

The Victorian Children's Court Clinic

Prue Holzer with an excerpt from Patricia Brown

During March of this year, Clearinghouse staff—Ellen Fish, Jenny Higgins, and Prue Holzer—visited the Melbourne Children's Court and the Victorian Children's Court Clinic. Ellen, Jenny, and Prue observed a contested court hearing concerning child protection matters. In addition, the Director of the Victorian Children's Court Clinic, Dr Patricia Brown, met with Ellen, Jenny, and Prue to discuss the role of the Clinic and the nature of the services provided to children and families referred by the courts. In the following article, Prue Holzer briefly outlines the work of the Victorian Children's Court Clinic and the establishment of the New South Wales Children's Court Clinic—a clinic based on the Victorian model. In addition, an edited excerpt of a paper written by Dr Brown to commemorate the Children Court's centenary is also included. Directions for accessing further information are provided at the conclusion of the article.

The Victorian Children's Court Clinic (the Clinic) is an independent body within the Department of Justice, Victoria. The Clinic's primary function is to conduct clinical assessments of children and families and, at times, provide treatment as requested by the Children's Courts throughout Victoria. The Clinic provides input to both the protective and criminal divisions of the Children's Court.

Philosophically, the Clinic's central focus is to ensure the wellbeing of the child and, where possible, the integrity of the family. To do this, the Clinic offers a systemic and family-centred service. In every case, be it a criminal or child protection proceeding, the Clinic is independent of all parties.

The Clinic's staff are well-qualified and experienced in the field of psychology or psychiatry. Many of the staff are specialists in working with, for example, particular age groups or particular clinical presentations. Thus, a specialist clinician is appointed to each case on the basis of who will 'best fit' the situation and provide the most effective assessment.

New South Wales established a similar service following the introduction of the *Children and Young Persons (Care and Protection) Act 1998*, with Division 6 of the Act, 'Examination and assessment orders', pertaining to the role and functions of the Children's Court Clinic. However, the New South Wales model of operation differs somewhat from the Victorian Clinic. Rather than having a central metropolitan office where, effectively, all clients are seen for assessments (as in the Victorian model), the New South Wales model has a core team of staff located in Sydney and a number of accredited clinicians located across New South Wales. In addition, the New South Wales Clinic is only involved in child care and protection matters, not juvenile criminal matters.

On 21 April 2006, staff of the Victorian Children's Court Clinic commemorated the centenary of the Children's Court by contributing a paper for inclusion in the Court's 100-year time capsule; the following passage is an edited excerpt from this paper. In this excerpt, the Director of the Clinic, Dr Patricia Brown, discusses the history and operation of the Clinic, and the clients it has served for over 60 years.

I joined the Clinic in 1965 and in what follows I outline the work and development of the Clinic since that time. Although the Clinic was first established to perform clinical work with young offenders, my memory on joining the Clinic is of performing assessments of young people deemed to be "exposed to moral danger" in the 1960s and 1970s. Protection referrals escalated in the 1980s when the professional community was made sensitive to the hidden numbers of sexual abuse cases, and also later again after mandatory reporting of child abuse was introduced in Victoria in 1993.

When I first began as a young psychologist at the Clinic in 1965, the Court and the Clinic were each housed in Batman Avenue on the Yarra. The Clinic has since been relocated twice and is now co-located with the Children's Court in Little Lonsdale Street. At that time, the role of the psychologist was somewhat circumscribed—the psychologist's role was orchestrated and superintended by psychiatry. It depended on the beliefs of the psychiatric superintendent of the day as to the role of other disciplines and how flexibly they were permitted to operate.

In 1965, the psychiatric superintendent of the Clinic, Dr Gorman, largely required the psychologist to work as a mental technician with respect to assessments, giving a battery of psychological tests—intellectual and educational—and a pertinent (but time-constrained) interview, followed by a report to the psychiatrist. The nurse would weigh the child, measure his or her height and perform a basic health check. The social worker would look at housing, finances and an overview of the family's situation and then compile a report for the waiting psychiatrist. The psychiatrist would interview the child and parents and write an amalgamated report for the Court. Only psychiatrists and psychologists undertook follow-up treatment. The boundaries were regimented.

From the early 1980s to 1991, there was a questioning of whether the medical model and psychiatric team approach by the Clinic was applicable to the times. As a result of considerable debate, comments in the White Paper of the Carney Committee and a review of the Court Clinic in 1989, the Children's Court Clinic underwent significant change.

Change was implemented from 1 February 1992 and for the first time a psychologist was appointed as Director, who orchestrated the reforms. A small core of clinical and forensic psychologists became full-time staff, and multiple numbers of experts—in the main psychologists, but also psychiatrists—were employed sessionally according to the needs of the case. An individual practitioner model was established, with the Director matching the presenting problems to the expertise of the clinician engaged, but overseeing each report before its submission to the Court.

