

The eReview provides analysis on public policy relating to Canadian families and marriage. Below please find a commentary on the Canadian Youth Justice System.

Hoodies in the headlines: is the YCJA failing Canadians?

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A 15-year-old youth drops a large rock off an overpass, killing an unsuspecting driver below. He received a sentence of six months house arrest. ("When Youths Reach the Courts," 2007, p. A22) Another 15-year-old breaks into a house with some friends and cooks a cat alive in a microwave. He was out on bail at the time, after lighting his younger brother on fire leaving the sibling hospitalized for several weeks. ("Alleged Cat Killer Burned Brother," 2008, p. 22) Headlines like this are not hard to find, and so the question is: Is our youth justice system failing Canadians?

Though violent youth gun crime and teen murders make frequent and often harrowing headlines, the fact remains that youth crime, including violent crime, has generally declined over the past decade with the exception of a 3% bump in 2006. (Statistics Canada, 2007)

And according to Canadian criminologists Anthony Doob and Carla Cesaroni, most youth crime involves minor offenses. It is in this light that we ought to consider youth criminal justice and changes to the system, though admittedly the emotionally charged headlines are difficult to ignore. Individual youth must be held accountable for their crimes, while at the same time risk factors that can contribute to crime need to be addressed. The youth justice system can process young offenders and dispense justice, but creating an environment where crime decreases is better achieved through strong and healthy families supported by adequately-resourced communities.



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Recent developments in youth justice in Canada

In 2003 the Youth Criminal Justice Act replaced the maligned Young Offenders Act. The YOA intended to create a youth justice system that balanced legal processes and penalties with welfare based interventions. But without clear principles, courts issued inconsistent penalties and sentences. Under the YOA, the incarceration rate for young offenders was higher than many other western countries.[1] (Department of Justice Canada, 2002, p. 5)

The YCJA replaced the YOA in part to remedy inconsistent sentencing. The YCJA provides clear guidelines aimed at meaningful consequences while maintaining a focus on rehabilitation. (Doob & Cesaroni, 2004, p. 197) The act reduces the use of incarceration as a pre-trial measure, and in sentencing. Instead, the act encourages youth cases to be diverted from the court system toward other means of resolution. An international review of alternative measures similar to those used in Canada such as victim/offender conferencing, demonstrated that these kinds of initiatives reduce recidivism. (Australian Institute of Criminology, 2002, pp. 6-8)

Making amends

Despite the good news of falling crime rates the Act has fared poorly in processing repeat and violent offenders. A tragic example of this weakness is the case of the 16-year-old car thief simply identified as A.B. Two days after being released from custody while facing numerous charges, the young repeat offender crashed a stolen car, killing a 52-year-old woman. In 2006, retired Justice D. Merlin Nunn headed a commission of inquiry into the collision and the events preceding the death. Nunn offered 34 recommendations, six calling for changes to specific sections of the YCJA. (Nunn, 2006, pp. 283-293)

This past November, nearly a year after the publication of the Nunn report, the government introduced Bill C-25, an Act to Amend the YCJA. [2] While the bill does not put forward the specific recommendations of the Nunn report, it displays similar concerns. The bill introduces two changes in sentencing. First, the bill provides the court with greater direction in applying pre-trial detention. The proposed amendment directs the court to consider the substantial likelihood of serious bodily harm to another person if the accused were to be released. The bill also proposes to enhance the consideration of previous violations of non-custodial measures in determining pre-trial detention. [3] This change may have influenced the case of A.B. and could provide greater public safety in the short term.

Secondly, the bill permits the court to consider the principle of deterrence in determining sentencing. This allows courts to consider and justify tougher sentences. The problem is that longer sentences may satisfy a public hunger for "justice", but are ineffective in deterring young criminals. Research has shown that incarcerating young people does little to deter youth crime. (Taylor, 1996, p. 22. Doob & Cesaroni, 2004, p. 241) Youth crime is often reactionary, with little thought given to the consequences. (Doob and Cesaroni, 2004, p. 243) For this reason, the architects of the YCJA put little emphasis on deterrence in the act.

