

National Associations Active in Criminal Justice
Associations nationales intéressées à la justice criminelle

55 Parkdale, Ottawa, Ontario, K1Y 1E5 (613) 725-3715

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PROCEEDINGS OF

THE NAACJ SEMINAR ON

THE YOUNG OFFENDERS ACT

November 27 & 28, 1984

Government Conference Centre
Ottawa

NATIONAL ASSOCIATIONS ACTIVE IN CRIMINAL JUSTICE

NAACJ Seminar: The Young Offenders Act
and NAACJ Annual Meeting

November 27 & 28, 1984

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NATIONAL ASSOCIATIONS ACTIVE IN CRIMINAL JUSTICE

NAACJ Seminar: The Young Offenders Act
and
NAACJ Annual Meeting

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- PROCEEDINGS -

INTRODUCTION

In response to the request of a large majority of member organizations the NAACJ Planning Committee gave approval to a seminar on the Young Offenders Act. Member organizations had indicated considerable interest in a variety of topics all related to the YOA. In particular, program development in response to the Act, funding and the means of monitoring implementation were areas that no national co-ordinated forum had addressed. Fortunately, the John Howard Society of Canada had contracted, as a YOA initiative, the services of Mr. John Walker and both John Howard Society of Canada's Executive Director, Mr. Jim MacLatchie and John Walker were prepared to provide leadership in planning NAACJ's seminar.

The seminar was something of a departure from most NAACJ seminar/workshop undertakings in that it was designed to provide a comprehensive overview of the YOA - ranging from the legal/policy dimension to detailed presentations of local initiatives and program evaluation implications. Experts presented in panel format with questions from the floor.

A total of 53 participants registered for the seminar and were welcomed by the NAACJ Chairman, Mr. Brian Crane.

PANEL I The Act Itself

Mr. Jim Coflin, Policy Development Co-ordinator
Young Offenders Unit
Ministry of the Solicitor General

Professor Nicholas Bala, Faculty of Law
Queen's University

Mr. Jim Coflin, Policy Development Co-ordinator of the Young Offenders Unit of the Ministry of the Solicitor General, stated that the federal government's role at present was to make legislative comment on the Act. He cautioned that time should be taken to observe the Act

during its implementation and that only after that necessary time should changes be made. The separation of responsibility which he described, sees the federal government until April of 1984 having set forth how the Act should be implemented, but the provinces as of April, 1985 having the say in terms of actual implementation.

Mr. Coflin stressed that the judiciary has a very important role to play (especially in comparison to experience with the Juvenile Delinquency Act) in that the judiciary must now assist in the discovery of what does and doesn't work. Where law reform in the past has been incremental, on this occasion a single piece is affecting an entire area of criminal law.

Whereas the Juvenile Delinquents Act came from the area of child welfare legislation, Mr. Coflin noted that the YOA is based on principles that flow from the justice legislation field. The YOA, he claimed, is not designed to make young people responsible but to recognize that young people are capable of being responsible. However, the YOA does not pressure young persons to be adults. Furthermore, the YOA fully recognizes the rights of young persons.

Professor Nicholas Bala, a recognized legal expert on the YOA, guided the seminar participants through a comprehensive overview of the Act. He responded to Mr. Coflin's view of the role of the federal government, noting that it must go beyond the legislative amendment role and be prepared to assist implementation with appropriate funding via the provinces.

On substantive matters in the Act, Mr. Bala noted the maximum uniform age of up to 18 for all provinces and stated that in provinces such as Ontario where it is 16, considerable difficulty in implementation is foreseen. And while some provinces may exaggerate the costs of complying with the Act, unfortunate consequences such as the "two tier" concept are arising - that is 12-15 year-olds being dealt with in Family Court and 16, 17 and 18 year-olds in adult courts. Such minimal compliance in the Act will result in legal challenges.

However, the YOA does offer young persons some "special protection" beyond those afforded an adult. The role of the parent is addressed and a lawyer (legal counsel) is required in an effort to provide the young offender with appropriate access to legal counsel. Where a young person is unable to attain legal counsel it must be provided.

Diversion via "alternative measures program" is inherent in the Act; however, no coercion of the young person is acceptable.

Whereas the "treatment" philosophy allowed for indeterminate dispositions under the Juvenile Delinquents Act, the YOA sets forth

determinate maximum dispositions which are significantly lower than those adults face. The maximum disposition is three years, however the full range of dispositions is retained and a treatment bias still exists.

Furthermore, the Act creates more judicial control over dispositions (no longer correctional authorities) and requires court review of the case at least once per year. This requirement suggest Court backlogs and with the Act's requirements concerning Records, more complications are anticipated. The maintenance of court records, their accessibility and distribution are all addressed in the Act "with good intent" but seem problematic.

PANEL II Program Development and Initiatives

Mr. John Walker, YOA Co-ordinator
John Howard Society of Canada

Ms. June Bourgeau, Executive Director
Canadian Association for Children and Adults
with Learning Disabilities

Mr. Michael Weil, Director, Community Justice Initiatives
YMCA of Montreal - West Island

Mr. Blaine Hayden, Provincial Co-ordinator
Saskatchewan Association of Friendship Centres

Mr. John Walker, YOA Co-ordinator
John Howard Society of Canada

Mr. John Walker indicated that the John Howard Society of Canada was not engaged in directing programs at the national office but that his position was to assist in program development and public education at the local-provincial level. In particular, he has been working to facilitate networking and information sharing and to identify issues which will require follow-up.

Mr. Walker has observed a disparate YOA program development across Canada and noted that the John Howard Society had developed a philosophical bases upon which issues of implementation and review of initiatives could be taken. (The principles identified - due process, evaluation, diversion, education, sentencing and custody - are set forth in the appendix; as well as a list of YOA activities).

Ms. June Bourgeau, Executive Director
Canadian Association for Children and Adults with Learning Disabilities

Ms. Bourgeau stated that her association has been active in drafting a "legal resources book" which will provide information to judges and key actors in the justice system. The book explains how and why learning disabilities may dispose individuals to criminal acts.

The Association is conducting its efforts concerning the YOA in three phases, and intends in phase three to develop a model of educational workshops for judges and legal professionals. Through workshops and by attending annual meetings of provincial court judges, information on alternatives to imprisonment for the learning disabled will be promoted.

Mr. Michael Weil, Director
Community Justice Initiatives
YMCA of Montreal - West Island Branch

Michael Weil noted that the YMCA had a long history of involvement in providing and promoting community alternative programs for offenders. This interest is a natural extensions of the Y's concern with "quality of life" efforts undertaken through the community development approach.

However, early experience with community alternative offender programs was not a coherent or co-ordinated effort although the Parti-Quebecois 1977 Youth Protection Act (Law 24) did encourage community alternatives. The YOA has produced an amendment to the PQ Youth Protection Act to limit the Act's intent to protection only. The YOA now presents groups with the initiative to develop programs but a concern exists that some government agencies may "institutionalize" what typically has been grass roots community work.

Mr. Weil encouraged participants to use the YMCA approach of using existing voluntary agencies and services to develop programs in regard to the YOA.

