

**LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**STANDING COMMITTEE ON COMMUNITY SERVICES AND  
SOCIAL EQUITY**

**(Reference: inquiry into the rights, interests and wellbeing of children and young  
people)**

**Members:**

**MR J HARGREAVES (The Chair)  
MS R DUNDAS (Deputy Chair)  
MR G CORNWELL  
MRS H CROSS**

**TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**WEDNESDAY, 11 JUNE 2003**

**Secretary to the committee:**

**Ms J Carmody (Ph: 6205 0129)**

**By authority of the Legislative Assembly for the Australian Capital Territory**

Submissions, answers to questions on notice and other documents relevant to this inquiry which have been authorised for publication by the committee may be obtained from the committee office of the Legislative Assembly (Ph: 6205 0127).

**The committee met at 9.05 am.**

**THE HON ROGER McCLAY** was called.

**THE CHAIR:** These hearings, which are legal proceedings of the Legislative Assembly, are protected by parliamentary privilege. That gives witnesses certain protection but it also gives them certain responsibilities. It means that they are protected from certain legal actions, such as being sued for defamation for what they say at this public hearing. It also means that they have the responsibility to tell the committee the truth. The Assembly will treat as a serious matter the giving of false or misleading evidence. Mr McClay, would you like to make an opening statement?

**Mr McClay:** Mr Chairman and members, I am delighted to be here. I am one of those strange people who enjoy this environment, having been in it for a number of years. I understand the issues that you face and the trials, tribulations and politics of almost any issue that is raised for public debate. I am indebted to the committee secretary for the arrangements that she has made. I am pleased to have an opportunity to tell you of my experiences. I do not want to tell you what to do, but I can tell you what we have done and I can relate the experiences that I have had over past five years or so.

This is an interesting time for me as Commissioner for Children. I have just a few months to go before I complete my five-year term and hand the reins to someone else. I have been saying publicly for some time now that it is time for someone else's blood to boil on behalf of the children of New Zealand. The Office of the Commissioner for Children concentrates on quite serious issues relating to children—their rights, their responsibilities and our responsibilities to them. In spite of that I can put my hand on my heart and say that the vast majority of children in New Zealand are getting on very well.

They have great mums and dads and they are getting a pretty good education. If they break their bones or they become sick there is a fair chance that they will be looked after reasonably well by the health system. However, life is and has been pretty terrible for some of the children that I have come to know. Sadly, on average, one child in New Zealand will die every five weeks at the hands of somebody who is usually known to him or her. That is pretty serious.

I have brought with me a copy of a report that was prepared in my office at the beginning of my term as Commissioner for Children. That report is about the life and death of James Whakaruru, a stunning looking little Maori boy from Hawkes Bay, who could well have gone on to become prime minister of New Zealand or captain of the All Blacks. I think he probably would have gone on to be a child beater or a woman beater because that is what he knew and that is what two or three generations of people before him knew. We were not able to save his life. James was kicked to death by his stepfather, who is currently serving a puny 12-year term of imprisonment for his death.

I have with me another report that will be published in New Zealand next Tuesday. That report concerns the death, by stabbing, of two little sisters aged 11 and 12. They were stabbed to death by their stepfather as they lay in sheets stained by his semen. He knew that people were on to him so he thought he would arrange for them to die and blame

someone else. He blamed their mother. Next Tuesday we will be publishing a report that is every bit as forthright as this report. We are trying to establish whether or not the lives of these children could have been saved. I am not sure whether we will ever be able to save all our children. For 2,000 or 3,000 years children have died at the hands of adults.

As you might have already noticed, I bring a bit of passion to the job. I guess it is because I am a father. It is certainly because I am a grandfather. It might also be because I had a teaching background for 15 years before becoming a member of parliament for 15 years. I have always been interested in children's issues and I have always wondered why children are not treated as fairly as others, especially when they cannot speak for themselves.

Babies born in Canberra tonight would have a number of absolute rights without having to earn them or without having to be good. They would have the right to food, clothing, shelter and love, though it would be a little hard to legislate for love. They would certainly have the right to care and protection, respect, dignity and those sorts of things. My wife Dawn and I, who live in Wellington, have three adult sons who, miraculously, have produced five grandchildren. Another one is coming and I hope that more are in the pipeline.

As I said earlier, I will soon be completing my five-year term. It has been a magnificent opportunity to make a difference. I think we have. We have an Office of the Commissioner for Children in New Zealand as a result of a lot of lobbying, toing-and-froing and debates like the ones we had during the 1970s and 1980s. At the end of the 1980s, the New Zealand parliament, after a long period of looking at how the state cared for children—that is, children who needed care and protection, children who were breaking the law, or youth justice children—decided to do things a little differently. It decided to put much more emphasis on families and to ensure that families had more responsibilities.

The state cannot do everything. The premier cannot tuck children in bed at night. Members of parliament cannot put three meals on the table for our children every day, or get them to school safely and so on. Families have to do that and, in the main, they do. It is when they do not do it that the state has to be there. At the end of the 1980s nearly 11,000 children were in care in New Zealand. They were not being looked after at home by mum and dad; they were in foster care or in a social welfare institution. We call those children welfare kids. That is a lot of children in a small country like ours. So we decided that we would have a new way of doing things. That resulted in family group conferences, care and protection panels and more emphasis being placed on families.

The act under which I operate is called the Children, Young Persons, and their Families Act. In 1989 part of that legislation created the Office of the Commissioner for Children, which I will talk about now. I have with me a lot of notes that I will leave for committee members as I think they might be useful. I think I have a bit of a handle on the sorts of issues with which you are grappling but I am sure that you have heard it all before. Even though I am giving evidence at the end of your inquiry I am grateful that I have been given an opportunity to make a submission on behalf of the children of New Zealand. It might be worthwhile for committee members to look at some of these issues so that they are able to assist children in the Australian Capital Territory.

I said earlier that the Office of the Commissioner for Children was established in 1989 prior to New Zealand signing the United Nations Convention on the Rights of the Child. New Zealand signed that agreement in 1993 and I am the third commissioner. The first commissioner was a paediatrician. The office did a lot of work establishing format, determining how it would operate, doing a lot of research and giving information that would be helpful.

The next Commissioner for Children put New Zealand on the map. The late Laurie O'Reilly, a lawyer in children's issues, sadly died of cancer in his term as commissioner. Laurie O'Reilly, who brought the Office of the Commissioner for Children very much into the public eye, who spoke forthrightly and who got up the noses of the government, really was the conscience of the nation in relation to children. He also focused on the role of the ombudsman and the way in which complaints or inquiries can be made. He completed some quite big reports and commenced others that I had to finish when I became commissioner.

