DEPARTMENT OF THE SOLICITOR GENERAL

CANADA

MINISTÈRE DU SOLLICITEUR GÉNÉRAL

JOINT Federal-provincial Working-Group on YOUNG PERSONS in CONFLICT WITH THE LAW

PROVINCIAL PAPERS

PRESENTED at the CONFERENCE
11-15 March 1974
in
OTTAWA

Volume I: Western Provinces

(B.C., Alta, Sask. Man.)

— * —

7530-21-029-2500

DEPARTMENT OF THE SOLICITOR GENERAL

MINISTÈRE DU SOLLICITEUR GÉNÉRAL

Canada.

JOINT Federal-provincial Working-Group on YOUNG PERSONS in CONFLICT WITH THE LAW

PROVINCIAL PAPERS:

PRESENTED at the CONFERENCE
11-15 March 1974
in
OTTAWA

Volume I: Western Provinces

(B.C., Alta, Sask. Man.)

— * —

CONTENTS

FEDERAL - PROVINCIAL JOINT REVIEW GROUP ON
Y O U N G P E R S O N S in CONFLICT WITH THE LAW

Conference March 11-15,1974
O T T A W A
* *

LIST OF PARTICIPANTS

British Columbia: Mr Denis Kent, Probation Service
Mr John Noble, Dpt of Human Resources (Soc.Services)
Mr Robert Cronin, " " " (Residential Care)

Yukon: Mr. V.L.Ogison, Director of Corrections

N-W Territories: Mr Robert Creasy, Dept of Soc-Services (Programs)

Alberta: Mr Denis Bell, Dept of Health-&-Soc-Development
Mr G. (Vern) McPherson, Dpt of the Solicitor General

Saskatchewan: Mr Chris Po sloski, Dpt of Social Services

Manitoba: Mr Lloyd E.Dewalt, Director of Probation Services
Mr Charles Greene, Director of Child Welfare

Ontario: Mr Don G. Morrison, Director of Legal Services,Dpt of Corr.
Mr Paul Siemens, Child Welfare Supervisor,Dpt of Soc-Serv.

Quebec: Mr Paul Périard, Dir.of Pllaning,Dpt of Soc-Affairs
Mlle Jeanne Houde, Directorate of Pllanning " "
Mr Gilles Juteau, Juvenile Court, Dpt of Justice
Mr Donald Bouffard,Directorate of Planning,Dpt of Soc-Affrs

Nova Scotia: Mr James L.Crane, Director of Probation, Dpt of A/G
Mr Dan H.Johnson, Dpt of Soc-Services (Child Welfare)

New Brunswick: Mr William Connor,Director of Corrections,D pt of Justice
Mr Charles Deschênes, Dpt of Justice
Mr Robert King, Asst Deputy Minister, Dpt of Justice

Prince Edward Island: Mr Phil Arbing,Director of Probation

Newfoundland: Mr Frank Sims, Director of Child Welfare & Corrections
Judge C.L.Roberts, Juvenile & Family Court, Dpt of Justice

Federal Representatives:

Mr A.Wakabayashi, Asst Deputy S.G. -- CHAIRMAN
Mr Dan.Préfontaine, Policy,Planning & Evaluation
Mr Jim Siberry, " " " "

Mr Al Ross, H-&-Welfare (Consultant C.A.P.)
Mr Joel Moss " (Project Officer C.A.P.)

Federal Representatives (cont.)

A d v i s e r s:

Mr Brian Iverson, Asst D/M (Social Services), H-&-Welfare Canada
Mr B.C.Hofley, Asst Deputy S .G.(Research & Statistics)
Mr T.D.MacDonald, Q.C.,Legal Counsel,C-ttee on Legislation
Mrs D .Zarski, Director of Welfare Services, H-&-Welfare CDanada
Mr D.McComb, Chief,Consultation Centre, Dpt of Sol.Gen.
Miss Mona Nelson, Consultant, H-&-Welfare Canada

Mr John Townesend, Division of Statistics, Dpt of Sol.G en.

Ms Carolyn Fuller, " " " " " " "

Ms Jane Angus, Statistics Canada

Mr Brian Anthony, Consultation Centre,Dpt of Sol.Gen.

Mr Giorgio Gaudet, Privy Council Office

Mr J.G.Regimbald, Financial Advisor, Dpt of Sol.Gen.

Mr George C.Koz, Research Branch, Dpt of Sol.Gen.

Mr E.P.Millstone, Consultant, Health-&-Welfare Canada

Ms Francine Bertrand, Statistics Canada.

Presentation by B.C.

FEDERAL-PROVINCIAL CONFERENCE

YOUNG PERSONS IN CONFLICT WITH THE LAW

POSITION PAPER (1)

1. There is only one stream of children.
2. It is the responsibility of the Government Departments, professionals and non-professionals, to work together to meet the needs of children.
3. The purpose of legislation is to assign responsibility for intervention in the lives of children and to regulate the intervention of those assigned such responsibility.

Federal and Provincial legislation and funding practices should be such as to encourage integration of services to children rather than to promote fragmentation. It is almost impossible to define in law such things as psychological differences and varying degrees of responsibility in children. Their needs vary from one to another, and from time to time, across a wide spectrum and it is necessary to allow for the use of judgement in individual cases. In response to such need a spectrum of programmes and services is necessary. For these to be effective it is also necessary to identify children according to their individual needs rather than by a system of counter-productive labels. A child is entitled to service, regardless of how identified as being in need, and regardless of class, creed , color and age.

Under Child Welfare legislation action is taken according to the needs of the child and the behaviour of the parent. Under the Juvenile Delinquent's Act, on the other hand, action is instigated by the behaviour of the child.

Intervention should be the responsibility of the parent or guardian until the child's fourteenth birthday. Appropriate services should be made available to the parents of the children who break the law and their cooperation invoked wherever possible. Where this is not possible, the authority of the Court can be sought for intervention under the Provincial Child Welfare legislation. For those aged 14 and up to the 18th birthday, and who commit offences, Federal legislation is required. This could be entitled the "Young Persons Act."

The present system of transfer from Juvenile to Adult Court allows for too wide a variation in practice across Canada. It reflects the inadequacy of programmes at the juvenile level rather than the needs of young offenders, and allows for the transfer of responsibility, thus inhibiting the development of the appropriate range of programmes for juveniles. If the basic ages are established as above, the responsibilities of the agents of intervention can be clearly assigned in law and there should be no need for judicial transfer of responsibility.

John Noble
EXECUTIVE DIRECTOR
Department of Human Resources

B. C. : Position paper (2)

A PROPOSAL AS TO THE ROLE AND RESPONSIBILITIES OF THE B. C. CORRECTIONS BRANCH IN WORKING WITH YOUTH IN CONFLICT WITH THE LAW

Prepared for discussion by:

A. K. B. Sheridan,
Executive Director,
Community Corrections.

March 9th, 1974.

THE ROLE OF CORRECTIONS IN WORKING WITH YOUTH IN CONFLICT WITH THE LAW

1. Corrections has a unique function in helping society to deal with the youth who comes in conflict with the law. It intervenes in the life of the youth and his family in response to an act that, if the youth were an adult, would come under the jurisdiction of the criminal court. It is a service that compliments other services such as education, social services, health and recreation, to assist both the youth and society attain a better quality of life.

2. The goal of intervention by corrections is to restore the relationship between the youth and those he has offended by his behaviour. Corrections must work with both the youth and with or on behalf of those who have been offended, to ensure that there is reasonable response to the rights and interests of all concerned.

3. As a youth grows to maturity through interaction with his family, his school and his neighbourhood, corrections must respond to the youth's offence within that context.

4. Intervention by corrections can either be voluntary or with the authority of the court. Where the youth and his family accept the circumstances of the offence and seek assistance to resolve their conflict with the law, corrections may intervene without the authority of the court, provided the rights of society are not abused.

5. The youth court has three main responsibilities in dealing with the youth in conflict with the law.

   (a) Adjudicating when there is disagreement concerning the circumstances of the offence.

   (b) Ensuring that the legal rights of all those involved in, or affected by, the offence are protected.

   (c) Determining the disposition that is most likely to restore the relationship between the youth and those he has offended.

No service agency should have the authority to infringe upon the rights of a youth, his family or the community without the sanction of the court.

6. Corrections has two main functions in relation to the court process and in assisting in the administration of justice for youth.

   (a) To assist in interpreting the court process to the youth and his family, so that the intentions of the court are understood and the youth realizes the consequences of his offence.

   (b) To investigate the behavioural patterns and their determinants that led to the offence and recommend an appropriate disposition to the court.

7. In arriving at a disposition, it is the responsibility of the court to assist the youth to obtain the services he needs to live in harmony with his family, his school, his neighbourhood, and society whether or not his behaviour, needs to be contained. The court does not impose treatment, but may recommend that the youth be assessed by a treatment agency to determine treatment needs.

8. It is the responsibility of corrections to see that the disposition of the court is implemented. In implementing the disposition, corrections primarily uses the resources of the community. If the community is unable or unwilling to supply the necessary resources, it is the responsibility of corrections to create programs to fill this gap.

9. Many youths who commit offences have a variety of educational, social, health, recreational or other needs that may or may not be related to the commission of the offence. It is important that there be a clear distinction between society's response to the offence and response to any other needs. A youth who received special services as a result of committing an offence, is liable to become confused as to the consequence of breaking the law.

10. In those cases where a youth needs additional services, it is the responsibility of corrections to make the appropriate referral. Corrections acts as a facilitator to enable the youth and his family to achieve the services that they need. If the community or the appropriate agency is reluctant to supply those services to the youth, it is the responsibility of corrections to act as an advocate, on behalf of the youth, to ensure that he is not denied services simply because he has committed an offence.

11. In those cases where it is clear that the youth needs services, but the youth or his family refuse to involve themselves in obtaining them, corrections should recommend to the appropriate agency that they investigate and if necessary, intervene on their own authority. For example, a youth should not be made a ward of the Superintendent of Child Welfare as a result of an offence. If a corrections

investigation suggests that the province should assume the parental role, it should so advise the Superintendent of Child Welfare who may, if he sees fit, intiate proceedings under the Protection of Children's Act to assume wardship of the youth. It is important that the two actions be kept distinct and separate to assist the family and the youth accept the reality of their lives.

THE RESPONSE OF CORRECTIONS TO THE YOUTH IN CONFLICT WITH THE LAW

When a youth commits an offence, corrections has three levels of intervention. Each case should be dealt with sequentially, with the second level of intervention employed only if the first level is inappropriate and the third level employed only if the second level is inappropriate.

1. Diversion

The first level of intervention resolves the youth's conflict with the law without a court hearing. The police, formally or informally, refer the matter to corrections for assessment. If the conditions for diversion are met (voluntary intervention, paragraph 4, page 1), corrections initiates the appropriate action. If these conditions are not met, the matter is referred to court. Diversion should apply to all youths under 14, with the exception of those whose offence is so serious or whose behaviour is so dangerous to the community that court intervention appears appropriate. Approval of the Attorney-General should be obtained before a charge can be laid against a youth under 14. Diversion is appropriate for a youth over 14 when there is no need for adjudication or disposition by the court, or the protection of the legal rights of any involved party.

In diverting a youth from a court hearing, the goal of corrections is to take whatever action is necessary to restore the relationship between the youth and those he has offended and assist the youth to live in harmony with his family, his school, his neighbourhood and society. This may take the form of counselling, referral, arbitration, or any other action to which the youth, his family and those offended voluntarily agree.

2. Community Supervision

The second level of intervention is used if the youth appears unable or unwilling to respond to voluntary intervention. The authority to intervene is sanctioned by the court, usually through an order of probation. Community supervision uses the authority vested in it by

the court implicitly, keeping a "low profile" and working with the youth in his usual environment by making use of community resources. In supervising a youth in the community, the goal of corrections remains the same as when diverting him from a court hearing and disposition.

3. Supervision Through Back-up Resources

This third level of intervention should only be used if the above two levels are inadequate or inappropriate. The court should satisfy itself that all other alternatives have been explored thoroughly before resorting to the level where the authority of the court is used explicitly. In the interests of the youth, his family or the community, the court may order that the youth attend a program that:-

(a) supervises that part of his life which cannot be reasonably contained in the community, or

(b) offers the alternative of imposing a restriction upon a youth's liberty when this is an appropriate disposition.

The goal of corrections at the third level is the same as at the first two levels. In all three levels of intervention, corrections must work as an integral part of a Community Service Team* if it is to attain its goal. Correctional programs, as with any other programs, lose their credibility if they are operated in isolation.

RESOURCES FOR CORRECTIONS IN WORKING WITH YOUTH IN CONFLICT WITH THE LAW

1. Probation Staff

The essence of correctional work is competent staff. Staff require a wide variety of skills, a variety of training and different levels of education; high school, college, graduate and post graduate, in order to restore the relationship between the youth and those he has offended.

2. Responsive Community Resources

To attain its goal, corrections needs the support of the community and access to the full range of resources available to all youth in the community. These resources include education, social services, health, recreation, income maintenance, employment, housing, etc.

* Including agencies such as education, social services, health, recreation, police, income maintenance, employment and housing.

3. Holding Centres

When a court appearance is necessary, a youth and his family should be advised by way of a notice to appear unless there is reason to believe that the youth might be a danger to himself or to the community, in which case it will be necessary to hold him. As this is a restriction upon the liberty of the youth, he should not be held for longer than 24 hours without appearing in court. He may then be held at the discretion of the court, but for a period not exceeding five days without reappearing in court. Under no circimstances should a youth be held in a holding centre for longer than twenty days.

The purpose of the holding centre is to protect the youth and society. Although it is not a treatment centre, the holding centre must help the youth cope with his court appearance. By holding the youth, it enables the court to determine an appropriate disposition and corrections to plan for the implementation of that disposition. Because many youths' behaviour is exceedingly unstable when a court appearance is necessary, varying degrees of security will be required. As a youth's need for security varies, the use of security within the holding centre must be flexible. Security in a holding centre should not be punitive but should reflect the needs of the youth in crisis, thus offering him the opportunity for the appropriate companionship or privacy.

As holding centres infringe upon the liberty of the youth, it is essential that rigid standards as to their operation be established and enforced by an agency other than the agency operating the holding centre.

4. Attendance Programs

When the court is satisfied that part or all of the youth's behaviour needs to be contained, corrections should ensure that attendance programs are developed to meet this need. Admission to an attendance program is only by order of the court. These programs can be subdivided into four main categories: Day programs, weekend programs, summer programs and residential programs.

Although the function of an attendance program is to contain a youth's behaviour, its goal is to re-integrate the youth into the community. As such the attendance centre must integrate itself into the community and involve itself with other community agencies.

Attendance programs require the same rigid standards and enforcement procedure as do holding centres.

PREVENTION

Because of its role, corrections acquires unique information concerning youth who come into conflict with the law. It is the responsibility of corrections to organize and collate this information and feed it back to the community. This gives the community the opportunity to take action to reduce the potential for offences to be committed. Corrections participates with other agencies or community groups to sponsor or organize community services for this end. It may also become involved in such activities as public education or school programs aimed at youth who are liable to come into conflict with the law.

Programs aimed at prevention of illegal behaviour are similar to those aimed at the prevention of unemployment, alcoholism and drug abuse, mental illness, poverty, etc. and as such are a community responsibility. Corrections, and other specialized services, have a contributory rather than an overall responsibility for prevention programs.

TRANSFER BETWEEN COURT JURISDICTIONS

The youth court should have absolute jurisdiction over all youth and there should be no opportunity for transfer. However, as the implementation of the disposition of the court may take a long time, and the youth may legally become an adult in the interim, it is proposed that the court have the option of: Community supervision; require the youth attend an attendance program designated for youth only; require that the youth attend an attendance program designated for youth and young adults, or commit the youth to a correctional centre designated for young adults. This latter alternative gives the court the opportunity to deal appropriately with the older youth who commit an extremely serious offence.

AGE OF YOUTH

Recommended age range for youth is from the 14th birthday until the 18th birthday. It is recommended that the age range be common across Canada. The lower age of 14 is selected as this is the age at which a significant number of youths commit offences. The upper age of 18 is recommended as this is the lowest common age of majority across the country. It is important that

there be a consistency between a youth's coming of age in all matters. He should not be held criminally responsible before he is entitled to the rights and responsibilities of adulthood in other aspects.

FORMULA FOR FEDERAL - PROVINCIAL COST SHARING

Though the intention of the Canada Assistance Plan is to develop services for youth, in practice it has tended to support one system of government service to youth. It is important that a formula be worked out which responds to the needs of youth in conflict with the law rather than the structure of government agencies. Youth are the responsibility of the community and therefore the community should have funds to develop programs under whatever auspices it deems appropriate.

It is recommended that cost sharing under the Canada Assistance Plan be extended to include any service directed at youth in conflict with the law, regardless of the sponsoring agency.

Alberta: Paper for Discussion (1)

PROVISION OF DUE PROCESS AND FAIRNESS

1. Should the same protection of rights and freedom that presently apply to adults also be applicable to young persons because of their difference in status?

The Canadian Bill of Rights provides in section 2 that

> "Every law of Canada shall, unless it is expressly declared by an act of the parliament of Canada that it shall operate notwithstanding the Canadian Bill of Rights, be so construed and applied as not to abrogate, abridge or infringe or to authorize the abrogation, abridgement or infringement of any of the rights or freedoms herein recognized and declared, and in particular, no law of Canada shall be construed or applied so as to
>
> (a) authorize or effect the arbitrary detention, imprisonment or exile of any person;
>
> (b) impose or authorize the imposition of cruel and unusual treatment or punishment;
>
> (c) deprive a person who has been arrested or detained
>
> (i) of the right to be informed promptly of the reason for his arrest or detention,
>
> (ii) of the right to retain and instruct counsel without delay, or
>
> (iii) of the remedy by way of habeas corpus for the determination or the validity of his detention and for his release if the detention is not lawful;"

There is no provision in The Juvenile Delinquents Act specifically excluding the application of the Canadian Bill of Rights and it therefore must follow that the Canadian Bill of Rights does apply to juvenile delinquents.

In addition to the Federal provision, the Alberta Bill of Rights provides in section 1 that there exists in Alberta

> "(a) the rights of the individual to liberties, security of the person and enjoyment of property and the right not to be deprived thereof except by due process of law."

Section 2 of the Alberta Bill of Rights provides that every law of Alberta shall be construed and applied so as not to abrogate that fundamental right unless the Act specifically provides that it operates notwithstanding the Alberta Bill of Rights. The Child Welfare Act of Alberta does not contain a provision that it will operate notwithstanding the Alberta Bill of Rights and it must follow therefore that the Alberta Bill of Rights applies.

Both the Canadian and the Provincial Act recognize the fundamental right of the individual to equality before the law and the protection of the law, and to suggest that this same protection of rights and freedoms that are presently available to adults should not apply to a juvenile because of the difference in their status would be contrary to the expression of that fundamental freedom.

The case of Edwards v. A.G. of Canada (1928) 4 D.L.R. 98, reversed in (1930) A.C. 124 interpreted the word "person" as including minors and based on that Privy Council decision, it would appear that both Bills of Right apply to minor children.

It must be recognized however, that the child does indeed have a special status before the law in the same way that a mental incompetent may have, in that the legal guardian of the child, or the Supreme Court in exercise of its Chancery jurisdiction, is charged legally with the protection of the child and that duty upon the guardian or the Supreme Court implies of necessity a certain authority over the child. That authority can be used to inhibit the freedom of children but only on the basic assumption that the authority is exercised to protect the child. That authority cannot be exercised to protect society from the acts of the child and therefore a child could not under the exercise of that authority, be detained or deprived of his liberty for the sole purpose

of protecting the public to the same extent that any court in the process of a criminal committment could. Thus, a child who is out of bounds may be confined to his room by his parent on the understanding that the confinement is for the child's own good and not to protect either the parents or the community.