Mr. Blaine Hayden, Provincial Co-ordinator
Saskatchewan Association of Friendship Centres

Mr. Hayden listed a number of well developed program initiatives his group had undertaken in Saskatchewan, including youth diversion, adult home placement, parole service, and public education/legal information material for schools. This association's most recent initiative has been in developing a college-level program to create a cadre of youth courtworkers in the province. However, funding has been difficult to get and it was only through a special employment ARDA project in 1983 that the first group was formed. In 1984, from 56 applicants 6 were

choosen and trained. This pilot project has shown that these training programs of one year was too long - that eight months may be sufficient and that Native language must be included in the curriculum. The trained Native Youth Courtworkers have learned counselling, acquired a working level legal knowledge and communication skills.

Discussion

Discussion following this panel was centered on the issues of privatization of services and advocacy. Some concern was expressed that no concerted response from the voluntary sector to the YOA currently exists. There is a lack of an explicit co-ordinated advocacy role coming from the various initiatives across the country.

Other participants were concerned that the prospect of "bidding" for contracts was objectionable, divisive to the voluntary sector and disruptive to the year-to-year service to clients. Could a "code of conduct" or guidelines be the basis instead for contracts in the voluntary/private sector? Would the government tend to institutionalize the alternative disposition programs encouraged by the YOA in order to protect staff?

KEYNOTE LUNCHEON SPEAKER

Mr. Grant Lowery
Executive Director
Toronto Youth Services

Mr. Lowery chose to examine the YOA from the young person's point of view. This perspective is seldom taken - or heard from - a matter of concern in itself since the Act is for young people.

Mr. Lowery talked with a number of children and shared their anecdotal comments about the YOA with the group. A number of young people had no knowledge at all of the Act which raised the question of the obligation to inform them. In one respect, it is completely understandable and to be expected that unless affected by the Act, kids wouldn't be informed of it; in another respect, since the Act emphasizes so much the rights of the child and the issue of responsibility and accountability - should more not be done to inform them?

Mr. Lowery noted that the Act potentially represents a very important and meaningful change for Canadians and young people. Its significance, however, will vary depending on our perspective. He recounted the situation in a cartoon showing a young man and woman walking down a lane in a run-down section of town. The young man says to the woman, «Please promise you'll remember me as a Juvenile Delinquent - young offender sounds so wimpy.»

Mr. Lowery stressed the importance of the principles of the YOA. They are not simply a preamble, but an integral part of the Act. The principles are a guide to the interpretation of the Act and will have important consequences, especially on how kids view the YOA. Decriminalization may mean to kids, «they can't get me», giving them more clout with older youths, who may use them to avoid the more serious consequences for young adults who break the law. On the other hand, the Act may mean that young people come into contact with adults who really care about their problems and take a non-threatening interest in them.

Mr. Lowery noted that the Act addresses the fundamental issues of society's right to protection and meeting the special needs of young offenders. And yet, because our service system hasn't caught up with the spirit and intent of the legislation, there is as much chance of balancing society's protection and the needs of young offenders as a teeter-totter with nobody on either end. In the end, if we do not reconcile the purported aims of the Act with the way it is implemented, we may defeat the goal of helping kids by appearing as hypocrites in the eyes of our young people.

PANEL III National Overview of YOA Initiatives

Mr. Michel Vallee, Program Development Co-ordinator
Young Offenders Unit
Ministry of the Solicitor General

Lt. Aldo di Giovanni, Correctional Services
The Salvation Army Correctional Services

Mr. Brian Ward, Executive Director
Canadian Council on Children and Youth

Mr. John Lefebvre, Assistant Director
Ontario Social Development Council

Mr. Dick Weiler, Consultant, Law and Social Development
Canadian Council on Social Development

Mr. Michel Vallée provided participants with a comprehensive overview of the types of project funding available to voluntary groups in the context of the program initiatives his unit is responsible for. Mr. Vallée reported that contributions are available in three major initiative areas:

1. technology transfer (training and public education);
2. implementation (certain types of direct services such as alternative measures); and
3. innovative programs.

Province-wide "mega-projects" are also possible. Mr. Vallée raised the issue of a "clearinghouse function" once again, stating that it was unresolved as to who should provide such a function.

Lt. Aldo di Giovanni stated that the YOA was forcing a complete examination of the correctional work of the Salvation Army. Noting that the Salvation Army is a unique body in corrections, he believed that it had a unique role to play. Accordingly, his task to develop a national policy in respect to the YOA will be guided by the Army's essential view of the offender as a person whose dignity must be respected, as a person who has an essential divinity. The Army can be characterized as having fundamental values (and traditions), is result-oriented and task focused. Lt. di Giovanni's responsibility will also entail the establishment of a national network of Army personnel and committees whose concern is young offenders.

Mr. Brian Ward pressed the seminar participants to go beyond the challenge of monitoring the implementation of the YOA and to return to first principles. He emphasized that the YOA is not an Act for children nor for adults but one which attempts to capture the essence of that indescribable age - young person. One of the authors of "Are We Ready for YOA" , Mr. Ward spoke of the responsibility to retain advocacy roles in respect to program initiatives and to carry out the monitoring task on several levels. The principles of the new Act require review in relation to their practical application across Canada. Since the YOA is new, in effect there are "new" lawyers, "new" Crowns, and a "new" Bench that each must be trained, informed and reviewed.

The Council on Children and Youth has its own committee which will play a small role in this implementation review process; however, Mr. Ward believes a national mechanism composed of a variety of sectors must undertake the task.

Mr. John Lefebvre presented a sketch of a province-wide attempt to create a clearinghouse concerning the YOA. His task is to facilitate the implementation and monitoring of the YOA in Ontario by providing an ongoing, up-to-date overview of Ontario YOA activities; share information on initiatives and development and to assist in public education.

Mr. Lefebvre indicated that a multi-member committee has spearheaded this initiative in Ontario. The group is composed of the Ontario Social Development Council, and three Ministries: Community and Social Services; Correctional Services; and Solicitor General.

Participants at the seminar are encouraged to make themselves known to the emerging clearinghouse and to become part of the network.

PANEL IV Monitoring, Evaluation and Statistics

Ms. Charlotte Gibson &

Mr. Peter Crocker, Human Service Consultants

Mr. Aaron Caplan, Systems Development Co-ordinator
Young Offenders Unit
Ministry of the Solicitor General

Mr. Stan Divorski, A/Chief, Criminal Justice Policy Research
Ministry of the Solicitor General

Mr. John Klein, Research and Evaluation Co-ordinator
Young Offenders Unit
Ministry of the Solicitor General

Ms. Charlotte Gibson and Mr. Peter Crocker gave an excellent overview of state-of-the-art evaluation with particular emphasis to the concerns of the voluntary sector.

Three major types of evaluation were outlined (paper appended):

- 1) Cost-efficiency: which can be cast as an effort/performance ratio;
- 2) Outcome: only to be applied to fully developed and implemented programs; this asks whether the program achieves the desired results;
- 3) Process: asks "what happened" in the program, what practices and procedures should/can be improved.