I tried to do all the things that should have been done and I tried to live within my budget. We make a lot of noise but it is a pretty small office when it is compared to other government agencies. Recently, we appointed a researcher to do stuff that no-one else is doing. We kept in place the complaints mechanism and we conducted inquiries off our own bat. We do not wait for someone to ask us to conduct an inquiry. If we feel that something is not fair and that we could learn something from conducting an inquiry, we conduct an inquiry, as we did in this instance and as we did recently in relation to the little girls who were stabbed to death.

Most of our work is carried out because someone has complained to us and we take up that complaint. Sometimes the Office of the Ombudsmen in New Zealand deals with those complaints, but often we deal with them. The principles of the newly enacted act brought with them some significant and wide-ranging changes and practices relating to children and young people up to the age of 17—that age is 18 in Australia—at which time they are seen as adults and they can even go to an adult prison. That is an issue that can be debated.

The act, which has been internationally recognised as a model of empowerment for children, their parents and all those in the lives of children who should be taking responsibility for them, was a bit of a philosophical change. It looked for minimal intervention—for example, giving families the resources, if that is what the problem is, letting them get on with it and taking responsibility for it. If a woman and a man do not take responsibility for it, someone else, such as a grandparent, an auntie or whatever, will take responsibility for it.

The act also brought in the issue of the paramountcy of the child. Everything that we do should be in the best interests of the child. Members would be aware that article 3 of the United Nations convention talks about doing things that are in the best interests of the child. Two of the main aims of the legislation under which I work are: to advance the wellbeing of families and, therefore, the children in those families; and to provide for families to be assisted in caring for their children, if that is what is needed.

Rather than taking these children away we should say, “No, leave the children there but you, madam and sir, have a responsibility. You have to do these things, but the state will help and check.” Another aim of the legislation is: to provide for children who are in particular need of care and protection and those who have broken the law. There is a lot of debate about whether law-breaking children should be looked after in another part of our society. I tend to think that is a good place for them to be because usually they all had care and protection before they started breaking and entering, getting into drugs, or whatever.

Another aim of the legislation is: to make provision for the appointment of a commissioner for children. Essentially, my principal functions are to monitor and review the Children, Young Persons, and their Families Act. So the people who get most of the criticism from me, obviously, are those in the Department of Child, Youth and Family Services because they are the people to whom we look to do the job. I have enough freedom to be able to make submissions to people in health and education.

**THE CHAIR:** What about the private sector?

**Mr McClay:** I can also make submissions to people in the private sector. I can be critical of them and suggest to them different ways of doing things. The final aim of the legislation is to provide for the welfare and interests of children. That is the advocacy stuff that I have promoted a lot. I make about 100 speeches a year. I talk to the media every day—including today before you got on the phone to your local newspaper. That is a good opportunity to promote these issues. I have used the media to help me to tell the nation what is fair and appropriate. I do not do that in a loopy way; I do not go way out on a limb.

I know what politicians can and cannot do, so I do not ask parliament to do anything that is impossible. One of the advantages of having been a minister is that I know what gets up your nose and what does not and I know that some issues take a long time. You have to get the public on your side. I do not want to get into a debate today about the smacking issue—a never-ending issue. I understand why politicians find that hard. I also understand why large numbers of people become aggrieved with me when I advocate that we should not physically try to discipline members of that part of our population that happen to have the softest skin and that are least able to understand why they are getting whacked.

It is a difficult issue. I am not really concerned about the little smacks; I am concerned about the thumping, the whacking, the hitting and the punching. People get angry with me when I say that they should not smack their children because they think I mean that they must be doing those other things. Sadly, New Zealand is a pretty violent society with respect to its children. That might be why we lose one child every five weeks. We have a murder every week. I do not really know why, but I know of some things that might help.

Those are the main things that I do. I will briefly go through the functions of the office that I brought with me. Jane can look through these documents and ask for opinions later. There is not much point in me reading documents that you can easily read. One of my

statutory functions is: to investigate acts done or omitted in the act of parliament under which I work. Another function is: to monitor and assess the policies and practice of the department or its delegated agency. Sometimes the department might use another agency to provide protection, care or shelter. It might pay a private agency, such as Barnardos or another agency, to do that job. So I would investigate those agencies as well.

We also have what we call Iwi Social Service agencies in New Zealand. Maori people in some locations do work for the department. We investigate what has happened, usually by looking into the circumstances of one child. We learn a lot about what is happening or what is not happening from looking into the circumstances of one child. In this report we established that departments were not talking to each other. This goon, who killed a young boy, had already been in prison for physically abusing the young boy when he was just three years old.

The goon came out of prison and went straight back to the same household—to the same mother and to the same little boy—and the prison authorities did not tell anybody, “He’s out today, you had better watch out”. So he went straight back there and killed the young boy. That boy’s mother, who was also convicted, was 14 when she had him. She would not know how to be a parent. She should have been under the care and protection of the department. Anyone at 14 who has a little boy is really still a child. She could not protect him.

We encourage the development within the department of policies and services to promote the welfare of children. We really are focused on children. We get into a bit of trouble because people say, “That is all right, but what about our staff?” I say to them, “What about the staff? I am actually talking about children.” We undertake and promote research. Currently we are involved in a couple of research projects. One is the issue of children who become prostitutes and why, and what we do about that. The other is the issue of discipline. I refer here not just to the smacking issue. If smart alocs like me tell parents that they are not allowed to smack their children any more, what are they supposed to do?

When parents say to me, “We have to discipline our children”, I say “Absolutely.” Adults have to be disciplined but we are not allowed to lay a finger on them even if they kick little boys to death. We are not allowed to lay a finger on them in prison, but they still have to be disciplined. To be helpful, we are doing some research into that issue rather than just being smart alocs all the time. We are also doing other research that will add to the sum total of improving things for children. We can inquire generally into and report on matters relating to the welfare of children in any way at all. We can receive and invite representation from members of the public.

We certainly have increased public awareness. I use the media, I think, to good advantage. The media usually are pretty good. Most young journalists either are about to start a family or they have little children. They have a passion about this issue and they are aware of unfairness. Sometimes a couple of journalists ring me—this is quite magnificent really—and they say, “Roger, we have a big story but, quite frankly, it would be better if you could get it fixed rather than us making a story out of it. There are

two little tykes in a certain area. Can you get in there because something terrible is going to happen?” It is quite mature for people to be doing that. I treat them with respect and they give us a good run. They let us get out the message about issues that I think are important.