If the child is confined for his own protection, he must in fact be protected or as interpreted by recent American case law and literature, he must be treated. If he is confined for his own protection and he is not in fact protected or treated, then sole reason for confining him is lost and the confinement becomes unlawful.

In addition to the duty to protect his ward, a legal guardian is under a duty to maintain and to educate his ward which again implies certain authority over the child for the purposes of exercising that duty. The duty to maintain a child implies the authority to retain custody; the duty to educate the child implies the authority to impose such education as may be necessary in the child's best interest.

However, it is suggested that beyond the principal duties imposed on any guardian with respect to his ward, the guardian's authority over the child is no greater than over any other individual in society. It is thus suggested that beyond these three criteria, in order to obtain a special authority over a child, the legal guardian must adhere to the requirements of the Bills of Rights in not depriving a child of any fundamental rights without due process of the law.

2. Should there be special protections or safeguards which would apply to young persons which are not applicable to adults?

Since a child does have a special status before the law, he requires the special protection of the law, and because the guardian has certain authority over the child, some procedure must be provided for the review

of the guardian's exercise of that authority; the child must be protected to ensure that he is not without a legal guardian in the event of the death or incapacity to act of his guardian, and to ensure that in the exercise of his authority, the guardian does not exceed the limits of that authority.

If the child is under the care of the legal guardian who properly exercises his authority over that child, there should be no need for the invocation of the special provision to review that authority. If the guardian fails to exercise his duties or exceeds the limits of his authority and a special review of that authority (i.e. neglect proceedings under The Child Welfare Act) determines that an excess of authority or failure to exercise his duties or exceeds the limits of his authority and a special review of that authority (i.e. neglect proceedings under The Child Welfare Act) determines that an excess of authority or failure to exercise the authority exists, the only legal consequence that will follow is that the existing legal guardian will be removed and a new guardian provided in his stead with the same responsibilities and authority over the child as the original guardian. Since the new guardian (i.e. the Director of Child Welfare) is charged with the protection of the child, he may for example, confine the child for the child's own protection but not for the protection of the public against the acts of the child. Indeed, neither the Director of Child Welfare nor any other legal guardian has any lawful authority or obligation to protect the public. It is suggested that only a court of law is charged with this responsibility and that if it is necessary to confine a child for the purposes of protecting the public against the acts of the child, the order of confinement must be that of the court.

3. Should children in general be dealt with as young persons needing help, guidance, encouragement, treatment and/or supervision as opposed to being violators of the law?

It is hoped that children in general are not to be treated as violators or offenders of the laws as suggested in discussion paper #5, albeit unintentionally, unless a court of law has found the child to have been guilty of violation of the law. It is suggested however, that once a finding of a violation of the law has been made by a court that an offender might be dealt with as a person in need of help, guidance, encouragement and treatment. It should be noted that the existing provisions of section 38 of The Juvenile Delinquents Act, which prescribes the philosophy of the Act, is applicable only to juvenile delinquents, which by definition means a child whom a court of law has judged to have committed a delinquency. The philosophy of the present Act in terms of providing aid, encouragement, help and assistance to children is not directed to children generally but only to those in a state of violation of the law. Up to the point that the court has made a finding of delinquency however, the parens patriae doctrine of the Juvenile Delinquents Act does not apply. Before the actual finding of delinquency, the child is, with one exception, treated as any accused adult and is entitled to the same protection of the law as any other accused would be. The present exception is Section 17(1) of the Act - while requiring proceedings under the Act to be consistent with proper administration of justice is contradicted to a great extent by Section 17(2) which allows irregular proceedings to stand if they were in the best interests of the child.

4. Should law enforcement practices be modified when police are dealing with young persons?

It would thus follow that law enforcement practices prior to the

adjudication of the offence under the present provisions of the Federal Act should not be modified when police are dealing with young persons. In my opinion, this would mean basically that the child charged with the offence of delinquency is entitled to the same protection at the hands of the police that an adult charged with a criminal offence would be. Do we in law permit for a form of questioning of alleged adult offenders that would be unacceptable to a child, or do we in law permit the police to take certain liberties with adults with respect to the obtaining of evidence, the procedure respecting arrest, the manner and length of detention, or the requirement to explain to the adult his rights, which would be unacceptable to persons concerned with the civil rights of children? It is suggested in fact that the converse is true and that in practice a child has fewer rights and protections in these areas than does an adult and that it would be far better that law enforcement practices be equated when police are dealing with young persons and when they are dealing with adults to insure equal protection to both categories. It is suggested that only in one area should the child be given greater rights than that of the adult, and that is with regard to his right to be advised of his right to counsel. It is suggested that a system of child advocacy might be developed whereby the child would in the very early stages of an investigation into his alleged delinquency be advised of his right to counsel and the implications following therefrom and that this explanation should be given to him by an objective unbiased third party, preferably by a representative of legal aid for the Province.

I am advised that in fact the police in many instances do fingerprint alleged juvenile delinquents, but that their records are not kept

and are not utilized in the juvenile court. It is suggested that this practice could be extended and the records utilized in court without affecting the legal rights of the child. Possibly the only reason why this practice has not been expanded, is a fear of psychological harm the taking of fingerprints has in the juvenile's mind. The Report of the Department of Justice on Juvenile Delinquency in Canada stated that "Good juvenile law enforcement requires good police work". Part of good police work must be the ability to detect and identify a delinquency and the delinquent, and I would therefore suggest that the police must have at its disposal the best available methods of detection and identification.

While it may be desirable to maintain records of juvenile offenders including both fingerprints and photographs, it is generally assumed that these records will be destroyed when the juvenile becomes an adult and will not be utilized in adult court. There is no statutory prohibition against the use of these records in adult courts. The basis for the practice in refusing use of juvenile court records in adult courts has been the philosophy of the Juvenile Act which requires that the juvenile not be treated as a criminal. If he is not regarded as a "criminal", his records in juvenile court are of no use in an adult court.

For the purposes of facilitating the police in conducting investigations of crimes and detecting and identifying the offender, it is suggested that records of juveniles, including their fingerprints and photographs should be available. Perhaps more importantly for the purpose of assisting the court in making dispositions of young adult offenders, access to juvenile records should also be permitted.

In practice, I am advised that these records are utilized and that this practice is in many cases unavoidable where, for example, a

probation officer in the same office as one in which the juvenile records are kept, makes mental note of the young person's previous "criminal" activities when preparing his recommendation to the court. On the assumption that a young person who continues his criminal activities after becoming an adult offender may require greater controls rather than fewer once in adult court, it is suggested that access to these records by the adult courts may be in the best interests of the accused.

5. What should be the nature of obligations imposed on the law enforcement agency to inform the parents of the proceedings in relation to their child?

Because the parent has a moral and legal obligation to protect his child, it is important that any agency, whether it be the police, the school or a social service agency, should take immediate steps to inform the parents of proceedings relating to their child. The right of the parent is not at the whim of the child. The present provisions of the Juvenile Delinquents Act only require that the parent be served with notice of the hearing of any charge. In fact, failure to notify the parents may be a contravention of the Canadian Bill of Rights which provides that no law of Canada shall be applied so as to deprive a person who has been arrested or detained

> "...(iii) of the remedy by way of habeas corpus for the determination of the validity of his detention..."

Since the parent of a child has by inference the right to initiate habeas corpus proceedings in Alberta (Domestic Relations Act, section 46), failure to inform him of his child's detention would deprive him of habeas corpus proceedings.

Unless the child has been charged, in which case it is mandatory

that he be confined in a detention home pending a hearing (section 13, Juvenile Delinquents Act), unless bail has been set, the parent is legally entitled to the custody of his child (section 52(2)(d) of the Domestic Relations Act, and the Common Law) and therefore should not be denied access until the court has made the child a ward of the Crown. It is suggested that until an order of the Crown has removed the child from the parent's control, the parent retains an effective rights of access.

6. Should standards be set up to determine under what circumstances a child should be placed in special detention or reception facilities?

Some doubt exists about the applicability of the Bail Reform Act to juveniles. If that Act did apply, standards would already exist to determine whether a child should be placed in special detention facilities.

The criteria for determining whether the child should be placed in detention or reception facilities should be legal ones in that only a child charged with the commission of an offence should be in detention. If the Bail Reform Act applies to juveniles, or if it were made to apply, or if similar criteria were specifically provided to determine what juveniles could be held in detention, it is suggested that very few children would ever be held in detention. Because many juveniles charged with offences not necessarily warranting confinement in detention, nevertheless still require protection because of the lack of an alternative place for the child to go, it may be necessary to keep many alleged juvenile offenders in a reception facility (assuming a reception facility to mean a child care or protection facility).

In any case in which a juvenile is placed in a reception facility, it would not only be assumed that since the placement is for the child's protection and not for society's protection, there would be no need to confine him by depriving him of his liberty. However, the Child Welfare Act of Alberta apparently deems any ward of the Crown to be in lawful custody (section 39) and provides that an escape from any type of institution makes a child subject to "arrest". Thus, in Alberta it does not matter from a legal position which type of institution a child is placed in because he is ultimately in a state of confinement in either the detention facility or a reception facility.

7. Should there be a formal screening process which is a part of the court fabric to ascertain the best way in which a child should be dealt with and by what method?

The type of screening process has been adopted within the Calgary juvenile process, whereby a solicitor with the Department of the Attorney General reviews with city social service representatives reports of alleged delinquencies to determine in which cases charges will be laid. There is an inherent danger in this system which has yet to be assessed in that while a solicitor may be in a position to evaluate which of the alleged delinquencies can be supported by sufficient evidence to warrant laying a charge, that factor may result in more apprehensions of children under neglect proceedings where it is feared that there is insufficient evidence to support delinquency charges.

A pre-charge screening process has to a large extent traditionally been exercised by the police. Statistics indicate that only 5 to 10% of all juveniles dealt with by the Edmonton City Police are formally prosecuted. The exercise of the discretion not to prosecute is based

the number of previous police contacts, both the child's and the parents' attitudes towards the commission of the offence, the nature of the offence, and any available social workers opinions.

The Report on Juvenile Delinquency recommended the adoption of certain principles in the exercise of discretion by the police to avoid arbitrariness which would not only have significantly thwarted the exercise of police discretion, but would have serious consequences for the child's civil rights. The police would be required to bring to the attention of the court every child whom the police suspected to have committed an offence - how this was to be done or for what purpose and with what consequences was not clarified.

The criteria on which a police officer was to decide whether to commence proceedings was not essentially different from the criteria followed by the police in practice now.

The Report suggested that all records of previous informal dispositions of the police should be brought to the court's attention. An adult's record of previous convictions is only admissible in court for limited purposes. Should a child's previous encounters with the police without any evidence of guilt or innocence of those offences be given more weight in court and be admissible for any different purpose than an adult's record of convictions?

It is suggested that the police exercise a considerable influence in the recidivism of delinquencies and that they are the appropriate body to continue to operate a screening process. The police, in operating this screening process have two choices, either of which must conform to due process and fairness: they either charge or they do not. There is no in-between way whereby the police might confine the

child to a child care institution on the premise that the child's alleged delinquency warrants some other form of interference.

It is suggested that this screening process should not be a part of the court fabric. To include the screening process within the court structure implies some jurisdiction over the child, not only prior to adjudication but prior to being charged. If the child requires court protection because of the state of neglect he is in, appropriate proceedings should be implemented under the Child Welfare Act and not under the guise of delinquency proceedings.

8. What are the parameters of the discretion that the screening facilities should have?

Since this question assumes a positive answer to question 7, it will not be necessary to answer it.

9. Should the normal court proceedings relating to adults be different than those for a child?

The proceedings should differ to the extent that proceedings in Juvenile Court should be conducted in a simplistic manner readily understandable to the child.

The court room setting and atmosphere should be impressive but not frightening, the judge's manner should be judicial not paternal, and the police and the prosecutor's roles should be traditional.

It is suggested that the axiom that "Justice must be seen to be done" is equally important in Juvenile Court. The child's right to understand the application of the law and justice as it applies to him has to a very large extent been overlooked in the past and it is suggested that as a result, juveniles frequently view the courts and the law with contempt.

If juveniles are legally represented, the need for public trials diminishes. If they continue not to be so represented, however, a very real need may exist for public scrutiny of what occurs behind closed doors. For example, it is alleged that judges make unfair pronouncements on juveniles whose charges have been withdrawn; it is suggested that the courts do not always adhere to the principle that the court has the duty to inform the juvenile his right to counsel.

It would however be preferable that the juvenile be legally represented than to allow public access to these proceedings in every case. It is suggested that the availability of legal representation provides some protection of the juvenile's rights, which traditionally have been provided through public hearings in adult proceedings.

The parents, the child himself, his counsel, and probation officer should all be given access to the hearing. Witnesses, like other members of the public, should be excluded except when presenting evidence. It is desirable that students be given access to the courts.

10. What should be the form of the proceedings?

I am not sufficiently familiar with an inquisitorial procedure to comment on this question.

11. Because parents have a right to be informed of their child's proceedings, formal notice must be given the parents. However, because the parents are not parties nor witnesses to these proceedings, their failure to attend should not be punishable by contempt unless for the purposes of concurrent neglect proceedings, it is alleged that the parents have neglected their child or unless their presence as witnesses is required.

There should be a special prosecutor in Juvenile Court with special training and experience in juvenile law.

Legal counsel should be available to the juvenile at the earliest stages of laying a charge. This practice will be initiated in Edmonton within a few weeks when a legal aid clerk will be commencing visits to the Youth Department of the City Police, the detention centre, and other

juvenile facilities for the purposes of taking applications from juveniles for Legal Aid. It is suggested that a very real need exists to provide legal training to law students in the area of juvenile law and it is desirable that lawyers practising within the juvenile court system should be specially trained and knowledgeable in the area.

The transfer of juveniles to adult courts should only rarely be necessary if appropriate facilities are available within the juvenile system. It should be utilized only after all attempts to treat or rehabilitate the juvenile have failed. It is suggested that if a secure facility were available for the "hard core" type of juvenile, waivers may never be necessary. To suggest that crimes of a serious nature would warrant a waiver of themselves is to contradict the very philosophy of the juvenile court. Should a deeply troubled fourteen year old, charged with murder be waived into adult court when a "hard core" car theft ring operator should not? To assume that serious crimes must be waived to adult court admits to serious shortcomings within the juvenile court: we can only treat juveniles as misguided children so long as they do not commit crimes of which only adults are capable.

The criteria for waiver should involve a critical examination of past efforts or lack of them to treat and rehabilitate the child, the success or failure of those efforts, the resources or lack of them remaining within the juvenile system which the juvenile may benefit from, the possibility of different resources and proceedings within the adult system which might better meet the needs of the juvenile, and the resources available in either system to protect the public.

12. The rules of evidence should be applied to juvenile proceedings to the

same extent that they are applied in the adult system. Witnesses should be sworn, should be subject to examination and cross-examination, and rules of court should be provided with a view to simplifying procedures.

Transcripts of proceedings should be kept and should be available to the child, his parents, his counsel, the prosecutors, the appeal courts and the social worker directly responsible for the child.

Statistics should be routinely kept of delinquency and related information and should be made available to students for research purposes.

13. Should the judgement or adjudication by the court be a finding of guilt or innocence or a finding of an offence of delinquency?

The answer to this question is dependent on whether a child is to be dealt with on the basis of the nature of the offence which he has committed or whether he will continue to be dealt with on the basis of the delinquent nature of the child which requires treatment because he has committed an offence.

If the emphasis is on the nature of the offence, the adjudication must be one of guilt or innocence.

If the emphasis is on the nature of the child, the judgement should be related to the "delinquent" state of the child and not the "guilty" state of the child.

If a child is in a state of delinquency, it is suggested that he should be dealt with not by the criminal courts but by neglect proceedings. If however, the child is going to be dealt with by the juvenile courts as a quasi criminal, the adjudication of the court should be restricted to a finding of guilty or innocence with regard to the particular offence with which the child is charged.

Considerations In Relation To Dispositions By the Court

The expertise demanded of a juvenile court judge is beyond human possibilities.

The judge is expected to be expert in the law and in the field of human behavioural sciences. While a certain level of compentency can be attained by many juvenile court judges in both areas, the expectations of both professional fields from the juvenile court judges requires an expertise beyond that which most are capable of.

Assuming that it is essential that a judge have a legal training and assuming that it is not possible to have adequate training in both professional fields, it is essential that the judge receive some outside form of assistance in prescribing a disposition regarding a juvenile.

Although the Admissions Committee in Alberta which makes decisions surrounding the disposition of juveniles committed to the Director of Child Welfare which traditionally were made by the court, are a highly trained and qualified group with experience in behavioural sciences, this group makes these decisions without any legal authority to do so, without any review of their decisions, without representation from the child or his solicitor, without any reporting of their decisions or the reasons therefor and on the basis of unknown criteria.

It is suggested that such a group would provide valuable assistance to the court in making any form of disposition on a juvenile but that this type of assistance is only appropriate if it is provided for in the legislation.

It is hoped that the Admissions Committee operating in Alberta would in determining which institution a child should be committed,

consider the nature of the offence, the background of the young person and his family, his community and the resources available to the child within it and the child's medical and psychological and emotional history.

While it is suggested that the ultimate authority to make disposition respecting the juvenile must rest with the court, that the recommendations of a committee composed of representatives of the Department of Health and Social Development, the Department of the Attorney General and the Department of the Solicitor General, if that Department is to be charged with corrections within the Province, it is suggested that several alternatives should remain open to the court in determining whether or not to invoke the advice of such a committee:

(1) The court should retain the authority to proceed to make a disposition on the child without calling for the advice of the committee. If the juvenile courts are to retain jurisdiction in traffic offences, it is unlikely that the committee's advice would be necessary in admonishing or fining a minor traffic offender.

(2) The court should have the option of requesting a report from the committee which report the court may either (a) accept, (b) accept with some modification, (c) reject, (d) request for further advice.

It is suggested that a maximum time limit should be prescribed within which period the report must be prepared for the court of seven days; the committee should have access to previous juvenile records of the child in addition to child welfare records of neglect proceedings relating to the child and should with the leave of the court be permitted to request for confidential, medical, psychological or psychiatric reports of the child.

The court should retain the right to review the report and the solicitor for the child and the prosecutor for the Crown should retain the right to

challenge the contents of the report and to present additional or alternative meterial and recommendations to the court.

Alberta: Discussion Paper (2)

Area of Concern - 4

Spectrum of Programs and Services

SPECTRUM OF PROGRAMS AND SERVICES

1. Impact of Law in Child Welfare Programs and Services

What is a juvenile delinquent? Juvenile delinquents have been and, to a lessening degree, are labelled as mentally defective, sexually abnormal, genetically lacking, psychopathic, immoral and so on. Some do fall under these categories and, because of specific defects or traits, warrant special consideration and handling. The majority, however, are reacting in different ways to life situations that may be deprived, may be experiencing developmental or broader environmental problems, and in short, are unable to satisfy their basic needs with subsequent positive results. To suggest that most delinquents are significantly different children who are not capable of acting normally is to contradict both the findings of an increasing number of researchers and the observations of experienced workers with delinquent children.

