LEGISLATIVE COUNCIL

REPORT

OF

STANDING COMMITTEE ON CONSTITUTIONAL AFFAIRS AND STATUTES REVISION

IN RELATION TO

A PETITION SEEKING LEGISLATION ON VARIOUS ASPECTS OF SUBSTANTIVE LAW AND PROCEDURAL LAW RELATING TO SEX OFFENCES AGAINST CHILDREN

Presented by the Hon R G Pike (CHAIRMAN)

OCTOBER 1991

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A. INTRODUCTION

1. The Hon Reg Davies presented a petition to the Legislative Council on 23 August, 1990 - *"Requesting the Parliament of Western Australia to bring in legislation to deal with all cases of sexual and other crimes against children to see:*

1. that sentences imposed on adult child-sex-offenders must reflect the seriousness of the crime committed, this means longer non-parole sentences;

2. that mandatory therapy for child-sex-offenders be a condition, regardless of whether or not a prison sentence is imposed;

3. that magistrates have discretion to accept the evidence of a child irrespective of the age of the child: The question of a child's competence to give evidence to be matter for judicial determination, and any need for corroboration of a child's evidence should be left to the discretion of the judge-(Child Sexual Abuse Task Force Recommendation 27, 1987)."

2. Under the terms of reference of the Committee, all petitions stand referred to the Committee after presentation to the House. Accordingly, the petition was referred for the Committee's consideration.

B. HISTORICAL AND INVESTIGATIONS

3. In undertaking an investigation of this petition, it was clear to the Committee that much work had already been done in the area and that several extensive reports by various bodies had been produced, including those of the Western Australian Law Reform Commission and the Child Sexual Abuse Task Force.

4. It was also clear to the Committee that the matters of concern in the petition

could not be dealt in a single piece of legislation and that consideration would need to be given to proposed legislative changes, whether they be State or Federal changes.

5. In order to achieve a current overall perspective, the Committee asked for comment from the Commissioner for Police, the Department for Community Services, Department of Corrective Services and the Attorney-General.

6. The Committee also reviewed documents such as the Family Law Council's Child Sexual Abuse Report September 1988, the Queensland Interim Report of the Criminal Code Review Committee to the Attorney-General March 1991 together with various articles.

7. The Committee has been made clearly aware that the problem of child sexual abuse is a large one, with the enormity of the problem having only really been recognised in the late 1970s and 1980s. The corresponding awareness by both the professionals and the public of the need to deal with this problem and the willingness to openly discuss an issue which has for so long been "taboo" has meant that calls for change have become more vocal and insistent.

8. The 110,000 signatures to this petition are a very clear indicator to the Committee of the level of public concern.

9. To deal with the pressing nature of this issue, the Committee decided to depart from the ordinary procedure of initially advertising for submissions and then holding public hearings, to holding hearings of interested parties who had indicated their desire to appear before the Committee.

10. The following gave evidence at the public meetings of the Committee:-

- The Hon Reg Davies, MLC
- Mrs Jan Bennett, President, People Against Child Sexual Abuse (WA) Inc. (PACSA).
- Mrs Colleen Chester, Retired Administrator, PACSA.
- Ms Kim Eggleston, Chairperson/Student, Incest Survivors Association (Inc)
- Ms Vera Farr, Coordinator, Sexual Assault Referral Centre
- Ms Carole Kagi, Social Work Supervisor, National Association for the Prevention of Child Abuse and Neglect
- Mrs Peggy McCreddin, President, Sexual Abuse Self Help Association (WA) Inc.

- Ms Elizabeth Roberts, Coordinator, Sexual Abuse Self Help Association (WA) Inc., Parent Support Group for Sexually Abused Children

- Mrs Nancy Rehfeldt, Vice-President, People Against Child Sexual Abuse

- Mr Darryl Hockey, National/State Citizenship Chairman, APEX

11. An advertisement calling for submissions was then published in "The West Australian" on Tuesday, September 2, 1991 and nine submissions were received in response to this advertisement.