We are also charged with increasing public awareness and giving advice to the minister on matters relating to the administration of the act, which is good. Our ministers are very good. Yesterday morning when I was leaving I was delighted to see a headline in our newspaper that stated that our Minister of Justice would be introducing retrospective legislation. I am sure that you, as politicians, are cringing after hearing that statement. When I suggested it I knew that people would be angry.

Last week a paedophile who had served a 10-year prison sentence was released back into society. Nobody believes that he is cured. I do not think that paedophiles are ever cured. Mental health, prison and other officials and the police are going around the neighbourhood saying, “Look out, this guy is coming back. He is going to live in that house. Watch your children.” It is outrageous that you have to watch your children because a paedophile is living next door. As parliamentarians you need to put up your hands and say that you believe in and have respect for the dignity and protection of our children.

Not one child should be molested. This paedophile has already served a sentence for raping his sister when she was six years old. When he came out of prison after serving that sentence he gave a 23-month-old baby chlamydia. You can do that in only one way. So far as I am concerned this guy should not be allowed to come near another child. He has had his chance. All the civil libertarians are upset with me but they can worry about him; I am worrying about children. He is not going to get his hands on one more little child. So the politicians will implement some laws that will mean they can keep an eye on this guy forever. They might not necessarily lock him up but they will keep a close watch on him. Have you got any vacant islands that we could put him on?

**MRS CROSS:** Solomon Islands.

**THE CHAIR:** Tasmania.

**Mr McClay:** I will tell them that you said that, Mr Chairman, when I go there tonight. You will have to resolve these issues too. We have to protect our children. I am delighted that one of my old sparring partners from parliament, the new Minister of Justice, is moving on this issue. We also engage in a number of other activities. We coordinate certain activities and we consult many people in government and non-government agencies. I have with me some publications—some pamphlets about the office and the annual report—that give you the figures. Our budget is a bit over \$1 million, which is not a big deal. Every quarter a newsletter is sent to professional groups and others. I got into a bit of trouble with a photograph of the baby of one of my staff—a stunningly gorgeous, loved, cared for and protected child. I have received a couple of letters from people who were a bit angry with me. Can you see why?

**MRS CROSS:** Why?

**THE CHAIR:** She is not strapped in.

**Mr McClay:** She is not strapped in.

**MRS CROSS:** She is holding a dangerous thing that could cause harm.

**Mr McClay:** She is holding a dangerous pencil. I wrote back and said, "Okay, we take on board that criticism. We are sorry. We deal with paedophiles, child rape, murder and neglect, but we will try harder in future with our photographs."

**THE CHAIR:** You could have said, "Thank you for picking the deliberate mistake."

**Mr McClay:** Yes. We could have said, "You get the prize. We put that in to see who picked the problem." I am not sure whether the baby was about to be strapped in or whether the baby had just been strapped in and I do not know about the pencil.

**MRS CROSS:** It is a lead pencil, which is dangerous to the bloodstream and all that sort of stuff.

**Mr McClay:** We tried to overcome that by stating, "Love the car seat, where do I sign?"

**MRS CROSS:** I love the photo. I think it is great.

**Mr McClay:** Yes, she is sweet. Little Awatoa is going to marry my grandson if he becomes an All Black. We send out a newsletter every quarter and we receive good messages. The theme in this newsletter concerns littlies. The one we are doing right now is on teenagers. I have a message in that newsletter to which various other people have contributed. It is good fun. It promotes the office and it also promotes children's issues. That folder contains a brief, short and understandable article, if you are not a lawyer, about the United Nations Convention on the Rights of the Child, which is a pretty worthy document. It is written in plain language so that those of us who are not lawyers can understand.

The folder also contains a bit of other stuff. My office advocates strongly on behalf of children. I do not have the power to make anybody do anything in particular. My office, which is passionate about children's issues, uses the media and relies on its persuasive powers. Whenever we make reports like this and others, we follow them up. We might ask a school principal, "Did you do these things in your school? Did you put in place something to ensure that your children would be protected from paedophile teachers that might be employed in future? If you have not I am going to tell your local papers." The media is helpful in that respect. I do have the power to ask for evidence. People can be required to give me information. But I cannot make them do things. I cannot say, "You had better donate \$20,000 to my office or to a good cause, or you should do this or that."

**MRS CROSS:** Do you have any power to direct the Department of Child, Youth and Family Services?

**Mr McClay:** No, I cannot make it do anything. I just report to my minister who, up until recently, was minister in charge of that department.



**MRS CROSS:** Given that you have been a minister and that you understand the politics of ministers and the departments with which they are affiliated, do you consider that the minister might have a conflict of interest in exposing bad things in his department because it could mean political suicide at the next election?

**Mr McClay:** No, that has not been a problem. Our reports are made public anyway. I brought with me a copy of the briefing paper that I gave to the minister after the last election. In that briefing paper I quite deliberately outlined the issues in which I still believe we need to do some work. In New Zealand we do not have child worker screening. You have it in some states, but I do not think that you have it in the ACT. That is something we should undertake. There should not be any embarrassment about this issue. I hope that other parties pick it up.

With respect to the minister protecting his department, I sometimes make progress when I say, “I will go public on this issue, Minister, because what they have done is outrageous.” I am quite independent because of my ability to speak out publicly. I have an understanding with my minister. That was the case when I was a minister and it was the case when my predecessor was a minister. There should be no surprises. I am not going to be saying these things without giving some warning. The minister is the first person to get a copy of my press releases.

**MRS CROSS:** Commissioner, I understand that you have the freedom to say what you like. Given that you do not have the power to enact legislation, do you feel helpless at times?

**Mr McClay:** Sometimes the slowness is a worry, but I feel as though I am more powerful because of what I am able to get done. I know that I can only get it done if members of the public are with me and I can persuade most politicians to be with me. I am careful and aware of the fact that I should not get in the middle of party politics. When members of the media ask me what is my opinion of the latest published manifesto of the National Party—my old party—I say, “I have my opinions, but I am not telling you.”

It is not my job; it is the job of politicians. But I could talk in broad terms about what New Zealand promised our children when we signed a convention. We actually promised those things and Australia did too. How come we are not delivering on those promises and on what we promised in the act? We promised to keep our children safe not just on the roads but from paedophiles.

**MRS CROSS:** Your office was established in 1989, which is 14 years ago. If you had the power to enforce elements of the act, how many children could you have saved?