The question is often raised as to whether there are major differences between neglected and delinquent youth. Depending on one's orientation, it may be argued either way. A distinction is sometimes made that a neglected child is a victim of his parents, and, therefore, not responsible for his plight, while a delinquent child acts independently to do wrong and thus is individually responsible for his actions. This type of definition is grossly inaccurate and close analysis of neglected and delinquent youth indicates that it is often sheer chance that sees them identified in either category. In other words, the same child may get channelled through the neglect or delinquency route depending on what, how, and when the deviant behavior presents itself and who is doing the interpretation. (eg. A 14-year old youth is picked up on a drug raid smoking hash. The police may press charges whereby the child could become a delinquent, or opt to view the child as out-of-control of the parents which results in a neglect finding). It is also clear that the majority of chronically delinquent children, like neglected children, come from split, malfunctioning, troubled families, lack mature emotional support, consistancy, and discipline from parents, are failures at school, are poor in social skills, and possess the predictably low self image and inability to make productive and realistic plans for themselves.

The Department would argue, therefore, that most delinquent children are not dramatically different from other children who do not have their basic human needs met. Some youngsters are clearly neglected in the traditional sense, while some are confirmed delinquents with little apparent explanation. The bulk lie between these two minority extremes, however, exhibit similar behavior - coping problems, require individual diagnosis with a corresponding broad range of treatment resources, and cannot and should not be isolated for treatment purposes into two separate groups. This is not to say that delinquent children are in no way different. As a common trait they react to their life circumstance by breaking the law, thus causing injury to someone other than themselves. Specialized programs for the more severely delinquent child must be developed just as they are for the physically, emotionally, and mentally handicapped child. This has been done for delinquent children in Alberta where practical and useful, examples being specialized caseloads and treatment settings which deal strictly with delinquents.

In summary, the similarities between delinquents and other children with problems are much greater than the differences. To separate the administration and the vast spectrum of services and resources that are available to children in general from the delinquent child makes neither economic or social sense.

2. Range of Services

A. Number of Juvenile Offenders Bring Served

Since 1970 when the Department of Health and Social Development assumed Juvenile services, from the Attorney-General's Department, JDA temporary wards have represented between 6.57 - 6.97 of the total number of children in care. The actual numbers have ranged from 352 in July of 1971 to 414 in July 1973. The current number of delinquent wards as of December 1, 1973 is 401. This compares to 1,847 temporary wards Child Welfare Act, and 2,224 permanent wards Child Welfare Act. Over the past three years the numbers of permanent wards have dropped slightly while the volume of temporary (CWA) wards have increased with a significant upswing in the last year.

The number of delinquents who have been placed on probation has increased substantially since 1970. In July 1971 there were 851 probationers throughout the province. That number has raised constantly each month since, with the

figure standing at 1,622 as of December 1, 1973. This includes those cases supervised by the Cities of Calgary and Edmonton, which together carry two-thirds of the total juvenile probation in the province at any one time.

It is difficult to draw valid conclusions from the numbers of JDA wards and probations as listed above. Obviously the numbers of serious juvenile offenders have not increased, if reflected by the number of delinquents being committed to the Director of Child Welfare. A survey of those juvenile offenders waived to Adult Court between July 1972 and July 1973 indicated that 13 juveniles were so disposed of. Of the 13, two were girls over the age of 17 involved with heroin and, of the boys, all were between the ages of 15 years 7 months, and 16 years, and, except for 3, were serious offenders.

The increase in numbers of probationers may have many interpretations. More young persons may be coming before the Courts, or the courts may be making more frequent use of probation services. Regardless, probation is utilized much more extensively than two or three years ago and this would appear to be a positive trend.

It is interesting to note that Alberta population statistics - actual and projected - indicated that the 10 - 14 year old group grew from 157,658 in 1966 to 179,212 in 1971, and the 15 - 19 year olds from 128,99 to 157,169 during the same period. The projection for 1975 sees the 10 - 14 group decreasing to 172,590 and the 15 - 19 year olds increasing to 178,652 at which point they will decline.

B. Treatment Resources for Juvenile Offenders

1. Detention and Assessment Facilities

In 1970 when the Department assumed juvenile services there were only two Detention - Observation Centres, a 30 bed unit in Edmonton and a 28 bed facility in Calgary. Recognizing that these Centres were insufficient and too far removed from some areas of need, plans were made to establish smaller regional holding units throughout the province. A nineteen bed Holding and Assessment Centre was opened in Grande Prairie during early 1973 to meet the need of the Peace River country, and smaller 8 bed units are presently under construction in Lethbridge and Red Deer to meet the demands of Southern and Central Alberta. Planning will also commence to build a similar 8 bed group-holding home in North Eastern Alberta during 1974, either at Ft. McMurray or Lac La Biche.

A major 60 bed addition to the Calgary Detention - Observation Home was also completed in 1972 to better meet the needs of juveniles in and around Calgary.

In addition to the formal Detention Assessment facilities mentioned above, a major thrust was made in 1970 - 71 to establish smaller, one and two bed units in private homes throughout the province. These homes allow for a youngster to be kept under surveillance close to his own home and community, unless extremely agressive and requiring strict control. Special rates are given to the home for holding beds open 24 hours a day and, if a youngster is placed in the home, they receive anywhere from $5 - $10 per day compensation. At the present time there are 38 private reception homes located in all parts in the provin They represent 76 beds at any one time and a total of 27,740 bed days/year. During the past year 1,010 juveniles have used these homes for a total of 11,458 bed days. These small units in total, therefore, represent a diverse, effective, immediately accessible resource for the short term detention and assessment of juveniles.

2. Foster Homes

It is difficult to locate and maintain good foster homes with the committment and wherewithall to deal with delinquent adolescents. Nevertheless, 50 - 75 JDA wards at any one time are living in foster homes throughout Alberta. Two specialized foster home projects are now developing in Calgary and Edmonton in an increased effort to find and develop quality foster homes for the older and difficult child. It is expected, that with the proper kind of input, the Department will be able to further expand the effective use of foster care for delinquent youths.

3. Group Homes

Group home living is often more applicable to some delinquents that foster care and approximately 45 - 55 juveniles are so located throughout the province. Five group homes in Calgary and Edmonton are specifically for delinquent youth and another ten homes - both public and private - are used by the Department for a mixture of neglected and delinquent wards. The Departmental group home program is continually expanding because of the apparent effectiveness of this kind of care and plans are currently underway for new group homes in Ft. McMurray, St. Paul, Lac La Biche, and Red Deer, with some possibilities in other rural

regions. Much effort, time, and money will be spent on developing small group living facilities in the next year or so because of their potential as alternates to expensive institutional care - even though the group home itself may cost up to $20/day/child.

4. Treatment Institutions

Treatment settings which handle juvenile offenders are numerous and diverse in their programs. Some such as the Youth Development Centre, Edmonton, Spruce Cliff Home, Calgary, and Oakhill Boy's Ranch, Bon Accord, cater only to JDA wards. Others program for a variety of children based on their needs and JDA wards represent only a percentage of the children served.

SETTING	LOC.	CAPACITY	#JDA WARDS SERVED DEC/72-NOV/73	MIXED CHILDREN	JDA CHILDREN	SECURE	OPEN
Youth Development Centre	Edmt.	82	170		x	x	x
Spruce Cliff Home	Cal.	18	46		x		x
Oakhill Ranch	Bon Accord	18	30		x		x
Westfield	Edmt.	82	35	x		x	x
Hull Home	Cal.	77	13	x		x	x
Mapleridge	Edmt.	50	21	x		x	x
Grimshaw Home	Grimshaw	10	24	x			x
Chimo	Edmt.	12	24	x			x
Woods Christian Home	Cal.	12	6	x	---		x
Boys Club Home	Cal.	10	4	x			x
TOTAL	10	379	374	7	3	4	10

Juvenile Delinquent Act wards may move from one of these formal institutional settings to another depending on their needs (eg. A closed or open facility may be indicated as a given child progresses or regresses). Lengths of stay will also vary between treatment settings and for individual children. Some may stay only a few months while others require periods in excess of a year or more.

SPECTRUM OF PROGRAMS & SERVICES

4. Court Resources

Many of the needs and problems of young persons disposed of by the Courts can be met by existing community resources, as is evident in the small (relative) number of committals ordered. Many children respond to probation services, more particularly when such services are directed to the child's total situation, and where there is involvement of the relevant family members, i.e., when probation is broadly interpreted as a helping as well as a controlling function.

Involvement of the youngsters with volunteers, in community activities, and in appropriately structured growth-oriented groups, can overcome to a considerable extent the lacks in support structures in the home, and inadequately matured inner-controls. Among the more difficult needs and problems are those of youngsters who are approaching the end of the juvenile age; whose homes are in rural areas (and which have been abandoned, sometimes mutually by child and parents); the older youngsters who are desperately trying to become independent, but who lack the life skills and job skills to make this possible, and whose homes are grossly inadequate, rejecting or just demoralizingly bleak. Because of their age there is a reluctance to consider these children for action under the Child Welfare Act. Similarly, a waiver to Adult Court may be inappropriate, impossible, or clearly a non-answer. Some youngsters need semi-structured living arrangements, where supervision of a special kind is available; most need direct help, in terms of counselling, in terms of material help, in terms of (in a few cases) total containment with very intensive, positive "interference" with their unstructured lives. "Late-age" is a very real problem; there are not a few youngsters (boys) who are identified as needing special institutional care of an on-going nature; the identification unfortunately is made only months prior to the 16-year cut-off.

Perhaps the most difficult need - and so problem - for many of these youngsters is the provision of consistent, sustained supportive adult attention and concern; it is the personal continuing involvement of soundly motivated personnel that is the key - to a greater extent perhaps than the possession of certificates, degrees and honoraria.

Delinquent youngsters are very frequently neglected children for whom no intervention by society was undertaken, or for whom intervention came too late. At earlier stages of delinquency, that is at a younger age, delinquent acts may be signals indicating problems; thus revealing neglect that can be corrected. At later

stages a more total involvement by authority may be necessary, culminating in removal from the home, placement in very structured-care situations, where intensive efforts are directed towards bringing about change in the individual. Probably the most significant difference between the two groups, that is the delinquent and the neglected, is not in the needs - but in terms of problems presented and our means of coping and in terms of our perception. The severely acting-out neglected child who commits serious offences against the law tends to be seen as requiring (and even deserving!) custodial care - and a re-working of his psyche.

The adolescent young girl whose "offences" are self-directed - e.g., who becomes promiscuous (with or without favour) is seen to be in need of help and treatment. We tend to control the activist - and to nurture the passive.

It is difficult to predict the effects of preventive services. One can hope that for example family life education, parent education groups, community organization and community development activities, that bring about greater participation on the part of all citizens and hence strengthen our (collective) sense of social responsibility - will indeed result in better care of children, a heightened sense of well-being and commitment to the joys of socially approved behavior - and to a lessening of dependency, fewer marriage breakdowns, less delinquency, less neglect, a reduction in mental illness and less crime. Certainly improved community resources will make it easier (and even fashionable or acceptable) to seek help with social problems; better assessment services (provided they are linked to better treatment resources) should ensure that people with special needs are identified and get help before they become frustrated and angry and anti-social. If we can move to a generally healthy society, where health is the norm, there will be at work a powerful social force providing a momentum in a positive direction. (Currently our society is pre-occupied, not without reason, with society's ills - or un-health.) The individualization that we see as being necessary for the youngster (and his family) when he gets into difficulty needs to be a fact in every person's life; whether he gets into trouble or not. Were we - and our schools and our work places and our society - so oriented, we might find that the work-loads for the human-relations professions would become manageable.

Assuming some progress in strengthening and extending preventive diversionary and assessment services, and assuming an unexceptional population growth, particularly in urban areas, some headway should be made in terms of reduction in the population of troubled youth needing service.

Services and resources needed to meet the need of the population dealt with by the juvenile justice system include:

1. Police Services:
   Specially prepared and trained staff who are "cool" in their approach to youngsters violating the law; and who are "career-oriented" in terms of working with youth.

1a. A range of detention facilities -
   (a) Short-term and (b) long term - as for remands for psychiatric assessment, development of treatment plans, and determination of an admission to appropriate care facilities; staffing by appropriately trained personnel.

2. Legal services - including the concept of amicus curiae; perhaps the services of the Public Trustee; legal representation for the child.

3. Assessment and Diagnostic and Remedial Services:
   Social, psychological, psychiatric, medical, educational; encompassing the whole child, and (civil rights laws permitting) his family where appropriate.

4. Treatment Facilities of a Wide Range and Appropriately Staffed:
   (a) Contained specialized, security care for the dangerous (to others or to self) youngster who lacks internalized controls, and for whom intensive therapeutic attention is made available.
   (b) Therapeutic centres where varying degrees of personal responsibility may be accepted by youngsters.
   (c) Special group-living facilities; some therapeutic and structured; some less structured and designed to help youngsters to grow in self-responsibility.
   (d) Hostel-type, as, for example voluntary-admission facilities, for youngsters who are struggling for independence, or who live in unsatisfactory home circumstances, or who, for want of such a facility could drift into destructive modes of living.
   (e) Foster and/or boarding homes/parents of a special nature, equipped and trained to deal appropriately with adolescent youth in turmoil.
   (f) Leisure control centres - or attendance centres - where Court required attendance brings about exposure to and challenge of existing patterns of thoughts or/and behavior.

5. Probation services, providing a broad spectrum of services, including the use of volunteers, and involving the resources of the community in appropriate measure; this to include access to remedial measures, e.g., with reading disabilities, the provision of material help, as for example, to provide clothing and grooming instruction, or the opportunity for the poor youngster to dress as well as his peers.

Among the most serious present lacks are:

(1) A closed facility able to provide (hopefully) short-term (to 12 months) intensive care to a severely acting-out youngster out of control.
(2) Leisure control or attendance centres.
(3) Specialized treatment facilities able to provide immediate short-term psychiatric care.
(4) Facilities to provide remedial services, e.g., with reading disability or speech problems, or the like.
(5) Remand facilities for youngsters who must wait sometimes for many weeks before "ultimate care" is determined. (It is particularly difficult for youngsters to stay in a small facility such as the Edmonton Detention Centre, itself designed to provide short-term accommodation, for more than a few days. The constantly changing population; the fact other youngsters stay only a few days, becomes galling - it is not surprising that in almost every instance of group rebellion experienced in the Detention Centre, for girls or boys, the instigators were those who had been there for long periods.)
(6) Provision of material resources to provide direct assistance to youngsters on probation, for necessaries, or to permit participation in appropriate undertakings, sports, or other activities.

It is probably true that access to existing services and resources is equally accessible, whether the youngster is neglected or delinquent, except perhaps with regard to access to material help for delinquent youngsters.

Professional qualifications, at whatever level, are not of themselves sufficient qualification for staff working in a difficult area of human relations; but our experience suggests that good intentions and lots of energy are not enough, either. What is needed (and this list is not definitive) is a sound grounding in

the basics of human behavior - and that means university level work - self-understanding based thereon, a capacity to establish meaningful relationships, emotional maturity and sound judgment, a sincere desire to be of help to others, a good sense of humor, a secure personality, good intelligence, and - a current orientation to the real world. It helps to be well-organized, to be insightful, to be planful and to be articulate, and to have a deep commitment to honesty - whether with self or others. (An administration and supervisor and colleagues that are equally committed to "the work" are a marvellous support too!)

Services that are Court related should be a part of the general community social service system. The advantages that accrue include:

(a) Funding can be more varied (and so perhaps more generous, providing more and more varied facilities and resources).

(b) Court related services can become, over a period of time, limited - from a kind tunnel-vision. As part of a community system, there is opportunity for new ideas and approaches to be developed and tested - and new learning from outside is more easily introduced.

(c) The argument for Court authority access in part stems from a conviction that the Court can best determine treatment. But in fact, it is a full time task for the Court to be a Court - without having the burden of determining the most appropriate treatment type of facility for an offender. Not even Judges can be "all things to all people".

(d) Unless there is a clear separation of services and the Court, the Court can become endowed with a quasi-social agency image, so that Courts become neither fish nor fowl. Too; court-identified services carry connotations that can adversely affect their impact on their (unwilling) clientele. Community services, used by everyone, tend to have greater acceptability.

So long as there is legal recognition of differences between juveniles and adults as evidenced in Juvenile Correctional Services Systems, it is inappropriate to administratively tie training schools or other delinquent children care resources to adult corrections. Any such link cannot but work against the best interests of the children, who will be looked upon as simply a part of a continuum - today the juvenile institution, tomorrow the Big House.

While some settings or parts of them are quite secure to provide physical containment if necessary, all have an individualized program which encourages physical, social, educational, and general personal development and growth. None are strictly custodial or work oriented at the exclusion of rehabilitative content. Even YDC, which has the most serious offender and is the most physically secure, has in excess of 15 qualified teachers from the Edmonton Public School System, several specialized recreational staff, a full time volunteer coordinator to gain public involvement with the YDC students and vice-versa, a team of social work staff with low caseloads, and a variety of other interest expanding programs, in addition to regular child care staff.

The only serious lack in treatment facility apparent for delinquents at this time is a maximum security unit for a small group of older juvenile offenders who are recidivists and posing considerable threat to themselves and the community. The nine or ten youths waived to Adult Court last year represent this type of offender. Having identified this as a gap in service, the Department is currently adding a seperate 24 bed unit into the YDC complex. This unit to be completed during the summer of 1974, will not only be secure but will have an intensive treatment program geared to meeting the longer term needs of this most difficult group of youngsters. It will likely have a close program and movement liason with the new forensic unit currently underway at the Alberta Hospital which is only a few miles distant.

5. Special Small Group Programs

The Department over the past three years has experimented with a variety of programs geared to providing alternate methods of dealing with the juvenile's anti-social behavior and deterring him from further crime. These small group non-institutional programs have included attendance centres in Calgary and Edmonton (weekend residence and nightly programmed activity), a ten bed, longer-term wilderness camp particularly for native delinquents, an "outward-bound" type program, numerous shorter-term camping experiences, small group socializing programs for wards who are under supervision in their own homes, and small caseloads where one worker will spend all his time with four or five highly delinquent children in their community. More recently, and in the process of growing, is a project in Lac La Biche where a local trapper has three delinquent

native boys under his supervision. The boys operate the trap-line with him, learning occupation and social skills in an atmosphere which enhances maturity, respect, and individual responsibility. A similar type of placement to the trapline is at the "breakaway Smallboy Indian Settlement" located in the wilds northwest of Nordegg. Several individual troubled youth have been placed at this camp over the last several years with generally good success. Another program currently developing at Holden, Alberta, is "The Farm", a setting for delinquent youth who can best respond to a non-pressured rural scene. At "The Farm" youth are encouraged to help with the necessary chores, raise livestock of their own, learn how to relate to other people, and generally sort themselves out and make positive plans with the help of an understanding and warm staff.

A unique approach for dealing with problem youth also exists on the Gleichen Indian Reserve east of Calgary. Two years ago numerous neglected and delinquent children were being apprehended and placed off the Reserve - often permanently. Family breakdown and disorganization was so bad, it seemed impossible to intervene and break the cycle in anyway but removal of the children. Through a series of discussions with the Indian Band, the Department and the Indian Affairs Branch, it was determined that a Health and Social Development worker would spend his full time at Gleichen supervising seven Indian workers who would handle all child welfare matters. After only one year of this arrangement, the numbers of neglected and delinquent children - expecially those who must be placed off the Reserve - have dropped to almost nothing. Indian families are being held more responsible for their children, internal foster and receiving homes have become established, and the native people themselves are personally involved in resolving some of their most serious problems. With the success evident at Gleichen, the Department hopes to encourage similar programs in other native areas within the province.

6. Probation

Probation, the supervision of delinquents while at home and living in the community, perhaps has the most potential as a technique of crime prevention and, yet, often is the least developed. Two main reasons for the lack of meaningful probation programs seemmto stem from the reluctance of probation officers to go beyond the traditional, strict reporting - supervision role which often forms no helpful relationship, and the lack of policy and physical resources to be innovative and truly get the community involved.