Evaluations must be undertaken as a shared process, designed and resourced to meet the needs of the program providers as well as the funding sources. Areas of concern are whether consideration has been given to the additional requirements that will be placed upon an agency in conducting quality evaluation; does the proposed evaluation recognize the individual differences between programs; once process-type information is provided how will it be used; generating excessive information is simply inappropriate to everyone's needs.

Both speakers emphasized the importance of specifying what the utilization of the evaluation will be and the need for some compromise by service agencies and funders in undertaking evaluation.

Mr. John Klein provided a detailed explanation of the mandate, role and evaluation procedures to be used by the "directorate" in regards to the YOA. Both Cabinet and Treasury Board have given the mandate: Cabinet expects a report back on the implementation of the YOA and Treasury Board requires an evaluation. In fact a pre-YOA evaluation was required to establish a "base line" of the functioning of juvenile courts and an information data bank - both for comparative purposes post-implementation. That evaluation, which began in 1981, entailed an observation "file study" and a "key actors" survey. The file study included 2,500 juvenile cases facing a total of 8,000 charges.

Mr. Klein noted that the Directorate now needs to design a YOA impact study. This will likely be preceded by an evaluation "issues" discussion paper. Furthermore, a two-pronged evaluation strategy will be employed in demonstration project evaluations: a more global performance monitor utilizing management information systems to accumulate formation (using M.S.G. self-evaluation guides) and micro-computer technology to establish whether objectives are being met; an impact or "outcome" study to assess the effect of the YOA on the justice system and on clients.

Mr. Stan Divorski began first by complimenting Ms. Gibson and Mr. Crocker on their comprehensive presentation and reiterated the value in recognizing and addresseing the concerns which they had identified. He acknowledged that the federal government must clearly define its own objectives and to make provision for the lack of expertise in evaluation in certain sectors of the criminal justice system/services.

Workshops conducted by Mr. Divorski's unit had already identified a number of problems raised by participants from various programs/service perspective. A performance measurement guide is being developed in a manner which incorporate field concerns and further workshops on "impact" evaluation are planned. Mr. Divorski stated that his unit recognizes and respects the need to build "evaluation thinking" in from the beginning of any YOA implementation plans and projects. Furthermore, the Consultation Centre is working to avoid complication in interacting with the field, believing that both the Federal Government as funder and the voluntary sector as service provider have a genuinely common interest in evaluation.

Mr. Aaron Caplan offered to act as a respondent to the panelists and began by suggesting that the discussion had been a "meeting of minds". Mr. Caplan reiterated that the idea of collecting information for its own sake was not the goal of any evaluation efforts to be undertaken by his Unit. Instead, his goal is to ensure a practical level approach which recognizes field workers' perception of evaluation efforts; in particular, the mutually acknowledged benefits of evaluation. In this respect, he hopes that there will no be the requirement for excessive documentation at the technical level and plans are underway to provide workshops across Canada to assist local areas in developing evaluation expertise. Furthermore, a clearinghouse on evaluation, within his department, is planned and evaluation expertise is being sought from outside government for certain projects.

CONCLUDING SESSION Issues for the Future

Mr. Allan Benson, Native Counselling Services of Alberta

Mr. Chris Braiden, Special advisor on Preventative Policing,
Ministry of the Solicitor General

Judge Guy Goulard, Canadian Association of Provincial
Court Judges

Ms. Marlene Koehler, Canadian Association of
Elizabeth Fry Societies

Mr. Chris Braiden presented from the perspective of the police constable on the street. To that end, he asserted that the police are already preserving the rights of young persons (regardless of the Act). Furthermore, he maintained that the YOA seemed more concerned with

likely not change all that much in substantive law (for the policemen). It would, however, be perceived as creating more paperwork and causing more "down time" with its requirement of parent notification and general handling of the young offender.

His general assessment was that we may be expecting far more of the Act than the Act expects of us; especially if our goal is really to change the young people's behaviour. Mr. Braiden's concern is that as a society, we are really facing increased social illness and that our efforts with young people should not be to allow them to "cop outs" under the rubric of the YOA. Young people, while respecting their rights, should be recognized as responsible and accountable.

Mr. Allan Benson stressed his agency's efforts to improve public education in northern and isolated communities of Alberta. The emphasis on the community and parents of young people is considered the most responsible, long-range attempt to change society and reduce crime. Mr. Benson suggests that the Act be used to motivate young people and that the voluntary sector do its best to avoid competing for program dollars in the short run in favour of a long-range committed approach to implementation and social change.

Ms. Marlene Koehler asked participants to ask themselves who the appropriate services providers are for young women. Do these women have special needs such as special life skill training? If so, where some provinces are encouraging co-ed facilities would separation of males and females not be more appropriate? Furthermore, efforts must be made to recognize and address the needs of ethnic groups such as Native females who likely have special life skills needs.

Ms. Koehler also summarized a number of issues emerging from the seminar.

1. YOA Clearinghouse - who will do this ? A decision should soon be taken and the voluntary sector should be active.
2. In respect to alternative measures - the roles of the government and community voluntary sector should be clarified. Each has a role and strengths and the areas of responsibility must be clarified.
3. The goals of the voluntary sector in relation to evaluation (internal and external) must be examined.
4. Where do NGO's fit into the dialogue, and negotiations and planning ongoing between the federal government and the provinces? NGO's should be recognized as legitimate actors and their perspective incorporated.

Judge Guy Goulard, drawing upon statistics, demonstrated that the YOA represents a major practical challenge for the Courts, notwithstanding the principles which must arise and be dealt with. Judge Goulard predicts a large increase in the numbers handled by the youth courts and considerable number of persons being transferred to adult courts.

The alternative measure section implies a high degree of cooperation between different levels of government and agreement about funding. This represents a immediate challenge for these sections involved.

The principle of the least interference possible will have an important relationship to alternative dispositions available to the courts and their proven effectiveness.

Judge Goulard notes a large amount of disparity across the country in respect to implementation and he believes that a national clearinghouse is badly needed. As well, a forum for meeting and exchange such as provided by the NAACJ Seminar is also necessary.

ADJOURNEMENT

Mr. James MacLatchie, John Howard Society of Canada

Mr. MacLatchie stated that the goals of the seminar had been met. It had provided a great range of information to participants and had encouraged the type of networking demanded to cope with implementation of the Act. A loose coalition which had been formed to monitor the implementation convened after the NAACJ seminar officially adjourned.

Appendix

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NATIONAL ASSOCIATIONS ACTIVE IN CRIMINAL JUSTICE

SEMINAR: The Young Offenders Act and Annual Meeting

November 27 & 28, 1984

Government Conference Centre
Ottawa

Tuesday, November 27, 1984

8:30 am REGISTRATION

9:00 am OPENING REMARKS
Brian Crane, NAACJ Chairman

9:15 am PANEL I: The YOA - The Act Itself

Prof. Nicholas Bala, Queen's University
Jim Coflin, Policy Development
 YOA Unit, Min. of Sol. Gen.