**Mr McClay:** I do not know. I cannot answer that question.

**MRS CROSS:** You have the right to say what you feel but sometimes rules are a little like paper tigers and you have only so much sway. The innocent victims are the children. Your passion for and your commitment to this issue are obvious. However, I am concerned that you do not have the power to enforce things and to make people scared. If

you know that there are problems within departments it is not enough just to say, “Minister, you have a problem there.” In the time that it takes for that to flow down to the department another child could die.

**Mr McClay:** I kind of agree with you. My predecessors and I have worked without the powers that you are talking about. I have a list of things to which I can refer and say, “We brought about that change. We got the parliament to change the law in this way.” A new Commissioner for Children bill, our own bill, which is presently before the parliament, would have been passed if I had not been retiring. The parliament does not want to pass it while new applicants are being interviewed. When it is passed in a few months time it will give the new commissioner some more powers.

It will not go a long way towards addressing all the problems, but it will give the commissioner some more powers to be able to go to the courts, talk to judges and say, “These are the things that should be changed. This is what you should find, your Honour.” It will give us a direct line to the Prime Minister and the ability to require people to do things that we cannot get them to do now, which I think will enhance the office. I really do not know how to answer your question, as I am not familiar with how things are here.

**THE CHAIR:** Two of the points that you made earlier were relevant to what Mrs Cross was talking about. You said, first, that the power of blame, shame and public exposure, in your view, seemed to be sufficient to achieve the aim of effecting change without having too much direct power, which might end up compromising your office in the process. That is the message that I was starting to get. I would be interested in your view of my interpretation. You said, second, that those who were going to assist in effecting this change should do so willingly and that it should not be imposed on them. One of the issues that I have struggled with as a former public servant is that people have to change their way of doing things when they are told to do it as opposed to being asked to do it.

**Mr McClay:** I could point specifically to things that have been done and that are being done differently now because of the recommendations in this report. Some of them are changes to regulations and rules, but many of them are changes to the way in which the department operated. Not just the department was involved: the police and just about everybody else that moved were involved. Our report next week will involve schools as well as the Ministry of Education. We will make changes to the way in which they operate rather than change the law. We all know that it is not legal to kill little babies. What about the rules?

The changes that I crave in society—for example, changes in people’s attitudes—take a long time to come. I decided that I would seek the mandate of the public so that politicians would feel more inclined to move quickly. The people whose respect I most need to gain are the decision makers—people like you, mayors, councils, school principals, boards of trustees and health officials. I know the sorts of things that get up their noses, so I am careful when I approach them. The best way to make changes is to get them to do it.

Sometimes it would be good if I were able to say, “That person should be sacked. You should get someone in who is competent to do that job.” I would tend to say that to the

department head and to leave it to him or her to do that. We are not the police. We are, if you like, people's conscience. When an issue is raised publicly my voice will be saying the things that a child, mother, father or the nation would have wanted to be said. Sometimes it is provocative and people do not find it too palatable, but I try to be reasonable and to ask for what can happen. I think that that has become quite powerful.

I guess that you have to make a decision as to how many powers you would give a commissioner, if you had one. I have the advantage of having had a political background. My predecessor had the advantage of having had a law background. The commissioner before him had the advantage of having been a paediatrician. I do not know who will be the next commissioner, but I hope that he or she will not be a single-issue person. He or she has to be involved in a wide range of issues. It is not hard to be passionate about fairness and unfairness.

I guess you will also have to grapple with how that person is appointed. As I said before, you need new blood every now and again to give a different emphasis. I have not made a big issue about the smacking thing, but my predecessor did. When he was a minister I used to say, "Laurie, get off that subject. Anchor the chain and do not waste your breath on this issue." He would be having a chuckle now about some of my public utterances. Like a lobbyist, we have to chip away.

**MRS CROSS:** Commissioner, you said that you have an ombudsman.

**Mr McClay:** Yes.

**MRS CROSS:** Does the ombudsman handle children's issues and, if so, what powers does he have?

**Mr McClay:** Absolutely. The ombudsman has the power to require people to do more than they say. We have an agreement with the Office of the Ombudsmen, in particular in relation to school issues.

**MR CORNWELL:** What is the difference between you and the ombudsman?

**Mr McClay:** The ombudsman has the power to look into issues and to require people to do things differently. We can look into issues and make recommendations, in particular, in the school sector, if a child has been stood down. I do not want to get mixed up in your politics, but if a private or a public school sent everybody away for a period because some children were getting into mischief, I would say, "Hold on, some children must have been treated unfairly. They never did anything wrong but they are being punished."

**THE CHAIR:** You might be aware that you raised an issue that occurred in Canberra in the last week. Since we are having half an hour with the minister you might like to—

**Mr McClay:** Presbyterians would not have done that.

**MR CORNWELL:** Does New Zealand have mandatory reporting?

**Mr McClay:** No, we do not. That is one of the debates in which I lead. I have suggested publicly that we should have mandatory reporting. My minister disagrees with me and so does the government. It is a debatable issue. One of my jobs is to promote the issue of mandatory reporting.

**THE CHAIR:** I think you will find some support in Hobart. Ms Dundas, you wish to follow a different tack altogether.

**MS DUNDAS:** I do. Mr McClay, you keep stating that you represent the welfare of children and what is in their best interests. How do you determine what is in the best interests of a child?

**Mr McClay:** It is in our law. The law suggests that children will be protected, kept safe and all those sorts of things. I must say that I use the United Nations Convention on the Rights of the Child a great deal. It is not enshrined in law in New Zealand, but we gave an undertaking to report against that convention. That is the measure that we use. In almost every report or response that I make to the media I say, "Article 23 states that disabled children have the same rights as the rest of us. We should do this because we promised we would."

I rely pretty much on that and on my own inclinations to determine what is fair and just. Many people in New Zealand and in Australia believe that the United Nations convention detracts in some way from the rights of somebody else, for example, parents. I do not see it that way. However, it talks about what is right and fair for children and it talks about the responsibilities of adults in respect of that. So it is a matter of judgment. Ms Dundas asked a good question.

Some people obviously disagree with me on the smacking issue and on the mandatory reporting issue. Many people complain to me about children who perhaps live next door who are being neglected or abused. When we look into a particular case we find that it is just a poor family that might not have washed the children every day.