While the Department has far to go in providing optimum probation services to juveniles, it has provided positive policy and program atmosphere towards trying new ways and means of delivering probation. For instance a 1971 ammendment to the Child Welfare Act allows for "the costs incurred in providing and maintaining special programs designed to meet the particular needs of children on probation". Examples of such projects include drop in centres, craft classes, socialization clubs, recreation groups, camping experiences, and employment programs for probationers of both sexes. Many of these programs make use of L.I.P., P.E.P., O.F.Y., etc., funding as well, use volunteers, and inevitably involve the community which thus gains a better understanding of troubled youth and vise versa. One group of probationers in Vermilion earned money doing community work projects during the first part of the summer, with Department and volunteer chaperones went on an extended bus camping trip with some of the earnings, and turned the remaining funds over to charity. Another group contracted with the Ft. McMurray Ski Club to clear their slopes, and in the process became a cohesive friendship team which came to have positive attitudes towards authority and life in general.

Another device to facilitate creative probation approaches, was the creation of a $200.00 renewable "slush fund" administered through the Juvenile Offender Program Supervisor. Any probation officer who wishes money to rent the YMCA pool, take a probationer to a hockey game, organize a special event, etc., may do so with cash in advance. The use of volunteers is also strongly encouraged as means of providing extra support and supervision to a young person and as a vehicle of involving the public in becoming active and knowledgable in delinquency and delinquency prevention. The City of Edmonton has a notable volunteer program as have many other parts of the province on a smaller scale. Probation is only successful to the degree that a probationer respects and trust the probation officer. This requires time, skilled staff, and resources. The Department has moved significantly in this direction over the past three years, knows that it is effective, and intends to pursue these goals with vigor in the future to ensure that vital and meaningful probation services exist across the province as the largest single deterring factor against recidivism and serious delinquency behavior.

7. Related Departmental Services

Within the larger Department of Health and Social Development are programs which can be tied in quickly to meet specific needs of the juvenile offender.

Related Departmental Services con't . .

a) Provincial Mental Health Services - Psychological and ongoing counselling services are readily accessible to the juvenile in most parts of the province (and becoming more so) and in many instances are available in the same office as the probation officer.

b) Financial Assistance - If a juvenile is terminating wardship, or is an older probationer seeking independence, financial aid may be granted through the social assistance program, often by the same workers.

c) Employment Services - For the older juvenile, employment is often the biggest problem if school is no longer possible. Within most of the larger regional offices, special employment officers are available to provide concrete and individual assistance in securing meaningful jobs.

d) Unmarried Mothers - For those teenage girls who are ajudged delinquent and have become pregnant, a comprehensive system of service to the unmarried mother may be applied. This is available perhaps through the same worker and includes work placements, counselling, special residential accommodation if requested, and a Surrender and Indenture process through the Director of Child Welfare if adoption is sought.

e) Crisis Units - The Department operates two major units - one in Calgary and one in Edmonton on a 24 hour/day basis to handle after hour child welfare emergent situations, including the repatriations of children who run away to and from Alberta. These units have connections all over North America, have close ties with Edmonton and Calgary juvenile squads, and provide a valuable and accessible service to delinquent children and related agencies at any hour.

3. Diversion

> Diversion is defined as the processes which have the intention of directing a child, who is perceived to have contravened a federal, provincial or municipal law, from the Juvenile Justice System prior to and as an alternative to the pronouncement of a final disposition by the court.

As the child has special status under the law, and particularly in view of the problems resulting for children growing up in an era of rapid change affecting

all parts of their life, we feel that the child should benefit from diversionary processes built into the judicial system. The legislation should provide flexibility to do what is in the best interests of the child. However, diversion should not occur primarily as a protection against an inadequate court and resources system, nor should it come into effect when exposure to the delinquency court process would, in fact, be in the best interests of the child.

There is a cultural tendency in our society to protect children against experiences involving some responsibility and accountability simply, we suspect, because the negative aspects of the experience are perceived almost universally as being anxiety - provoking. Our attitude toward death is an example of this. Because we have difficulty accepting the fact of human death, we handle our anxiety through various culturally determined denial rites. We dress up the corpse, comment on how "peaceful" it looks, surround it with dazzling floral symbols of life, and always leave the graveside prior to the coffin being buried. We seldom discuss death with our children in realistice or appropriate ways. We try to protect ourselves and them from a phenomenon that is the most inevitable part of life.

Perhaps this is the base of our tendency to protect ourselves from anything that is going to be experienced as uncomfortable in our daily living. And yet in passing on this trait to our children, we do them a disservice and perpetuate a cultural characteristic that is obstructive of personal growth and unfair to our children.

All this by way of attempting to point out that we should not divert our children from experiences that they should undergo if it is appropriate and, at least not contrary to their best interests. Diversion should not occur as an avoidance of something difficult. It should occur because the delinquency process is inappropriate in the best interests of the child, when compared with another judicial alternative.

The various types of non-judicial diversion after an offense has been committed but prior to the initiation of formal court proceedings deserve close examination. It is not that they are necessarily inappropriate. Allowing the police ~~wide~~ discretion in laying formal charges in the case of juveniles may be in the child's best interests. It makes allowances for the fact that it is human to err especially when growing up. It also acknowledges the reality that the juvenile justice system for practical reasons, would grind to a halt quickly if such discretion were not practised.

It should also be acknowledge, however, that police decisions in this area are quasi-judicial. They are frequently required to decide on guilt or innocence and dispose of cases accordingly, without the benefit of due process on the part of the child. Such decision unavoidably bring into play the subjective decision making capabilities of the individual officer in the context of his interaction with a young person who may have broken the law. Some research indicates that, in the majority of such instances, it is not the offense but the manner in which the young person deals with the police that will determine the outcome in terms of charges. Again, this may be unavoidable. But it does accentuate the necessity for ever-increasing standards of police selection, training and education, as well as the administrative responsibility on the part of police policy makers to provide as clear guidelines as possible to cover the use of police discretion.

The use of various types of "voluntary probation" procedures is also deserving of comment. Such procedures are based upon an assumption of guilt which may or may not be technically valid regardless of a "confession." No due process occurs and the possibility exists that the justice meted out by the officers of the court would be more stringent than that of the court itself. This practise is frequently rationalized on the basis that the parents and the child voluntarily agree to the conditions. However, as has been pointed out elsewhere in our presentation, the parent does not have an obligation to protect the community from the acts of his or her child. The state, through due process, has that obligation. In addition, the child appears to be in a most unfair position in dealing with two segments of the adult world, in a situation which could affect his liberty to some extent, and all without the benefit of due process or counsel.

In conclusion, diversionary procedures appear to have both philosophical and practical value. However, they should be employed appropriately, only in the best interests of the child (not the system), and certainly without violating the basic rights of the child.

Saskatchewan: Paper (1)

REVIEW

YOUNG PERSONS IN CONFLICT WITH THE LAW

DEVELOPMENT OF ALTERNATIVES

Province of Saskatchewan
Department of Social Services
March, 1974

TABLE OF CONTENTS

I. Purpose

"The purpose of the review is to determine the alternative approaches that can be taken by the Federal Government to the programs, services and financial arrangements concerning young persons in conflict with the law. This review will be carried out in conjunction with the consideration of legislation to replace the Juvenile Delinquents Act. In order to achieve this it will be necessary to answer, as far as possible, the following questions: Who are these young people and what are their needs and problems. What are the processes and resources that presently serve them? What are the inter-relationships between these processes and resources and their relationships to other legal and social systems and their attendant resources? What are the current benefits, gaps, problems and issues of the present systems? What changes are needed in the present systems, resources and interrelationships to effectively protect the rights of children and those of society and to provide children with the best services to meet their particular needs? What should be the respective roles of the provincial governments, the federal government and voluntary agencies in the implementation of these measures? These questions must be considered in the context of constitutional authority." (Taken from the"Introductory Paper" November 29, 1973).

Specific Objectives

1) Design legislation that will enable provinces to develop procedures, services and programs that will provide for the needs of youth and guarantee their legal rights. Federal legislation should enable existing provincial legislation and programs.
2) Define specifically what is meant by youth.
3) Establish a consistent and uniform system for young offenders throughout Canada.

II. Philosophical Basis

1) The family, composed of individual members, is the first and most vital unit in society. The latter has a responsibility to sustain and restore healthy family living.

2) The family member has distinct rights as an individual to a good and happy life. Society has a responsibility to protect and promote the rights of the individual.

3) The family as a unit should have prior rights and responsibilities to the institutions in society. The latter should respect those rights and promote the fulfillment of those responsibilities.

4) The long term interests of the individual and society can best be served by responding to the changing needs of the family in an ever changing society.

5) Society has a definite responsibility to assist families and individuals who encounter problems by providing services and programs that will enable the family or individual to function more adequately and effectively.

6) When the support provided to the family and its members is exhausted, and continued difficulties exist for a member, society then has a responsibility to provide care for the member through additional services and programs.

7) Services should be provided for all youth which includes young offenders.

8) Procedures for dealing with young offenders should be flexible. Responsibility for actions should be based on age, maturity and personal circumstances.

9) Removal of a youth from his home should occur only when a thorough and adequate assessment has been completed of the family and youth, and

when such an assessment ensures that such a plan is feasible and valid.

10) A youth should be returned to his family in as short a period of time as possible, when such a placement can be made.

11) As much as possible the youth, when removed from his home, should be given the opportunity to function within a family unit within society.

12) A complete range of services should be made available to youth in their homes as well as for youth in other placements.

13) Delinquency and criminal behaviour should be considered as symptomatic of societal, familial and individual dysfunctioning.

14) Custodial placements should only be utilized when there is the possibility of serious harm to the youth or society.

III. Age

1) Definitions

(a) Child will be defined as a person under the minimum age of legal responsibility.

(b) Youth or youth offender will be defined as those persons who are within the range between the minimum age of legal responsibility and the maximum age of entrance into the juvenile justice system.

(c) Adult will be defined as those persons who are above the maximum age of entrance into the juvenile justice system.

2) Minimum Age of Legal Responsibility - Alternatives

(a) Minimum age 12 (under 12)

Where in Sask?

(i) Approximately 7% of the total number of persons charged fall in the age range of 7 - 12.

(ii) Most children in this category could come under Child Welfare jurisdictions.

(iii) The present trend is not to formally charge children in this age range.

(iv) Few children in this age range could be considered as seriously dangerous or delinquent.

(v) Serious social and psychological impairment could result for children being brought before juvenile justice systems at a young age.

(vi) Cost implications would be nil for this province in raising the minimum age to 12.

(b) Minimum age 14 (under 14)

(i) Less than 30% of the total number of persons charged fall within the 7 - 14 age range.

(ii) Most children in this category could come under Child Welfare jurisdictions.

(iii) Most children in this age range could not be considered as seriously dangerous or seriously delinquent.

(iv) Some children in the 12 - 13 age range might manifest serious behavioural problems in the form of serious delinquent behaviour that would require other procedures than provided for under Child Welfare legislation.

(v) The new legislation could allow for these individuals to be dealt with under the provisions of the new Youth Offenders Act.

(vi) Cost implications would be nil for this province in raising the minimum age to 14.

3) Maximum Age of Entrance into the Juvenile Justice System - Alternatives

(a) Remains the same (under 16)

(i) Services would continue under the existing system with major changes being made to improve existing programs and resources.

(ii) Some initial cost implications would occur to the province in the establishment of additional services and resources which would eventually come under the CAP agreement.

However

(iii) Saskatchewan could raise the maximum age of entrance into the juvenile justice system in line with the age of majority, which is provided for under the Juvenile Delinquents Act.

(iv) Increased services and resources would be required if the age was increased to either 17 or 18. This is shown under the discussions in sections b & c pertaining to an increase in ages to 17 and 18.

(b) Maximum Age Raised to 17 (under 17).

(i) A considerable increase in intake would be evident under Child Welfare Services.

(ii) Benefits would be received for youth in this age range preventing them from entering the criminal justice system at an early age.

(iii) Some reactions would be evident from the general public specifically from law enforcement agencies.

(iv) Increased services and resources would be required to handle the increased intake under Child Welfare Services.

(v) A separate mechanism would have to be established to handle traffic violators in this age group.

(vi) Time would be required to implement the new program. No less than two years should be allowed.

(vii) Cost implications for increased services and resources.

- foster homes
- group homes
- holding or detention
- treatment centers
- legal aid services
- court services
- staffing

(c) Maximum age raised to 18 (under 18)

(i) A greater increase in intake would be evident under child welfare services.

(ii) Benefits would be received for youth in this age range preventing them from entering the criminal justice system at an early age.

(iii) Some reactions would be evident from the general public specifically from law enforcement agencies.

(iv) This would bring the maximum age in line with the age of majority for this province.

(v) A transitional period would be required to implement the new program. No less than two to three years should be allowed.

(vi) A separate mechanism would be required to handle traffic violators in this age group.

(vii) Cost implications for increased services and resources.

- foster homes
- group homes
- holding or detention
- treatment centers
- legal aid services
- court services
- staffing

IV. Provisions for Transfers - Alternatives

1) Rationale

(a) Transfers would be necessary in some form as a totally comprehensive delivery system to deal with all cases at the juvenile level is not highly probable.

(b) An adequate and thorough screening process would prevent numerous cases from becoming entangled in the court systems through transfers.

(c) Too numerous probabilities for transfers could result in increased complications for the courts through various appeals. Consequently a very simple transfer system should be established.

2) Transfer from the Child Welfare System to the Juvenile System

(a) Minimum Age 12

No transfers would be necessary at this level since these cases could be adequately handled through the Child Welfare System. Serious offences could be adequately dealt with at this level, since the percentage of such cases would be negligible.

(b) Minimum Age 14

Some cases in the 12 and 13 year old range might require services through a juvenile justice system. The majority, however, would be dealt with under Child Welfare legislation. With an effective screening process the minimum legal age could be set at 12 and any cases above that age would proceed through the screening process. This would have the same effect as having the minimum age of legal responsibility

at 14.

Therefore

(c) Transfers from Child Welfare jurisdictions to Juvenile Justice jurisdictions would not be necessary with an adequate screening process. The minimum age for legal responsibility could then be set at 12, with no provision to transfer cases below this age level to the juvenile justice system.

Or

(d) Without an adequate screening process it would be more effective to have the minimum age set at 14, with provisions established to transfer some 12 and 13 year old youth to federal jurisdiction under the Youth Offender's Act.

3) Transfers from the Juvenile Justice Jurisdiction to Child Welfare Jurisdiction

(a) This process would not be necessary if an adequate screening process were established, since the latter would ensure that cases entering in at the juvenile justice level were valid.

(b) In the event that cases did pass through which could be more effectively processed by means of Child Welfare Legislation, this would simply be accomplished by the police dropping any charges and the case referred to child welfare authorities. No transfers would be required.

4) Transfers from the Juvenile Justice System to the Adult Criminal Justice System

(a) Minimum age 14 (14 and over).

(i) This age is presently established under the present Juvenile Delinquent's Act.

(ii) There does appear to exist a certain number of youth 14 years of age and over who cannot be helped in existing child welfare or juvenile systems.

(iii) A screening service would prevent misuse of transfers and ensure that all services have been adequately exhausted before any transfers occur.

(b) Minimum age 16 (16 and over)

(i) This would require that all juvenile services would have to be equipped to deal with all 14 and 15 year old youth in their resource structure.

(ii) The probability of creating a system that could deal with all 14 and 15 year olds in a juvenile resource system is not likely.

(iii) Some 14 and 15 year old persons, although very few, might require resources at an adult level.

(iv) Some 16 and 17 year old youth would definitely require transfers to adult facilities on certain occasions. Currently in Saskatchewan all 16 and 17 year old youth are dealt with in adult facilities and the likelihood of them never requiring such services is very remote.

(v) It is not improbable to visualize some 14 - 17 year old youth requiring adult services based on their personal maturity and on the type of offences committed.

(vi) An adequate screening process would prevent youth from being transferred unnecessarily to adult jurisdictions.

Therefore

(vii) It would be appropriate to have the minimum age of transfer from the juvenile justice system to the adult justice system set at 14 provided that a screening process is established.

5) Transfers from the Adult Justice System to the Juvenile Justice System

(a) The present adult system has provisions for dealing with cases so that individuals will not receive criminal records.

(b) Probation services are readily available to avoid unnecessary incarceration of adults.

(c) Provisions presently exist in the Juvenile Delinquents Act to hear certain cases within this Act involving adults.

(d) This could be extended to those adult cases when a child is involved who is under the minimum age of legal responsibility and where, it is the opinion of the court that hearing the case at an adult level could cause serious damage to the child or his family (e. g. a child witness for a case of a sexual offence involving an adult).

(e) Federal legislation could be changed to have all such cases heard at the adult level but in camera.

(f) Consequently protection would be afforded the child and his or her family.

therefore

(g) Only certain cases set out in the youth offenders legislation involving children or child witnesses should be made available for hearing in the juvenile court system (e. g. cases involving sexual offenders).

or

(i) Changes in legislation should be enacted to have these cases heard at the adult criminal jurisdiction but in camera.

6) Stages of Transfer - Alternatives

(a) Adjudication Level

(i) Cases that challenged whether the youth's rights were being adequately provided for could be transferred to a higher court where such rights would be more ensured.

(ii) Serious cases that involved murder, manslaughter, serious sexual offences etc., could be transferred where a more formal process would exist.

(b) Disposition Level

(i) Cases transferred at this level would guarantee that the program established for the individual would be based on his needs.

(ii) Cases transferred at this level would be free of legal and judicial implications. Appeals would have been previously heard.

(c) Certain Cases heard at the Adult Level and Transferred for Disposition

(i) This would require that individuals for whom child welfare or juvenile services were required would have to proceed through an additional court for obtaining wardship.

(ii) This would be time consuming and could involve serious complications, where a youth was found guilty at an adult level but insufficient reason existed to warrant services under the jurisdiction to which he was transferred.

7) Ages for Provision of Service

(a) Custody of youth within institutions may or may not extend beyond the maximum age of entrance into the justice system.

(b) Youth would not be detained in child care or juvenile institutions beyond a certain age except on a voluntary basis.

(c) If youth could not benefit from services beyond a certain age there is question as to whether he would benefit from them with increased time.

(d) Additional helping services would be available at the adult level if such were required.

(e) For youth on probation the age could also be extended beyond the maximum age of entrance into the juvenile justice system.

(f) The opportunities for success with youth on probation might be greater than for those within institutional settings.

(g) To increase services beyond the maximum age might mean carrying cases beyond the age of majority within certain provinces.

8) Criteria for Transfers

(a) Transfers to adult criminal jurisdiction should be based on various factors involving the youth and society.

(b) It should not be necessary that all factors must be proven for the transfer to occur.

(c) Factors for consideration

- age
- level of interpersonal maturity
- intelligence
- personal characteristics
- circumstances of the offence
- interests of society.

V. Range of Offences

The concept of delinquency contained in the Juvenile Delinquents Act has currently outlived its usefulness. When less attention was placed on individual rights and freedoms this concept was valid. However, with the recent emphasis on the rights of individuals such a concept can no longer be considered viable. Consequently a need exists to develop new criteria upon which to deal with youth offenders.

1) Types of Offences - Alternatives

(a) The Youth Offenders Act would deal only with offences that come under federal statutes.

(i) This would include all offences that come under the Criminal Code.

(ii) This does not mean that every time an offence is committed by a youth he would be charged.

(iii) A diversionary process would be established to divert youth away from the courts.

(iv) Youth would be treated in the same respect as adults by not having special offences for their group as presently exists in the Juvenile Delinquents Act.

(b) Only serious offences would be handled under the Youth Offender's Act.

(i) Separate provincial legislation would then be required to deal with the remaining offences.

