



TOWARD SAFER COMMUNITIES

VIOLENT AND REPEAT OFFENDING BY YOUNG PEOPLE

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TABLE OF CONTENTS

FOREWORD	1
SECTION 1 - BACKGROUND INFORMATION	3
I. YOUTH CRIME IN CANADA	3
Types of Crimes Committed by Young People	3
Profile of Young Offenders	4
Repeat Offenders	4
Sentences	5
Bias in the Justice System	5
Transfers to Adult Court	5
II. YOUTH JUSTICE AND YOUTH SUPPORT SYSTEMS	6
Schools	6
Child Protection and Mental Health Services	6
Principles of the <i>Young Offenders Act</i>	7
Recent Amendments to the <i>Young Offenders Act</i>	8
SECTION 2 - ISSUES OF PUBLIC CONCERN	10
I. LOWERING THE MINIMUM AGE	10
II. LOWERING THE MAXIMUM AGE	11
III. TRANSFERS TO ADULT COURT	12
IV. PUBLICATION OF NAMES	14
V. SENTENCING	15
Requirements for Custody	16
Treatment for Young Offenders	16

SECTION 3 - PREVENTING YOUTH CRIME	18
The Cycle of Crime Prevention	18
Early Intervention	19
. Families	19
. Education	19
. Mental health services	20
. Community policing	20
Community-based Alternatives and Custody	21
Preventing Re-offending	22
CONCLUSION	24

TOWARD SAFER COMMUNITIES: VIOLENT AND REPEAT OFFENDING BY YOUNG PEOPLE

FOREWORD

The Department of Justice is seeking your views on how to better address the problems of youth crime. This consultation paper is intended to provide you with facts on the nature of youth crime in Canada as well as a range of considerations on the legal and social aspects of the issues.

The *Young Offenders Act* provides a legal framework to deal specifically with young people, who require guidance and special assistance that is not always available in the adult justice system. It attempts to balance the public's need for protection and the needs of young people as they develop and mature. Above all, the goal of the Act is to ensure that youths are held accountable for their illegal acts and to stop them from committing further crimes.

Although the Act works well for most young people, the federal government is committed to ensuring that the Act better achieves these objectives. The specific focus will be on youth who commit violent or repeat offences. These have been areas of particular public concern and must be dealt with as distinct problems. Your views will help us in the difficult process of developing comprehensive reform.

We are asking you to be insightful in considering legal solutions to youth crime, but also to look beyond the limits of the law at broader approaches and other avenues to assist youths at risk. Making changes to the *Young Offenders Act* will not solve all the problems of youth crime.

As you weigh the issues, you should bear in mind certain limitations of legal reform. For instance, while the federal government is directly responsible for the *Young Offenders Act*, it is the provinces and territories that administer the Act in their jurisdictions. As well, many services for children and youth, including education, health, and child protection, are provincial and territorial concerns.

Cost is another important consideration in developing solutions to youth crime. We have to find ways to use limited resources better and smarter to prevent crime and to respond effectively when youths commit crimes.

Children and youth are the greatest resource for our future. The Department of Justice is grateful for the support it has received in its continuing efforts toward protection of society, especially regarding youth in the justice system. The nurturing of young people is a universal concern for all areas and levels of government, as well as many non-governmental organizations, professional groups, and indeed all Canadians.

Although the ideal is to eliminate youth crime altogether, the pressing need to take immediate action in the way we deal with youth through the *Young Offenders Act* is an urgent priority of the government.

This paper is composed of three sections, dealing respectively with the context of the *Young Offenders Act*, issues of concern to the public, and the prevention of crime by young people. The second and third sections set out particular aspects of the problem of youth crime and include specific questions which you are invited to respond to. The Department of Justice is counting on your help to improve the law in the best interests of the public.

SECTION 1 - BACKGROUND INFORMATION

I. YOUTH CRIME IN CANADA

The crime rate among Canadian youths today is about the same as it was five or ten years ago. This may surprise some people. Canadians are more concerned about youth crime now than we have been at times in the past. But, while some types of crimes committed by young people have increased in recent years, other crimes have not increased.