**THE CHAIR:** I seek your comment on an issue that was referred to earlier in evidence and that follows the same tack that was followed earlier by Ms Dundas. When there are contests for the custody of a child who is purportedly at risk and the department intervenes by taking the child away from his or her family, often it is not really a question of what is in the best interests of the child; it is really a question of whether one group has better parenting skills or opportunities than another group.

It was put to us that a child should not be taken from his or her parents just because a richer family is able to provide that child with better opportunities. More often than not the question of what is in the best interests of the child does not actually come into it. It is just a matter of two people saying, "I am the better parent. Give the child to me."

**Mr McClay:** Absolutely. That issue arises every week. Almost every week I say to somebody, "I am sorry, sir, I am not the commissioner for angry former husbands or fathers or women who are complaining or trying to make a point; I am the Commissioner

for Children.” I give advice about what is in the best interests of the child. That includes the right of every child to know his or her parents, if both parents have earned that right. If one parent is an abuser it might mean that he or she will not get a child unsupervised.

Those issues have to be determined by the court. You have to determine the same issues here, having regard to criticisms that have been levelled at the Family Court, which always lets mothers, and not fathers, have the children and so on. Those issues are not issues that are determined by me; I determine what is in the best interests of the child. Every child has the right to know his or her mum and dad, if that is a safe environment.

**MS DUNDAS:** Do you spend any time discussing with children what they determine as being in their best interests and how they will be counted in the process?

**Mr McClay:** We may not do that in individual cases. We do not go into court to bat for individual cases. Indeed, the law prevents people from appealing to me. People often come to me and say “The judge got it wrong. That bastard told lies.” We cannot go to the courts. I have a good relationship with the senior Family Court judge. Sometimes, if I am worried, I say to him, “You should look at this. Maybe you will want to talk to other judges about it.” But that is as far as I can go.

Sometimes I am a bit naughty and I criticise a judge who did not put away a paedophile for as long as I thought he should or, if the victim is a child, the penalty does not seem to be as big as it might have been if the victim had been an adult. In that sense, we do not take on individual cases. Sometimes we have consultations with young people, which I think is an essential element of the Office of the Commissioner for Children. If I am trying to reflect the needs and aspirations of children, my grandchildren are good advisers. They know most things, but they do not necessarily know everything.

I need to be able to talk to a lot of people. I visit a number of schools and talk to a number of smart young people, who I love. Quite often young people come up with solutions that it takes members of parliament years to find. Young people often say, “This is the issue. This is what you should be saying, Commissioner.” The Commission for Children youth advisory group—a group of nine young people who are chosen from all around New Zealand—meets with me every five, six or seven weeks.

**THE CHAIR:** How are they chosen?

**Mr McClay:** They are chosen after being asked to indicate on forms, in their own words, their involvement in the community, their views about issues, their aspirations and so on. We wanted a geographical spread of people. Thankfully, it also resulted in a range of cultural representation. Our youngest member, a stunning young woman aged 13—she was 12 when she started—has a mild form of cerebral palsy. I did not know that until I met her.

I throw issues at the members of that group with whom I communicate every Friday during Friday flash, which is nothing to do with horseracing but which is about issues that we are confronting. They know that I am in Australia this week and they know what I am doing. I float ideas to them, for example, what they think about a particular paedophile, and I get good feedback. They tell me in no uncertain terms what I should or should not be saying.

**MS DUNDAS:** You have a broad geographical mix on that committee but do you also have a broad socioeconomic mix?

**Mr McClay:** We had about 350 applicants. We tried to achieve that, but it was a bit hard.

**MRS CROSS:** Did you choose them on merit?

**Mr McClay:** We chose them on what we read about them and on what we thought of each geographical area. It was hard to do that.

**THE CHAIR:** What about gender?

**Mr McClay:** There is a good gender mix.

**MR CORNWELL:** What about the mix of cultures in New Zealand? Who do you have apart from Maoris?

**Mr McClay:** We have Pacific islanders and a large number of Asian children. So we were mindful of the need to reflect that. I do not go overboard. We do not keep statistics of the complaints that we receive about Maori and non-Maori children. Sometimes we can tell from their names, obviously. But I do not say now—and I did not say when I was a politician—“As a Maori is involved there must be trouble.” A Maori might be involved, but he or she might be from a dysfunctional family.

Over the past four years one child died every five weeks—a total of 40 children. Almost all those children came from what could be described as dysfunctional families. When you look at the list to determine who killed those children you find that it is a live-in father, a stepmother, a custodial parent or a non-custodial parent. The list always shows that there has been some change in family circumstances.

**MRS CROSS:** Destabilisation.

**Mr McClay:** As a result the family has not coped and it has become dysfunctional. That was true in the case of the little girls whose report is being prepared now.

**MR CORNWELL:** I was interested in your earlier comment that families should accept responsibility for their children. How do you do that?

**Mr McClay:** That is a requirement under the act. That was the dramatic change in 1989. When a child who is in trouble needs care and protection that can often be resolved by calling a family group conference, which will be convened by a social worker from the Department of Child, Youth and Family. People will be required to be there. Depending on the issues involved, people from the school and the police might be there. If an offence has been committed, the offender and the child will be there and members of their families or their extended families will be there. If a father is sexually abusing his daughter, he will be there and so on.

**MS DUNDAS:** Will the child be there?

**Mr McClay:** The child has the right be there unless he or she is a baby, is offended by being there, or is the subject of care and protection issues.

**MS DUNDAS:** How do you manage, for example, when a child of 12 who has been sexually abused by her father is in the same room with the father? How is that managed?

**Mr McClay:** It is managed sensitively. If it involves a grave case of sexual assault, that sort of case most probably would be dealt with by a court. Sex abuse cases are seldom dealt with by calling a family group conference. In most cases they would have gone to the court. If it involves general abuse, neglect and so on, the children would be present. Children who have offended or who have done something wrong would be present. Resolution is reached after those meetings, which sometimes take all day. Those conferences, which are conducted in a neutral place and which are managed sensitively, take into account the different cultures.

If the main language that is spoken by family members is Maori there will be interpreters and so on. Anyone who is attending a conference who is not happy could say, "We are not happy. We are not going ahead with it." Those matters would then be dealt with by the courts. About 85 per cent of all family conferences resolve these issues. That does not mean that children are portrayed as being as pure as the driven snow; it means that the issues are resolved rather than having to be taken to court.

At those conferences we prevail upon the family and say, "You, as parents, have a responsibility. This is your child. It is not the government's job to bring up your children. The government's job might be to give you the help and the resources you need, but you have a responsibility for them. We will require these things to be done over the next six months." That is the way in which it is done. It all sounds wonderful but it does not always work because some people are hopeless.

