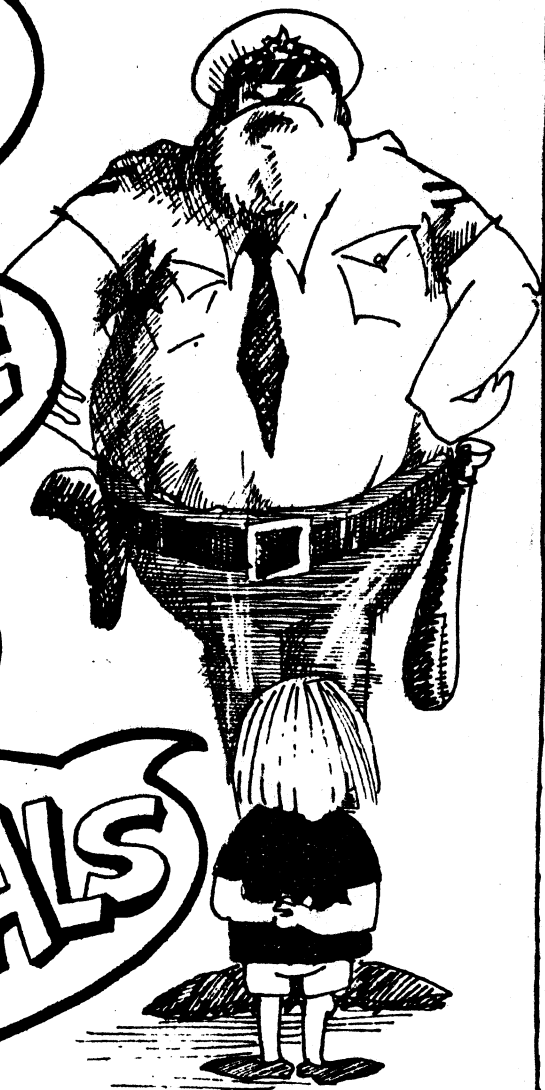


**KIDS**  
**POLICE**  
**AND**  
**VERBALS**



**"YOUNG PEOPLE WHO ARE BROUGHT TO POLICE STATIONS ARE APT TO BE FRIGHTENED AND CONFESS TO CRIMES WHICH THEY HAVE NOT COMMITTED BECAUSE THEY ARE DIFFIDENT ABOUT ASSERTING THEIR INNOCENCE"**

— REX JACKSON (Chairman of Youth and Community Services - Newbold 1977).

**LEGISLATION ALLOWS POLICE VERBALS**

Police do not have to take any provocative action to intimidate children. A child need not have committed an offence to feel guilty and scared when questioned by a police officer. Recognising the vulnerability of children in police custody, the Wran Government legislated in 1977 to protect a minor's right to remain silent.

"First couple of times I got picked up I didn't know I didn't have to say anything. Next time, when I knew, I tried to keep quiet but they pulled my hair and bashed me around a bit."

(17 year old boy.)

Section 81C of the Child Welfare Act stipulated that: "Statements made by juveniles at a police station were inadmissible in a Court unless a parent, a guardian or an adult, not being a police officer was present."

The obligation of notifying parents or guardians was placed upon the officer in charge of the station. The police faced legal penalties if they failed to notify an independent adult under Section 146A, but this was later repealed through pressure from the Police Association, whose member refused to accept the liability for protecting the rights of juveniles.

However, this regulation offers protection to children only when inside a police station. Whilst it attempts to ensure the presence of adult support for the child, often the upset and annoyed parents are uninformed as to the dangers of making a statement.

"So I said, yeah I dunnit because police said you got caught for one charge you might as well take the others too."

**HOW POLICE VERBAL CHILDREN**

There are numerous cases on record of threatened and actual physical violence by police on 'unco-operative' children. Police have been known to promise easier treatment for kids who agree to and sign fabricated confessions, which almost guarantee convictions in the police's favour.

The obvious loophole in Section 81C is easily and frequently exploited by police. Kids can of course be questioned anywhere *but* the police station without receiving the protection available under the Act. Police can "verbal" a child by such practices as:

- manufacturing an unsigned record of interview
- claiming the accused made an oral admission implicating him/her in a crime
- police 'records' of interviews with witnesses
- the 'note book trick': a confession entered by a detective in his police notebook which did not take place.
- alleged incriminating confessions made by other children involved.

"Sometimes they bribe you - they say just write a statement and it'll go good in court."

(16 year old girl.)

The Australian Law Commission, High Court Judges, the Lucas Report (Queensland), the Mitchell Report (South Aust.) and the Beach Report (Victoria) have established that some police officers verbal persistently and as a consequence, innocent people are jailed.

During 1978-79, 15,836 young people had criminal offences proven against them. A staggering 90.5% of those convictions were on the basis of statements allegedly made to police, with no other real evidence of guilt.



## A CASE HISTORY

A young worker accompanied a boy to the police station for charging after committing a crime.

The police asked the boy if he would like to make a statement and the boy said no.

The police then began to ask questions, one policeman asked questions and another began to type.

The boy answered some questions, but mostly refused to say anything.

Twenty minutes later, the policeman finished his typing and handed it to the worker and asked him to sign it.

The worker said that he wasn't charged and wouldn't sign anything.

