
The Reporter

The John Howard Society of Alberta

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Youth Criminal Justice Act

On March 11, 1999, one year after the Youth Justice Strategy was released Justice Minister Anne McLennan introduced the act which will be replacing the Young Offenders Act. As part of the government's strategy to reduce youth crime, the Youth Criminal Justice Act is intended to provide unique and productive changes to the current youth justice system.

One of the first things that becomes apparent when reading the Youth

Criminal Justice Act is the addition of the word 'Justice' to the Act's name. The word alone elicits thoughts of fairness, good reason, legitimacy and equity to a youth system under much criticism. The provisions of the Act are indicative of changing public opinion and centre around three areas of action; ensuring **prevention and meaningful alternatives** through community efforts; providing **meaningful consequences** by enhancing the degree to which victims are involved, thereby encouraging accountability, and; delivering treatment programs that **rehabilitate and reintegrate**.

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These concepts are introduced in the Act's Declaration of Principle and continue through the Act. Clear and specific objectives that are consistent with the Declaration of Principle, guide police, prosecutors and judges involved in the youth justice process.

Established to address society's concerns over violent youth crime, the new Act is designed to distinguish between non-violent and violent/repeat offenders and to ensure that appropriate measures are present to deal with both. Unlike the Young Offenders Act (YOA), the Youth Criminal Justice Act (YCJA) outlines broader alternatives available to the police, courts, community and victims.

Police and Extrajudicial Measures

In the YCJA, extrajudicial measures are defined as measures taken "other than judicial proceedings." The Act details in great length the extrajudicial measures available to police and prosecutors. Endorsed by the Canadian Association of Chiefs of Police, the YCJA provides police greater opportunities for dealing with youths in conflict with the law. Under the new Act, police are encouraged to consider all possible options to avoid the formal youth justice court. Legislating and legitimizing police discretionary powers is intended to reduce the burden put on an already overloaded youth justice system. The YCJA authorizes police to use warnings,

cautions and referrals to community programs with the exception of the Alternative Measures Program. Provisions set out in the YCJA permitting prosecutors to utilize extrajudicial measures include cautioning young persons which diverts them from court proceedings. The YOA does not legitimize and recognize police and prosecutorial diversion outside the use of alternative measures.

Courts

The youth justice courts are given broader sentencing options under the YCJA. The Act has been revised to encourage the use of non-custodial sentences, and where deemed appropriate, the use of an intensive supervision order. A set of criteria has been detailed in the new Act to ensure that all non-custody options have been considered before applying a custodial sentence. No such provisions exist under the YOA. Furthermore, there are new provisions that require that a portion of all terms of custody be served under supervision in the community.

Lengthy transfer hearings, presumptive offences and the age at which a young offender can be sentenced as an adult have all been changed under the new Act. The YCJA has disposed of transfer hearings and given youth justice courts the authority to impose adult sentences (under strict conditions). In addition, the list of presumptive offences which includes murder, manslaughter and aggravated sexual assault is extended in the revised Act to include repeat violent offences deemed serious by the judge. The age at which a young person can be given an adult sentence is lowered from 16 to 14 in the revised youth justice act. Intensive rehabilitative custody and supervision orders have also been introduced in the new Act. Designed for youths who have been convicted of presumptive offences, like murder, intensive rehabilitative custody and supervision orders instructs that young persons be committed to a continuous period of intense rehabilitation.

Perhaps the most obvious difference between the YOA and the YCJA is with regard to the publication of young person's identities. Under the YOA, young persons' names are prohibited from being released, but the YCJA does permit the disclosure of a young person's identity. A young person's name is permitted to be published if: i) the youth received an adult sentence, ii) a youth sentence was imposed for a presumptive offence iii) a youth is unlawfully at large and deemed dangerous.

Youth Criminal Justice Act Sentencing Options

Non-Custodial

Reprimand
 Absolute or conditional discharge
 Fine
 Compensation order
 Restitution order
 Community Service
 Probation
 Intensive support and supervision order
 Order attendance in an approved program at a recognized facility

Custodial

Custody and supervision order
 Deferred custody and supervision order Intensive rehabilitative custody and supervision order

Victims and Community

Recognizing the role of victims and the community in addressing youth crime is unique only to the YCJA. In the Declaration of Principle outlined in the YOA, the rights of victims are not mentioned; however, the YCJA states clearly that young persons are encouraged to repair "harm done to victims and the community" and treat victims with "courtesy, compassion and respect." Furthermore, under the YCJA victims are permitted to obtain information on extrajudicial measures and access youth records. Obtaining such information under the YOA is not so immediate. The YCJA also incorporates the use of advisory groups or conferences, whose purpose is to advise the police, prosecution and judiciary on appropriate sentences and conditions for release.

Community agencies, parents, victims, professionals and the young person all have the right to participate on advisory groups under the new youth justice act.

