p.259.

Raynor (1989) asserts that neither Commonwealth nor State laws provide many rights for young people; what rights there are ill defined and are applied in a discretionary way. Advocacy for the rights of young people must recognise the full range of their rights. The right to be protected against harm is just one of them. The right to participate in decision making is as great a right, which often goes by the board.

In a critique focusing specifically on NSW government legislation Hogan (1988) argues that it is oriented more towards the implementation of punitive and coercive strategies than strategies to promote young people's participation in decision making and the advocacy of rights and responsibilities.

Hogan discusses aspects of the 1987 Community Welfare legislation, concentrating on juvenile justice matters. The legislation provides by way of four separate Acts a scheme for dealing with criminal behaviour of those under 18. The Children (Criminal Proceedings) Act sets out certain processes and powers of the courts in dealing with those proceedings. The Children (Community Service Orders) Act deals specifically with the scheme of one of the courts sanctions: community service orders. The Children (Detention Centres) Act establishes and regulates the corrective institutions to which young people sentenced to custody for criminal behaviour are committed. Finally, the Children's Court Act provides a new legislative basis of the Children's Court, and as such is primarily of a machinery nature.

The 1987 legislation also gives a basis for the provision of services, facilities and structures; it sets out the powers of the 'state' (judicial and administrative); regulates the involvement of non-government organisations (e.g. licensing); and provides a basis for some community input into decision and policy making (e.g. by establishing various councils, panels and committees).

2.4.1 Legal Representation and Youth Advocacy

While the provision of legal advice and representation to children has increased in the last ten years this owes little to legislation. Children still have no right to legal representation in the children's court, nor in police stations and corrective institutions. More generally, there is no network of youth legal advocacy services in NSW as there is in some other states. Advocacy in this sense extends beyond court representation, and relates to the whole range of matters affecting young people, such as employment, housing, welfare, education, consumer and health issues as well as criminal justice ones. Youth advocacy services can provide a range of functions,

including direct provision of advice and assistance; issues-based advocacy by research and critiques of systematic problems facing young people and deficiencies in legislation, policies and programs; contributions to public debate; legal education; and program development and consultation.

2.4.2 Youth Support Services

These (drop-in centres, refuges, youth centres) are prevention and intervention services that offer appropriate strategies to address the issue of juvenile crime. But when the legislation was passed, there was no evaluation of the impact on youth support services, nor an assessment of the necessary funding levels.

2.4.3 Community Crime Prevention Services

One of the most neglected areas of juvenile justice in this state is that of crime prevention programs. We need a re-orientation from narrow law enforcement to situational and social crime prevention which are broader based than the present police initiatives. Instead of targeting juveniles, target the environments and situations.

2.4.4 Community-Based Corrections

This is where the money is spent. It costs approximately \$40,000 per year to fill an institutional bed in NSW. Legislative amendments are being developed to double the institutional population from 370 to 740 beds. Hogan (1988) asserts that studies all around the world confirm that the benefits of incarceration are few. He therefore argues that expanding juvenile detention centres is an outrageous waste of money and that money should be spent on legal, advocacy, youth support, family support, crime prevention and community based correction services.

2.4.5 Police and young people

The policing aspect of the legal system has long been a troubled one. *The Kids in Justice* report (1990) stated: "There are very high and unjustifiable levels of violence and abuse, the relationships between young people and police in many instances is

governed by fear and threat. Neither police powers nor suspect's rights are adequately set out in law or guidelines. Improved procedures are required.”

A recent national study of the relationships between young people and the police reported that more than 30% of the 400 young people interviewed reported being "roughed up" by police, either at a police station, on the street or in a police van (Alder, 1992). Of those taken to a police station, few thought police had spoken nicely to them, tried to make them comfortable or treated them fairly. Of those who were taken to police stations, half were held in police cells, many were held for eight or more hours and many were held in a cell with adults. Less than a third were told about their rights, could make a phone call or thought police had attempted to contact a support person.

But it should also be noted that most police, as the survey confirms, are involved in community activities with young people and have contact with young people beyond their street contact. 98% of police officers interviewed said they had been assaulted or harassed by young people and 82% said they had to use force on a young person at some time.

For the purpose of our study it should be emphasised that while there are examples of negative policing practice there are also examples of good policing practice. We took particular interest in analysing 'good' practice.

It is also important to note that there is an ad hoc and inconsistent approach to policing young people across the state. In some police stations there are officers who have been allocated special duties to work with young people, and who spend a considerable amount of time undertaking both community crime prevention, advocacy as well as law enforcement work. In other stations no officers are allocated special duties to work with young people.

2.4.6 Courts and Young People

“Young respondents said they thought that ‘lawyers’ were difficult to understand and expensive, and consequently the majority did not think that young people went to lawyers when they needed them.”⁵

A significant number of studies⁶ have revealed:

⁵ From Impact, v. 22, n. 7, Aug. 1992 describing the new report by Alder et. al. (1992).

- * the lack of quality representation by lawyers in children's courts
- * how young people so often do not know what happens in courts, let alone participate in decision making
- * the lack of knowledge and understanding magistrates and solicitors have about marginalised young people and the social services that might help them.

Part of the problem is the low status and relatively small amount of resources accorded to providing services for young people in courts. There is free legal representation for young people at courts but it is mostly by solicitors who have no special interest in working with young people let alone have specialist children's court training. There are only four full time children' solicitors in NSW and all of them are in the Sydney metropolitan region. Most court work for young people is undertaken by rostered duty solicitors who are paid by the NSW Legal Aid Commission. Duty solicitors are practitioners who practice in a range of other legal areas. Solicitors with the Aboriginal Legal Services represent both children and adults.