The Committee wishes to acknowledge the assistance given by the Advisory and Co-ordinating Committee on Child Abuse in providing research material and comment.

C. MAJOR CONSIDERATIONS - SUBMISSIONS

12. The Committee has been faced with a proliferation of evidence and lists the issues for consideration:

(i) longer non-parole sentences for adult child sex offenders;

(ii) the introduction of the use of videotaped evidence;

(iii) the reintroduction of closed circuit television;

(iv) the question of a statute of limitations for child sexual abuse actions;

(v) mandatory therapy for offenders

(vi) removal of the charge of "false reporting" for children under the age of 17 years;

(vii) the removal of the "particularisation" requirements;

(viii) lowering or removing the age requirement for corroboration of evidence;

(ix) mandatory/reciprocal reporting of all cases of child sexual abuse to a central registry; and

(x) Family Court procedures involving child sexual abuse allegations.

(i) Longer Non-Parole Sentences

The Committee was told that there was great concern that there was too little emphasis placed on the seriousness of the crime of child sexual abuse in comparison to other offences of violence.

This point was especially brought to the attention of the Committee in a letter from an inmate of Fremantle Prison, serving 12 years for armed robbery and theft. He stated (named withheld) -

> ".. the heaviest sentence I've seen handed down to these "people" is 3 years. It seems in our modern society that material possessions are more important than our children. At the present time there seems to me to be no deterrent value in the sentences handed out to child molesterers, once sentenced to some trivial amount of time they're placed in protection within the prison system where they compare notes with thier fellow tamperers and plan thier next sick attack!
>
> This all may sound ironic coming from a "semi-professional crim" but I think any rational person can seen a difference between thieving property, and these sick people who corrupt innocent children! Possibly this letter of mine is useless to you but I had to have a say." [sic]

The Police Department indicated to the Committee that non-parole sentencing is a matter for the judiciary to consider. In a letter to the Committee from the Assistant Commissioner (Crime) it was stated :

> "Presently each case is considered in depth by the Sentencing Judge. I have no concerns with the non parole periods being set at present."

The Department of Community Services would not comment on this matter, deeming it not to be appropriate but did say that sanctions for child sexual abuse allow the judiciary to impose lengthy non-parole prison sentences if it is considered warranted.

The Attorney General brought to the attention of the Committee paragraphs 6.18 and 6.21 of the Child Sexual Abuse Task Force which state, inter alia, that -

> "The Task Force considers that the imposition of draconian penalties is not an effective means of dealing with the problem of child sexual assault, particularly intra-familial child sexual assault... It must be recognised that "deterrent" penalties, while satisfying public desire to express disapprobation, may not deter in the vast majority of cases, and rarely aid in the rehabilitation of either the victim or the offender.

> It is the view of the Task Force that the present penalties for sexual assault (which by definition include sexual assault on children) and indecent dealing are adequate to punish cases of child sexual assault."

The Committee has been told that legislation is currently being drafted which will broaden the range of people that the law recognises as persons in authority over children, therefore emphasising the serious nature of sexual offences against children by persons in authority over them. Severe penalties would also be provided in these circumstances. Furthermore, changes to the Bail Act are proposed to ensure that when courts are considering bail applications police and judicial officers would be required to consider the safety of the child involved and could order that an offender absent himself from the family home. A consideration of safety is presently not a requirement.

(ii) Videotaped Evidence

The Committee was told that the subjecting of children to "procedural assault" - that is, repetitive questioning and attacks on a child's motives, truthfulness and memory, placed the child in risk of both short-term emotional trauma and long-term psychological damage.

It was argued that the use of videotaped evidence as a substitute for written depositions at committal proceedings would not only reduce the circumstances in which a child would be called to give evidence but would also substantially remove the probability of trauma and damage that a child could suffer in being called to give oral evidence.