Significant controversy surrounded the departmental relocation of the Court Clinic in March 1993. The change was ostensibly occasioned by the amalgamation of health and community service departments by the incoming Kennett Liberal Government late in 1992. However, the Court Clinic, within this new mega-department, was in a short time strategically moved by Dr John Paterson, the department's chief public servant, to be directly under the Protective Services Division of this newly formed Department of Health and Community Services. The Children's Court Clinic was then effectively working for, and being paid by, the very people who were prosecuting protection matters in the Children's Court.

The conflict of interest, which would impact on the perception of the Clinic's independence of advice to the Court, was readily evident to the legal fraternity in Victoria. Thus, individuals and legal bodies appealed to the government and gave comment to the media repeatedly, until Premier Kennett, on remarking: "This matter will not go away", signed the Children's Court Clinic over to the Justice Department of Victoria, to begin 1 July 1994. Thus, the Clinic came to be placed under the Justice Department to continue to do assessments only by Children's Court or County Court of Appeal order. In addition, because the Clinic works exclusively for the magistrates and judges, and not for any party in the Court, the effect has been that it is seen to be independent in its advice and is accepted by the Court as an honest broker.

In recent times, added to the criminal and protection matters referred for assessment from the Children's Courts are matters under the *Crimes (Family Violence) Act 1987*. Also, magistrates in the (adult) Magistrate's Court on occasion refer child witnesses to the Clinic to establish their capacity for, and the clinical appropriateness of, their giving evidence in adult criminal cases. Further, in 2001 a drug program orchestrated by Dr Carmelo Scuderi commenced within the Clinic. Thus magistrates and judges could begin to refer drug-affected young offenders for specialist drug assessment and/or treatment. This program has been further extended to provide advice concerning the status and treatment of parents in protection matters who have drug problems and, if the protection matters are adjourned for the purpose, short-term drug treatment can be given.

In requests made of the Clinic, the Courts may ask discrete questions in their referrals or merely ask for a 'Clinic' appraisal, unspecified. The assessment undertaken, whether for the Criminal or Protective Division of the Court, is comprehensive to Court needs and takes into account research and clinical practice knowledge. Since the child's wellbeing is always the central focus, a nurturing of family life for the good of the child, where this is at all clinically reasonable, is also underscored in the Court Clinic's work.

In overview, the Children's Court Clinic in 2006 services all the Children's Courts across the State of Victoria, and in the financial year 2004–2005 undertook 925 assessments of young children and their families, 75 per cent being protection matters. The capacity for treatment has been retained, but exclusively short-term treatment, and for those cases where such input could potentially make a difference to what might be recommended at the end of a three-month interim order in protection matters or a four-month order in criminal matters. Those needing further treatment are generally referred on, with care.

To ensure that the clinical and forensic wisdom accumulated at the Clinic is available to students, the Clinic is also a teaching facility for psychology students in doctoral clinical and forensic courses. The Director also gives teaching input at four Victorian universities. Further, the Clinic facilitates research.

While for decades the Children's Court Clinic of Victoria was the only such clinic in Australia, there is now another, in New South Wales. In 1997, the Australian Law Reform Commission and Equal Opportunity Commission recommended in their Report No. 84 (*Seen and heard: Priority for children in the legal process*) that the Children's Court Clinic of Victoria be the prototype for other such clinics to be established in each state and territory. The Justice departments in the Australian Capital Territory, Western Australia and the Northern Territory have since expressed interest. The New South Wales Justice Department went further and applied to study the functioning of the Children's Court Clinic of Victoria in 2000 and, in 2001, began the New South Wales Children's Court Clinic. Although modelled on the Victorian clinic, the New South Wales clinic only deals with child protection matters. Dr Gwenda Schreiber, clinical psychologist, is its Director. A collaborative relationship has since grown between Australia's two children's court clinics.

At the time of writing there are only four known comprehensive children's court clinics in the world (the Douglas Inch Clinic in Glasgow, the Manhattan Children's Court Clinic in New York, the Children's Court Clinic in Melbourne and that in Sydney). It is understood that in the mid-west of the US clinics exclusively for young offenders are beginning to open. However, the Children's Court Clinic of Victoria is thought to be the oldest of the world's children's court clinics.

Further information

- Victorian Children's Court Clinic, www.childrenscourt.vic.gov.au
- New South Wales Children's Court Clinic, www.lawlink.nsw.gov.au/lawlink/ccc/ll_ccc.nsf/pages/ccc_index
- Douglas Inch Clinic in Glasgow, www.show.scot.nhs.uk/ggpct/Location/douglas.htm
- Manhattan Children's Court Clinic in New York, www.nycourts.gov/courts/nyc/family/infobycounty.shtml

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