10:45 am PANEL II: Program Development & Initiatives

June Bourgeau, Cdn. Assn. for Children and
Adults with Learning Disabilities
Blaine Hayden, Saskatchewan Association of
 Friendship Centres
John Walker, John Howard Society of Canada
Michael Weil, YMCA of Montreal

12:15 pm LUNCHEON SPEAKER: Grant Lowery
Toronto Central Youth Services

1:30 pm PANEL III: National Overview
 of YOA Initiatives

Lt. Aldo di Giovanni, The Salvation Army
John Lefebvre, Ontario Social
 Development Council
Michel Vallée, Program Development
 YOA Unit, Min. of Sol. Gen.
Brian Ward, Canadian Council on
 Children and Youth
Dick Weller, Canadian Council on
 Social Development

3:30 pm NAACJ ANNUAL MEETING

5:00 pm

Wednesday, November 28, 1984

9:15 am PANEL IV: Monitoring/Evaluation/Statistics

Aaron Caplan, Systems Development
 YOA Unit, Min. of Sol. Gen.
John Klein, YOA Unit, Min. of Sol. Gen.
Stan Divorski, Criminal Justice Policy
 Research, Min. of Sol. Gen.
Charlotte Gibson &
Peter Crocker, Human Service
 Research Consultants

11:00 am CONCLUDING SESSION: Issues for the Future

Allan Benson, Native Counselling
 Services of Alberta
Chris Braiden, Special Advisor on
 Preventative Policing,
 Min. of Solicitor General
Judge Guy Goulard, Canadian Association of
 Prov. Court Judges
Marlene Koehler, Canadian Association of
 Elizabeth Fry Societies

12:15 pm ADJOURNEMENT
12:30 pm Jim MacLatchie

Number of Participants: 53 participants

Number of NAACJ Member Organizations attending:
16 of 18 member organizations

NATIONAL ASSOCIATIONS ACTIVE IN CRIMINAL JUSTICE

NAACJ SEMINAR
The Young Offenders Act
and
Annual Meeting

- LIST OF PARTICIPANTS -

NAACJ Members

Mr. Allan Benson, Director
Family Courtwork Program
NATIVE COUNSELLING SERVICES
OF ALBERTA
9912-106th Street
Edmonton, Alberta T5K 1C5

Mr. Brian Crane, Chairman
National Associations Active
in Criminal Justice
c/o Gowling and Henderson
P.O. Box 466, Station A
Ottawa, Ontario K1N 8S3

Ms. Lorraine Berzins
CHURCH COUNCIL ON JUSTICE AND
CORRECTIONS
305-151 Slater Street
Ottawa, Ontario
K1P 5N1

Mr. Darryl T. Davies
CANADIAN CRIMINAL JUSTICE
ASSOCIATION
55 Parkdale Avenue
Ottawa, Ontario
K1Y 1E5

Ms. Margaret Broyden
Director
ELIZABETH FRY SOCIETY of
Kingston
503A Princess Street
Kingston, Ontario K7L 1C3

Ms. Bonnie Diamond
Board Member
ELIZABETH FRY SOCIETY
of Ottawa
195A Bank Street
Ottawa, Ontario K2P 1W7

Mr. Wally Bunton
Correctional Services
THE SALVATION ARMY
National Headquarters
P.O. Box 4021, Station A
Toronto, Ontario M5W 2B1

Mr. Orville Endicott
CANADIAN ASSOCIATION FOR THE
MENTALLY RETARDED
4700 Keele Street
Downsview, Ontario
M3J 1B2

Ms. Audrey Cole
CANADIAN ASSOCIATION FOR THE
MENTALLY RETARDED
c/o R.R. #3
Smiths Falls, Ontario
K7A 4S4

Lt. Aldo di Giovanni
Correctional Services
THE SALVATION ARMY
National Headquarters
P.O. Box 4021, Station A
Toronto, Ontario M5W 2B1

Appendix
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Judge Guy Goulard
CANADIAN ASSOCIATION OF
PROVINCIAL COURT JUDGES
c/o 1636 Featherston Drive
Ottawa, Ontario
K1H 6P2

Mr. Pat Graham
Executive Director
CANADIAN SEVENTH STEP SOCIETY
#101-1009 Seventh Avenue W.W.
Calgary, Alberta
T2P 1A8

Professor Ken Hatt
CANADIAN CRIMINAL
JUSTICE ASSOCIATION
c/o Department of
Anthropology and Sociology
Carleton University
Ottawa, Ontario

Mr. Blaine Hayden
Provincial Co-ordinator
SASKATCHEWAN ASSOCIATION OF
FRIENDSHIP CENTRES
1950 Broad Street
Regina, Saskatchewan S4P 1X9

Ben Hoffman
Secretary
N.A.A.C.J.
55 Parkdale Avenue
Ottawa, Ontario
K1Y 1E5

Captain David Howell
THE SALVATION ARMY
Correctional Services
192 Somerset Street West
Ottawa, Ontario
K2P 0J4

Ms. Marlene Koehler
Executive Director
CANADIAN ASSOCIATION OF
ELIZABETH FRY SOCIETIES
302-151 Slater Street
Ottawa, Ontario K1P 5N1

... Jocelyn Marshall
CHURCH COUNCIL ON JUSTICE
AND CORRECTIONS
305-151 Slater Street
Ottawa, Ontario
K1P 5N1

Mr. Gordon MacFarlane
Executive Director
JOHN HOWARD SOCIETY
of Ontario
46 Clair Avenue East
Toronto, Ontario M4T 1M9

Mr. James MacLatchie
Executive Director
JOHN HOWARD SOCIETY
OF CANADA
55 Parkdale Avenue
Ottawa, Ontario
K1Y 1E5

Ms. Nicki McChaine
Social Worker
ELIZABETH FRY SOCIETY
of Kingston
503A Princess Street
Kingston, Ontario K7L 1C3

Ms. Eleanor McDonald
Director of Education
ELIZABETH FRY SOCIETY of
Toronto
215 Wellesley Street East
Toronto, Ontario M4X 1G1

Mr. Frank Miller
CHURCH COUNCIL ON JUSTICE AND
CORRECTIONS
c/o 552 Highcroft Avenue
Ottawa, Ontario
K1Z 5J5

Mr. Ian Morrison
Executive Director
CANADIAN ASSOCIATION FOR ADULT
EDUCATION
29 Prince Arthur Avenue
Toronto, Ontario M5R 1B2

Appendix

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Mr. Gordon Morwood
Program Director
CANADIAN MENTAL
HEALTH ASSOCIATION
2160 Yonge Street
Toronto, Ontario M4S 2Z3

Ms. Marie-Andrée Thomas
ASSOCIATION OF SOCIAL
REHABILITATION AGENCIES OF
QUÉBEC
4217 d'Iberville
Montreal, Quebec H2H 2L5

Mr. Eugene Oscapella
Director of Legislation
and Law Reform
CANADIAN BAR ASSOCIATION
1700-130 Albert Street
Ottawa, Ontario K1P 5G4

Mr. Martin Tourigny
Assistant Director
ST. LEONARD'S SOCIETY
OF CANADA
275 Oak Avenue
Windsor, Ontario N9A 5E5

Ms. Mona Ricks
CANADIAN CRIMINAL JUSTICE
ASSOCIATION
55 Parkdale Avenue
Ottawa, Ontario
K1Y 1E5