The Committee was also told that a videotape of a child's evidence, when shown to the accused has in other jurisdictions led to an admission of guilt, which has therefore eliminated the need for a trial.

In an article entitled "T.V. or not T.V. - The question of the Use of Technology in Courts Where Children are Witnesses" by R.J.Cahill and M.A.O'Neill (both of the ACT Magistrates Court) it was stated :

> "By video recording the crucial initial interview, a permanent record is made of events and relevant facts whilst they remain fresh in the child's memory. Of course, care needs to be taken to ensure that the video recording is capable of presentation in court. In this regard, appropriately trained personnel are essential, again highlighting the need for a multidisciplinary approach to such matters so as to maximise the evidential weight of the video recording free from suggestive influences whilst minimising the trauma of the child.
>
> The most important aspect of the video recording of the interview, is the preservation of the child's statement such that the child is not

> required to repeat the process for the various people who need to be informed of the facts. The recording may be accessed at any time thus affording the defence legal team the opportunity of assessing the evidence against it. In doing so, it is submitted that the incidence of pleas of guilty would be increased, reducing the need for the child to give any evidence at all."

It was acknowledged to the Committee that the implementation of such video-taping would need to be covered by a Code of Practice, or by some sort of legislative provision, similar to that in New Zealand.

The New Zealand Parliament in 1989 amended the Evidence Act 1908 by inserting a provision -s.23E- dealing with the modes in which a complainants evidence may be given in cases concerning child complainants.

In essence this new provision applies to all cases where the complainant has not at the commencement of the proceeding attained the age of 17 years. A full script of s.23E of the Evidence Amendment Act 1989 is marked as Appendix 1 to this Report.

The Western Australian Law Reform Commission Report on Evidence of Children and Other Vunerable Witnesses which was released on 10 May, 1991 recommended that children be allowed to give evidence on audio or video tape at committal proceedings and that they should not be ordered to appear unless there was a special need.

The Commission also recommended that evidence given at informal pre-trial hearings (attended by the child, a Judge and Counsel for both sides, with the accused observing the proceedings from another room by closed-circuit television) should be video taped and the video tape presented in the trial as the child's evidence in chief, without the child appearing.

(iii) Reintroduction of Closed Circuit Television

The reasons given for the need to use closed circuit television are numerous, but essentially it is argued that a child may have difficulty in giving convincing evidence in the potentially threatening and alien environment of a courtroom.

The use of closed circuit television is particularly necessary in cases of intrafamilial assaults where children giving evidence in a courtroom may be subjected to intimidation from family members, who doubt the credibility of the child's accusations.

The Committee was told that closed circuit television was used in the Children's Court in cases of child abuse from June to December 1989 but that

the failure to transfer this facility to the Central Courts was an administrative oversight.

The procedure of allowing a child to give evidence from a location outside the courtroom has been successfully implemented in England, the USA, Canada, New Zealand and some other jurisdictions. Support for the introduction of closed circuit television in Western Australia comes not only from the C.I.B. Child Abuse Unit but also from the judiciary. The Chief Justice of the Supreme Court, His Honour David Malcolm, has given his support for the introduction and in a letter to Ms Carole Kagi on December 12, 1989 His Honour stated:

> "I am aware of the use of closed circuit television in the Children's Court since 23rd June 1989. I fully understand the reasons for the introduction of this facility. I am in favour of the introduction of such a facility in the Supreme Court as soon as practicable. Contrary to the approach adopted by the Children's Court, however, I consider that it would be appropriate for the child to give his or her evidence from a location outside the courtroom. This is the procedure which has been followed in England and in certain other jurisdictions. It has the advantage that the child is not exposed to the court room setting at all. In the Children's Court, of course, the practice has been for the accused to be put in the outside room while the child gives evidence in court.
>
> The provision of closed circuit television facilities will require a decision by Government upon the recommendation of the responsible Minister."