Adults continue to commit most of the crimes that are committed in Canada. In 1992, 610,389 Canadians were charged with *Criminal Code* offences. Over three-quarters of these people were adults. Less than a quarter of those charged with a crime were youths aged 12 to 17.

Adults are also much more likely to be charged with violent crimes. Almost nine-tenths (86%) of those charged with violent crimes in 1992 were adults. Slightly more than one out of ten (14%) of the people charged with violent crimes were youths.

- **Types of crimes committed by young people**

Most young people charged with crimes in 1992 were charged with property offences. Property crimes range from less serious offences such as theft under \$1,000 to more serious crimes such as break and enter. In 1992, more than half of the property crimes committed by youths were theft (57%).

Violent offences accounted for 14% of the charges laid against youths in 1992. Almost one-half of all violent offence charges against youths were for minor assaults (slaps, punches, etc.).

More youths are being charged with minor assaults today than was the case in 1986. We do not know how much of this increase is due to a real increase in assaults, and how much is due to factors like police officers' greater willingness to charge youths for minor assaults, and victims' greater willingness to report such incidents to the police.

From 1986 to 1992, the average number of young persons charged by police with homicide (murder, manslaughter, infanticide) per year was 45. Slightly less than one in 300 youths charged with a violent offence in 1992 was charged with homicide.

Nearly one in five of the youths charged with violent offences in 1992 was charged with assault with a weapon. One out of ten youths charged with a violent offence was charged with sexual assault.

- **Profile of young offenders**

Most young offenders are males. In 1991-92, males represented from 80% to 95% of the cases in each of the provinces and territories. While females still form a minority of young offenders, their share of youth crime is increasing. The fastest growing offence among female young offenders is minor assault.

Factors that may lead young males to commit crime include:

- ◆ Family problems - conflicts at home; abuse in the home; parents taking part in criminal activities.
- ◆ School problems - truancy; learning disabilities; failure; conflicts with teachers.
- ◆ Personal risk factors - anti-social behaviour (e.g. disobeying authority and cruelty to animals); chronic running away from home or institutions; hyperactivity as a child.
- ◆ Drug or alcohol abuse.
- ◆ Delinquent friends or belonging to a gang.

- **Repeat offenders**

In 1990-91, in 19% of youth court cases, the accused already had five or more previous convictions. Most repeat offenders commit the same types of crimes as first-time offenders. In 1991, among both repeat and first-time offenders, about two-thirds were charged with property offences.

Judges across the country sentence repeat offenders more severely than they sentence first-time offenders.

- **Sentences**

Youth court judges can sentence youth in many different ways. These include absolute discharges, fines, restitution, community service, probation and custody.

Custody may be open or secure. Open custody means custody in a group home, child care institution or wilderness camp. Secure custody means placement in a detention centre.

In 1991-92, 42% of the youths sentenced by youth courts were sentenced to probation. Almost one-third of the youths sentenced were sentenced to custody. More older youths (16- and 17-year olds) were sentenced to custody than younger offenders. Older youths were also more likely to be sentenced to secure custody. In 1991-92, of all the youth court cases that resulted in a sentence of custody, almost half were for non-violent offences.

Canada has the third-highest rate of imprisonment (adults and young offenders) in the western world, behind only the United States and Switzerland.

- **Bias in the justice system**

Some people are concerned about bias in the justice system. Stephen Lewis, in preparing his report on race relations after the riots in Toronto in 1992, met with large groups of young people, most of them from visible minority communities. Lewis states, "Time and time again I was told of the disproportionate numbers of minority youth in detention centres, of the abuse gratuitously heaped upon them, of the woeful lack of 'rehabilitation' opportunities or any assistance at the point of discharge."

Aboriginal communities have also raised concerns. Compared to non-aboriginal youth, aboriginal youth have more charges laid against them, are less likely to get bail, are more likely to be sentenced to custody, serve longer sentences and are more likely to be transferred to adult court.