Mr. John Walker
YOA Co-ordinator
JOHN HOWARD SOCIETY OF CANADA
55 Parkdale Avenue
Ottawa, Ontario
K1Y 4G1

Mr. Harry Shanks
CANADIAN ASSOCIATION
OF NATIVE COURTWORKERS
10009-108 Street
Edmonton, Alberta
T5J 3C5

Mr. Josh Zambrowsky
Executive Director
CANADIAN CRIMINAL
JUSTICE ASSOCIATION
55 Parkdale Avenue
Ottawa, Ontario K1Y 1E5

OTHER VOLUNTARY ORGANIZATIONS

Ms. June Bourgeau, Director
CANADIAN ASSOCIATION FOR
CHILDREN AND ADULTS WITH
LEARNING DISABILITIES
232 Chapel Street
Ottawa, Ontario K1N 7Z2

Mr. John Lefebvre
Assistant Program Director
ONTARIO SOCIAL
DEVELOPMENT COUNCIL
208-60 Bloor Street West
Toronto, Ontario M4W 3B8

Ms. Geraldine Gillis, Director
of Information and Research
CANADIAN TEACHERS FEDERATION
110 Argyle Street
Ottawa, Ontario
K2P 1B4

Mr. Grant Lowery
Executive Director
CENTRAL TORONTO YOUTH SERVICES
27 Carlton Street
Toronto, Ontario
M5B 1L2

Appendix
5

Ms. Penny McKinlay, Coordinator
Cdn. Legal, Advocacy, Info. &
Research Assn. of the Disabled
(CLAIR)
85 Hastey Street, Room 315
Ottawa, Ontario K1N 6N5

Mr. Dick Weiler, Consultant
Law and Social Development
CANADIAN COUNCIL ON SOCIAL
DEVELOPMENT
Box 3500, Station C
Ottawa, Ontario K1Y 4G1

Mr. Michael Weil, Director
Community Justice Initiatives
YMCA of Montreal-West Island
94 Douglas Shand
Pointe Claire, Quebec
H9A 2A8

Mr. Peter Nares
Director
ONTARIO SOCIAL
DEVELOPMENT COUNCIL
208-60 Bloor Street West
Toronto, Ontario M4W 3B8

Mr. Brian Ward, Executive Director
CANADIAN COUNCIL ON
CHILDREN AND YOUTH
323 Chapel Street
Ottawa, Ontario K1N 7Z2

FEDERAL GOVERNMENT DEPARTMENTS

Mr. Howard Babbington
Policy Planning and Criminal Law
Amendments Section
Department of Justice
Kent & Wellington Street
Ottawa, Ontario K1A 0P8

Mr. Jim Coflin, Co-ordinator
Policy Development, YOA Unit
Ministry of the
Solicitor General
340 Laurier Avenue West
Ottawa, Ontario K1A 0P8

Mr. Chris Braiden, Special
Advisor on Preventative Policing
Ministry of the
Solicitor General
340 Laurier Avenue West
Ottawa, Ontario K1A 0P8

Mr. Stan Divorski, A/Chief
Criminal Justice Policy Research
Ministry of the
Solicitor General
340 Laurier Avenue West
Ottawa, Ontario K1A 0P8

Mr. Aaron Caplan, Co-ordinator
Systems Development, YOA Unit
Min. of the Solicitor General
340 Laurier Avenue West
Ottawa, Ontario K1A 0P8

Mr. Eddie Gardner
Department of Justice
Kent & Wellington Streets
Ottawa, Ontario
K1A 0P8

Appendix
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Mr. John Klein
YOA Unit
Ministry of the
Solicitor General
340 Laurier Avenue West
Ottawa, Ontario K1A 0P8

Mr. Michel Vallée, Co-ordinator
Program Development, YOA Unit
Ministry of the
Solicitor General
340 Laurier Avenue West
Ottawa, Ontario K1A 0P8

GUESTS

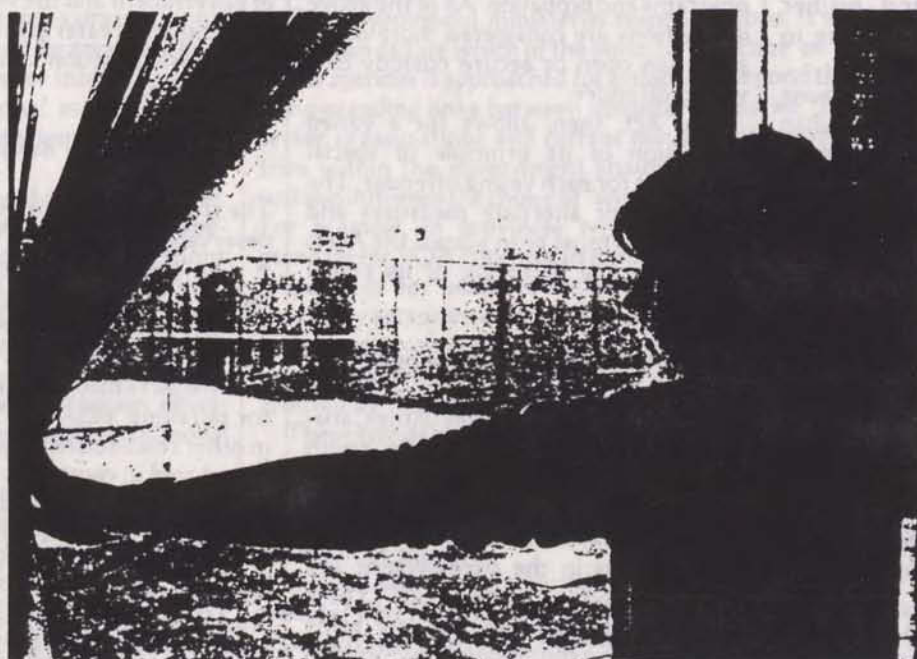
Professor Nicholas Bala
Faculty of Law
Queen's University
Kingston, Ontario
K7L 3N6

Ms. Charlotte Gibson, Consultant
Human Service Research
Consultants
21-185 Bluevale Street North
Waterloo, Ontario N2J 4L8

Mr. Peter Crocker, Consultant
Human Service Research
Consultants
21-285 Bluevale Street North
Waterloo, Ontario N2J 4L8

Mr. Hugh McLennan
Planning Officer-Implementation
Min. of Correctional Services
2001 Eglinton Avenue East
Scarborough, Ontario M1L 4P1

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Are We Ready For YOA?

On April 2, 1984, the new Young Offenders Act became the law of Canada, thereby fundamentally altering the place of young people in our criminal justice system.

The new Act was long overdue. Since 1908, only modest changes had been made to the Juvenile Delinquency Act, which clearly directed "every juvenile delinquent ... be treated not as an offender, but as a misdirected and misguided child." The court acted with relative informality as a strict, watchful, but caring parent and the emphasis was on treatment and rehabilitation. The juvenile delinquent was considered a child and he was treated accordingly.