(ii) Some difficulty might be encountered in determining what acts were of a serious enough nature to be included in the new Act.

(ii) Certain acts committed could be quite controversial resulting in difficulties in determining under what Act one should proceed (e. g. assult or indecent assault).

(iv) Lesser pleas could be taken during the course of a hearing resulting in the case coming under a new jurisdiction (e. g. murder to manslaughter).

2) Provincial and Municipal Statutes and Bylaws

(a) Breaches of provincial and municipal laws by youth under 16 would be proceeded with through juvenile courts.

(b) Breaches of provincial and municipal laws by youth over 16 could be proceeded with either through adult or juvenile court. Generally speaking cases which involved a privilege to a youth would be processed in adult court (e. g. driving a car - traffic violations).

(c) Youth who did not abide by decisions handed down in the adult court system could then have their cases processed through juvenile court subject to other dispositions (e. g. placed on probation etc.).

(d) Provincial and federal legislation would be established to enable the above course of action.

3) Types of Charges and Offences - Alternatives

(a) Youth could not be charged with offences which would not be considered as an offence for an adult.

(i) This might cause some concern where a youth's behaviour did not come under any specific offence and where several offences were not that serious but where the youth was considered to be in need of guidance and supervision.

(ii) Such cases could then be heard by means of child welfare legislation.

or

(iii) The state of delinquency could be established as an offence to deal with youth manifesting a pattern of offences which would be similar to the section dealing with adults as habitual criminals.

(iv) This would allow for intervention in those situations involving a pattern of offences, where the offences by themselves would not be considered as sufficiently serious, but as a whole would be serious.

4) Intervention on Specific Offences or Pattern of Offences

(a) Intervention should generally be on the basis of specific offences.

(b) Most situations would be diverted away through a screening process so that ultimately only the more serious offence would proceed through the court process

or

(c) Intervention on the basis of a pattern of offences, of a less serious nature in themselves but as a whole quite serious, could be accomplished by the introduction of legislation to make the state of delinquency an offence within the meaning of the code.

VI. Due Process - Alternatives

1) Diversion

(a) Court intervention should be the last resort when dealing with youth offenders.

(b) Services and resources should be established and available on referral for youth offenders to prevent them from coming before the court system.

(c) Diversion should be included in the new legislation as a necessary pre-requisite for dealing with youth offenders, however, legislation should grant provinces the right to establish their own procedures and programs.

(d) Diversion would include police services, community services and services established by provincial departments responsible for youth offenders.

2) Intake and Screening

(a) The principle of a screening process should be incorporated in the new legislation, however, the provinces should be granted the right to regulate and administer policies and procedures pertaining to this system.

(i) All cases involving youth offenders would proceed through the screening system prior to any entrance into the court system.

(ii) The "screening system" would determine whether the court system would be an appropriate resource for the youth offender at that stage.

(iii) The provinces would establish the criteria for processing the cases and the screening system would determine whether

the case should proceed through the court system and if so what legislation would be applied.

(iv) The screening system would make recommendations for referrals to other services where it was not considered appropriate to proceed through the court system.

(v) Information previously obtained by involved agencies would be used to assist in arriving at the decisions. Pre-finding reports would be obtained on the youth and his family when consent was provided by them.

3) Composition of the Screening Board

(a) The composition of the screening board would be developed at a provincial level based on general guidelines set out in the new legislation.

(b) Alternatives

(i) The screening board could come within the jurisdiction of the court system but the actual mechanism would be separate from the actual court process.

(ii) The screening board could come within the jurisdiction of the court system and the mechanism for arriving at decisions would be an integral part of the court process.

(iii) The screening board could be an administrative process within the jurisdiction of the departments involved with young offenders, separate and apart from the court system.

(iv) The screening board could be any combination of numbers (1) (11) and (111).

4) Additional Functions of the Screening Board

(a) The screening board could receive progress and discharge reports

to determine what benefits were being received by youth offenders via services granted by the provinces.

(b) The screening board could be responsible for post dispositional follow up ensuring that adequate services were being provided for youth offenders.

(c) The screening board could receive reports on young offenders diverted away from the court system to determine the help received via the recommended services.

(d) The screening board could conduct research on young offenders based on reports received and could then provide ongoing plans for program changes based on this research.

5) Legal Process

(a) The legal process should be simple, ensuring the same rights for youth offenders as exists for adults.

(i) Youth offenders should be clearly informed of their rights at all times.

(ii) Police investigations involving young offenders should be equated to regulations for investigation of adults.

(b) Law enforcement personnel constitute a major part of the diversion process.

(i) Consequently too formal and rigid laws could hinder the police from success at this stage of the process.

(ii) Rights should be accorded to youth offenders, bearing in mind the potential need for some form of assistance.

(iii) Informal procedures should exist in the initial stages with more formal procedures beginning immediately prior to any court procedures.

(c) Representation

(i) The youth offender's parents should have the right to be present during the entire process when their children are alleged to have committed an offence.

(ii) When a conflict of interests exists between the parents and the youth, the parents should have the right to be present, however, the youth should have the right to determine who will represent him.

(iii) Counsel should be definitely available for the youth offender, if he so requests, once the formal questioning process commences.

(iv) Youth offenders should be made aware of their right to counsel.

(v) Counsel should be available during the entire course of the court proceedings when requested by the youth offender or his family.

(vi) Courts should ensure that all youth would receive legal counsel when required regardless of their social positions.

(d) Legal Assistance

(i) Youth offenders should be accorded the same rights to obtain legal counsel as is currently provided for adults.

(ii) Mechanisms would have to be established provincially to accommodate the increased intake.

(iii) Additional cost would be incurred by the provinces with the introduction of this program.

6) Pre-dispositional Reports

(a) New legislation should make it mandatory for an assessment to

be conducted on a young offender prior to any disposition that might involve committal or custody.

(i) Provinces would individually develop their own assessment program based on the differing circumstances that exist from region to region.

(ii) The federal code could establish certain standards and guidelines, with provinces developing the actual procedures based on these guidelines.

(iii) Assessments would occur in those places designated by provincial policies.

(b) Assessments could be conducted at various stages of the process.

(i) Generally speaking the assessment would be conducted once it was determined that the act was committed and prior to any disposition.

(ii) However, where consent was provided by the youth offender, his parents or his counsel, the assessment could proceed prior to the actual hearing.

(iii) In exceptional cases where no consent was provided and the court was of the opinion that such an assessment was warranted, they could so order an assessment. This would be comparable to an adult remanded to a psychiatric hospital prior to any hearing having been conducted.

(iv) Confidentiality of all reports should be ensured by legislation, being made available only to participating service agencies, counsel, parents and the youth offender.

(v) The court should maintain the right to withhold all or parts of the report from the child or his parents.

(vi) Counsel should always receive the report subject to its confidential nature and be able to challenge all or parts of the report.

7) Court Responsibilities

(a) Adjudication

(i) The courts would ensure that the rights of the youth offender were being adequately protected.

(ii) The courts would determine whether the act was committed or not committed.

(iii) The court would make its decisions based on the facts presented.

(iv) Courts would not be involved in the actual treatment process and consequently would be limited to the types of dispositions available for being made.

(v) Rights for appealing court findings should be available within the process.

(vi) Procedures for appeal should be clearly defined in the legislation.

(b) Dispositions

(i) The courts would be limited in the types of dispositions that could be ordered.

(ii) Dispositions would include

- dismissal
- probation or supervision (included here would be payment of fines, ordering of community services, and ordering of compensation).

- short-term committal
- indeterminate committal subject to mandatory reviews. A maximum time limit would be set.

(c) Services and Resources

(i) Services and resources would not be within the jurisdiction of the court system.

(ii) Services and resources would be the responsibility of the agency or department providing the service.

(iii) A court advisory board or similar body or judge could recommend the type of service and resources required for the young offender based on the findings of the court and the pre-dispositional recommendations, but the actual treatment program would be established by provincial regulations.

(d) Post Dispositional Services

(i) There should be a post dispositional review mechanism established either as an administrative process, a judicial process or a combination of the two. This review process could be the same as or part of or different than the screening board proposed for reviewing cases prior to entrance into the court system.

8) Implications

(a) A transitional period would be required which would provide adequate time to establish any such process.

(b) Cost implications would exist in the development of

(i) screening boards

(ii) assessment procedure

(iii) legal assistance.

(c) The federal government should bear the cost of developing additional services made necessary as the result of changes in the federal law.

VII. Interface with Other Legislation

1) Federal legislation should grant jurisdiction to provinces, after disposition has been made by the courts, in the areas of services, programs and procedures to youth offenders.

2) Present legislation allows provinces to deal with orders of committal under the Juvenile Delinquents Act in accordance with the laws of the province (Section (21) (1)).

   (a) This procedure should be extended to deal with all services and programs provided by the provinces to youth offenders.

3) Procedures for other provincial and municipal laws have been briefly mentioned in the foregoing sections. The provinces should be allowed to establish procedures concerning this issue.

VIII. Court Structure

1) Rationale

(a) The majority of youth who contravene provincial and federal statutes are not serious criminal offenders, but normal persons who "get into trouble."

(b) The majority of these youth are not brought before the courts as other mechanisms are established to deal with their behaviour.

(c) The majority of the youth brought before the courts are not serious or dangerous offenders but persons in need of guidance and supervision.

(d) Court procedures for these persons could very likely occur in a court system that had as its focus the family.

(e) A family court system could adequately ensure that the rights of society were being protected and that due process of law was being provided for in the system.

(f) A family court system could in addition guarantee special attention to the needs of the youth being charged.

(g) For the few individuals who are serious and dangerous offenders the family court system could adequately provide the same procedures that exist in the provincial courts.

or

Where concern existed that this could not occur application for transfer of the case to the adult court system could be made.

therefore

It would be most appropriate to develop a court system that focused on the needs of the individual being processed in the

context of the family system, as opposed to a highly legalistic criminal process

and

that such a system would guarantee that the rights of the youth and society were being provided for and that "due process of law" was ensured.

IX. Present Operating Model

The existing model bases its objectives on the philosophical premise that the family is the basic unit in society. Consequently youth offenders, who are members of a family, receive services within the context of the welfare system as opposed to the correctional system. The prevailing belief is that most youth offenders are persons in need of guidance and supervision and not corrective services. It is recognized however, that some juvenile offenders fall in the latter category.

The process is designed to assess the needs of the family and youth and provide services accordingly. Services to the youth may be provided for within his own family or through a substitute family in society. Community resources are made available for initial placements with institutional resources being used with discretion. Placements are made available in a limited fashion for the more serious offender within the realm of the institutional resources available.

1) Preventative Services

While there is ample discourse concerning the need for increased preventative services, practical application of the theories advanced is vividly lacking. The current services available have been established on a piecemeal basis without adequate overall pre-planning and co-ordination.

(a) Services Available

(i) Community recreation programs.

(ii) Counselling services via family service agencies.

(iii) Counselling services via the Departments of Social Services and Health - Psychiatric Services.

(iv) Referrals to agencies by police departments and actual handling of cases by police.

(v) Volunteer community programs both private and public.

(vi) Emergency mobile crisis intervention services.

(vii) Public educational programs on

- mental health
- drugs and alcohol

(b) The educational system, which frequently is the prime indicator of problem youth, lacks sufficient personnel to provide appropriate counselling and referral services. Consequently, initial contacts by police with young offenders remains the prime preventative service. The latter use their own discretion in dealing with youth and the success of such measures cannot be adequately measured. The recent development of a new referral mechanism for some police services should greatly enhance the present services to youth offenders. Counselling services may or may not be provided, often dependent on early referrals and suitable referral procedures.

(c) The objectives of the Social Services Department is to provide assessment services with subsequent support services based on the needs of the family and youth. Efforts are concentrated on re-establishing the family and ensuring that the members receive adequate care and supervision. Removal of a youth from his family generally occurs only when community support services have been exhausted. The theory however, is often more common than the actual practice, as youth are frequently removed from their homes due to insufficient services available to families.

2) Juvenile Court Process

The juvenile's initial contact will generally be with the police, who may or may not refer him to a social service agency, prior to laying an Information against him. In most instances the cases are previously discussed with departmental officials before charges are laid. Notices of Hearing are then served on the parents and the department. A representative of the department will be present if approved by the attending magistrate.

Court is conducted by the police and the magistrate determines guilt or innocence. Legal services are made available for wards through the department.

3) Dispositions Available to the Court

While the court has the authority to dispose of cases in any manner under section 20 (1) of the Juvenile Delinquents Act, in actual practice this does not occur, since the personnel, services and resources are within the jurisdiction of the Department of Social Services. Judges can recruit their own probation officers or use volunteers to supervise and on occasions do so. Consequently, dispositions concerning juvenile offenders under the Juvenile Delinquents Act adhere to the following course of action.

The court may:

(a) dispose of the matter at that stage.

(b) adjourn pending a report from the department.

* (c) place the youth under supervision of a probation officer.

---

* (c) Probation orders come under departmental policy whereby agreement has been established to provide supervision under the Juvenile Delinquents Act.

** (d) Commit the child to a superintendent or an industrial school.

As services for juveniles are under the auspices of the Department of Social Services the dispositions granted are generally based on the resources and services available, that will provide for the needs of the youth. These services equate the services provided to all children and youth. Emphasis is on the person rather than the act or behaviour. While resources are identical for all youth, efforts are made to provide special resources for the more seriously disturbed youth and the more serious youth offender. Youth under the age of twelve (12) are rarely charged in juvenile court.

4) Resource and Service Breakdown

(a) Provincial services for juveniles are provided for through the Department of Social Services, and the Department of Northern Saskatchewan which services the northern part of the province. The Department of Social Services is divided into ten (10) regional districts which administer provincial programs to juvenile offenders in addition to granting other services.

(b) Resources for all children and youth are as follows:

2 receiving and assessment institutions

2 treatment institutions

45 special foster homes

1,350 foster homes

x number of private boarding homes for older youth.

** (d) Committal to a superintendent or to an industrial school has the same effect as a committal to the Minister of Social Services as provided for under section 30 of The Family Services Act.

Placements in these resources are generally based on the findings of assessment services. Where in the past the tendency was to remove the youth from his family avoiding future contact with his family, new directions will encourage family contact, continued services to the family and an eventual return of the youth to his family.

(c) Twenty seven (27) provincial magistrates, from the Attorney General's Department, provide juvenile court services throughout the province. In addition to juvenile courts, other court services are provided for by magistrates' courts.

(d) Psychiatric services of the Public Health Department provide additional counselling services to families and youth, in eight (8) regional areas throughout the province. Special programs for adolescents and youth are available in two districts. Clinics for alcohol and drug problems are provided for through this department for adults and youth.

(e) Private services and resources are available in the form of

(1)	Treatment Center for boys
6	Group Homes for boys or girls
4	Family Service Agencies
Several	Special Education Program (Radius)

5) Strengths of This System

(a) Youth offenders are dealt with as children in need rather than as junior criminals, which often is the consequence of a correctional system.

(b) Resources and services are provided for by the department that provides the services to the courts.

(c) Duplication of resources is avoided through this process.

(d) Youth who cannot be accommodated through this process may be transferred to the correctional service stream thus affording protection to society.

6) Limitations in this System - Limitations in Providing Services

(a) Lack of coordination between existing agencies and departments prevents an adequate service from being provided to families and youth.

(b) A complete spectrum of resources and services is not available to provide assistance to families and youth in accordance with the identified needs.

(c) Services to youth are greatly lacking in the 14 - 18 age range. Consequently many youth are placed unnecessarily in correctional centres or receive no services.

(d) Due process of law is not always available and consequently the individual's rights may be overlooked.

(e) Assessment services need refining with specific criteria and objectives identified when providing services and resources.

(f) Despite the strongly held philosophical premise of "the family being the most vital unit in society" minimal services and resources are available to effect this concept thoroughly and adequately.

(g) The educational system requires modernization in dealing with young offenders by removing the strongly held belief that academic knowledge is the foremost requirement for survival in society. More advanced and diversified programs need to be developed to

deal with individuals with differing abilities.

(h) The police referral system needs greater coordination and organization to ensure that all contacts will be guaranteed services if required or requested.

(i) Too great an emphasis may be placed on needs, consequently overlooking the rights of society and the individual.

X. Funding - Alternatives

1) The federal government should bear in the cost of any additional services and programs that will be established within a province as the result of new legislation on young offenders.

2) Basic Premise for Funding

(a) All programs and services developed for youth would be considered shareable

or

(b) All programs and services developed for youth in conflict with the law would be considered shareable.

3) Funding Arrangements

(a) Present CAP formula - services to juvenile offenders are provided as a part of child care services.

(b) Present CAP formula extended to include all services to juvenile offenders.

(i) training schools

(ii) juvenile probation services

(iii) would not direct that a specific department provide the service

(c) Present CAP formula extended to include all services to juvenile offenders regardless of where such services are administered

(i) training schools

(ii) probation services

(iii) any department providing services.

(iv) resources utilized for youth could be located in any setting and placement would be based on need (e. g. an adult residential program).

(d) The Ministry of the Solicitor General would undertake to fund programs, services and resources of juvenile corrections.

4) (a) Provinces should have the authority to establish the programs for young offenders according to their existing needs. Any federal establishment of programs should be done in consultation with the provinces involved. While the efforts of the federal government are encouraged very frequently new programs are initiated through federal grants to private organizations and when funds discontinue the province is left holding the bag. This can often affect provincial priorities and strategy. Consequently, federal programs should be in conjunction with provincial programs.

(b) Provinces will most often have a better knowledge of existing needs and consequently are in a better position to establish services. However, the types of programs to be established should be provided for by the provinces. The federal government can assist in identifying needs, conducting research and assist in establishing new programs, allowing the provinces to carry them out.

(c) Federal standards could be set to ensure a high level of service.

6) Implications for This Province

(a) Juvenile probation services are presently shared since services are provided for within the existing CAP formula.

(b) Services to youth offenders in institutions are cost shared since youth offenders receive services under the existing CAP formula.

(c) Cost increases would be accrued for juvenile offenders receiving services in adult programs or facilities.

XI. Future Trends for Providing Services

1) Background

The focus will be on providing services to families on a preventative and restorative basis. Services to youth would remain in the context of the family approach with specialized and individualized services developed as required. The recent Family Services Act which replaces the Child Welfare Act, allows for special services to be provided to assist families. Such a preventative measure would include young persons who are in potential danger of conflict with the law.

2) Programs currently under review

(a) Identification and coordination of community services to families and youth.

(b) The development of a Family Court structure.

(c) The service delivery model for services to families and youth.