- **Transfers to adult court**

In 1991-92, 71 cases were transferred from youth court to adult court in Canada. Of these cases, 33 were for charges of committing a violent offence, 30 were for property offences and 8 were for other offences.

When a youth is transferred into adult court, all *Criminal Code* provisions can be applied. These include the "dangerous offender" provisions. Dangerous offenders can be held in custody for the rest of their lives.

Youths convicted in adult court may still be sentenced to a youth detention centre. In deciding where to place a youth, a judge must consider such factors as public safety, prior record and the age of the offender.

II. YOUTH JUSTICE AND YOUTH SUPPORT SYSTEMS

The youth justice system is not the only system that can prevent crime and ensure safe communities. Provincial child protection and mental health services, as well as schools, also have an important role to play. Many of the youths who commit crimes have problems such as drug abuse or learning disabilities. These problems contribute to the criminal behaviour, but they cannot be solved by the justice system alone.

- **Schools**

Virtually all children go to school. The school system provides a way of reaching children that is likely to be more timely and positive for them and their families than the child protection or justice systems.

Some people believe that schools should be teaching skills such as anger management and non-violent conflict resolution. Children who learn these skills may be less likely to commit crimes, especially violent crimes, in the future. Unfortunately, the resources of the educational system are already strained, and there are many other demands placed on that system.

- **Child protection and mental health services**

Child protection services, such as Children's Aid societies, are governed by provincial and territorial laws. If parents are unwilling or unable to care for their children, the child protection services will either support the child in the home or place the child in the care of the state.

Mental health services, like child protection services, are governed by provincial and territorial laws. Each province has a variety of agencies and professionals that provide mental health services for children and youths. These include drug abuse treatment programs and psychiatric hospitals.

The provinces and territories are responsible for laws governing children under 12 who commit crimes. Canada has no national laws to deal with these cases. When a child under 12 commits a serious crime, or repeatedly commits minor crimes like shoplifting, provincial and territorial laws generally allow police to apprehend the child. The court may then order the child removed from his or her home and placed in the care of the state.

Sometimes child protection and mental health services break down. When these services cannot help youths with problems, the youths may be sent to the justice system even though they do not really belong there. Sometimes judges sentence a youth for longer than the crimes warrant, in the hope that the youth will get counselling.

It is a problem when youths are sent into the justice system for the wrong reasons. Where young offenders also have health and protection problems, the justice system must cooperate with mental health and child protection agencies to stop young people from pursuing a life of crime. Many young offenders have multiple problems that defy boundaries between services, levels of government and departments within governments. Long-term approaches that take advantage of all the different services available and view the youth as a whole person must be developed if we are to effectively address the problem of youth crime.

- **Principles of the *Young Offenders Act***

The *Young Offenders Act* was passed in 1984. It provides a legal framework to address young persons aged 12 to 17 who are charged with criminal offences. The Act, which seeks to balance the need for public protection and the needs of youth as they develop and mature, is based on four key principles.

- ◆ Young people should be responsible for their illegal actions, although they should not always be held accountable in the same manner or to the same extent as adults.
- ◆ Society should be protected from criminal behaviour by youths and should take reasonable measures to prevent youth crime.
- ◆ Young people have the same rights as adults, require additional safeguards because of their age, and are entitled to the least possible interference with their freedom that is consistent with the other principles.

- ◆ Because of their dependency and level of development and maturity, youth have special needs and require guidance.

These principles presume that youths aged 12 and older are capable of independent thought and proper judgment. However, the government felt that special protections were important since young people may not fully understand or be able to fully exercise their rights without special assistance.

The Act is equally intended to protect the public. The youth court looks at such factors as detailed evidence about an offence, the youth's criminal history and potential for rehabilitation. Where required, the court will remove the youth from the community. The *Young Offenders Act* also allows for young people to be dealt with as adults in very serious cases.

Young people have special requirements, such as the need to form positive relationships with their peers and to build self-esteem. Special needs also apply to any substance abuse problems, behavioural disorders or learning disabilities that may underlie criminal behaviour.

