

1984 by the Young Offenders Act (RSC 1982 c.100). The Young Offenders Act presents a new direction, based on a different philosophy and a new set of principles for dealing with young persons who commit crimes.

The Young Offenders Act became operative in all provinces and territories on April 2, 1984. Under the terms of the Young Offenders Act, youth courts were given restricted jurisdiction to deal only with children who violated the Criminal Code and other federal statutes. Violations of provincial and municipal laws and 'status offences' such as sexual immorality were excluded from the jurisdiction of youth courts. At the same time, amendments were made to the Criminal Code to coincide with the Young Offenders Act.

With the implementation of this act, the minimum age for prosecution of young persons was raised to 12 and the maximum age was standardized at under 18 years across the country. For all provinces and territories, the minimum age was the first to be implemented April 2, 1984, followed by the maximum age April 1, 1985. Responsibility for dealing with children under 12 years rests with the provinces, to be incorporated as they see fit under some form of child or social welfare legislation. Applications to transfer young persons to ordinary court are made on the basis of the interests of the community first, while having regard to the needs of the young person.

The police are still responsible for initiating charges against young offenders under the Young Offenders Act. Police may use discretion for minor offences by warning and returning the young person to his/her parents rather than charging. In addition, formal screening of young offender cases prior to prosecution is occurring in some jurisdictions. Formal screening entails reviews by the Attorney General or representatives of the Attorney General (usually Crown Counsel) of young offender cases referred by the police for prosecution. A preliminary examination of young offender cases is made with regard to the sufficiency of evidence and the appropriateness of the cases for prosecution. Crown Counsel may decide to take no further action on the cases, refer the case for alternative measures or proceed with formal prosecution.

Alternative measures described in Section 4 of the Young Offenders Act have been instituted in some provinces as alternatives to formal judicial proceedings. From what is known of these programs, they are similar in content to

the diversion programs which operated under the Juvenile Delinquents Act; they are, however, more formalized, using entrance criteria, and, more importantly, the young offender must acknowledge responsibility for his/her criminal actions prior to participation in the program as well as be afforded certain legal rights while in the program.

Adjudications given by youth court judges under the Young Offenders Act are similar to those given under the Juvenile Delinquents Act. There is, however, not a general finding of delinquency, and there are no 'adjournments sine die'. Youth court judges may find young offenders 'guilty', 'not guilty', 'not guilty by reason of insanity' or 'unfit to stand trial'; or they may confirm a request by the Crown to 'stay proceedings', 'dismiss' or 'withdraw' the case, 'transfer the young offender to ordinary court' or 'transfer the young offender to another jurisdiction'.

Dispositions given under the Young Offenders Act must be for a definite period of time and youth court judges may decide upon one or a combination of dispositions which are not incompatible according to Section 20(1) of the act. These dispositions include: secure custody; open custody; detention for treatment; probation; maximum fine of \$1,000; compensation/compensation in kind/pay purchaser/restitution; community service order; prohibition/seizure/forfeiture; absolute discharge; and other ancillary conditions.

## 20.7 Correctional services

Responsibility for the provision of adult correctional services is shared among all federal, provincial, and in the case of Nova Scotia, municipal governments. As set out in the Criminal Code of Canada, the federal government is responsible for offenders sentenced to custody for two years or more, while provincial governments have authority over persons given a custodial sentence of two years less a day, or placed under other court orders.

Although there is a clear delineation in division of responsibility, provision is made for interchange among jurisdictions in exchange-of-service agreements. These are negotiated for such purposes as: transferring inmates across jurisdictions; accommodating parole suspensions; and providing for the efficient delivery of parole supervision, community assessment services, and health, psychiatric and educational services.