The W.A. Law Reform Commission Report previously mentioned recommended that in certain serious cases where the pre-trial hearing procedure has not taken place beforehand, children will be permitted to give evidence at the trial by closed circuit television while the child is outside the court room, or alternatively, a child will be permitted to give evidence while the accused watches by closed circuit television in a room outside the court.

(iv) Statute of Limitations

The issue of the removal of a statute of limitations period for child sexual abuse actions has been a difficult consideration for the Committee.

The Committee was told that it was of the utmost importance that survivors of child sexual abuse should have the right to press criminal charges against the perpetrators of that abuse no matter when the abuse occurred. The pressing of charges is seen as a way of validating that the victim was not to blame for the abuse or for not disclosing that the abuse was occurring.

It was indicated to the Committee that the imposition of a statute of limitations

would mean that victims would have no avenue of recourse open to them and no way of legitimising empowerment, (the authorization of one to take action) which legal proceedings can offer.

The argument presented to the Committee was that if the victim of abuse was to have removed from them a legitimate right of empowerment by a statute of limitations then the experience of the abuse may be minimised and the psychological implications of this could be long-standing. The question of victims suffering from traumatic amnesia or occluded memories was also raised with the Committee as a reason for not introducing a statute of limitations.

It was made clear to the Committee that should a statute of limitations period not apply to these types of cases, then where abuse may have occurred many years before, the probability was that a charge would not indeed be laid. The issue would seem to be that there should be the **right** to lay charges.

The further argument presented was that a significant number of child abuse cases *are* not what one would categorise as classic paedophilial behaviour but more as intrafamilial sexual assault. It is in these circumstances that a woman who has been a victim of sexual assault as a child and then has her own children, fears for their safety as the original perpetrator is still within the family circle. The fact of having her own children can result in a woman recalling events of physical and sexual abuse which were perpetrated against her as a child, but which events had previously been minimised or even obliterated in her memory. These recollections can and do occur when the woman reaches the age of 40 or 50.

One other concern regarding a statute of limitations which was presented to the Committee was concerning the 3 month period imposed on indecent dealings relating to children from 13 to 16 years. The Committee was told that offenders have been charged with less than the full extent of the nature of their activities because the offence came under the category of indecent dealings and occurred too long ago.

The Committee was urged to seek legislative change to remove this prohibitively restrictive statute of limitations.

(v) Mandatory Therapy for offenders

The Committee was told that intensive research and studies have shown that the level of recidivism amongst offenders who do not receive therapy is very high - approximately 90 per cent.

The Committee was also told that offenders who do not receive a gaol sentence can volunteer for therapy or can, in some instances as a condition of

parole, be required to visit counsellors or psychologists. However, the concern would seem to be that there are no penalties attached for non-compliance and that no follow-up is done on such therapy.

The Committee heard of the two programs currently being used in Perth (the Sexual Assault in Families Program and the Inappropriate Behaviour in Families Program), but the comment was made that these programs were only available to a limited number of offenders who had indicated a commitment to a change of lifestyle so that they could remain within the family unit. This effectively meant that the majority of offenders receive no treatment and are therefore likely to reoffend.

The Committee was asked to recommend that aversion therapy and compulsory treatment be instituted in Western Australian gaols and that judges be given the power to order compulsory participation in such schemes. Furthermore, it was suggested that there should be put in place incentives for successful completion of such programs and penalties applied for non-compliance and non-completion. It was emphasised to the Committee that it was unacceptable that offenders should have the option to refuse therapy.

The Police Department indicated to the Committee that the issue of mandatory therapy for child sex offenders regardless of whether or not a prison term is imposed would require considerable study and that there was the question of the suitability of some persons to enter into such a program.