**MR CORNWELL:** It is a step in the right direction, though.

**MRS CROSS:** Are you the driving factor behind that group?

**Mr McClay:** No, the department is. I am the one who monitors what the department is doing. I am the one who says, "It is a great job." Mind you, I do not have to do it; I just tell people what to do.

**MRS CROSS:** Do you turn up?

**Mr McClay:** No, I am not allowed there. No-one is allowed to attend those family group conferences.

**MRS CROSS:** How do you assess the success or efficacy of that process?

**Mr McClay:** I think it is time that some sort of measure was taken. We have been in operation for 12 or 14 years. I think we need to examine closely the workings of that process to ensure that we are not just kidding ourselves. Are we just getting warm, fuzzy

feelings? I think this process is working because of the number of young people who are being dealt with. Those young people, who did not go to court or to jail, are getting on with their lives.

**THE CHAIR:** You mentioned earlier that 85 per cent of cases do not proceed to court. Does that mean that 15 per cent of those cases go to court? What happened to that 85 per cent of cases? Did those young people go on to become functional, or were they dysfunctional but nobody, other than family members, got hurt? How do you follow that up? Do the statistics show what happened to that 85 per cent of cases? We clearly know what happened to the 15 per cent of cases.

**Mr McClay:** It is time that a lot of work was done in that area. We could analyse the process to determine how we are getting on. A lot of people from care and protection panels come to New Zealand to examine that family group conference process. People look at these cases and give departmental officials advice about what course they should be following.

**THE CHAIR:** Is it not part of your role to examine this process? One issue that comes to mind is the fact that the department has the power to require people to attend and discuss issues involving the best interests of the child. People are required to attend meetings but, if they are particularly uncooperative, the whole thing could fall in a heap.

**Mr McClay:** And cases would then go to court.

**THE CHAIR:** But some issues might not be required to go to court. One of the players might say, "No, I am not playing this game." Decisions might then have to be taken around that person. You would then have to determine whether or not that decision-making process was efficacious. I assume you would examine the case and say to the department, "I think you could do this in a different way", or, "I think you can lift your game."

**Mr McClay:** Absolutely. Unless we are called on in an individual case it would be more of a generic thing. We would say to the department, "There appears to be a trend in this direction. We think that you should look at this issue." Am I able to speak here without having an embargo placed on what I say?

**MRS CROSS:** Do you want to swear?

**Mr McClay:** No, I want to refer to what is in a report that will be released next week. However, I do not want it splashed all over the place. I think it will be all right.

**THE CHAIR:** The committee can go into camera, switch off the recording and switch it back on when we are through.

**Mr McClay:** No, it is all right. If I get into trouble, so what; I am leaving in August. One of the recommendations that we will be making next week as a result of our investigation into the lives and deaths of the little girls to whom I referred earlier is that we should go back to something that was lost in 1989. When the Children, Young Persons and Their



Families Act was implemented, that was seen as the new way of doing things. It was supposed to be able to fix everything so that we would no longer need the care and protection type panels or interdepartmental working groups.

All the doctors, nurses, teachers and social workers would get together as a team and say, "How is this case going?" We think we should go back to that way of doing things. Professionals can make decisions if they share information. They did not talk to each other in this case or in the case of the other little girls. The signs were there. One little girl was writing, "My father is going to kill me." She was chastised and told that she was naughty. Her father did kill her. People have to talk to each other and share information. So we will be recommending—and this is quite a big thing to recommend—that those processes should be implemented once again.

**THE CHAIR:** Recently some issues were dealt with by our Education, Youth and Family Services Department. During the course of that inquiry there was a bit of an organisational or cultural change within that department. One such change was the development of an interagency approach to the concept of multidisciplinary teams.

**Mr McClay:** Those are what are called multidisciplinary teams.

**THE CHAIR:** Yes. An interagency approach was also developed. So you have psychologists, social workers, et cetera, across housing, education and police. One interesting thing has come out of it and we are yet to see whether or not it works. In the past there were anything up to six or seven different files on a child. You pointed to the inherent danger in that process. The department is now trying to come up with a system in that interagency, multidisciplinary approach to ensure that one file follows that child all the way through to adulthood. That seems to be the cultural shift. It seems interesting that we, across the Tasman, became aware of the need to do that at roughly the same time.

**Mr McClay:** I can prove that it will work. If you go to a little community, get the officials from all the departments into one room and ask them to write down the names of five or 10 families who are most at risk, in trouble, in jeopardy and dysfunctional, they would come up with pretty much the same names, even though they had not talked to each other. It makes sense for them to talk to each other and to say, "These little girls are in trouble at school. They disclosed to this person that someone is sexually abusing them, then they withdrew their disclosure." If they had all talked to each other we might have got that coot out of the way long ago and he might not have killed those little girls.

**MRS CROSS:** Commissioner, does your role and the role of the ombudsman overlap, or are they duplicated in any way?

**Mr McClay:** No, they do not. If the ombudsman is doing a case, we do not. We refer things to the ombudsman, in particular, from the education sector. We got into some conflict with the ombudsman. We were seen to be getting a bit out of our tree. I thought that we were not but, rather than spending a lot of money to prove that we were right, we said, "Okay, let us come to an agreement. We will send cases such as this to the ombudsman." We can inquire generally, rather than specifically, into such cases.

Who do parents go to if a specific complaint is made about a six-year-old child who is expelled from school for sexual harassment? You might not believe it, but that is true. I am not sure what a six-year-old would have to do to sexually harass someone. Who would the parents go to for fairness? We might have to hand a case such as that to the ombudsman to look into.

**MRS CROSS:** The reason you would do that is that the ombudsman has the power to do something about it?

**Mr McClay:** He has the power specifically to investigate that issue and we can inquire generally into it. We can inquire generally about the school's exclusion policies and so on. There would have to be a set of rules about exclusions. That goes back to another issue that is current at the moment. I do not know whether you have a set of rules. There is a set of rules relating to stand-downs, exclusions and the expulsion of children from school. That is the law and we rely on the law.

I go on about children's rights as well, but there is a law and there is a prescribed way in which things should be done. Sadly, children in New Zealand who are expelled from school have nowhere to go to appeal. You and I would have the right to appeal if a body made a decision about us. However, children do not have that right of appeal. That is one of the things for which we advocate in parliament all the time. You have to have somewhere to go.

**MR CORNWELL:** Not even the courts?

**Mr McClay:** Finally, they can go to the courts. However, most of these youngsters and their families never go to the courts as they cannot afford it. They need to be able to go somewhere that is independent.

