

The Young Offenders Act - The Truth?

This essay was written to show the advantages and disadvantages of the Young Offenders Act over the previous Juvenile Delinquents Act. Also it should give a theoretical understanding of the current Canadian Juvenile-Justice system, the act and its implications and the effects of the young offenders needs and mental health on the outcome of the trials.

In the interest of society the young offenders act was brought forth on April second 1984. This act was created to ensure the rights and the needs of a young person. Alan W. Leshied says "On one hand the justice and legal objectives of the act are being effectively realized while on the other hand the needs and treatment aspects of it leave much to be desired." The research of the Young offenders act is still ongoing but Leshied says that it is becoming clear that the custody positions have been in dispute since the act came into effect. The old Juvenile delinquency act states in section 38 "The care and custody and discipline of a juvenile delinquent shall approximate as nearly as may be that which should be given by his parents, and... as far as practability every juvenile delinquent shall be treated, not as a criminal, but as a misguided and misdirected child . . . needing aid, encouragement, help and assistance."(Page 72)

If a youth is close to the adult age of 18 years they could be transferred to the adult justice system. This means that they would be given the same sentences as an adult including and up to life in prison. Many people have tried to correct this problem that they see as a weakness. Yet, so far their attempts have failed. Another weakness they find, is that the courts are expensive and unsatisfactory methods of dealing with crime that is not very serious.

Before the fabrication of legal aid most young offenders were not able to obtain legal services. "Subsection 11 (4) provides that, were a young person wishes to obtain counsel but is not able to do so, the youth-court judge shall refer the young person to the provincial legal-aid, or assistance program. If no such program is available or the young person is unable to obtain counsel through an available program, the youth court judge may, and on the request of the young person shall direct the young person to be represented by counsel."

To establish a relationship between the young offender and the lawyer, the lawyer must be able to receive instructions from his/her client. Usually there is little difficulty either receiving or carrying out the instructions of his/her client. Special problems can arise when the client is a young person.

The problems faced by this, is the young person may not be able to communicate with counsel. While the lawyer and young person need not a specific statement for the client as to a

preferred outcome it should take form of a general expression of the client's feelings or attitudes in the major issues of the proceedings the young person must be able to make decisions that may hold significant repercussions.

Mental health of the young offender can also be a problem. Currently this issue is not addressed in the Young Offenders Act, before the mental health act can be enacted, extremely dangerous behaviour must be displayed. Before the age of 16 they are sometimes placed in hospitals for a short time under the authority of the legal guardians.