Correspondence from Department of Community Services was received on this matter and Mr Terry Simpson, Acting Director General of the Department advised that :

> "Professionals who provide therapy to sex offenders would concur that if a treatment programme is to have an effect on the behaviour of an offender then the person must agree to being involved. If there is no motivation or commitment to change behaviour or even to consider changing behaviour then the treatment programme will have no effect and will be wasting limited resources.
>
> This is not to say that the value of such a treatment programme should not be strongly advocated to sex offenders, however, if the final decision of an offender is not to take part then mandatory therapy as suggested will not be effective."

The Child Sexual Task Force Report in paragraph 5.137 stated :

> "The Task Force strongly advocates the development of a co-ordinated approach to treatment that is comprehensive and aimed at treating all members of the family (where intrafamilial abuse has

occurred)....":

and went on to quote from a submission made by the WA Branch of the Jewish Welfare Society Inc in which it was said, inter alia -

> "..Without putting in place comprehensive treatment programmes aimed at treating all members of the family both as individuals and as diads and in groups....it would be impossible to effectively protect the child and address the issue of child sexual abuse".

(vi) Removal of the offence of "false reporting" for children

Whilst recognising that vindictive accusations can be made, the Committee was told that it was unacceptable for children under the age of 17 may be charged with "false reporting".

The Committee was told of the immense pressure on children, both from within and outside the family to press or drop charges. This often results in children becoming confused or frightened and any alleviation of the stress encountered by these children should be encouraged.

As was stated in the working principles adopted by the Child Sexual Abuse Task Force -

> "Children rarely make false allegations of sexual abuse, though they may conceal or deny its occurrence or camouflage the identity of the offender. Any child's disclosure should be taken seriously and acted upon to ensure the child's protection." (Item 7.)

and further -

> "The object of policy should be to prevent and to minimise the harm that flows from both the abuse of children and from disclosure of such abuse." (Item 9.)

(vii) "Particularisation" requirements

The Committee was addressed on the issue of "particularisation of offences" and how difficult it is for small children to be specific as to dates, times and details of each offence, especially where the child is in a ongoing abusive situation.

The Committee was also told that because the events themselves are very traumatic, children tend to suppress details of the events. This suppression

together with the similarity and frequency of the offences and the often inordinate time delay between the event and the interview, means that particularisation is not possible. It would seem that a child's perception of what is happening to them changes at different ages and this affects their ability to remember the detail that the present law now requires. The Committee was told that unless there are changes to the law, society will be maintaining the silence and contributing to the problem rather than solving it.

Accordingly, the Committee was urged to recommend that no particularisation requirements should exist and that a new offence be created which would allow for a charge of sexual assault over a period of time.

(viii) Lowering or removing the age requirement for corroboration of evidence

The Committee was told that there were grave concerns that perpetrators of child sexual assault were not being charged and convicted because there could not be corroboration of the child's evidence. If the perpetrator pleaded not guilty, and because the events occurred in private with no witness, there could be no proven case of assault.

By requiring there to be corroboration, children are being left in a situation of risk and abuse. Also, children who are not believed because their story cannot be corroborated are less likely to make claims of abuse and suffer unnecessarily.

The Committee was informed that while the corroboration requirements exist, paedophiles know that it is a much harder battle for police to lay charges and so target the under 12 age group. The continuing delay in having legislative changes introduced means that children are being left unprotected.

Dr Margaret Doherty of Princess Margaret Hospital has stated that even very young children are quite capable of giving very clear accounts of offences committed against them, and that even children as young as 3 years can give reliable statements.

Changes to the Evidence Act which are currently being drafted include:

+ removal of the existing requirement that unsworn evidence by children younger than 12 years, must be corroborated;

+ children of any age will be able to take the oath providing they have sufficient appreciation of the solemnity of the court;

+ provision of unsworn evidence by children (and adults) to be

received where it is understood what is meant by speaking the truth; and

+ repealing of Section 101 (2) of the Evidence Act, which states:

"No person shall be convicted of any crime or misdemeanour on the testimony of a child [who has not attained the age of 12 years] who gives evidence under the provisions of this section unless the testimony of such child is corroborated by other evidence in some material particular."