**MRS CROSS:** Can they go to you?

**Mr McClay:** They come to me or they go to the ombudsman. It would be good if they were able to say, "Is it fair that my son was stood down because everyone else was misbehaving?" Imagine two staff members at a school misbehaving and all other staff members being put off for a week.

**MR CORNWELL:** We need to argue the point, but perhaps not now.

**THE CHAIR:** Yes, perhaps not now. Would you talk about the complaint service that is provided by your office? I note in the documentation we have that complaints may be made about individual children, or about issues that affect groups of children. I would like you to talk about that complaint service, which is part of your office structure.

**Mr McClay:** Yes.

**MRS CROSS:** Could committee members have copies of that document to refer to during questioning?

**Mr McClay:** I have some photocopies of the pamphlet.

**MRS CROSS:** It would assist us in our questioning.

**Mr McClay:** Previous commissioners for children decided to run a complaints and inquiry service, although that was not required by the act. There seemed to be a need for such a service. The more that people know about our office, the more that they will inquire. When the report is released next Tuesday I am sure that we will be somewhat inundated with inquiries. I will be in Europe but the office will be inundated with inquiries and complaints. We encourage people to raise complaints. We usually receive complaints about the Department of Child, Youth and Family Services, but increasingly we are receiving complaints about a school or schools, the education service, or about health.

It does not matter what the complaint is about or from whom the complaint has been received; we refer the complainant back to the source of his or her problem. We say, “You should raise this issue with the department and say that you think you have been treated unfairly, that the law was not upheld, and so on. Tell them that you have been in touch with me and see whether you can get satisfaction.” Usually it is resolved in that way. If it is not we say, “We will investigate this complaint and we will write to all and sundry and state: Please give us the information. What was the timeline of events? What documentation do you have? Give me all that you have about this case.”

I have a team of people who are called advocates—you might call them caseworkers, but advocates is quite a good term—who will investigate that. I know that you are thinking, “How can a child advocate investigate a complaint, be independent and not be biased?” We cannot. We are biased towards children and we are biased towards what is right and fair for a child. We look at it from that angle. We do not get into adult arguments. We are not really good, pure investigators because we are also advocates. We conduct investigations from the point of view of what is in the best interests of the child. We investigate and ask for information. Investigations are pretty much paper based. We can require people to come forward and give evidence, if that is needed.

**MRS CROSS:** And they have to come?

**Mr McClay:** They have to do it, or we would visit them. If they do not do it we have some powers, but in my time as commissioner we have not really had to get nasty. Some people get nasty. Sometimes I ring school principals and say, “I have received a complaint about this. Do you really want me to conduct an investigation and attempt to fix the problem?” Quite often the answer that I receive is, “No, Roger, we can fix it. I know he should not have sworn at the teacher on Saturday night when he saw him in the street, but can you not get people together?” We try to resolve things in the best interests of the child.

As I said earlier, if it is quite a serious issue it will get media attention and pressure is brought to bear on those people who can fix it. Everything that comes to the office is called an inquiry. If it persists it becomes a complaint and one of my team will investigate it. Different team members have different skills. One of my staff members is good in the education sector, in particular, in relation to early childhood stuff. Another

staff member who originally came from the department is good on the care and protection stuff. A large number of staff members and I originally came from a teaching background. Some staff members are better on the law.

**THE CHAIR:** I wish to pursue with you the ombudsman connection and to pick up on something that you said earlier. If I understood your evidence correctly, you said that you unashamedly bring a bias into child advocacy because that is what you are there for. In the context of settling an issue or recommending a process for settling an issue, you approach that issue having regard to what is in the best interests of the child.

Your office could not be accused of being impartial. It is my understanding that the role of the ombudsman is impartial. In fact, the ombudsman has to consider equally the views of both people. If you so choose, you can afford greater weight to the position of the child. Is that the difference between the complaint-settling mechanisms in your office and the complaint-settling mechanisms in the Office of the Ombudsmen?

**Mr McClay:** Yes, it is. In addition, the ombudsman has the power to direct and require more. We can look into an issue. We are fair because we are child advocates. With respect, we attempt to establish what is in the best interests of the child. I recall a case that we investigated that involved a little girl who was sexually abused by a boy who was living in a child welfare family home. A young couple were looking after the home for the weekend while the main carers were away. They had a little girl who was sexually abused at the age of two or three by one of the boys in that home. I still have a photo of her on my wall. We investigated that complaint and found that the abuse had occurred.

We also established that certain things that should have happened did not happen. In the course of that investigation I became an advocate for the boy who had done it. We looked into his circumstances and background and the department and I tried hard to prevent him from going to prison at the age of 17. We could not prevent him from going to prison so we became an advocate for him. We treat all cases fairly but we are unashamedly protectors and promoters of children's rights. If it is a school issue—and it usually is—the ombudsman looks at it more from the point of view of the school, whereas I would make a submission to the ombudsman about what is fair and right for the child.

**MRS CROSS:** Given that the ombudsman has the power, how do you deal with any conflicts? You advocate for the child, but the ombudsman looks at issues more clinically. How do you deal with differences of opinion? How do you reach a compromise in those instances where you have looked at an issue from one perspective and the ombudsman has looked at it more generically?

**Mr McClay:** Sometimes we cannot. I refer to the case last year that resulted in our coming to an arrangement with the ombudsman. We investigated the standing down for a period of six weeks of a six-year-old or seven-year-old child for sexualised play. What does a six-year-old child do at home for six weeks? Does he sit around thinking, "I had better not slip my hand down her—"

**MRS CROSS:** What is sexualised play?

**Mr McClay:** Sexualised play in the playground with other children. The school stood down that child for a period of six weeks. The child was the son of one of the teachers on the staff. However, a bit more was involved in this case. Adult issues were going on. That teacher and her husband, the father, brought the case to me. I was somewhat outraged—I sometimes become enraged—I investigated the case and I found that the opinions of the school were erroneous.

The school employed a lawyer who established under the act that Roger McClay, smart alec, had no jurisdiction. The ombudsman agreed. For the past 12 or 13 years my office has been doing these things when we had no jurisdiction, depending on one's interpretation of the law and of my functions. We gave up and said, "We are not prepared to spend a lot of money defending this case." So we did not.