Expectations

Ultimately, the question is this: What should Canadians expect from the youth justice system? Canadians should expect the youth justice system to be a work in progress. The lofty pursuit of a system that strives to balance meaningful consequences with rehabilitation requires continuous development and debate.

Canadians shouldn't expect the YCJA or any other youth justice legislation to eliminate youth crime. The legislation outlines the process for addressing young offenders and only minimally addresses the root causes of youth crime. For its strengths and weaknesses, the YCJA does state correctly that communities, families and parents have an important role in addressing youth crime and its underlying causes.

American child psychologist Laurence Steinberg argues, "Any attempt to reduce youth violence...must include a systematic effort to improve the home environments of ...children and adolescents and, in particular, to engage...parents in the business of parenting." (Steinberg, 2000, p. 38) Strong families can prevent youth delinquency far more effectively than legislation.

In his report, D. Merlin Nunn traces the personal history of A.B. from birth to the fateful accident. He notes family breakdown and patterns of conflict in A.B.'s transient family life. No justice legislation can mitigate these factors. While healthy functioning families may not be a panacea for the problem of youth crime, they certainly do help. In this way positive family-friendly policies [4] can contribute to the kind of society where communities, families and parents thrive as the key players in addressing the root cause of youth crime.

Notes:

1. For a comparison of juvenile incarceration rates under the YOA in Canada with the United States for 1997-1998 see <http://www.justice.gc.ca/en/ps/yj/repository/downloads/4030002.pdf>
2. View Bill C-25 An Act to amend the Youth Criminal Justice Act at <http://www2.parl.gc.ca/HousePublications/Publication.aspx?Docid=3114354&file=4>



3. Currently subsection 29(2) of the YCJA directs the court to presume pre-trial detention is unnecessary unless there is substantial evidence of risk to commit further crime or violence. Bill C-25 maintains that detention be presumed unnecessary, however it significantly clarifies the exceptions when pre-trial detention should be applied, most notably when there is a risk of public safety through the substantial likelihood of bodily harm.

4. Doob and Cesaroni cite D. Henderson Olds Jr.'s 1988 study "Long-term effects of nurse home visitations on children's criminal and antisocial behaviour," as evidence of a family-friendly policy that could reduce youth crime. Olds examined a program that provided nurse home visits to mothers of low socio-economic standing during pregnancy through the first two years of their child's life. The study found that adolescent children from the program had fewer episodes of running away from home, arrests, probation violations, and engaged in risk behaviours less frequently than their peers.

References:

Alleged cat killer burned brother. (2008, January 10). *Ottawa Sun*, p. 22.

Australian Institute of Criminology (2002). *What works in reducing young people's involvement in crime?* Retrieved January 14, 2008 from <http://www.aic.gov.au/publications/reports/2002-12-whatworks.pdf>

Department of Justice Canada (2002, May 27). *YCJA Explained: Overview*. Retrieved December 17, 2007 from <http://www.justice.gc.ca/en/ps/yj/repository/downloads/2010001.pdf>

Doob, A.N., & Cesaroni, C. (2004) *Responding to Youth Crime in Canada*. Toronto: University of Toronto Press.

Nunn, D.M. (2006). *Spiralling out of control: lessons learned from a boy in trouble: report of the Nunn Commission Inquiry*. Province of Nova Scotia. Retrieved December 17, 2007 from http://www.nunncommission.ca/media_uploads/pdf/109.pdf

Statistics Canada (2007, July 18). Crime statistics 2006 (correction). *The Daily*. Retrieved January 9, 2008 from <http://www.statcan.ca/Daily/English/070718/d070718b.htm>

Steinberg, L. (2000, April). Youth violence: do parents and families make a difference. *National Institute of Justice Journal*, 31-8. Retrieved January 14, 2008 from <http://www.ncjrs.gov/pdffiles1/jr000243f.pdf>

Taylor, C.S. (1996). *Growing up behind bars: confinement, youth development and crime*. Oklahoma Department of Corrections. Retrieved January 14, 2008 from <http://www.doc.state.ok.us/offenders/ocjrc/96/Growing%20Up%20Behind%20Bars.pdf>

When youths reach the courts. [Editorial] (2007, November 21). *Globe and Mail*, p. A22.

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