The worker grabbed the typewritten sheet from the policeman and read some of it before the policeman took it back. It was a statement.



## GUILTY AS FRAMED

In 70.5% of cases solicitors pleaded guilty for the child; nearly twice the number of guilty pleas entered in adult courts. Only 4.7% of children charged pleaded not guilty, which is symptomatic of young people feeling defeated by the ordeal of being questioned, perhaps a night in the cells or a weekend endured at a remand centre.

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"If there's been a shop broken into they hassle you, trying to get you to say you done it".  
(13 year old boy.)

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Then follows the harsh reality of children's Courts. On the rare occasion of a case being contested, it comes down to the police story with no other evidence than a 'verbal', versus the accused's version. Children always find the actual court procedure and jargon too fast and difficult to understand, as of course do many adults. Although in 75% of cases a young person received legal representation (1978-79) it would seem a solicitor's presence in Court merely gave the impression that justice was being done.

It is a valued principle of our justice system that a person is innocent until *proven* guilty. If a young person is so eager to plead guilty there is no obstacle to their doing so - in their own time with their own lawyer. Not the police.

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"I was just young and they got me to write the statement, they told me what to write".  
(15 year old boy.)

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It is perhaps typical that:

- Solicitors believe once a 'confession' is cited, there is little they can do except mitigate penalty?
- Solicitors rarely question whether the "alleged" 'confession' is factual or admissible?
- Solicitors think the best interests of the child are served by not challenging the authorities or wasting the Court's time?
- Solicitors don't promote the interests and view of the child; rather those of his/her parents or a welfare workers;
- Automatically appointed duty solicitors do little for their \$180 per day?

The Children's Court is closed to the public, so few people are aware of its cruel and unjust practices.

The gruesome fact is that 15% of kids charged in 1978-79 were condemned to institutions, 5.2% of them being made wards of the State and institutionalised until they turn 18.

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"Sometimes they get heavy - bang, mainly they scare you, get you to write a statement."

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## CRIMINAL INJUSTICE FOR CHILDREN

Children who are picked up by police are often guilty of no more than being on the streets, poor and deprived, or black. Any working class kid who crosses the path of police can go through a welfare or criminal process. The crucial factors really, are the child's reactions to the police and parent's attitude to the child.

The result of this experience is a confused, distrustful child, traumatised by unresolved feelings. The child carries a stigma and has less chance of being employed or accepted in society later on.

**WHAT IS BEING DONE ABOUT  
POLICE VERBALS? – Nothing**

At present the Child Welfare Act is being amended. Section 115 replaces 81C but the only difference is to give a child the benefit of a barrister's presence whilst being questioned at a police station. It is perfectly clear very few children will be able to utilise such a concession.

There remains a serious gap between the stated object of the Act and the effect of the new Section 115, which still allows police verbals and involuntary confessions by children to continue. Suggesting redrafting the Section is at best a patchwork job. We would propose that the best way of dealing with the problem raised by S 81C would be a section like section 20 of the Scottish Criminal Procedure Act, 1975.

By S 20 all persons – not only children – cannot be questioned after arrest. A person may elect to make a statement but it must be in front of a magistrate and then only after having an opportunity to see a solicitor in private as per S 19 of that Act. As has been said if a young person wishes to make admissions let it be done in a non-coercive situation.

The protection given to all people in Scotland should in the very least be available to the young people of New South Wales.

**KIDS LEGAL ACTION GROUP – DEMAND**

1. Heresy evidence by police be excluded from courts, as is all other heresy evidence.
2. Statements by children can only be given in court after private consultation with an independent legal advisor.

**STOP POLICE VERBALS**

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CASE HISTORIES

(September 1980)

## 1. REGINA v. Darrel Joseph BURKE.

On 9th of August 1977, I was arrested at Abbotsford at approximately 9 o'clock in the morning. I left my mother's house at 9 o'clock that morning and I drove down the street and went around a couple of corners, which would have been a couple of hundred yards away from my place, and I was confronted at a road block by police officers at which time, a gun was placed at my head and I was assaulted and dragged away from the car.

I had a little four-year-old boy with me at the time and the area was virtually littered with police officers wielding and pointing guns in my direction, having little regard for the safety of my boy.

A lot of armed police officers emerged from hiding in nearby home units and other surrounding houses in the immediate vicinity. The boy was completely hysterical and I'm sure you would understand, that the impact of the impression that this little boy would have experienced upon being confronted in a manner that can only be described as being SICK, will forever psychologically affect the future and well being of this child.

After I had been dragged from the car, I asked the police if they would take the boy up to my mother's place, because the kid did not have any idea of where he was, and he had never previously visited my place before.

I also wanted to ask my mother to contact my solicitor. I naturally wanted a solicitor present, because I had had dealings with the police some years ago, relating to some charges for which I had been on parole at the time. I knew at the time of my arrest (which I have indicated was not "the-every-day-sort-of-arrest" that the average person might encounter, but rather a 'Starsky and Hutch' styled arrest) that it obviously pointed to matters of serious consequences, and that the need of my solicitor being present during interrogations by the police was an important factor that required urgent attention.

The police refused to comply with my efforts to have the boy taken to my mother's place, and so, I endeavoured to reason further with the