The John Howard Society and the Youth Criminal Justice Act

A more restorative model of justice appears to be at work in the new youth justice act. The inclusion of ideas such as rehabilitation, reintegration, community involvement, victim rights, and offender accountability, do not echo the traditional law and order sentiments. Establishing intensive supervision orders and advisory groups are innovative approaches to youth justice. The Act also includes clear checks and balances regarding when tough measures can be used such as requiring that conditions be met prior to imposing harsh measures, and that reasons be given why other options were not appropriate. While there is a great deal the John Howard Society can support in the new Act, the Society did not believe a new Act was needed. It is important to note, as with any Act in its early stages, the effects of its implementation on the youth justice system are uncertain. Good legislation can lose its lustre implementation.

For this Act to have an impact there has to be a commitment on the part of the province to the Act's purposes and principles.

The publication of young persons' names cause some concern. Disclosure of names is contradictory to the Act's Declaration of Principle which claims to put "greater emphasis on rehabilitation and reintegration." Releasing young offenders names encourages unfair treatment, defeating opportunities for amends with victims and the community. Ultimately, the publication of a young person's name or picture serves no purpose for society or the young person. For the young person, disclosure could impact his/her employment status, and frustrate the youth. Humiliating a young person does not address the reason

behind his/her offending. For society, the public receives little protection. If one does not know the young offender on a personal level, the publication of his/her identity will have little impact. The names of adult offenders are broadcasted regularly; how many of us commit those names to memory? There is also worry with the changes concerning youths receiving adult sentences and their appropriateness.

For this Act to have an impact there has to be a commitment on the part of the province to the Act's purposes and principles. There has to be a commitment to ensure that the overall intent of the Act is not lost in implementation. ◀

What's New at John Howard Society Red Deer Office?

The Red Deer John Howard Society offers many interesting programs to members of the various communities located in Alberta. Currently we are able to boast the following:

Criminal Justice Education

Start Taking Action and Responsibility is a program aimed at educating children in grades 2/3 and 5/6 about the Young Offenders Act, decision-making models, as well as responsibilities that they may hold within their communities. Currently, Mark Mercer is operating this program, and is responding to increasing demand for the program from Red Deer and surrounding area schools. He is also assisting in the development of an educational program for grades 7/8 and on June 11th he will be running a seminar pertaining to the new Youth Criminal Justice Act to all interested.

Youth Residential Centre (Y.R.C.) 'Green Bike Program'

The Y.R.C. is a ten bed open custody group home for male offenders between the ages 12 and 17 who do not present a security concern for the community. For the past three years the young men at the centre have operated the 'Green Bike' repair program.

Community members donate old bikes to the centre and the teens repair the bikes and paint them green. Once the repairs and the painting are done, the bikes are placed at various locations across the city, including city hall and the library. The bikes are there for the use of anyone who needs them. Last year more than 50 bikes were in use in the City of Red Deer. Other forms of community service work includes working for various agencies and businesses throughout Central Alberta, including Kerry Wood Nature Centre, Joffre Bridge Daysite, S.P.C.A., the City of Red Deer and numerous others over the summer.

Victim/Offender Reconciliation Program (V.O.R.P.)

V.O.R.P. is a program offering mediation between a first-time offender and his/her victim(s) aimed at achieving an acceptable outcome for all concerned. This particular program has recently improved in business, gaining six new cases within the past few months. On May 1 - 4 at the Red Deer R.C.M.P station there was a community group conference workshop, based on a program developed by the John Howard Society in Saskatchewan. The purpose of this workshop is to train volunteers on matters that relate to community based conferencing. Trained volunteers can then assist community agencies and R.C.M.P. in dealing with situations that require mediation knowledge and skills.

Volunteers

The Red Deer office maintains a volunteer base that shifts and changes throughout the months. This base consists of volunteers to assist with Bingo's, V.O.R.P., as well as other endeavours.

Notice: Please Be Advised
***The Annual General Meeting of the
John Howard Society of Alberta will
be held on***

***Saturday, May 29, 1999
Time: 6:00 p.m.***

***In the Centennial Ballroom,
Sandman Hotel Downtown***

***888 - 7th Avenue S.W.
Calgary, Alberta***

The John Howard Society of Alberta "Reporter" is distributed free of charge to a wide audience of citizens, educators, agencies and justice system staff. Our goal is to provide information and commentary on timely criminal justice issues. We welcome and encourage your feedback on the "Reporter."

The John Howard Society of Alberta is an agency composed of citizens in Alberta who are interested in criminal justice reform and preventing crime in our communities. We recognize that crime and its control is as much the responsibility of the community as it is of government.

We gratefully accept donations to help offset the costs of our efforts in criminal justice reform and crime prevention. Donations are income tax deductible. To provide feedback, obtain information or make a donation, please contact us at:

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