The Young Offenders Act (YOA) departs significantly from this social welfare approach to juvenile delinquency. Its major difference is outlined in eight governing principles, which present a concept of youth as a unique time of life between childhood and adulthood. During this period of youth, when a person is in the process of becoming an adult, responsibility for his/her behaviour is perceived to develop as part of an overall maturation process. As s/he matures,

society's special tolerance and understanding of youthful illegal behaviour diminishes, until the treatment s/he receives becomes indistinguishable from that of adult offenders.

The YOA then, is a significant legislative expression and affirmation of a state of youth; it recognizes the process of becoming an adult.

Youth is a difficult time. It is a changing balance between dependence on parents, teachers and other adults and full independence and citizenship. It does not evolve uniformly for all young people, nor even progress linearly for any individual. It fluctuates, sometimes forward to adulthood, sometimes backward to childhood. A young person's place on the continuum from childhood to adulthood is often difficult for him/her to define. Parents and other adults often find it no easier to determine.

The concept of youth as an ever-changing, uniquely complex time of transition forms the philosophical basis of the Young Offenders Act. Through the eight principles, flexibility and a sense of balance are promoted to assist the judicial system in dealing with young

people in conflict with the law.

The principles of YOA do not form a vague preamble of thoughtful, but legally ineffective generalities. The Act is clear. "This Act shall be liberally construed to the end that young persons will be dealt with in accordance with the principles..."

An examination of the principles will clarify the Act's intent to recognize a state of youth.

While young persons will not be held accountable in all instances in the same way as adults, nevertheless, they must bear responsibility for their actions.

While society has a responsibility to deter criminal behaviour, it must protect itself.

While young offenders require discipline and control, they have special needs determined by their level of development and maturity. These special needs of guidance and control can best be realized through "measures other than judicial proceedings" when they are consistent with the protection of society.

These principles balance the need of society to protect itself against the special needs of young offender. A young person's responsibility for his/her beha-

viour will be assessed and his/her accountability determined according to his/her level of maturity.

The concluding principles give young people protection under the Canadian Charter of Rights and Freedoms and the Canadian Bill of Rights. The right to "the least possible interference with freedom" acknowledges that the needs of young people and their families might best be served through the sensitive application of options under those formal rights, but only with the informed consent and acceptancy of the young person.

Translating the concept of youth as described in the principles into judicial procedures and decisions is like baking a soufflé. Too little baking and the soufflé collapses. Too much and it burns.

Careful, even delicate, application of the Act's procedures and sentencing options will be necessary to maintain a balance between society's right for protection and a young person's special needs. The Act will hold a young person responsible but measure the degree of accountability according to maturity.

The Act emphasizes alternate measures — options that can be taken prior to a formal court appearance under which a young person, having acknowledged his/her responsibility for an illegal act, can voluntarily participate in a range of activities recognized by provincial Attorneys General. This form of "juvenile diversion" provides a flexible and individualized option for dealing with young offenders. It expresses society's conviction that young people are responsible for their behaviour but recognizes varied degrees of accountability in keeping with the seriousness of the offence and the young person's maturity and age. It encourages programs to assist young people in the transition to adulthood.

The range of court-ordered dispositions or sentences also offers a variety of ways to protect society and the needs of young people.

A court may discharge a young person if that would be in his/her best interest and not contrary to the public interest. It may impose a fine up to \$1,000. It may order compensation or restitution. It may order acts of personal service, programs of community service, treatment

programs and probation. All of the above dispositions are considered more desirable than open or secure custody of a young offender.

The Act, then, allows for a varied expression of its principle of special treatment for each young offender. The full range of alternate measures and dispositions must be in place if the Act is to achieve the balancing of its stated principles.

YOA and the Voluntary Sector

In late 1983, representatives of the Canadian Council for Children and Youth (CCCY) and the Canadian Council on Social Development (CCSD) undertook to study the responsibilities of voluntary organizations in the development and implementation of the YOA. These organizations observed the law being formulated in a contentious environment involving federal and provincial authorities without active participation of interested voluntary sector organizations. There was apparent confusion and conflict among the provinces and the federal government regarding funding responsibilities and implementation plans. The result might well be the inconsistent application of those principles inherent in YOA with the consequent inappropriate treatment of young persons — a condition the councils consider unacceptable.

The study included consideration of written materials related to the development of YOA, and interviews and discussions with representatives of approximately three hundred national, provincial and local voluntary organizations concerned with young persons.

The intentions of the study were to:

- Identify past, present and future YOA-related activities and plans underway in the voluntary sector. This included research, educational and service planning, and coordination interests. This information will be available to voluntary organizations to assist them in networking.
- Identify areas where collaborative action among voluntary organizations might be helpful in realizing the principles of the new Act. These findings are under consideration by representatives

of government and the voluntary sector.

- Stimulate greater awareness, concern and possible action among voluntary organizations.

Study Results

The study led to a number of interesting observations:

- The majority of organizations contacted had little or no YOA-related activity. Reasons included a general lack of understanding of the Act, a scepticism as to the Act's future and lack of resources for pursuing YOA due to involvement in other child-related legislation recently introduced in most provinces.
- Most organizations involved in some YOA activity represented professionals or agencies traditionally concerned with criminal justice interests. Activities were primarily educational in nature. The interest of the voluntary sector generally reflects the degree of provincial/territorial support for and openness in preparing for YOA.
- There was widespread support for the new legislation, particularly its emphasis on a new philosophical perspective and principles for dealing with young offenders.
- While most organizations supported the need to reflect community or regional circumstances, many emphasized the importance of national interests and experience.

A number of general findings arose from this study.

The need was stressed for better educational programs aimed at the general public and at those responsible for implementing services required by the Young Offenders Act. The intentions of the Act need clarification as do plans for their specific implementation. The differing perspectives of governments regarding the meaning and direction of the Act were seen as priorities for educational initiatives. The anticipated roles of the voluntary sector organizations also needed clarification, and assistance is required for this.

There was considerable support for a newsletter and for inter-agency and inter-disciplinary activity at the community level. This was qualified by a request to focus on youth in general, not

just on YOA-related matters. The results confirm that new, complex organizational structures should not be created where existing mechanisms or informal means of inter-organizational activity can be realized at the local, regional and national levels.

Monitoring of the Act will be crucial. However, many were unable to be specific or to provide detailed suggestions regarding the exact areas and methods, responsibilities, and timing for this responsibility. In large part, the opinions reflected the more urgent need for an implementation plan. "Program development must precede evaluation/monitoring."

The study also revealed a number of issues which we believe to be considered in the determination of future YOA-related voluntary sector activity.

1. Who "owns" YOA? There appears to be considerable confusion within many provinces about responsibility for implementing the judicial and service responsibilities linked to the YOA. For example, the debate continues in Ontario between the Ministry of Corrections and the Ministry of Social Services. This debate represents a need to come to grips with the principles of the Act and the commitment it demands to the idea of youth as people in transition from childhood to adulthood.

In the voluntary sector, numerous organizations were becoming involved in planning for services for the new young offender population. Many of these have traditional mandates in adult correctional programs and are now struggling to develop an understanding of, and capacity for, serving youth and their families.