**MRS CROSS:** Commissioner, that leads to my concern in relation to this issue. What you are doing is admirable, but I am concerned about the appointment of a youth commissioner. I do not believe, at this stage, that there is any point in having a commissioner who does not have power to effect change. You referred to just one example, but I am sure that there are many others. Ideally, you would prefer to be a youth commissioner with power rather than a youth commissioner without power. If that were the case you would not need an ombudsman to address youth issues because you could do that.

**Mr McClay:** The ombudsman might address some youth and other issues.

**MRS CROSS:** Ideally, in my view, the model that would be more successful would be a model of a commissioner with power.

**THE CHAIR:** That is a view that is not necessarily shared by other committee members.

**MRS CROSS:** I said it was my view.

**THE CHAIR:** We need to explore it.

**MRS CROSS:** I said that it was a personal view. Commissioner, you expressed the same view. You said that, ideally, you would prefer to have more power.

**Mr McClay:** Ideally, yes. We are going to get some more powers. I think it is a matter of judgment. How many powers do you give a promoter of children's rights? You need some teeth. I have been required, and my predecessors were required, to get those teeth through public persuasion, passion and so on. I need a direct line to the Prime Minister. However, because of my background, I think I have that anyway. The other way to obtain additional powers—and this is something that I have done—would be by reaching an agreement with my employer, the minister. I have an employment contract. Every year he says to me, "This is the money we have for you, Roger. These are the things that we want you do." I say, "Hold on a minute, I cannot do it for that amount of money."

Under my contract or my personal agreement with the minister I am able to do a number of things. That is another way in which a commissioner can ensure that he or she is able

to be involved in certain issues. If you do have a commissioner I hope that he or she is able to focus not just on welfare issues but also on a range of issues that includes health. My main job is to monitor the act. But there is enough looseness in the functions to enable me to stick my nose into other business. I must admit that sometimes it would be good to be able to have legal powers but in most instances I am quite happy that I do not have them, particularly when it comes to men and women arguing over their children. I am quite happy for the Family Court to do that.

**MS DUNDAS:** You mentioned that you focus mainly on welfare and on the act. I asked you this question earlier, but I wanted to explore it a little further. What is your role in New Zealand? Are children generally brought into the decision-making process? I am not referring to children who face harm or who have been placed in an unsafe environment. More broadly, how are the views and the rights of children promoted in everyday life? Is that part of your work, or is that done elsewhere?

**Mr McClay:** It is part of my work to promote the rights of children. Article 12 of the United Nations Convention on the Rights of the Child, which talks about the rights of children refers, first, to children having a view and, second, to children's right to express that view, especially about things that affect them. We have a long way to go. Every time I get a chance at a select committee in parliament that is looking into the Matrimonial Property Act I promote children's rights by stating, "Is it not interesting that there is an argument between two people? Who gets this and who gets that?" Surely children have some stake in it? There must be something that belongs to them?" So I apply it in that way. But we have a long way to go.

When I was Minister of Youth Affairs I was involved in getting the youth parliament going in New Zealand, which is becoming pretty good and which is now being listened to. The youth parliament debates real issues and gives advice to the government. The government is starting to implement some of that advice. Because of the youth parliament children cannot buy cigarettes until they are 18. They can have sex at 16 but they cannot buy cigarettes until they are 18. That would make it difficult for children aged 16 who wanted to have a cigarette after sex. However, I must not be diverted.

**MS DUNDAS:** You went there yourself.

**Mr McClay:** These are old jokes. I thought you might have heard them. Most secondary and intermediate schools have a youth representative who communicates with the Minister. We have a long way to go, but it is quite hard.

**MS DUNDAS:** Do you believe that the Office of the Commissioner for Children is working?

**Mr McClay:** Absolutely. I have a big dossier that reflects all the differences that the office has made over the past 14 years. Those changes might not have occurred if the office had not been there. Every day someone in New Zealand is speaking on behalf of children and putting forward their views, whether they are children at risk because of paedophiles living nearby, or whether a group of children require someone to screen those people who want to be appointed scout leaders or whatever. So children's voices are now being heard, which was not the case in the past.

**MS DUNDAS:** So the situation of children in New Zealand has improved in the past 14 years?

**Mr McClay:** In many respects it has. The nation now knows how bad it is for some children. It never did before.

**MRS CROSS:** Am I correct in assuming that the government of the day invests money in youth and children's issues and in the promotion of an awareness of those issues?

**Mr McClay:** Yes.

**MRS CROSS:** Have those issues been heightened over the past 14 years? I know that they have been heightened in Australia. We are now more aware of child abuse issues and how we should deal with them. Given that nobody has assessed the efficacy of some of the programs that we talked about earlier, would you say that they have been successful because of what you do and because successive governments have expended money on youth issues? Do you make recommendations to government to fund specific projects, or do you simply make recommendations to government to fund youth issues in general?

**Mr McClay:** Both. I do not get into political arguments about who should get more money and so on. The general pressure comes from my office. Quite often the pressure comes from the public because my office has recommended that more money go into these projects. I never ask for any more money for my office as I have received it.

**MRS CROSS:** Do you think that the success rate can be measured as a result of the public relations campaign that you have been running since 1989 in conjunction with government programs to raise awareness?

**Mr McClay:** Yes. I will give backing to those who are seeking extra funding for particular things. You would be aware that many issues—and maybe this is the politics coming out in me—do not relate only to resources. Many issues relate to people's attitudes. A lot of poor people in New Zealand are outstanding mothers and fathers. Others, who are quite wealthy, are hopeless mothers and fathers. Child abuse is not confined to the poor and to those who lack resources.

Child abuse—and that includes physical, emotional and sexual abuse—is right across the board. It is not confined to one race or one culture. The nation needs to know that some children are vulnerable. Some are so vulnerable that they die at the hands of the people who should have protected them. It is almost never a matter of not enough food to eat or not enough money; it is a matter of ignorance, a lack of education and a lack of basic parenting skills.

One of the things that we push very hard—if I were staying on as commissioner I would concentrate specifically on this issue—is the need in the early years to invest time, resources, knowledge and education into establishing the rights of a newborn baby. If that occurred we might not have had a 13-year-old boy in south Auckland convicted of

manslaughter. That same boy was designated as being bad at the age of four. There are no bad children at the age of four. Children might misbehave or be naughty, but they are not bad.

That boy was written off at four. There was no intervention. He did not go to school and he murdered the pizza deliveryman when he was 12 or 13. Those are the things that need to be talked about and those are the things that the nation needs to know about. It is not always a question of resources.

**THE CHAIR:** Thank you very much, Commissioner.

**The committee adjourned at 10.25 am.**