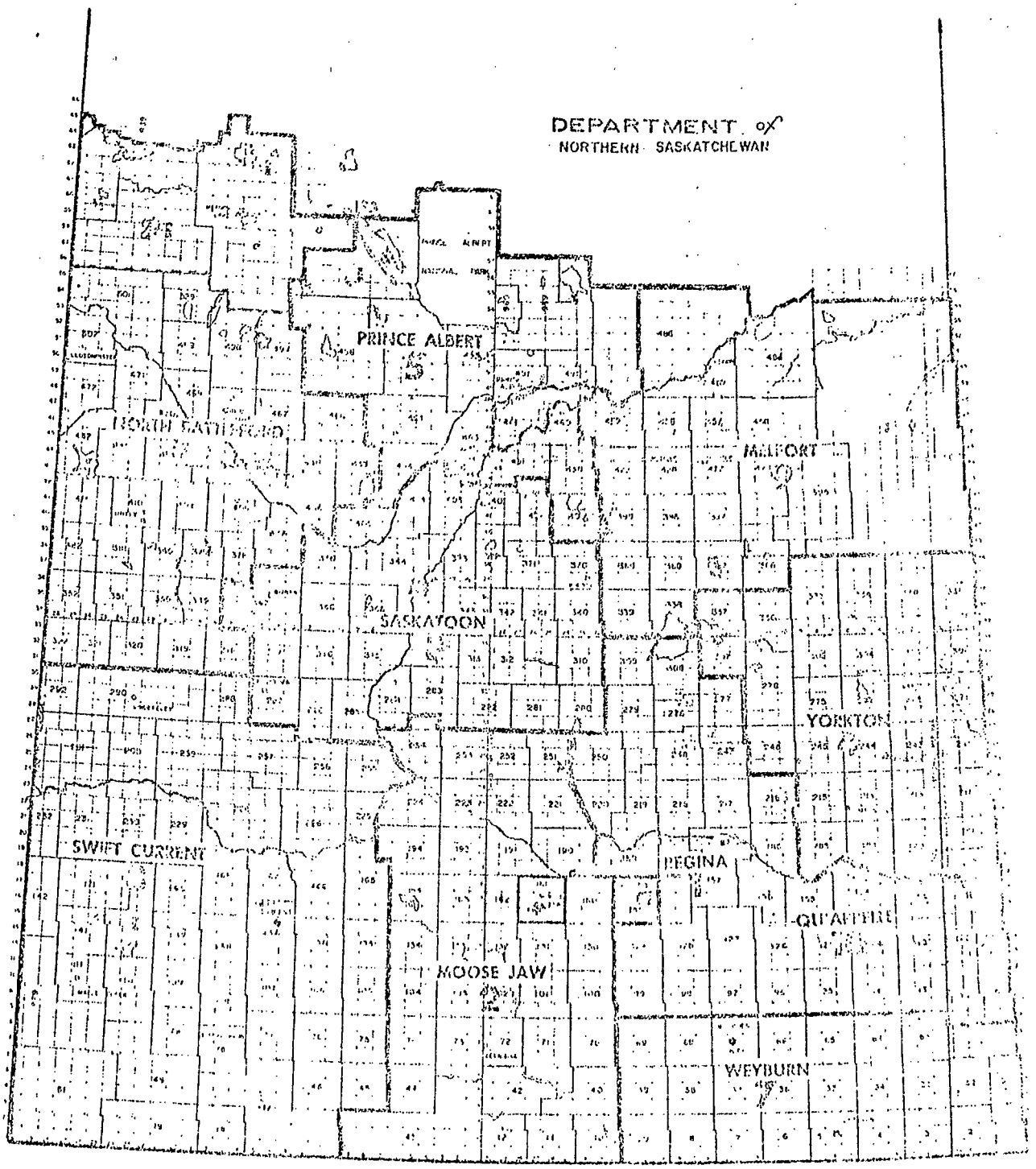
(d) Development of new resources and extension of current resources such as special foster homes, group homes etc., to be located within or as near the home base as possible of the youth and family receiving the services.

(e) New approaches to adult corrections with emphasis on treating the client within or as near his home base as possible in smaller modular facilities based on the need for decentralization due to geographical conditions.

(i) The modular facilities might contain component facilities for older youth offenders requiring custodial care. The prevailing philosophy for treating youth offenders would remain even though administrative procedures might change.

DEPARTMENT OF SOCIAL SERVICES
REGIONS

-- at April 1, 1973 --
also showing the Department
of Northern Saskatchewan



SOCIAL SERVICES REGIONS

APPENDIX "B"

STATISTICS ON JUVENILE OFFENDERS

In the Province of Saskatchewan children up to age 16 come under the Child Welfare Act (Now the Family Services Act) of the Department of Social Services. Since there is no information link between Police, Courts and the Department, statistics on persons under 16 in conflict with the law are not readily available. The only consistent data is that provided by Statistics Canada. However, even this is suspect as the Regina City Police report higher numbers of juveniles brought to trial than is reported by Statistics Canada, leading to an error of 50% low reportings.

There are limited cost implications for those under 16 in expanding cost-sharing under C.A.P. as in Saskatchewan this age group is already under the cost-shared Child Welfare System.

For those 16 or 17, or younger raised to adult court and sentenced to probation or a Provincial Correctional Centre, comprehensive data is available. This cannot, however, be currently linked to court or police data.

STATISTICAL APPENDIX

Five cities in Saskatchewan, Regina, Saskatoon, Prince Albert, Moose Jaw and Yorkton reported juvenile charges laid as shown in the following table:

TABLE I

Number of Juvenile offenders reported	Regina	Saskatoon	Prince Albert	Moose Jaw	Yorkton	Total
in 1973	1,437	1,892	183	45*	200*	3,757
Warned by Police	1,337	1,437	106	26*	116*	3,022
Charged in Court	100	455	77	19	84	735

* Estimated

The five cities have a total population of 344,000, which is 37.6% of the Province, giving a juvenile offence rate of 10.9/1000. However, it seems the rate of reporting of juvenile offences is much lower outside cities. Therefore, on a total population base, using 1/2 the rate of the remainder of the Province, it is estimated that total complaints were on the order of 6,700 for 1973. At a rate of approximately 20% sent to court, this results in approximately 1,340 going to court.

TABLE II

JUVENILE COMPLAINTS REPORTED TO THE DEPARTMENT OF SOCIAL SERVICES

Fiscal Year	Total Reports	
1966-67	273	
1967-68	301	
1968-69	276	
1969-70	239	
1970-71	232	
1971-72	549	
1972-73	529	
1973-74 Estimated	634	(475 in 9 months)

CITY OF SASKATOON STATISTICS

YOUTH SECTION

DELINQUENCIES:	1973 YEAR	1972 YEAR	1971 YEAR	1970 YEAR
ASSAULTS	91	69	67	40
BREAK AND ENTER	99	166	128	99
DRUGS & SNIFFING	33	18	12	17
THEFT OVER $200.00	16	27	122	35
THEFT UNDER $200.00	396	389	265	202
WILFUL DAMAGE/MISCHIEF	159	126	80	57
MISCL. SEX OFFENCES	18	14	21	8
LIQUOR ACT	52	31	40	31
MISC.CRIMINAL CODE OFFENCES	100	142	106	70
MISSING PERSONS	703	705	725	518
NEGLECTED CHILDREN	62	90	46	24
THEFT OF MOTOR VEHICLE	75	50	57	34
BY-LAW OFFENCES	55	67	57	73
CHILD WELFARE ACT & JUV. DELINQUENCY ACTS	33	14	0	0

	1973 YEAR	1972 YEAR	1971 YEAR	1970 YEAR
JUVENILES CHARGED -	455	388	492	274
JUVENILES WARNED -	583	675	660	539
FILES REC'D	1892	1908	1726	1208
FILES CONCLUDED:	1689	1819	1761	1223
NOTICES OF HEARINGS AND/OR SUMMONS SERVED	1420	1658	1736	903
FUNCTIONS ATTENDED:	13	39	16	21
PUBLIC ADDRESSES:	63	115	148	178

OFFENCES COMMITTED BY JUVENILES

CRIMINAL CODE	1970	1971	1972	1973	Invol ved
Arson	2	2	4	5	9
Assault - common	26	38	14	21	39
- bodily harm	5	11	4	10	17
- peace officer	1	2	-	2	2
Break, Enter attempted (House)	3	-	8	7	2
Break, Enter with Intent (House)	8	9	13	13	15
Break, Enter and Theft (House)	36	35	59	96	83
Break, Enter and Commit Mischief (House)	-	2	-	-	-
Break, Enter and Commit Wilful Damage (House)	-	-	3	1	-
Break, Enter, Attempted (Shop)	6	1	8	5	6
Break, Enter With Intent (Shop)	17	25	35	22	32
Break, Enter and Theft (Shop)	45	92	89	72	10
Break, Enter and Commit Mischief (Shop)	2	1	3	-	-
Break, Enter With Intent (Church)	1	-	1	-	-
Break, Enter & Theft (Church)	-	2	1	-	-
Break, Enter, Attempted (Church)	-	1	-	-	-
Break, Enter & Commit Arson	-	-	1	-	-
Cause Disturbance	1	1	7	2	2
Circulate False Fire Alarm	5	3	-	1	2
Criminal Negligence	-	1	-	-	-
Cruelty to Animals	-	1	-	-	-
Conspiracy to Armed Robbery	-	-	2	-	-
Dangerous Driving	1	2	1	1	1
Dangerous Use of Firearm	-	-	-	2	5
Fail to Remain at Scene of Accident	5	9	3	11	10
False Message (Telephone)	-	1	2	2	5
False Pretences	3	2	18	-	-
Forgery and Uttering	-	6	1	2	2
Fraud	1	-	2	-	
Fraud, Attempted	1	1	1	1	1
Fraudulently Obtain Transportation	-	1	2	-	-
Fraudulent Use of Slugs	-	1	-	1	
Uttering, Attempted	1	-	-	-	
Indecent Act	-	-	-	3	3
Indecent Assault on Female	1	2	5	8	11
Intercourse with Girl Under 14	1	-	-	-	-
Impaired - Exceed .08	-	2	1	1	1
Interfering with Transportation Facilities	1	-	-	-	-
Kidnapping	-	-	-	1	1
Murder, Attempt	-	-	2	-	

OFFENCES COMMITTED BY JUVENILES (Continued)

CRIMINAL CODE con't	1970	1971	1972	1973	Involv-
Personation	-	-	-	1	1
Possession of Offensive Weapon	1	-	1	6	6
Possession of Stolen Property	14	10	8	12	18
Possession of Housebreaking Tools	-	-	-	-	-
Public Mischief	-	-	2	-	-
Rape	-	-	-	3	4
Robbery, Armed	1	1	1	1	1
Robbery, Attempted	-	-	1	1	2
Robbery With Violence	5	7	6	3	4
Robbery With Violence, Attempted	-	1	-	-	-
Set Fire To Other Substance	1	-	-	-	-
Suicide, Attempted	2	-	2	-	N/T -
Take Auto Without Consent of Owner	2	3	1	8	13
Theft	113	127	159	112	18
Theft, Attempted	8	7	6	10	2
Theft (Shoplifting)	232	236	303	233	37
Theft of Bicycle	38	53	53	30	3
Theft of Auto	63	114	93	130	23
Theft of Ski-doo	-	1	-	-	-
Theft of Auto, Attempted	1	4	4	8	13
Threatening	2	-	3	-	-
Theft of Motorcycle	-	-	1	4	4
Theft of Mini Bike	1	-	-	1	2
Trespass at Night	-	-	1	-	-
Theft of Mail	-	-	2	1	2
Unlawfully in Dwelling House	-	-	4	-	-
Utter Defaced Coin	1	-	-	1	1
Vagrancy	2	-	-	-	-
Wilful Damage & Mischief	48	63	68	73	13
	708	881	1010	928	13
FEDERAL STATUTES					
Food and Drug Act	3	-	-	-	-
Narcotic Control Act	-	-	-	5	7
Railway Act	-	1	-	1	3
	3	1	-	6	10

OFFENCES COMMITTED BY JUVENILES (Continued)

PROVINCIAL STATUTES	1970	1971	1972	1973	Involved
Liquor Acts	10	19	17	14	19
Vehicles Act	13	20	25	14	14
Fuel Petroleum Act	-	-	-	-	-
	23	39	42	28	33
CITY BYLAWS					
- 3644 - Discharge Firearm in City	10	7	10	8	13
- 3941 - Explode Firecrackers	-	10	3	-	-
- 4219 - Traffic Bylaw	-	2	-	-	-
	10	19	13	8	13
	744	940	1065	970	1451

NUMBER OF JUVENILE OFFENCERS

	1970	1971	1972	1973
Cautioned by Police	1356	1645	1546	1337
Total Number of Juveniles Involved	1440	1809	1598	1437

DISPOSITION OF OFFENDERS APPEARING IN COURT

	1970	1971	1972	1973
Placed on Official Probation	48	67	20	54
Transferred to Criminal Court	4	10	6	3
Case Dismissed	3	-	-	1
Released to Custody of Parents	-	-	2	1
Withdrawn	4	15	4	14
Made Ward of Court	3	39	12	20
Returned to Boys School	1	-	-	-
No Further Action	-	1	-	-
Final Disposition Suspended	19	30	12	6
Fined	-	2	-	-
Jurisdiction Waived	-	-	-	1
	82	164	52	100

APPENDIX "C"

PROJECTION OF PROGRAM UTILIZATION CHANGES

RE: CHANGE OF AGE FOR CRIMINAL CODE JURISDICTION

Based on the experience of the past two years it is not possible to provide a realistic projection of future correctional program utilization by 16 and 17 year olds. However, if we assume that cost per inmate day was about $15.00 (not including capital depreciation allowance) it appears that the following costs were incurred by programs providing custodial care

	1971-72	1972-73
16 years or less - male - fine option	11,000	15,000
- sentence	162,000	203,000
- female - fine option	4,000	1,500
- sentence	18,000	5,000
17 year olds - male - fine option	25,000	26,000
- sentence	278,000	232,000
- female - fine option	3,000	4,500
- sentence	10,000	19,000
Total (17 years or less) male - fine option	36,000	41,000
- sentence	440,000	435,000
- both	476,000	476,000
- female - fine option	7,000	6,000
- sentence	28,000	24,000
both	35,000	30,000

This data however is of limited utility in projecting costs under juvenile offenders legislation which includes persons until their eighteenth birthday, because the data reflects present institutional programs in which economies of scale are attained in large institutions.

That is: costing can only be completed when a proposed system is structured, including the resolution of some basic issues:

1) Will funding be available to units located near adult facilities to allow for joint use of resources? If not, capital expenditures will be at least doubled, and operational costs will probably increase by 20 to 30 percent for custodial programs.

2) Will more community programs be developed to provide participant responsibility for his normal costs of care?

3) What utilization of community resources is likely? (i. e. indirect costs)

4) What range of dispositions will be available? (This will be dependent, in part, on service availability within provincial programs).

5) What are likely to be the new "sentencing patterns" under new legislation?

In sum, about all that can be said is:

- If it is not possible to develop joint utilization of resources between adult and juvenile programs the capital costs will be unacceptably high and operating costs will be higher than is necessary in an efficient service delivery system.

- It is totally unrealistic to provide projections of total costs without some description of programming and a method of predicting new sentencing patterns.

Probation Services for 16 & 17 Year Old Youths

A rough estimate of youth utilization of probation services is about 500 man-years of supervision annually at a present cost of about $100,000 to $120,000 dollars. 16 and 17 year old youth make up about 25 - 35% of our total probation caseload.

TABLE 1

TITLE: MALE ADMISSIONS TO PROVINCIAL CORRECTIONAL CENTRES BY AGE ATTIME OF ADMISSION, BY REASON FOR ADMISSION, AND BY LENGTH OF SENTENCE (1971-72 AND 1972-73)

Length of Sentence	Age: 16 years or less 1971-72 Sentence IM	Sentence Other	Fine IM	Option Other	1972-73 Sentence IM	Sentence Other	Fine IM	Option Other	Age: 17 years 1971-72 Sentence IM	Sentence Other	Fine IM	Option Other	1972-73 Sentence IM	Sentence Other	Fine IM	Option Other
1 - 15	7	9	47	21	9	13	53	15	6	10	58	32	10	9	65	33
16 - 30	17	11	8	1	19	25	17	5	25	17	18	6	24	16	14	5
31 - 60	10	10	3	2	18	6	3	-	12	14	5	2	13	14	6	1
61 - 90	15	12	-	-	15	6	-	-	16	16	-	-	17	9	-	-
91 -180	14	70	-	-	40	15	-	-	23	20	-	1	24	16	-	2
181 - 270	4	2	-	-	17	2	-	-	5	8	-	-	7	3	-	-
271 - 365	10	6	-	-	9	5	-	-	7	10	-	-	7	6	-	-
366 - 545	-	3	-	-	4	3	-	-	3	6	-	-	3	2	-	--
546 +	3	1	-	-	2	2	-	-	2	2	-	-	6	9	--	-
TOTAL	80	74	58	24	133	77	73	20	99	103	81	41	111	82	85	41

IM - Indian Metis

TABLE 2

TITLE: FEMALE ADMISSIONS TO PROVINCIAL CORRECTIONAL CENTRES BY AGE AT TIME OF ADMISSION, BY REASON FOR ADMISSION, AND BY LENGTH OF SENTENCE (1971-72 AND 1972-73)

Length of Sentence	Age: 16 years or less								Age: 17 years							
	1971-72				1972-73				1971-72				1972-73			
	Sentence		Fine	Option	Sentence		Fine	Option	Sentence		Fine	Option	Sentence		Fine	Option
	IM	Other	IM	Other	IM	Other	IM	Other	IM	Other	IM	Other	IM	Other	IM	Other
1 - 15	1	-	20	-	-	1	9	-	1	1	17	1	-	1	21	3
16 - 30	5	1	-	-	4	-	1	-	2	3	3	-	2	3	5	-
31 - 60	6	-	1	--	1	1	--	-	1	-	-	-	2	--	1	-
61 - 90	4	-	1	-	3	-	-	-	3	1	-	-	2	1	-	-
91 - 180	4	2	-	-	-	-	-	-	1	1	-	-	2	4	-	-
181 - 270	-	-	-	-	-	-	-	-	-	-	-	-	2	1	-	--
271 - 365	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
366 - 545	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
546 +	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-
TOTAL	20	3	22	-	9	2	10	-	8	6	20	1	10	10	27	3

IM - Indian Metis

TABLE 3

TITLE: PROVINCIAL CORRECTIONAL CENTRE UTILIZATION BY AGE AT TIME OF ADMISSION, BY SEX, AND BY REASON FOR ADMISSION (1971-72 AND 1972-73)

	Age: 16 years or less								Age: 17 years							
	1971-72				1972-73				1971-72				1972-73			
	Male		Female		Male		Female		Male		Female		Male		Female	
	F.Op	Sent.	F.Op	Sent.	F.Op	Sent.	F.Op	Sent.	F.Op	Sent.	F.Op	Sent.	F.Op.	Sent.	F.Op	Sent.
otal ays	729	10752	264	1196	1001	13522	99	347	1642	18510	214	694	1711	15484	304	1277
ily erage	2.0	29.4	0.7	3.3	2.7	37.0	0.3	1.0	4.5	50.6	0.6	1.9	4.7	42.4	0.8	3.5
gh unt	5	41	3	7	7	60	2	3	10	70	2	5	10	56	4	8
w unt	0	18	0	0	0	18	0	0	1	36	0	0	0	30	0	1

Op - Fine Option
nt. - Sentence

194

TABLE 4

TITLE: ADMISSIONS TO ADULT PROBATION BY AGE AT TIME OF ADMISSION, BY SEX, AND LENGTH OF SUPERVISION REQUIRED (1972-73)

Length of Supervision Required	Age: 16 years or less				Age: 17 Years			
	Male		Female		Male		Female	
	IM	Other	IM	Other	IM	Other	IM	Other
1 - 90	2	2	-	-	1	4	-	1
91 - 180	13	47	3	10	12	43	3	3
181 - 365	47	115	8	10	29	84	6	8
366 - 545	8	8	1	-	5	5	-	-
546 - 730	9	29	-	-	5	15	2	4
731 +	1	-	-	1	-	1	-	-
TOTAL	80	201	12	21	52	152	11	16

IM - Indian Metis

Saskatchewan: Paper (2)

Joint Review

"YOUNG PERSONS IN CONFLICT WITH THE LAW"

Proposals

Department of Social Services
Province of Saskatchewan
March 8, 1974

The developing plan to initiate procedures, federally and provincially, to provide new legislation for "youth in conflict with the law" is welcomed by this province. Alteration of existing laws is certainly overdue in many respects, and there is a need to establish uniformity and consistency wherever possible. We wish, in this review, to place emphasis on two principal issues which we consider to be of the utmost importance. We firmly believe that acceptance of these two primary concepts would greatly enhance the process in arriving at some agreement of the proposed purpose and objectives.