(ix) Mandatory/Reciprocal Reporting

The Committee was made aware of real concerns that not all cases of child sexual abuse were being reported to the Police for investigation because there was no reciprocal mandatory reporting of alleged offences between organisations.

Those who gave evidence to the Committee spoke highly of the work of the Police Child Abuse Unit, but the fact that cases which obviously needed the attention of this Unit were not receiving that attention because the Unit was not being made aware of these cases. The Committee was told that often cases were reported to the Department of Community Services but were not dealt with because either the case did not fit within the Department's guidelines, or the person reporting the case was "not believed".

The Child Sexual Abuse Task Force extensively researched the arguments for and against mandatory reporting and found the current system to be effective. In paragraphs 4.76 and 4.77 it was stated :

" After intensive investigation and discussion of the advantages and disadvantages of mandatory reporting, all members of the Task Force, with one exception, agreed that there was little to be gained by the introduction of mandatory reporting in this State. They agreed that mandatory reporting has not shown itself to be an effective means of facilitating reliable reports of child abuse. The Task Force reached the conclusion that many of the advantages claimed for mandatory reporting could be obtained by community and professional education programmes, legislative immunity from civil and criminal prosecution for persons making reports in good faith, and reciprocal reporting between the major responsible departments and other agencies in regular contact with victims and offenders.

In addition, we concluded that mandatory reporting laws were virtually unenforceable and noted that, to our knowledge, no

> successful prosecution for failure to report child abuse has ever been mounted either in Australia or the United States."

Greater interagency co-ordination is being achieved through the work of the Advisory and Co-Ordinating Committee on Child Abuse which has an interagency trial involving the Police, Community Services and Princess Margaret Hospital. A similar programme is being established between Fremantle Hospital , Police and Community Services.

In 1989, the Brotherhood of St Laurence conducted a survey of reporting systems in Australia, the United Kingdom and the United States of America and recommended against further implementation of mandatory reporting in Australia.

(x) Family Court procedures involving child sexual abuse allegations

The Committee was told that a Family Court situation that was occurring with disturbing regularity was where a wife leaves her husband because of sexual abuse within the family and yet despite well documented proof from social workers and the police, the husband still manages to get unsupervised access to the children. The concern presented to the Committee was that it should be the child's right to safety and not the parent's right to access which should be the overriding concern.

The Committee was also told that there seemed to be an assumption in an access application that all allegations of sexual abuse or moral danger were maliciously vindictive and unfounded and designed to deprive one parent of contact with the children of the marriage.

While admitting vindictive people can, and do make false allegations of this nature, it was emphasised to the Committee that the Court should err, if at all, on the side of the child's safety until all aspects of the allegations can be investigated. It was also stated that it should never be necessary for any parent or grandparent to need to obtain legal assistance to fight for the protection of a child in the Family Court where there are professional reports or evidence confirming that a child would be at risk with the abusive parent seeking custody or access.

The Family Law Council's Child Sexual Abuse Report of September 1988 recommended that a legislative scheme of cross-vesting of concurrent jurisdiction between the Family Court and State child welfare courts should be established to enable the court before which a matter arises to deal with all related custody, guardianship and access issues together with child welfare/protection issues.

This same Report also recommended that more explicit attention be given to

the protection of children from abuse. In this regard it was recommended that where proceedings are pending or are before a child welfare court, that Family Court proceedings regarding custody/access should be adjourned until such time as the outcome is known of the prior proceedings.

The Advisory and Co-Ordinating Committee on Child Abuse is currently conducting training of staff of the Family Court and is planning to call a meeting of agencies which have concerns about the impact of Family Court procedures on child protection.

Obviously, the issue of Family Court procedures is much more complex than can and is being discussed here and this was recognised by those who gave evidence to the Committee.

D. CONCLUSION

The Committee has been mindful whilst considering this petition that it has limited resources and expertise to deal with the complex number of issues brought to its attention.