The Act states that young persons are fully entitled to the rights guaranteed by the *Canadian Charter of Rights and Freedoms*. From an international perspective, when Canada signed the United Nations' Convention on the Rights of the Child in 1991, it agreed that the arrest, detention, or imprisonment of a person 18 years of age or younger must be in keeping with the law, and is only to be used as a last resort and for the shortest appropriate period of time.

- **Recent amendments to the *Young Offenders Act***

The *Young Offenders Act* has been amended twice to address concerns about the Act's response to serious youth crime. In 1986, the Act was amended to permit the identity of an accused or convicted youth to be made public where it is believed that the youth poses a threat to the public and publication is necessary to help the police in making an arrest.

In 1992, the Act was again amended in response to a number of criticisms that focused on the treatment of youth charged with serious crimes, murder in particular. The amendments which were then passed included the following:

- ◆ The court must determine whether protection of the public and rehabilitation of the offender can be ensured by the sentences

available under the Act. If both objectives cannot be met, the youth must be transferred to adult court.

- ◆ Youths convicted of murder in adult court continue to be sentenced to life imprisonment but are eligible for parole after serving 5 to 10 years in custody.
- ◆ Youths convicted in adult court may be sentenced to a youth facility. A number of factors are taken into account by the judge, including prior record, age of the offender, and public safety.
- ◆ Sentences in youth court for murder were extended to 5 years. Ordinarily, a youth sentenced to five years would spend the first three years in custody and the final two under community supervision.
- ◆ The community portion of the sentence allows for close monitoring of the youth who must follow the conditions of release set down by the judge. If a condition of release is not followed, the youth may be returned to custody for the rest of the sentence. The youth may also be held in custody for longer than the three years if he or she is considered to be a danger to the public.

SECTION 2 - ISSUES OF PUBLIC CONCERN

I. LOWERING THE MINIMUM AGE

The *Young Offenders Act* places the minimum age of criminal responsibility at 12 years. The age of 12 was chosen because most children under 12 lack the necessary knowledge and experience to understand the consequences of their actions. This is known as "legal capacity." Children under 12 also would not be able to fully participate in proceedings against them. Legal capacity and the ability to participate are basic to fair criminal prosecutions.

Children under 12 whose behaviour poses a danger to the public are dealt with under provincial child welfare and mental health legislation.

Some people believe we should lower the minimum age of criminal responsibility. The age most commonly put forward is 10 years.

Others propose lowering the age of criminal responsibility only in particular cases. The age could be lowered when a child under 12 commits a serious crime if it could be shown that the child had the necessary legal capacity for criminal conduct and that it was in the public's interest to proceed in youth court.

Those who want to lower the minimum age argue that:

- ◆ Excluding children from the criminal system of law contributes to their lack of respect for the law.
- ◆ Children could get support from the youth justice system that they cannot otherwise get. In some parts of the country, child protection systems are overburdened, and in others the systems lack the facilities that some children need (such as secure custody).
- ◆ The public would be better protected from the serious anti-social behaviour of some children if these children were included under the Act.

Those who want to keep the current minimum age of 12 argue that:

- ◆ Research suggests that younger children do not understand legal concepts like their right to give instructions to their lawyer.
- ◆ Sometimes children are referred to the youth justice system because child protection agencies lack the resources to deal with them. This problem would get worse if the minimum age was lowered. We should strengthen the child protection systems, rather than labelling children's behaviour "criminal."
- ◆ Including children in the youth justice system would be costly.
- ◆ A federal-provincial-territorial committee studied the minimum age issue in 1990 and recommended keeping the age of 12, but strengthening provincial legislation where required.

Should the minimum age of criminal responsibility be lowered?

If so, should the minimum age be lowered in general or only in specific cases?

II. LOWERING THE MAXIMUM AGE

The *Young Offenders Act* covers youth under the age of 18. The adult criminal justice system deals with offenders aged 18 and over. The youth system's age limit was set at 17 because many adult rights and responsibilities begin at age 18.

Some people are in favour of lowering the maximum age. The age most often suggested is 15 years.