The same situation of sparse resources and few specialised practitioners to work with young people applies to magistrates and the courts they administer. A significant number of juvenile offenders are tried by Local Court magistrates who temporarily exercise Children's Court jurisdiction. The Children's Court sits only in 13 locations in NSW, (some of which are part time), limited to the metropolitan areas of Sydney, Newcastle, Illawarra, the Central Coast and SW Metropolitan.

2.4.7 Youth Workers, Social Workers and Young People

The place of youth and social workers in the legal system is not clear. They are not law enforcement officers, nor are they legal professionals. Yet they often have an important role to play in the outcome of legal proceedings. The term paralegal has been coined by some to describe their role.

Are youth workers part of the legal system? Many youth workers perceive themselves as outside the system and instead acting on it. This is problematic. Some workers within the legal system including police officers, solicitors, magistrates and others are attempting to change and improve the system so that it does provide more

⁶ See Raynor (1989) , Huntsman (1992), Walker (1970), Lawrence (1983), Kraus (1985), FACSA (1979), Legal Aid Commission (1988), O'Connor and Sweetapple (1986), Blackmore (1991), Cashmore and Bussey (1991, 1992) Calton (1975) and Alder (1992).

access and equity for young people. Youth workers who have the same interests could do well to ally themselves with these other workers. But as O'Connor and Tilbury's research revealed the links between different sectors of the youth work field and legal services is weak. These weak links can be partly explained by youth workers not perceiving and referring legal problems.

O'Connor and Tilbury report that most youth workers did not address legal discrimination, consumer and employment problems. The problems encountered by most youth workers were DSS eligibility, conflict with parents, conflict with the criminal law, police questionings and harassment. Youth workers were most likely to refer problems with the criminal law to lawyers, but rarely referred problems to do with discrimination, social security, work related, family conflict, or conflict with statutory child welfare agencies to lawyers. Workers with youth did not generally use bodies such as the Ombudsman, Consumer Affairs or Tribunals to seek redress for their clients. This highlights the importance of legal services developing links with the different sectors of the youth work field.

Consultations with youth workers suggest that their perception of legal problems and their referral pattern for such problems reflected a number of factors:

- * some problems, such as school suspension, work exploitation, and discrimination are not perceived as legal problems;
- * referral to legal services is not seen as an appropriate or effective method of dealing with some legal problems, such as social security eligibility, parental conflict and conflict with the statutory child welfare authorities;
- * there is little faith in legal solutions to problems such as domestic violence, police harassment and consumer problems.

2.4.8 Aboriginal Young People and the Legal System

The Human Rights and Equal Opportunities Inquiry into Homeless Children (1989) found that although Aboriginal people make up only about 1% of the population, they constitute at least 15% of all children in care of the State. The Youth Justice Coalition's *Kids in Justice* report (1990) and the Royal Commission into Black Deaths in Custody established that NSW has the highest rate of Aboriginal young people in detention of any state or territory in Australia. Approximately 25% of young people in detention centres at any one time are Aboriginal although they make up only 1.8% of NSW's youth population. Cuneen and Robb (1987) found in their study of north west NSW that, "the charge rates for Aboriginal youths are 6 times

greater in Dubbo, 47 times greater in Wellington, 57 times greater in Brewarrina, 36 times greater in Burke and 90 times greater in Walgett than for non-Aboriginal youths. Carrington (1990) in her research shows that Aboriginal girls are massively over-represented in the NSW juvenile justice system.

2.4.9 Young Women and the Legal System

Do young women have special needs? Should there be special services for young women? Should practices within the legal system be changed to reflect women's needs and ways of working? In one case study, sketched below, it is argued that the legal system has been designed with the interests of adults not young people in mind; and moreover, male adults. The consequence is that young women's needs are neglected.

Harvey (1991) discusses the case of four young women who died of drug overdoses in South Sydney in 1990. She argues that the juvenile justice system failed to respond to their special needs and position as young women. A more general case is made to develop special programs for young women who are in the juvenile justice system.

Harvey refers to several research sources which shows that drug use among young women is more prevalent than among their male counterparts. She goes on to assert that one reason why young women use drugs is in response to sexual, physical and emotional abuse. Harvey disagrees that young women and men use drugs for the same reasons. She also disagrees that they use drugs just to have a good time.

"Drug and alcohol programs were designed to meet the needs of male adults and then when the need arose they were adapted to juveniles. The juvenile justice system and the treatment offered by it, are male oriented. The most blatant example of the male orientation of treatment programs is the neglect of women's emotional needs as a result of domestic violence, incest, physical/emotional/sexual abuse, pregnancy and motherhood."

Pitts (1990) suggests that many of the conservative responses of the legal system which have placed emphasis on coercive and punitive strategies are underpinned by male assumptions. Young offenders are subject to a range of social, cultural, economic and political forces. Feminism, for example, has alerted us to the necessity of understanding male violence simultaneously at the levels of Structure, Culture and Biography. Boys and men are socialised to express themselves violently. If this is the

case then many of the responses to young offenders, with their emphasis on toughness, challenge and discipline actually colluded with the archetype and worsened the problem to which they were the intended solution. For legal support workers this analysis poses a serious challenge to most of the traditional practices in the juvenile justice system which are underpinned by male (ocentric) assumptions.