First, the concept of flexibility requires more than passing thought, and must in fact be firmly established as a fundamental working principle. Without question, provincial programs differ as extensively as there are provinces, because of the diversity, geographically and culturally, that exists in this country. Recogniation of these differences will undoubtedly assist provinces to adequately plan and provide for the variance in needs. Accomplishment of this feat can only occur if the proposed legislation is sufficiently flexible to allow current provincial programs to exist, and furthermore if this legislation does not restrict and bind the development of new programs that will be based on the evolving needs of persons receiving the service. What is valid and workable for one province may not necessarily apply to other provinces. New legislation should not, therefore, force provinces to adopt programs that are contrary to their own philosophies and principles.

Secondly all programs for "youth in conflict with the law" should receive federal financial assistance, and more so where program changes occur because of changes in legislation. Indeed, Saskatchewan has formally expressed its position that programs for persons convicted of violating federal statutes, whether adults or youths, should be funded by the government making the laws under which they have been convicted, namely the federal government. Present arrangements can be improved by including for federal cost-sharing all programs for youth regardless of the

administrative area of provision of such services. Regulations or practices that depend on administrative standards rather than program standards to determine eligibility for cost-sharing do not represent a viable solution.

Theories in human behaviour have been undergoing frequent changes over the past years. No one theory is presently accepted as the gospel truth. Consequently, we cannot maintain that the provision of services in the child welfare system is more effective than under the youth corrections model and vice versa.

While Saskatchewan has generally adopted the concept of the welfare model for dealing with youth offenders, current studies in the total corrections field could have some implications. For example, consideration is being given to the idea of the development of smaller modular facilities for adults which could contain component facilities and programs for older youth requiring custody. These alternatives are being considered based on the need for decentralization due to geographical conditions, as well as on the concept of treating the client within or as near to his home base as possible. Therefore our potential to utilize both models administratively should not be based on arbitrary administrative criteria for determining federal financial assistance, but rather on the kind and quality of service granted the client.

In reference to the above, the following recommendations are proposed:

1. Federal legislation on "youth in conflict with the law" should focus on the rights and needs of the youth and should be sufficiently flexible to enable provinces to develop programs and services based on regional and cultural differences. Program and service development must not be restricted by legislation that is binding and rigid.

2. Federal assistance program should be extended to all programs for "youth in conflict with the law" based on program standards rather than administrative procedures.

3. The federal government should bear in the cost of any program implications as a result of new legislation.

Concerning the remaining issues our present thinking would lean in the following direction, subject, however, to change as these matters are further analyzed and developed.

I. Age

1. The minimum age for legal responsibility should be established at 14.

2. The maximum age for entrance into the juvenile justice system should include all persons who have not reached their 18th birthday.

II. Transfers

1. All children under the age of 14 would be processed through child welfare legislation. Provisions should be made available for some 12 and 13 year old youth to be processed in the juvenile system when it is in the best interest of the child and community.

2. Youth between the ages of 14 and 18 would be within the jurisdiction for transfer to the adult justice system.

3. Transfers down from the adult justice system to the juvenile justice system should not be allowed. Legislation should be established to hear special cases (e. g. child witness for a sexual offence involving an adult) in adult court in camera.

4. On the question concerning the stages of transfer (i. e. transfers at the time of adjudication; disposition or treatment) recommendations are being reserved pending a further analysis of the matter.

5. Criteria for transferring cases from one jurisdiction to another should be clearly defined and established.

III. Offences

1. The new Act should include only offences under federal statutes. The concept of delinquency should be deleted.

2. Youth should not be charged with offences which are not considered as offences for adults.

3. Youth between the ages of 14 and 18 who breach municipal bylaws or provincial statutes should be processed in accordance with provincial laws.

IV. Due Process

1. A screening process should be a mandatory step in the proceedings prior to any youth offenders entering the court system, and should be so legislated.

2. The development of a screening process should be the responsibility of the provinces.

3. The review of services, processing of reports, and research and planning should be the responsibility of the department providing the services and not the courts.

4. The legal process should adhere to guaranteeing rights to youth offenders, however, recognizing that too rigid and legalistic a process could hinder the provision of prevention and diversion services.

5. The youth offender should have the right to counsel during the formal stages of the process. He should have the right to decide who he wishes to represent him when a conflict of interests exists between he and his parents.

6. Parents should have the right to be present during any involvement of their children in the investigation process.

7. Legal assistance should be available for youth offenders as is available currently for adults.

8. Predisposition and assessment reports should be mandatory in cases involving committal and indicated in the new legislation. Provinces should be allowed to develop and regulate procedures.

9. The court jurisdiction should be limited to:
   - making adjudications
   - protecting rights
   - making dispositions
   - hearing appeals

10. Services and resources should remain the responsibility of the provinces through the agencies providing the services.

11. Post dispositional reviews should be a mandatory process regulated in the legislation but developed by the provinces.

12. Appeal procedures should be provided for and regulated in the legislation.

V. Court Structure

1. Provinces should be empowered to develop a family court system capable of hearing cases involving juvenile offenders as well as child neglect cases. A two court system should not be a necessary pre-requisite.

2. Dispositions of the court would include:

   - dismissal
   - probation or supervision (would include fines, ordering of community services and ordering of compensation)
   - short-term committal
   - indeterminate committal subject to a maximum time limit

3. Court would not be involved in the actual treatment process and consequently should be limited in the types of dispositions that they can hand down.

4. Services and resources would remain entirely within the jurisdiction of the province providing the service.

In summary, certain of the recommendations proposed could have definite and substantial implications for the province, if enacted in the new legislation. The calculation of these implications into dollars and cents is a process that would require more time than has been currently allotted, and one which would demand further refinement of both federal and provincial policies beyond the present stage of their development. The development of a family court system, a screening process, diversion methods, legal assistance and other such programs cannot be accurately converted into cost projections at this stage. The implications of raising the maximum age of entrance into the juvenile justice system has been partially developed in terms of cost projections. However, the accuracy of these figures cannot be guaranteed because of the number of variables that must be considered.

Many programs could be affected by the new legislation. Consequently, until we have a clearer indication of what proposals might be enacted, we are unable to develop our cost projections more accurately.

Finally, we would strongly recommend that the Joint Review Working Group should have the opportunity to critically examine any draft bill, white paper, or whatever is produced by the federal government prior to any proceedings in parliament. Since the provinces will be required to implement these programs they should have a continued involvement in the development of new legislation.

Manitoba: Discussion Paper (1)

112.

Submission of Director of Probation Manitoba: Lloyd Dewalt

Age Parameters

1. Minimum age 12

For many years in Manitoba children under age 12, alleged to have committed Delinquent Acts, have been routinely referred by probation services (responsible for pre-Court screening of all non-detained juveniles) to Children's Aid Societies or the child welfare services of the Department (whichever carries child welfare responsibility in the area of the child's home) for appropriate action. Native children living on reservations, not served under contract by a Children's Aid Society, have been excepted in that the province only extends child welfare services to reserves in "life or death" situations. If children under age 12 are repeatedly involved they are referred to Court. Experience supports a minimum age no lower than twelve.

2. Minimum age of 13 or 14

A minimum age of 13 or 14 more clearly differentiates between the child and the adolescent than does age 12 and there are valid treatment reasons for so doing. On the average puberty begins in girls in their 13th year i.e. by their 13th birthday and in boys in their 14th year i.e. by their 14th birthday.

Adolescense is characterized by an increasing drive for emancipation and independence, a growing self-consciousness, greater reliance upon and vulnerability to peer influences with a diminution of response to adult authority, idealism accompanied by rebellion against social conventions and standards and perceived social ills, the desire to be viewed and treated as adult with the security of being able, without loss of face, to retreat into childhood when reality of a situation is too threatening, greater capacity for self direction, self-discipline and assumption of responsibility for own actions.

Age is in general terms a milestone in our educational system - a move from elementary school into junior high (Grade VII in some provinces and Grade VIII in others). This has implications for those responsible for the delinquent adolescent - fewer schools and school authorities to relate to and hence greater ability to develop mutually acceptable approaches relative to school problems frequently associated with these adolescents.

..../2

3. Maximum age 18

The maximum juvenile age limit most common throughout the western world is eighteen and where the age limit has been changed in recent years it has generally been toward an increase, sometimes incorporating the young adult age group. Manitoba has for many years experienced in practice an upper juvenile age of 18 years under the Juvenile Delinquents Act. The age of 18 is consistent with the Manitoba Age of Majority Act, which has established age 18 as the age at which young persons assume the privileges and responsibilities of mature adult citizens.

Sixteen and seventeen year olds make up 51% of all delinquency referrals (age 7 - age 18), 56% of those placed on probation (including group home placements) 64% of those committed to training school and around 99% of those transferred to Adult Court (.26% of all juveniles referred). Certainly those in this age bracket that require some form of help or supervision have proven to be far more difficult than the younger adolescent. Some no doubt could fit better into an appropriate adult program.

4. Maximum age 17

There is no logic to an upper age of 17 except as a compromise to achieve uniformity from province to province. Age 17 does not relate to age of majority, assumption of driving privileges or any other milestone to our knowledge. If this age were established it would not pose any particular problem in Manitoba except to shift work from the juvenile to the adult Court system.

5. Maximum age 16

Uniformity of age across Canada is desirable and age 16 is the age most commonly in use at this time. It would likely cause the least disruption and it may well be the only age that will gain majority acceptance. At age 16 certain (but not all) adult privileges are acquired eg. right to leave school, employment and driving privileges.

Age 16 would be a more acceptable alternative if a young offenders "class" were established (say age 16-21) and certain protections against publicity, incarceration etc. were provided as discussed below.

6. Young offenders class - age 16, 17 or 18 to age 21

a) The young offender could be subject to the existing criminal law and criminal justice system with specific provision written in to modify the criminal court approach. This would work to the advantage of the young adult group not now covered under the Juvenile Delinquents Act. Special provisions outlined below should be included.

b) Special provisions in Criminal Code re the Young Offender

(i) Pre-Court Diversion: In line with certain experimental programs, legislation should permit in appropriate cases, (with the consent of the accused) for the Crown Attorney after consideration of a probation officer's social enquiry report to dispose of the matter without a charge, either outright or subject to brief (maximum 3 months) voluntary acceptance of assistance from a probation officer. Failure to follow through with this contract, voluntarily entered into, would result in a formal charge and referral to Court.

(ii) Court Diversion - Use of the disposition "absolute discharge" should be encouraged.

(iii) As recommended in the report of the Canadian Committee on Corrections no sentence of imprisonment (and we would include probation, absolute or conditional discharge) whould be permitted without the Court first reviewing a probation officer's pre-sentence report. Some exception might have to be allowed where a Court does not have available to it the services of a probation officer.

(iv) There should be a requirement that the Court in passing sentence must give first consideration to a non-institutional disposition and if a sentence of imprisonment is resorted to that reasons be stated why a non-institutional sentence was not used.

(v) To avoid giving a youthful offender a criminal record, (in so far as this is reasonable and appropriate) it should be required that where eligibility for an absolute or conditional discharge exists and is not granted that the Court state the reasons it was not granted.

(vi) There should be clear provision for the placement of an offender, as a condition of probation, in a probation hostel or other "community based" residential or attendance program.

(vii) There should be a prohibition placed on the publication of the names of young offenders at all stages in the criminal justice process except where a sentence of imprisonment is handed down. This would avoid, in so far as possible, the publicity, notoriety and stigmatization that may result from involvement in the criminal justice process, but would not shield the offender clearly embarked on a criminal career.

7. Transfer of jurisdiction - Child Welfare to Juvenile Court

Transfer should not be necessary particularly if the lower juvenile age is established as age 12.

8. Transfer of jurisdiction - Juvenile Court to Child Welfare

Transfer procedures should not be provided for in delinquency legislation. However, (a) diversion at intake without a charge or Court appearance should be permitted and (b) the Court should have the option to suspend disposition and refer the juvenile to child welfare authorities for whatever further action they deem appropriate and (c) to commit the juvenile to the superintendent of child welfare after assessment and perhaps with the consent of the superintendent.

9. Transfer of jurisdiction - Juvenile Court to Adult Court

This question is to some extent linked to the upper juvenile age level that is established. However, with the possible exception of Murder (where jury trial is an important consideration) it is proposed that instead of transfer up there be provision in appropriate cases to sentence up to an adult institution or special program. This should be permitted, however, only if the content of a pre-sentence report, prepared by a probation officer, indicates the desirability of this and it is acceptable to the authority having responsibility for the institution or program in question.

If transfer of jurisdiction to the Adult Court is permitted then this should be allowed only if the services available to the Juvenile Court have been exhausted or where to do otherwise is clearly not in the best interests of society. A review of comprehensive social and, where indicated, forensic reports should be mandatory.

10. Transfer of jurisdiction - Adult Court to Juvenile Court

There should be no transfer of jurisdiction to the Juvenile Court since this would among other things require procedures that would undoubtedly lead to serious delays. It should, however, be possible for the Court to commit the offender to an institution or program available to the Juvenile Court - where the content of a probation officer's pre-sentence report supports this and the authority responsible for the juvenile institution or other program is accepting of it.

11. Termination of jurisdiction in Juvenile Court

Any disposition of the Juvenile Court that extends beyond the upper age limit should terminate no later than two years thereafter. This would permit the Court to deal effectively with any juvenile appearing before it up to the upper age limit. As things now stand if a juvenile is committed to training school in Manitoba he becomes a ward of the Director of Child Welfare and he must be discharged from care at age 18 in accord with the Age of Majority Act. The Court is thus handicapped in dealing effectively with certain juveniles approaching the age of 18 (the upper age limit in Manitoba).

Kinds of Act to be Viewed as Offences

Offences under the federal act relating to juveniles should include only those acts contained in the Criminal Code and other federal statutes. Certain of these offences should not be offences if committed by juveniles. By and large these were spelled out in Bill c 192.

If the federal act excludes violations of provincial statutes from its purview it will then have no authority to legislate in the matter. There is then little object in discussing how the provinces should deal with these violations. Presumably each will come to its own decision in the matter.

Prevention of Crime and Delinquency

Delinquency prevention has traditionally been broken down into three levels primary, secondary and tertiary. There is merit in this system.

Primary prevention consists of all those measures taken by governments and services rendered by numerous agencies which contribute to wholesome community living. This is obviously not an area for federal legislation relative to delinquency and crime.

Secondary prevention may be defined as measures taken before a delinquent or criminal act has occured for the purpose of forestalling such action. Secondary prevention is likewise not a subject matter for delinquency and crime legislation, although correctional personnel may well be involved in developing or assisting to develop programs directed toward vulnerable youth or youth who have committed delinquent acts but have been diverted out of the juvenile justice system. An example of this type of approach is the youth services bureaus concept currently in vogue in the United States. By and large however, secondary prevention is more appropriately the responsibility of non-correctional agencies. It is assumed that the Canada Assistance Act has a direct concern in this area.

Tertiary prevention which is defined as those actions and services directed toward juveniles and adults who have been adjudged delinquent is clearly the responsibility of the juvenile and criminal justice systems of which corrections is a part. Some theorists define this kind of prevention as control. The essential task is to prevent the first offender from repeating. This is or can be accomplished in many ways and includes police investigations and apprehensions which respect the dignity of the individual, assessment and screening procedures at every stage in the juvenile and criminal justice process which permit where appropriate for the

screening out of offenders without publicity, charge or Court appearance or diversion out later in the process where supervision is unnecessary and if necessary restricts as little as possible the civil liberties of the individual. Federal legislation should permit diversion and prevention at the tertiary level and make them effective through funding arrangements with the provinces. It is to this level of prevention that delinquency and crime legislation should direct its attention.

Diversion Out of Juvenile Justice System

There should be provision in the federal legislation for diverting juveniles out of the juvenile justice system at any point and diversion should be encouraged where this is clearly in the best interest of the child and of society.

1. Pre-Court diversion:

(i) The police should have discretionary power not to refer juveniles to Court for delinquent acts where the act itself, the age of juvenile or other circumstances warrant and in appropriate cases refer for voluntary service. Once a referral is made, further action on the delinquency in question should not be permitted. The development of guidelines might be desirable.

(ii) Where the police have not exercised their discretion to divert out and have not taken the juvenile to a place of detention the matter should be referred on by way of investigation report. This referral should preferrably be to the probation service ~~who~~ which will then search ~~their~~ its records for prior contact, interview the parents, child and, where indicated, other significant persons (and the Crown Attorney in serious matters) and determine whether or not it is in the interests of the juvenile or the public that an information be laid.

This practice was provided for in the ~~Manitoba~~ Corrections Act, 1966, and administrative guidelines for screening purposes were developed. In practice this arrangement has worked well. In 1972, 40% of all referrals were in this way diverted out non-judicially, many to child welfare, probation volunteers or other voluntary services. No coersion or threat of Court action is permitted.

2. Pre-adjudication diversion:

Provision should continue to be made for the diversion out of juveniles by Court prior to plea as now provided for under Sec. 16 of the Juvenile Delinquents Act . It is widely used.

3. Dispositional diversion:

There should continue to be provision for diverting juveniles out of the system following plea or adjudication either to parent with no strings attached (suspend final disposition) or to the care of child welfare by way of committal (Sec. 20(h)). The latter should only be permitted if a probation officer's social assessment and/or forensic assessment support this and the child welfare authority accepts.

4. To whom to divert:

Except for committal to child welfare or referral for appropriate action under child welfare legislation diversion should require the consent of the child and his parents and be a strictly voluntary arrangement between them and the helping person or service. No coersion or threat of Court action should accompany diversion. Youth services bureaus which are in vogue in the United States often serve as diversion agencies. Federal legislation should perhaps only permit diversion-not designate how the province organize to provide service to those diverted out.

Due Process

1. Right to Counsel:

Juveniles with or without parental agreement should have the right to counsel and be provided with legal aid where necessary. Their rights in this regard should be the same as for adults.

2. Crown Counsel:

Since the only justification for criminal sanctions is the protection of society, society should be appropriately represented in the juvenile justice process. The police should not be placed in the untenable role of prosecutors . The Crown counsel need only be involved in serious matters or where the offence is contested or transfer to Adult Court is a serious consideration. They should

work closely with probation officers, consult with and be consulted by them in contentious matters. The crown prosecutor should be legally trained, and by further training in the behavioural sciences and by temperment be especially equipped for juvenile court work.

3. Appeals:

Juveniles should have the same right of appeal to a higher Court as do adults. Their liberties are equally precious.

4. Identification of Criminals Act:

The law as it now stands under the Juvenile Delinquents Act seemsto be working satisfactorily.

5. Transcripts of proceedings:

Proceedings should be recorded in contested cases or where the liberties of a juvenile are severely restricted or removal from parental custody is ordered, as for example, committal to training school or to the superintendent of child welfare. Transcripts should only be typed up if and when required. In other cases notes would seem to suffice.

6. Transfer at child's request:

The child should have equal rights to those of an adult with respect to transfer to another Judge or another Juvenile Court. The right to jury trial or superior Court trial would not seem justified if the right to appeal is clearly provided.

7. Detention:

As suggested in model Juvenile Court acts, clear criteria for detaining children should be written into the federal act. If a juvenile is detained there should be an immediate review upon admission to detention and authority vested in probation officers and the superintendent of the detention facility to release the child into parental custody if this can safely be done. The juvenile should be eligible for bail and if detention is continued he should be brought before the Court within 24 hours (perhaps excluding non juridical days).

8. Other rights and protections:

The juvenile should have no fewer rights and protections than does the adult charged with an offence.