The other side of this coin reflects the interests of organizations which provide mental health and social services for children. They are now contemplating provision of services for an older age group of youth. Their difficulties in attempting to deal with youth as defined in the new Act should be recognized when the new role of voluntary organizations is being defined. In addition, there is the potential conflict among organizations contemplating services for YOA. The traditional orientation of the eventual "winners" will greatly influence

how young people are served by the Act.

Often, provincial ministerial responsibility can dictate which of the voluntary sector agencies is approached for services. Long-standing links between voluntary sector organizations and certain ministries within the government structure will also influence the choice of "winners." For example, in provinces where the mandate for YOA is located in ministries responsible for adult corrections, the voluntary sector involved in corrections has a greater opportunity to expand its responsibilities for those young persons affected by the new legislation.

These trends might not best serve the needs of the young persons affected by YOA nor draw from the wider capacity of the voluntary sector according to the intention of the Act.

2. What should the voluntary sector provide? The results of our survey suggest discretion in offering specific opportunities to the voluntary sector. Numerous provinces have indicated some intention to involve the voluntary sector; however, the emphasis in many provinces is on institutional-based initiatives such as secure settings, small group homes, etc. We note little interest among most provinces to draw the voluntary sector into the development and refinement of community options suggested in the legislation. Community alternatives, considered fundamental to the successful implementation of YOA, are often poorly developed or understood by the provinces, and yet these have traditionally been the strengths of voluntary organizations. This contribution to the Act by the voluntary sector might well be lost unless it is recognized early and encouraged.

3. Urban/rural settings. It is important to recognize the influence of location upon the effectiveness of the voluntary sector. Voluntary organizations in rural areas must overcome limited resources, isolation from urban networks and large geographic mandates if they are to be effectively involved in the implementation of the Young Offenders Act.

4. Who should be involved? Given the evidence of this study regarding the patterns of involvement of the voluntary sector, future efforts should encourage participation from a wider range of

professional and service-based organizations. It will be necessary to expand the scope of voluntary sector involvement beyond those currently active in criminal justice. Teachers, social and health service providers, and others working with youth, should be included and supported to fully realize the Act's objective. To continue focusing attention only on those presently involved could, in fact, reinforce the "least possible change" approach exhibited by some provinces. It could also add weight to the view that the Act is being implemented by a small group of individuals unfamiliar with the community-wide results of the legislation. Some have suggested this would be similar to allowing correctional services to assume responsibility for crime prevention programs in the community.

Actions Arising from the Study

A number of actions are being taken as a consequence of the study, including:

- The federal government has been asked to give support to development of the Act, including educational initiatives directed at the general public, agencies providing services to young persons and professionals working with youth. The federal government has also been asked to provide support for community alternatives, stressing non-institutional alternatives.
- A group is being formed of representatives from nationally-based volunteer organizations concerned with providing services to youth in conflict with the law. This group will develop YOA-related communications among interested voluntary sector personnel; propose educational initiatives; suggest the form and responsibility for monitoring the Act, and other matters of concern to the voluntary sector.
- An inventory of activities arising from this study is being composed and will be provided to interested organizations.

Research carried out by Richard Weiler and Phyllis Drennan Searson of the Canadian Council on Social Development; Brian Ward of the Canadian Council on Children and Youth; and Grant Lowery and Carol Appathurai of the Central Toronto Youth Services.

Evaluation

This presentation will be in two parts:

I will discuss: (1) The three major models in evaluation research and their limitations.

(2) Based on this discussion I will conclude by suggesting which of the three types is most appropriate to monitor the implementation of the YOA.

Pete will continue the presentation by discussing two levels of needs that must be recognized to ensure the successful monitoring of implementation. Simply stated, evaluation research can assist funders and administrators in their decision to:

- (1) Continue or discontinue a program
- (2) Improve practises and/or procedures
- (3) Add or drop specific porgram strategies and techniques
- (4) Institute similar prohrams elsewhere
- (5) Allocate resources among existing programs
- (6) and accept or reject a program theory or approach.

Contrary to the colloquial use of the term evaluation, there are three main types of evaluation models:

- (1) Cost effectiveness efficiency
- (2) Outcome (summative, goal-attainment)
- (3) Process (formative, systems)

A Cost-effectiveness evaluation is concerned with the cheapest strategy of achieving desired results. "Effieciency is concerned with the evaluation of alternative paths or methods in terms of cost. Cost in money, cost in time, cost in personnel and public convenience. In a sense it represents a ratio between effort and performance" (Suchman).

In the area of human service programs some of the major criticisms of a cost-effectiveness analysis include:

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- (1) Improved mental health is difficult to price
- (2) Putting a value on human life is impossible (The elderly and children will always represent a negative dollar value because of their low earning power.
- (3) Degrades human life -- life is proceless

An Outcome evaluation addresses the question "Does the program achieve the desired results?" It involves a decision about continuing or discontinuing a program. Despite the fact that human service will never be discontinued (we will continue to educate, care for young people), outcome evaluations continue to be the dominant model used. For example, one variation conducted for administrators and/or funders involves the systematic testing of predicted program results in comparison to a control group who have not had the program experience. This type of true experimental design is difficult if not impossible to implement in human service research.

It's very difficult to undertake a strict experimental study with human subjects where some (who are referred to the program because of problems) are randomly assigned to a nontreatment group for the purpose of comparison.

In addition, matching comparison groups for the purpose of conducting an experimental research evaluation raises a whole new area of concern. -aside from observable differences in characteristics (age,sex,severity of problem). There is also a difference between community cohesiveness, type and number of social services available, quality of school. All these factors may influence the effectiveness of a program and should be taken into consideration.

When planning evaluation research one has to consider how much value to put on component parts. Outcome evaluation looks at just ---- the outcome of a program. Any successful component parts may be lost in this type of evaluation. For example, a family counselling program may demonstrate a

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dramatic effect on improved family relations and patterns of communication but prove unsuccessful on the outcome measures of police contact or rearrest rate. An outcome measurement of delinquency would lose valuable information on the various parts of the program.

The major limitation of an outcome evaluation is that it can only be applied to fully developed, operationalized programs. That sounds like a rather basic assumption but it's one that is too frequently overlooked. At a workshop on evaluation this summer Michael Quinn Patton, a leader in the field of evaluation research, related an incident where he was asked to evaluate a program geared to improve the reading ability of foreign children. The United States had modified pictures and text to correspond to the culture of the target population. One year after the books had been received, Patton led a team of researchers into the target country. Local administrators had nothing but praise for the program. They had heard from area teachers who continually commented on how wonderful the books were. The team of evaluators asked if they could go into the area schools and talk with staff and children. Accompanied by interpreters, the small group of researchers questioned numerous local teachers who confirmed the reports of administrators that the books were indeed beneficial. However, interviews with children proved confusing. Questions were reworded but they were still met with blank stares. Upon further questioning the researchers learned that in that particular country it was policy for teachers to reimburse the government for any books damaged or lost by children in their classrooms. Therefore the books had never been distributed. The teachers used them for reference but the children never received them. They remained locked in the shipping cabinets that had been used to transport them. Clearly, to assume that all programs have been implemented as intended is as foolhardy as assuming that all implemented programs are successful.