Those who want to lower the maximum age argue that:

- ◆ Older youths are more mature and are better dealt with in the adult system, where they may receive longer sentences.
- ◆ Youths would commit fewer crimes if they knew they would be tried in adult court.
- ◆ The caseload in youth court would be reduced, allowing the youth justice system's resources to be used for younger offenders.

Those who want to keep the existing maximum age argue that:

- ◆ Youth court sentences for some crimes (including some violent crimes) are actually longer than sentences for the same crimes in the adult system. This is especially the case once we consider the remission and parole processes available in the adult system.
- ◆ Older youths are not committing more violent crimes than their younger counterparts. However, youth court judges already tend to sentence older youths more severely than younger ones.
- ◆ Young offenders are more likely to be rehabilitated in the youth system than in the adult system.
- ◆ The Act allows for transfers to adult court when adult sentences are necessary for protection of the public (for example, in cases of murder).

Should the maximum age under the *Young Offenders Act* be lowered?

III. TRANSFERS TO ADULT COURT

A youth must be transferred to adult court in cases where the youth justice system cannot ensure that the public is protected. Some people would like to see more youths transferred to the adult system. Some believe that all youths who are charged with a second violent offence should be automatically transferred. Others think that older youths who are charged with serious offences like murder, manslaughter and sexual assault should be automatically transferred.

On the other hand, some people believe that it is in the best interests of both society and young people to deal with all youths in the youth justice system. Aboriginal people, for example, believe that too many aboriginal youths are transferred to adult court because of biases in the system. The Manitoba Aboriginal Justice Inquiry recommended that transfers be abolished altogether.

There may be other approaches to dealing with the issue of transfer. One option would be to transfer young people charged with serious personal injury offences unless they could show why such a transfer was not in their interest or in the interest of society.

Those who believe that there should be automatic transfers argue that:

- ◆ Adult court should deal with serious crimes, regardless of the age of the offender.
- ◆ The possibility of transfer may deter youths from committing serious crimes.
- ◆ Older youths are mature enough for the adult system.
- ◆ Currently, some provinces and territories transfer more youths into the adult system than others do. Automatic transfers would ensure that youths in all parts of the country were treated the same.
- ◆ Since the adult system allows longer sentences, the public would be better protected.

Those who argue against automatic transfer say that:

- ◆ Bill C-12, which strengthened the transfer provisions of the *Young Offenders Act*, became law in May 1992. Not enough time has passed to assess the Bill's effectiveness.
- ◆ The current system has built-in protections, since the youth court's decision can be appealed.
- ◆ Automatic transfers would make youth court less flexible. Not all assaults, for example, should require a transfer.
- ◆ For some offences, sentences are actually longer in the youth system, particularly because there is no parole under the youth system.
- ◆ Rehabilitation services are better in the youth system and rehabilitation protects society from further crime.

- ◆ Longer sentences in the youth justice system may work better than automatic transfers for youths convicted of serious personal injury offences.

Should there be automatic transfers to adult courts, and if so, for which offences?

Should transfers be more limited or even abolished altogether?

IV. PUBLICATION OF NAMES

The *Young Offenders Act* does not allow the names of youths accused or convicted of crimes to be released to the public. The publication of photographs or identifying details is also forbidden, except when the police need to arrest a young person who poses a threat to the public.

The Act takes into account the concern for public safety by allowing youth court hearings to be open to the public, and for the details of an offence or a trial to be reported.

When a young person is convicted under the *Young Offenders Act*, he or she gets a criminal record. Presently, this record can be used for a specified period by the police and is available to youth and adult courts if the youth is later charged with another crime. It can also be used in checking job security clearance.

Some people believe that the Act should permit the publication of the names of young offenders; others disagree. Still others think that the Act should allow publicity only when a youth has committed a serious crime.

Those who want to allow young offenders' identities to be published argue that:

- ◆ If youths knew that their names could be published, they would be less likely to commit crimes.
- ◆ If parents knew their children's crimes could be published, they would control their children's behaviour better.
- ◆ The public needs to be able to identify dangerous youths.