The Committee is concerned that the issue of child abuse has for too long been "taboo" and that as a consequence legislators have not been prepared to consider changes to the law to protect the innocent. There are no easy solutions but the Committee is hopeful that this Report will draw to the attention of the Parliament the need to constructively legislate and not merely institute "bandaid" measures when the need is seen to arise.

As was said by D. Finkelhor in Child Sexual Abuse: New Theory and Research, the real dispute about the effects of child sexual abuse is a political one:

> "..is a social problem worthy, because of its serious harmful consequences, of a massive mobilisation. ...even if only a small number of children are harmed by these experiences, it is still worthy of mobilisation. So the real question to be answered is not whether or not children are harmed, but how they are harmed, in what instances, and how it can be avoided."

RECOMMENDATIONS

1. That as longer non-parole terms do not seem to act as a deterrent, consideration be given to making rehabilitation treatment programmes a mandatory condition of parole with the period of parole being extended to include the requirement that a programme of treatment be undertaken.

2. That legislative changes similar to those in New Zealand be introduced in Western Australia to enable a child complainants evidence at any committal proceedings involving an offence of a sexual nature against that child to be presented in videotape form and that such a videotape should be admissible at a subsequent trial.

That the number of interviews required to be undergone by children be reduced where possible thus implementing Recommendation 19 of the Child Sexual Abuse Task Force.

The Committee has been advised that amendments are currently being drafted to implement the recommendations of the WA Law Reform Commission.

3. That in all cases of sexual offences against children under the age of 16, and specifically intrafamilial assaults and abuse, the use of closed circuit television should be routine and should only be departed from if the court is satisfied that the child is able and wishes to given evidence in the presence of the accused.

That children should be permitted to give evidence over closed circuit television from a room outside the courtroom from which all persons other than those specified by the court are excluded. Alternatively, the child should be permitted to give evidence in court with the accused placed in a room outside the courtroom to see and hear the evidence.

That the Government expedite the drafting of the proposed legislation to enable the reintroduction of closed circuit television in all cases of child sexual abuse.

4. The Committee recognises that there is some merit in the argument against imposing a statute of limitations period and appreciates the concerns of those who see victims of abuse many years after the abuse has occurred. However, although the Committee is of the opinion that the statute of limitations period should be increased, the Committee does not feel that it is in a position to make a specific recommendation as to a time period.

The Committee therefore recommends that the Government conducts a specific review seeking professional advice as to the applicability or otherwise of a limitations period. The Committee suggests that the Law Society of

Western Australia, the Police Child Abuse Unit and the Advisory and Co-Ordinating Committee on Child Abuse be consulted in this review.

5. That the Government review the current programs and look at the possibility of implementing legislative changes to ensure that all convicted offenders take part in a comprehensive and long-term therapy program.

That the questions of penalties for non-compliance, whether within the gaol system or as a breach of parole be considered by the Department of Corrective Services together with the Department of Community Services with a view to implementing changes in the manner in which supervision and follow-up of programs are currently undertaken.

The Committee understands that a proposal for a "pre-trial diversion programme" as detailed in Recommendation 45 of the Child Sexual Task Force Report has been prepared by a working party of the Advisory and Co-Ordinating Committee on Child Abuse and it is expected that such a programme will be implemented within the next few months.

6. That the Government consider repealing the offence of "false reporting" for children under the age of 17.

7. That "particularisation of offences" requirements be abolished and consideration given to a new offence of continuous sexual assault.

The Committee understands that this matter is being dealt with in the Acts Amendment (Sexual Offences) Bill 1991, due to be introduced in the current session of Parliament.

OR

7. That "particularisation of offences" requirements remain but a new offence of continuous sexual assault be introduced. These offences would not be mutually exclusive but would run parallel with or overlap the particularisation requirements depending on the circumstances of the case.