The first thing to examine is whether or not the program is actually functioning and whether or not the resources are being used. A Process Evaluation is concerned with examining "What happened". It focuses on improving practises and procedures. A process evaluation assists in determining appropriate adjustments while the program is developing toward its stated goals.

Evaluation can provide a knowledge base for planning: But until a program is fully operational --which means:

- (1) A need has been identified
- (2) program goals and objectives are well defined
- (3) methods of service delivery are clearly specified

an environment must be provided that encourages "new organizational structures, innovative approaches and/or procedures to be tried out on a very flexible and easily reversible basis". Programs at this stage should be assessed by means of a process evaluation to help improve practises and procedures. The focus of interest is on identification (What is working), improvement (How can it be made better) and the utilization of evaluation results (the implementation of similar programs elsewhere).

This brings me to the final concern in evaluation research. Problems may arise when concerns of administrators, funders, program directors and evaluation researchers differ. Basically, I guess I'm saying that program administrators should have some knowledge of evaluation models and uses.

For example:

- (1) Funders may be interested in a quick, inexpensive assessment of cost-effectiveness
- (2) Administrators/directors -- may be interested in identifying what is happening but may have concerns that the evaluation doesn't interfere with program functioning.
- (3) Front-Line Staff -- may perceive an evaluation as a threat to their employment, which could result in resistance and/or unrealistic feedback

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- (4) Researchers - depending on their background may insist on a strict experimental design.

There are many stakeholders in an evaluation. Evaluations must consider the needs and concerns of administrators, funders, programs directors, staff, clients and their own personal bias because conflicts arising from different interests could result in reports being shelved without consideration and resistance to future assessment.

A Process evaluation examines all the component parts of a program and studies the links between these parts.

- (1) The structure of the program (administration/staff/resources) is outlined in terms of service delivery and program goals
- (2) Clients are identified in terms of needs and characteristics
- (3) Resources (funding/volunteers) are evaluated in terms of time/cost related to the attainment of program goals.

To quote Etzioni (1969) "The starting point for this approach is NOT the goal itself but a working model of a social unit which is capable of achieving a goal. Unlike a goal or a set of activities, it is a model of a multifunctional unit"

The application of such a model would allow information to be fed back into the program to assist with future program decisions and modifications.

Monitoring the Implementation of YOA Programs: Concerns of Volunteer Agencies

As Charlotte has pointed out, it is to each programs distinct advantage to record program data for use in process evaluations. Most simply, process evaluation is a way to monitor the degree to which a prgram has been implemented as planned -- providing ongoing feedback to program administrators and staff and allowing them to continuously improve both the efficiency and effectiveness of the program.

The worth of process evaluation as an aid to program improvement lies in the manner in which data is collected. An information system must be established that is both routine and systematic, to ensure that data is recorded in a consistent manner at each stage of a young person's involvement in a program. Ideally the data collected should fulfill the reporting and evaluation requirements of funding bodies, as well as meeting the information needs of program staff.

In the interest of avoiding redundancy in data collection, there is a need to establish a "fit" -- a degree of compromise between information desired by program personnel and governments. The need for compromise is especially important when discussing how best to monitor the implementation of programs under the YOA, because we are talking about two types of monitoring:

- the first type is the monitoring of program activities by program staff -- process evaluation. This type of monitoring seeks to answer questions relevant to program operations, such as "are we using our limited staff & volunteer resources efficiently and effectively?"

- the second type of monitoring is that required by the federal government which seeks to answer questions of a much broader nature, questions focused at the national rather than the local level. For example, are the full range of sentencing options sanctioned in the Act being made use of? What innovative "alternative measures" programs are operational, and which of these can be held up as 'model programs' to reduce energy mispent in "reinventing the wheel.

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This type of monitoring is primarily concerned with system-level operations ---the extent to which judicial, governments and volunteer agencies combine to make the YOA work. The government must obtain information on these and other issues from local programs. Standardized forms are required to ensure that each program records the same type of information and organizes that information in similar ways to permit comparison across both programs and provinces. The government will want to ensure that the information collected is both useful and relevant to its needs. When designing an information system, and asking "What specific data should we collect?", program administrators are especially concerned that the information to be collected is relevant and useful to program functioning: For each additional piece of information you collect, costs accrue in terms of staff or volunteer time spent filling out forms (time that could be spent in direct service), compiling monthly or quarterly statistics, and interpreting and reacting to those statistics.

There is a tendency for governments to desire a large body of information, while program staff are often interested in collecting a much narrower scope of data.

The interests of each group in data collection are dissimilar but not irreconcilable. If the MSG is to require a series of standardized forms on which program personnel are to record data, concerns of volunteer agencies must be raised to ensure that federal information requirements do not interfere with local information needs, or place an excessive burden on the limited resources available to local programs.

The issue is one of ownership: if program personnel are not consulted during the development of a monitoring strategy, it is unlikely that the strategy will be satisfactory to local programs -- raising the possibility of noncompliance or partial compliance with federal data collection efforts. In the

United States, research has demonstrated that national level evaluation and monitoring efforts are more useful and successful when a process of "mutual adaptation" occurs --when federal and local level personnel take into consideration each other's needs, concerns & capabilities.

I offer the following as potential concerns of voluntary agencies -- things to look for in the discussion of implementation monitoring strategies by other members of this panel:

- (1) has consideration been given to the often excessive documentation requirements imposed on programs with limited staff resources? Programs under the YOA will likely have need to report to their local juvenile justice system, as well as to provincial and federal ministries. Is there a plan to co-ordinate these documentation requirements so as to minimize redundancy and save staff time-- time that could be spent providing direct service to young people?
- (2) Is there a concern expressed for individual differences that exist between programs -- even those ostensibly providing the same service? Too often, in our experience, data reporting requirements are too global -- if standardized forms are to be used, is there a recognition that some types of data will be irrelevant to the program's stated goals and objectives? Since programs developed to provide alternative measures are to be innovative, evaluation and monitoring strategies should be developed which are flexible enough to accommodate and encourage true innovations -- programs which may not fit into preset category or label.
- (3) Once process information has been provided to governments, how will it be used? As Charlotte mentioned, the use of data from programs not fully operational to make funding decisions is not appropriate. Are parameters

to be set out restricting the use of this data to certain types of of decision-making?

- (4) There comes a point when a program can be collecting too much information and gets into a situation of "information-overload" -- not only is an excessive amount of time spent on data recording & analysis, but there is just too much data to make sense of -- in which case the data is simply not used to improve program functioning.

Regardless of the scope of evaluation activity undertaken by individual programs, I think it's safe to assume that the government will want more information than some program administrators are willing to collect, or find useful & relevant to collect for in-house evaluations.

Were the government to act as a clearinghouse for YOA related programs, providing ongoing feedback to programs based on monitoring data, this information may become more relevant in the eyes of program administrators. Similarly, training workshops in evaluation could make individual program administrators more aware of the possibilities for collaboration between federal and local level evaluation and monitoring activities.

National level evaluation results are put to constructive use to the degree that local programs have participated in developing evaluation strategies. I trust that this seminar provides but one forum for an ongoing dialogue between the federal government and volunteer agencies.