Those who want to keep the publication ban argue that:

- ◆ There is no evidence to show that publication of names prevents crime. Attention-seeking youths might even commit crimes to get publicity.
- ◆ Publicity affects not only the youth with the criminal record, but also innocent family members.
- ◆ Publicity may create a false sense of security for a variety of reasons; for example, a young person may change appearance or move to another community where he or she will be unknown.
- ◆ Media coverage can make it difficult for a person to become a contributing member of society.

Should the identities of young offenders be published? If so, at what point?

Should publication of names be allowed in all cases or only in specific cases: when a serious crime has been committed, for example?

V. SENTENCING

Sentencing under the *Young Offenders Act* is based on the Act's four key principles. As mentioned before, these include accountability, protection of the public, safeguarding youths' rights and ensuring that special needs of youths are met.

There has been widespread public debate on how to deal with young people who break the law. For example, while all Canadians support the goal of protection, they disagree about the best way of achieving this goal. Some argue that we need sentences designed to rehabilitate young people and prevent future crime. Others argue that harsher punishment is needed to deter youths from committing crimes.

One possible change would be to state that other services for youth, such as those related to health and child protection, should work with the justice system to help youths. This would mean building better bridges between the youth justice system and other systems.

- **Requirements for custody**

Under the *Young Offenders Act*, putting a youth in custody (in a detention centre or group home) is intended to be a last resort. However, the Act allows judges to sentence youths to custody for many different reasons. Some of the youths who are sentenced to custody have never committed a serious or violent crime. They are sentenced to custody for a series of minor offences.

Some people think that the *Young Offenders Act* should include a set of requirements or criteria encouraging judges to sentence only the most dangerous or violent offenders to custody. Alternative sentences such as community service could be used for youths who do not pose an immediate threat to the community.

Those who want to reserve custody for the most dangerous and violent youths argue that:

- ◆ When minor offenders are held in custody with more serious offenders, the more anti-social youths have a bad influence on the others.
- ◆ Custody is very expensive and should only be used for youths who pose a danger to the public. Minor offenders should make amends to the community.

Those who want to keep the present requirements for custody argue that:

- ◆ The possibility of custody deters youths from committing crimes.

Should the *Young Offenders Act* include a set of criteria, encouraging judges to sentence only dangerous and violent offenders, or serious repeat offenders, to custody?

- **Treatment for young offenders**

Many young offenders have problems such as drug or alcohol abuse, which require treatment. Some come from families with a history of physical or sexual abuse or other serious problems. In such circumstances, youths may continue to commit crimes unless they and their families get the counselling they need.

Youth court judges can order young people to take part in treatment programs in some cases. For example, a judge can order a youth to participate in Alcoholics

Anonymous as a condition of probation. Judges can also sentence youths to custody in a centre where treatment programs are available.

However, judges cannot force a young offender to participate in a treatment program offered at a detention centre or group home. This is because health issues, including consent to treatment, are covered by provincial laws.

Some people think that the *Young Offenders Act* should allow youths to be placed in hospitals or treatment facilities. Some also believe that the families of young offenders should be required to get help.

Some people think the Act should be made more flexible to encourage the use of treatment. They argue that society would be better protected if young offenders who require treatment could receive this as part of their sentence, where it is available.

Others believe there must be more cooperation between the youth justice system and the health system. This might require changes in the *Young Offenders Act*, but it could also be arranged in other ways.

Should the *Young Offenders Act* be changed to allow greater flexibility for youth to get access to treatment?

SECTION 3 - PREVENTING YOUTH CRIME

The federal government plays a strong leadership role in the protection of society, but the source of effective crime prevention lies in the community. A growing number of studies are concluding that we must focus on the young people who are most at risk and identify the underlying social and economic factors that have made them vulnerable to crime. We also need to reduce opportunities for crime in the community.

As we have stressed in this paper, merely changing the laws dealing with youths in the criminal justice system will not achieve the goal of preventing youth crime in Canada. Studies have found that most violent or repeat young offenders have been involved in anti-social activity for a number of years before the justice system became involved with them.

Governments at all levels, agencies in the criminal justice system, community organizations, interest groups and individuals must all work together to help children and youth and promote healthy lifestyles and responsible behaviour.