Dispositions of the Court

1. Assessments:

(i) If violations of provincial statutes are excluded from the federal act and pre-Court diversionary procedures are employed then, those who appear in Court can be assumed to be in need of help and supervision. There will never-the-less be exceptions and needs will range from the simple to the complex. It is essential therefore that there be a built-in mechanism which will ensure social assessments in the depth indicated by the circumstances in each case and, through Court order if need be, arrange where warranted for additional forensic or other assessments.

(ii) Social assessments should be the responsibility of probation officers. The federal act should make it mandatory that he be involved as soon after the police investigation as possible and at the very least that he be advised in advance of the appearance in Court of any juvenile and have the right as now provided, to represent the child's interests. It can't be assumed that every child will have counsel particularly at first Court appearance. Following adjudication the probation officer should be assured the opportunity to conduct a social enquiry and present to the Court a written report of his assessment.

(iii) A probation officer's assessment report should be made available to counsel for the juvenile. In the absense of counsel the judge should exercise judgment as to what portions of the report should be revealed to the parents and/or child. The probation officer should be subject to examination and cross examination in Court with respect to the contents of the report. The child should also have the right to assessment by professionals of his own choosing at his own expense. This should, however, be in addition to, not in-lieu-of the Courts own assessment resources which are assumed to be more objective.

2. Dispositions

(i) The Court should have at its disposal a wide range of dispositions from diversion out to imposition of strict controls. The following are suggestions.

- adjournment sine die without plea.

-fine and/or payment of restitution.
-suspend final disposition.
-probation with child in parental custody.
-probation with condition of placement in foster home, group home or child care institution.
-probation with condition of attendance at attendance centre or other special program.
-committal to training school.
-committal to superintendent of child welfare.

(ii) Where removal from parental custody is under consideration it should be mandatory that the child have legal counsel and, where services are available that forensic or psychiatric assessment or consultation also be carried out. The Court should be required to state its reasons why it did not choose a less serious disposition.

(iii) Committal to training school: Section 21 of the Juvenile Delinquents Act provides that where a child is committed to an "industrial school" under Sec. 20 (i) that he may, if a province so enacts, be thereafter dealt with under the laws of the province and that except for a new offence the court ceases to have jurisdiction. This section is open to several interpretations and has led to misunderstanding and open hostility. For example, the Deputy Attorney General and family court Judges in Manitoba place significance on the word "thereafter", in the above mentioned section, holding that a juvenile thus committed to an "industrial school" must physically be admitted to that institution before provincial legislation takes over. Federal Welfare officials on the other hand have advised that any institution to which there is direct committal from the court is not shareable under the Canada Assistance Act. Some intermediary mechanism is required. The Juvenile review board set up under the Manitoba Child Welfare Act to serve as this mechanism has held that admission or denial of same is their prerogative. As a result of serious differences, the Child Welfare Act was further amended to allow for direct committal to "industrial schools". Whether these institutions are now shareable is open to question. In any event existing law is open to several interpretations, and is unclear as to intent.

If the court is to be denied the option of committing to an "industrial

school" it should not then be placed in the position in court, in front of a juvenile offender, of appearing to commit only to have him discover at a later review that in fact the court order was a sham. Nothing can serve better to enforce his disrespect for the law, the court and the juvenile justice process and to substantially reduce the quality of predictability of the law. If the court is not to have this option then it should either be removed from the act or a province be given the legislative authority to nullify it and not establish "industrial schools." If such authority is granted concern then arises as to what mechanishm will replace due process for the admission to "closed" institutions of juveniles held by they provincial authority to require strict controls.

If there is need for "training schools" in the spectrum of services for juvenile offenders and in view of the rather serious restriction they place on individual liberties there is much to be said for vesting authority to commit solely in the hands of the juvenile court where due process and other legal safeguards are present. Mandatory assessments, as discussed elsewhere, are equally important. Provincial law should take over after admission and involve an early review with powers to transfer to a more appropriate setting (if the degree of restriction of liberty is not increased) or grant at any stage temporary absence, graduated discharge, "half-way house" placement, after care etc". At an early stage (eg. after six months) the juvenile or anyone on his behalf should have the right to have his circumstances and the treatment plan in which he is involved reviewed by an independent body. Committal to training school should not necessitate transfer of guardianship from parents to state. This has the effect of absolving them of the responsibility they should be helped to better assume.

(v) A child found guilty of an offence punishable by a life sentence if committed by an adult should be dealt with as any other child before the Court i.e. his needs should be thoroughly assessed and the disposition most appropriate to his needs imposed. As suggested elsewhere there should be provision for sentence to an adult institution or program where appropriate. Perhaps also, if he is committed to training school, there should be provision, for his return to Court when he has reached the age of majority for review and possible transfer to an adult institution if further incarceration is indicated.

(vi) Sentences should be definite except perhaps in the case of murder. Provincial legislation should provide for graduated discharge, parole, etc. as referred to above. Indeterminate sentences are bad psychologically and they suggest a degree of infallibility on the part of therapists that present day knowledge does not support.

Jurisdiction in Court re Disposition - Review

1. Review

The juvenile should have the right of judicial appeal as to adjudication and/or disposition. If committed to training school there should be an administrative (treatment) review and the most appropriate "treatment" plan implemented. The child or any person in his behalf should after a period has passed (say six months) have the right to have his situation and the treatment plan in force reviewed by an independent board or the Juvenile Court with authority to order discharge or to recommend implementation of a new treatment plan. Perhaps the pattern would have to be left to each province to work out.

Spectrum of Services

1. Types of services needed.

Federal legislation should be flexible enough to allow for the development of new programs and approaches and at the same time protect the juvenile from unwarranted interference in his life. The following comments represent but a skeletal outline of essential components of a comprehensive program.

(i) Assessment services

Pre-Court diversion - by probation officers

Social assessment - by probation officers

Psychiatric and Psychological -(in selected cases) by forensic services or other service available as needed.

Other as required - eg. for diagnosis of learning disabilities, perceptual disorders, etc.

(ii) "Detention" services and facilities as appropriate - foster home, group home, remand under intensive supervision, reception - diagnostic centre, etc. with strict admissions criteria and Court supervision.

(iii) Supervisory and treatment services.

Probation services supplemented by volunteers etc.

Probation with a gradation of residential controls - specialized short term foster homes, group homes or hostels, children's

institutions etc. to provide care, controls and specialized services on a relatively short term basis as part of a longer term treatment plan not involving transfer of guardianship from parents.

Probation with attendance centre involvement - would provide specialized programs on a day time, evening or weekend basis directed toward specific problems.

Training schools by whatever name - for a relatively small percentage of delinquent juveniles requiring rather strict control. Treatment oriented and involving community to the greatest extent possible.

"Parole" or after care - treatment considered to be a continuous process from initial involvement through to discharge with probation officer providing the thread running through all stages and including increased involvement during the after-care stage which could include half-way house placement.

2. Service standards.

All services should be governed by standards. Although there are in existence standards relative to delinquency legislation, juvenile Courts, probation and institutional care these are scattered and have greater or less relationship to the Canadian scene. Standards should be developed as a federal-provincial undertaking and serve as a basis for funding.

3. Personnel standards.

As implied above personnel standards are in existence but Canadian standards should be developed and, if necessary, training courses established or co-ordinated to meet the variety of staffing needs of a comprehensive program.

4. Relationship to Community.

Youthful offenders should wherever possible be involved in community programs directed to the community at large. Where special programs have to be provided to prepare the offender for involvement in community programs these should relate to the community to the greatest extent possible. For example a juvenile may reside in a short term group home but attend regular school and

if necessary receive additional tutoring in order that he may correct for deficiencies so as to be able to function at school. Juvenile programs should at no time attempt to replace community programs. A close working relationship with the social service and education systems is particularly vital.

Programs for juvenile offenders should be closely integrated one with the other and relate in a positive and meaningful way to the community (as stated above) but also to the juvenile justice system of which juvenile corrections is a part. Within the system there should be common goals and objectives and well thought out working arrangements so that all parts of the system work harmoniously together. Juvenile corrections should not, however, be administratively the responsibility of the Court even though it has responsibility to carry out the orders of the Court and from which it derives its authority to intervene in the lives of offenders. If a positive relationship exists among the correctional services, the police, the prosecution and the Courts, probation officers and other staff are able more effectively to intervene on behalf of the rehabilitative needs of offenders.

Court Resources

1. Advisory committee to the Court:

   The Manitoba Government White Paper on corrections proposes "the establishment of "community help-and-action" committees to perform public education and community action functions to correct situations which contribute to delinquency, to develop resources to meet unmet needs, to represent the public interest relative to the operation of the Court and the services on which it relies and, when called upon by corrections staff, to offer assistance in individual cases." Whether provision for such a committee could or should be embodied in a federal act is open to question.

2. Training for Court personnel:

   Obviously some form of specialized training should be provided all professional

and non-professional staff attached to a specialized Court. Professional training in itself is not sufficiently broad to fully prepare one for this specialized field.

3. Detention, remand facilities:

Detention should be a last resort. Placements in special foster and/or group homes should be permitted by legislation or on an order of the Court. Remand under intensive supervision should likewise be possible. Where detention or remand facilities are required, admissions guidelines should be provided in the federal act and appearance before a Court within 24 hours should be required. All juveniles while in such a facility should be under the jurisdiction of the Court. Where no detention facility is available and it is necessary to use an adult "lock-up" no child should be permitted to be held in the same room with an adult prisoner.

4. Roles of Court personnel:

The administration of the Juvenile Court should be separate from the judicial function. Crown prosecutors should be in the Attorney Generals Department or its equivalent. Probation and correctional officers should be administratively separate from the judiciary, court administration and prosecution. The department to which they are attached is of lesser importance.

Parents Rights and Obligations

1. In general, parents should be advised of any contact with their child by any part of the juvenile justice system whether or not an information has been laid. They should be officially notified of any action to be taken and of Court appearances, etc. If their child is a ward of the state the Court should be required to consider notification to parents but be able to exercise discretion as to whether or not the parents be notified. Parents should be expected to appear in Court with their child but again the Court should have authority under extenuating circumstances to excuse their presence. Parents should be involved to the greatest extent possible in the assessment of their child and in any ongoing treatment plan.

128

2. Alcohol and drug related problems:

These are complex, widespread problems that cannot receive adequate treatment here. If they come within the scope of the federal act then the act should be sufficiently broad as to make possible the development of appropriate programs and approaches. It would be a mistake to draft legislation that binds provinces to programs based on current day knowledge.

3. Native Young People:

(i) The federal act should not make special provisions for any minority group. It should encourage by way of funding for the development of specialized programs where these are indicated and for the training and employment of a greater number of native people in corrections.

(ii) Community related programs aimed at providing native peoples with greater opportunities for meaningful involvement in their own collective affairs and in the broader community, greater educational, recreational, social and employment opportunities and the establishment of a more viable economic base on reserves would seem to be basic to any long range reduction in the incidence of delinquency among native youth.

FUNDING ARRANGEMENTS

1. Criteria for funding:

(i) Cost sharing or funding by the federal government through the Canada Canada Assistance Plan or other program should be based on service standards (developed jointly by the Federal Government and the Provinces) or other criteria and not on provincial organizational arrangements or departmental auspices under which correctional services are administered. There is merit, within the limits imposed by the federal young offender's act, in allowing for a variety of approaches in accord with regional peculiarities, philosophical outlook, research orientation and organizational arrangements.

(ii) A new federal act will not of itself result in any improvement in services to young people in conflict with the law. To accomplish this objective the federal government should ideally enter into some kind of funding arrangement with the provinces relative to the whole spectrum of juvenile correctional services. The present arrangement whereby the most expensive,

and not necessarily the most effective service (training schools) is alone cost-shared is shortsighted. If funding of all juvenile correctional services is unacceptable then serious thought should be given first to the funding of non-institutional services, for only if these are fully developed will it be known the kind and amount of institutional services that are needed. Probation subsidy programs, for example, have resulted in a significant decline in institutional committments in several U.S. states and in a consequent curtailment of capital expenditures.

2. Federal consultation and funding of demonstration and Innovative Projects:
The role recently assumed by the correctional consultation centre of the Solicitor General's Department in this area should be continued and expanded. Greater attention should be devoted to the bringing to-gether on a regular basis of correctional personnel from across the country so that ideas can be exchanged, innovatives projects described, research findings discussed etc.

This would be in keeping with the leadership role suggested for the federal government by the Justice Committee on Juvenile Delinquency.

3. Manitoba cost comparisons:
The table that follows provides an estimate of the total cost (as of this date) of services to juvenile offenders under the various alternative age jurisdictions. A change in age at the lower or upper levels would have little overall effect on cost but would result in some shift from the juvenile to the adult correctional program should the upper juvenile age be lowered from eighteen. In view of the small number of juveniles committed to training school those in the age 16 and 17 year bracket could without difficulty be absorbed into existing adult institutions. However some shift in programming within the adult correctional system might be felt necessary and at some increase in cost.

MANITOBA COST COMPARISONS

Based on caseload statistics and expenditures 1973-74, including salary increases

	PRESENT COST 12 - 18	COST INCREASE OR DECREASE WITH AGE CHANGE					
		12 - 16	12 - 17	12 - 18	14 - 16	14 - 17	14 - 18
PROBATION SERVICES							
Juvenile	1,118.	-615.	-335.	Nil	-775.	-495.	-160.
Adult	745.	+615.	+335.	Nil	+615.	+335.	Nil
Per diem $1.45							
FORENSIC SERVICES CHILDREN	60.	Nil	Nil	Nil	Nil	Nil	Nil
ATTENDANCE PROGRAMS	50.	-50.	-25.	Nil	-50.	-25.	Nil
SPECIAL FOSTER HOMES Per diem $4.50	84.	-48.	-28.	Nil	-48.	-28.	Nil
GROUP HOMES AND HOSTELS Per diem $7.00	81.	-46.	-27.	Nil	-46.	-27.	Nil
CHILD CARE INSTITUTIONS Per diem $30.00	187.	-108.	-62.	Nil	-108.	-62.	Nil
ADULT PROBATION HOSTELS Per diem $5.00 & S.A. etc.	11.	+202.	+117.	Nil	+202.	+117.	Nil
DETENTION - YOUTH CENTRE Per diem $23.00	1,066.	-420.	-210.	Nil	-630.	-420.	Nil
TRAINING SCHOOLS M.H.B. only Per diem $45.00	399.	-256.	-128.	Nil	-256.	-128.	Nil
HEADINGLY CORRECTION INSTITUTION							
Correction program	153.	+128.	+64.	Nil	+128.	+64.	Nil
Detention - remand	(transfers only)	+420.	+210.	Nil	+420	+210.	Nil
Per diem $20.00							

NOTE: The above analysis is based on per diem costs and a shift in populations due to age change. However, because of the small numbers in training school and fixed overhead it is doubtful that training school costs will vary to the degree indicate. The shift in detention population would likely necessitate some redisignation of institutions or development of an adult remand centre.

JUVENILE REFERRALS MANITOBA 1972
excluding Highway Traffic Act Infractions

OUT-OF-COURT ADJUSTMENTS				
Non-judicial	3,124		39.8%	
Diverted out without court appearance		3,124		39.8%
COURT ADJUSTMENTS WITHOUT DELINQUENCY FINDING				
Dismissed	49		.62	
Referred to adult court	21		.26	
Adjourned sine die	1,750		22.3	
Diverted out at court without finding of delinquency		1,820		23.2%
COURT DISPOSITIONS FOLLOWING PLEA OR FINDING OF DELINQUENCY				
Reprimand	188		2.46	
Suspend final disposition	655		8.4	
Fine, restitution, suspend driver's license	952		12.1	
Diverted out at court without supervision		1,805		22.9%
Probation	1,064		13.5	
Training school	50		.62	
TOTAL PERSONS REFERRED	7,863		100%	
TOTAL DIVERTED OUT		6,749		85.9%
TOTAL PLACED UNDER SUPERVISION		1,114		14.1%

JUVENILE REFERRALS MANITOBA 1972

REFERRALS BY AGE AND SEX

SEX	TOTAL	7 YRS	8 YRS	9 YRS	10 YRS	11 YRS	12 YRS	13 YRS	14 YRS	15 YRS	16 YRS	17 YRS
M	6,469	35	47	97	130	194	323	505	733	932	1,488	1,985
F	1,394	4	6	13	18	40	82	167	237	288	264	275
FINAL TOTAL	7,863	39	53	110	148	234	405	672	970	1,220	1,752	2,260

COMMITTALS TO TRAINING SCHOOL BY AGE AND SEX

	BOYS	GIRLS	TOTAL	%
UNDER AGE 15	4	4	8	16
15 YEARS	6	4	10	20
16 YEARS	14	2	16	32
17 YEARS	14	2	16	32
	38	12	50	100%

*JUVENILES ON PROBATION BY AGE

	TOTAL	%
UNDER AGE 14	86	8.1
14 YEARS	143	13.4
15 YEARS	242	22.8
16 YEARS	233	21.9
17 YEARS	360	33.8
	1,064	100

* Estimate based on % breakdown, Winnipeg

Manitoba: Discussion Paper (2) -- Child Welfare

Position: In Manitoba, a Departmental position with regard to the interface between Child Welfare and Juvenile Corrections has not yet become explicit. The Manitoba position is best expressed, from a Child Welfare point of view, as an existing and developing emphasis on specific service delivery and evaluation of services. Recent developments in legislation offer an insight into the direction emerging, however, and in some ways the issues of age and funding have been accommodated, if not resolved.

Existing Legislation: The Manitoba Child Welfare Act originated in 1922. Its present form is a palympsest of amendments and additions, lacking something in orderliness, relevance and philosophical unity.

Recent amendments (1970) place a child committed under (h) and (i) of The Juvenile Delinquents Act under care and custody of a Society or the Director of Welfare. A Review Board provided for under amendments of 1970 and 1973 has thereafter authority to deal with treatment and discharge. The effect of this kind of provision is to heat up the interface and introduce various tensions and frustrations for both courts and workers.

There further exists in Manitoba a Juvenile Probation program separate from Child Welfare, but included together in the Social Services Branch of Health and Social Development. Under Juvenile Probation services there are highly qualified probation officers functioning in various treatment roles. A foster home program also operates independent of Child Welfare under the Probation Services directorate.

With the exception of a few difficulties, the system appears to work.

Whether court/welfare/corrections interfaces require new organizational and/or

...../2

philosophical constructs is a matter which the Manitoba government has not yet decided.

New Legislation: A completely new Child Welfare Act is in the mill and planned for presentation in the House in the near future. Without second guessing policy decisions, it is apparent that the new Act will move the province increasingly into the Child Welfare route for youth in conflict with the law. The new act creates a Director of Child Welfare as a statutory identity and places a much-expanded list of external and community based operations under his regulatory and program control. Careful attention has been given to the relationship between the Juvenile Delinquents Act and this bill, with clear intent to maintain a relationship consistent with the allowable requirements of The Juvenile Delinquents Act. That cost-sharing as presently implemented under Canada Assistance Plan regulations is a major concern is obvious, but the philosophy of the bill is holistic and consistent with treatment and rehabilitation aims as found in current Child Welfare practise.

Implications of Age Alternatives: Manitoba normally treats all 12 and under delinquents as Child Welfare cases. At age 18 majority moves the youth into adult court. Between those ages, the treatment and institutional costs and programs are a Child Welfare matter, with the exception of the Manitoba Youth Centre. Cost implications, therefore, to the Child Welfare appropriation, of the proposed age range of 14-18 are minimal. In terms of program, little effect is anticipated. Some administrative adjustments would emerge, but in view of the impending changes which a new Manitoba Child Welfare Act will introduce, the suggested age alternatives have little impact.