8. That the Government expedite the introduction of changes to the Evidence Act concerning corroboration of evidence and the ability of children to give sworn and unsworn evidence.

9. That joint training of Police and Community Services staff be undertaken to ensure proper co-ordination and better understanding of each others roles.

That as the Advisory and Co-Ordinating Committee on Child Abuse (ACCCA) have successfully run a number of training programmes around the State which support inter-agency co-ordination and skills development, they be

granted funding to run a major inter-agency training programme of this nature from the second half of 1992.

10. That State and Federal welfare authorities work more closely together towards ensuring that children are protected from abuse in cases of custody and access as recommended in the Family Law Council's Report on Child Sexual Abuse.

11. That the treatment of juvenile sex offenders be addressed with focus being placed on developing a comprehensive treatment programme linked to the Courts and the Juvenile Justice system.

APPENDIX 1

Section 23E - NZ Evidence Amendment Act 1989

"23E. ***Modes in which complainant's evidence may be given*** *- (1) On an application under section 23D of this Act, the Judge may given any of the following directions in respect of the mode in which the complainant's evidence is to be given at the trial:*

"(a) Where a videotape of the complainant's evidence was shown at the preliminary hearing, a direction that the complainant's evidence be admitted in the form of that videotape, with such excisions (if any) as the Judge was order under subsection (2) of this section:

(b) Where the Judge is satisfied that the necessary facilities and equipment are available, a direction that the complainant shall give his or her evidence outside the courtroom but within the Court precincts, the evidence being transmitted to the courtroom by means of closed circuit television:

(c) A direction that, while the complainant is giving evidence or is being examined in respect of his or her evidence, a screen, or one-way glass, be so placed in relation to the complainant that -

"(i) The complainant cannot see the accused; but

"(ii) The Judge , the jury, and counsel for the accused can see the complainant:

(d) Where the Judge is satisfied that the necessary facilities and equipment are available, a direction that, while the complainant is giving evidence or is being examined in respect of his or her evidence, the complainant be placed behind a wall or partition constructed in such a manner and of such materials as to enable those in the courtroom to see the complainant while preventing the complainant from seeing them, the evidence of the complainant being given through an appropriate audio link:

(e) Where the Judge is satisfied that the necessary facilities and equipment are available, a direction that -

"(i) The complainant give his or her evidence at a location outside the Court precincts; and

"(ii) That those present while the complainant is giving evidence include the Judge, the accused, counsel, and such other persons as the Judge thinks fit; and

"(iii) That the giving of evidence by the complainant be recorded on videotape, and that the complainant's evidence be admitted in the form of that videotape, with such excisions (if any) as the Judge was order under subsection (2) of this section.

(2) Where a videotape of the complainant's evidence is to be shown at the trial, the Judge shall view the videotape before it is shown, and may order excised from the videotape any matters that, if the complainant's evidence were to be given in person in the ordinary way, would be excluded either -

(a) In accordance with any rule of law relating to the admissibility of evidence; or

(b) Pursuant to any discretion of a Judge to order the exclusion of any evidence.

(3) Where a videotape of the complainant's evidence is to be shown at the trial, the Judge shall given such directions under this section as the Judge may think fit relating to the manner in which any cross-examination or re-examination of the complainant is to be conducted.

(4) Where the complainant is to give his or her evidence in the mode described in -paragraph (b) or paragraph (d) of subsection (1) of this section, the Judge may direct that any questions to be put to the complainant shall be given through an appropriate audio link to a person, approved by the Judge, placed next to the complainant, who shall repeat the question to the complainant.

(5) Where the complainant is to give his or her evidence at a location outside the Court precincts, the Judge may also give any directions under paragraph (c) or paragraph (d) of subsection (1) of this section that the Judge thinks fit.

(6) Where a direction is given under this section, the evidence of the complainant shall be given substantially in accordance with the terms of the direction; but no such evidence shall be challenged in any proceedings on the ground of any failure to observe strictly all the terms of the direction.