- **The cycle of crime prevention**

The goal of crime prevention is to reduce youth crime by identifying at an early age those children who are most likely to be at risk, and helping them to deal with specific problems that may lead to future anti-social or criminal behaviour.

Since crime cannot be avoided altogether, the next problem is what to do with youths who have come in contact with the justice system. There are a number of options ranging from informal justice tribunals to reprimands by local police to community-based sentences to custody as a last resort. The way youths are treated during their first contact with the law can have a major impact on their future behaviour.

The third point in the cycle concerns youths who have been sentenced by the youth court to custody and are to be released into the community. The goal of the justice system and the community at this point is to prevent these young people from becoming the adult offenders of the future.

Individuals and agencies in the community, in cooperation with local police, have a role to play at each stage of the crime prevention cycle to prevent future offending.

- **Early intervention**

Crime prevention and the proper care of children can be reasonably linked. Youths who turn to criminal activity often come from social environments involving such factors as poverty, neglect, substance abuse, physical abuse, and parental unemployment. Some of the positive influences for youths include strong family and other relationships, a good education system, mental health and community services, and community policing.

Families

A solid relationship with caring adults has been shown to deter children from developing anti-social behaviour. As a society, we must help ensure that children and youth are raised in a supportive environment. When this fails, or young people require additional care, we must ensure that there are support networks in the community to assist youths and their families.

Education

Many consider quality pre-school education for children, particularly those from disadvantaged families and communities, to be very significant. At the other end, dropping out of school can be a factor that leads to crime. Schools can become involved in crime prevention in a number of ways, such as:

- ◆ teaching young people about the legal system. Legal education has been shown to promote law-abiding behaviour;
- ◆ helping young people develop social skills and acquire a sense of responsibility, tolerance and respect for others;
- ◆ showing students how to resolve conflicts in peaceful ways and how to protect themselves from unwanted sexual contact;
- ◆ including anti-racism programs in the curriculum; and
- ◆ identifying youths who may have serious problems and assisting them in finding help.

Mental health services

Children who grow up in families where there is violence, substance abuse, or emotional or other mental health problems often need assistance from mental health services.

The mental health systems should work with youths who have special needs before they get involved in crime. When young people who require psychological help appear in the justice system, they may not receive the treatment they need and the roots of their problems may be overlooked. Ideally, when a youth's behaviour is linked to mental health needs, these needs should be addressed as part of any sentence.

Community policing

The police have an important role to play in terms of enforcing the *Young Offenders Act* as well as preventing crime through community programs. They also have responsibilities for provincial laws, such as those dealing with the unlawful behaviour of children under 12 years of age. Officers need to have the education and necessary skills to respond effectively to young people in trouble with the law and to work in partnership with others in the community before the young people encounter the criminal justice system. Governments, the police, and school boards can work together to develop programs that will provide young people with skills and confidence.

Young people also need to have a sense of control over their lives. They need opportunities to take responsibility and to be involved in the decisions which affect them. Families, the school system, and the community all share in this responsibility. It is often when all of the support systems fail that the justice system is forced to respond to youths who have committed a criminal offence.

What types of innovative community efforts can be developed to prevent and to reduce youth crime?

How can the police help to prevent youth crime?

Should parents also be accountable for the behaviour of their children?

If so, how?

- **Community-based alternatives and custody**

Despite crime prevention efforts, some youths will find themselves in conflict with the law. The manner in which the first-time offender is dealt with can be critical to future behaviour. Decisions taken by a judge at this stage can have a profound impact on the youth's attitude and sense of accountability. They can also provide the youth with a valuable opportunity to get help from the community for problems that may have led to criminal behaviour, such as alcohol or drug abuse, education or family difficulties.

The *Young Offenders Act* allows for alternative measures to deal with the special needs of young people in the justice system. Alternative measures enable a young person to be held accountable for a wrongdoing while avoiding formal court proceedings. In general, these measures are taken with youth who have committed relatively minor first offences, such as shoplifting or mischief.

Each province is responsible for establishing and operating alternative measures programs. Reconciliation between the young offender and the victim, depending on the nature of the offence, is one example. Youths may be instructed to apologize in person or in writing, pay a sum of money, or perform community service.

Other measures that can be taken when a youth is convicted of a crime include mandatory community service, such as repairs to community facilities, projects to assist the elderly, or donations to charities. Probation is a sentence that allows the youth to remain out of custody on certain conditions, such as staying out of trouble and appearing in youth court as required. Most provinces provide crime prevention projects such as writing essays or making posters about the offence along with educational programs such as job counselling and life-skills training. Therapy or counselling programs for alcohol or drug abuse problems are also offered by most jurisdictions as alternatives to custody.

Finally, custody may be ordered for a youth. There is a wide range of opinion on the value of custody for youths. Some people believe that putting young offenders in a correctional facility is the best way to deal with them, and would like to see longer and harsher penalties. Others believe it to be in the best interests of society and of the youth that he or she be held accountable without being removed from the community, except when the offence has caused considerable harm or injury to another.

Community-based alternatives are less expensive to taxpayers than custody, allow for close supervision where needed, and can make mediation between the victim and the offender easier. They also avoid placing a young person in an environment with anti-social youths whose influence may be negative and difficult to counteract.

What are other community-based alternatives to custody?

Should the Act do more to encourage judges to use alternatives to custody?

- **Preventing re-offending**

The justice system needs to target young offenders who are at risk of committing further crimes and provide them with effective programs and services.

The root causes of criminal behaviour and the particular needs of repeat offenders must be specifically addressed. For instance, if a youth has a drug or alcohol problem, the justice system and the mental health system must work together with the offender and his or her family to deal with this problem.

The youth's family can play an important role in the process of rehabilitation. Frequently, however, the families of offenders have problems and need help through counselling or other treatment services.

To the extent that child protection and mental health services are unable to respond to problem youth, the youth justice system may be resorted to inappropriately. Judges sometimes impose longer and harsher sentences than the offence itself calls for in order to get help for young offenders who need protection and mental health treatment.

Programs and services that assist youths with their problems must also be appropriate to the culture of the offender. For instance, there may be a need for programs that address the unique needs of aboriginal and minority youth, or female offenders.

Effective crime prevention addresses the root causes of crime by increasing support systems for youth in the community. For instance, promoting available and affordable sport and recreation programs in the community may serve as a deterrent to crime for some youth, especially for immigrant or disadvantaged youth who may have trouble integrating with their peers. Mental health and social service organizations should be more accessible to youth and families who may require counselling. Educators and the police can work together to develop legal education programs.

How do we get young offenders to accept that their behaviour is wrong and to take steps to become responsible members of the community?

What short-term or long-term support is needed to enable offenders who have been sentenced to custody to successfully fit into society upon their release?

What types of programs are needed to address the unique needs of aboriginal and minority youth or female young offenders?

How can we improve the way the justice system works with the mental health and educational systems to address the problems of certain youths that may be linked to their criminal behaviour?

CONCLUSION

The Department of Justice has been examining various provisions of the *Young Offenders Act* to determine how the objectives of accountability and protection of the public can be met more effectively. While Canadians have many views on these issues, our fundamental goal is to ensure that as many young people as possible have the opportunities they need to become contributing members of our society as adults.

Youth crime has become a common public concern, and it is no longer seen as the responsibility of the criminal justice system alone. Law enforcement bodies, educational and community service organizations, and interested individuals are working together to deal with the social aspects of youth crime. The solutions lie in a partnership approach.

This consultation paper is part of our commitment to listen to your views and to be partners with interested groups. We are looking forward to receiving your well-considered responses that look into and beyond the criminal justice system to suggest effective solutions to the problems of youth crime.

All responses will be carefully considered in the process of proposing amendments to the legislation and developing more comprehensive strategies to combat youth crime in Canada.

Please submit your comments by **November 15, 1993**, in writing to:

Young Offenders Project
Department of Justice
239 Wellington Street
Ottawa, Ontario
K1A 0H8

