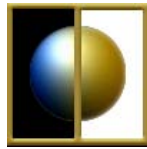


CHILD & YOUTH WORK UNDER THE YOUTH CRIMINAL JUSTICE ACT

PRESENTATION AT MOHAWK COLLEGE 28 FEBRUARY 2005



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CHILD & YOUTH WORK

under the




Youth Criminal Justice Act

Presented by Terry Henry & Gerry Hall, Dawn Patrol CYS, 28 February 2005

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Common Youth Counselling Purpose

The well-being of our client



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Child & Youth Serving Sectors

sector	client benefit	public good	measured by	legislated by
Education	learning	citizenship	grades, diplomas	Education Act
Child & Family Intervention	coping	mental & interpersonal health	assessments	MHA, CFSA
Child Welfare	thriving	child protection	apprehensions	CFSA
Youth Justice	conforming	community safety	offence rate, recidivism	YCJA, CFSA

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Legislation

JDA
Juvenile Delinquents Act
1908 - 1984

YOA
Young Offenders Act
1984 - 2003

YCJA
~~Youth Criminal Justice Act~~
Youth Criminal Justice Act
2003 - ???

PURPOSE

Protection, Guidance, & Supervision

Accountability & Responsibility mitigated by developmental concerns

Accountability & Rehabilitation



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Legislation

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NATURE

Mixed Justice & Child Welfare

Separation of Justice & Child Welfare

Separation of Justice & Child Welfare



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Legislation

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ROLE OF PARENTS

Parens Patriae
But parents could be charged

Parental responsibility
But parents could not be charged

Parental responsibility
parents could not be charged but Ontario enacted the *parental responsibility Act*



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Legislation

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GUIDING PRINCIPLE

"Best Interest of the Child"

"Protection of Society"
possibility of deterrence

"Protection of Society" and
"Rehabilitation & Reintegration"
no deterrence

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Legislation

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YCJA
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YOUTH LABEL

Juvenile Delinquent

Young Offender

Young Person

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Legislation

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YOA
Young Offenders Act
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YCJA
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2003 - ???

NATURE of OFFENCE

Delinquencies
Crimes and Status Offences – i.e.,
truancy, running, sexual activity

Offences (Crimes)

Offences (Crimes)

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Legislation

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VOA
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YCJA
Youth Criminal Justice Act
2003 - ???

COURT

Separate, Distinct, Informal

Separate but Similar / Formal
no conviction but "guilty finding"

Integrated - Formal
Different from adult Court only in dispositions
No conviction but "guilty finding"

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Legislation

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OUTCOME at COURT

"Dealt With"

"Disposition"

"Sentence"

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Legislation

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CRITICISM

Institutionalization

Increase in Lawyers – Increase in
Incarceration

Lack of Community Resources


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Milestone #1
Consolidation of Phase 1 & Phase 2 Systems

In August 2003, Ontario ended nearly 20 years of split jurisdiction by consolidating all Youth Programs under the Ministry of Community Safety & Correctional Services.

This process continues today, but should be completed within the next fiscal year.

The ADVANTAGES and DISADVANTAGES of consolidation have a major impact on delivery of service and the challenges facing the YC professions.




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Milestone #2
Creation of Ministry of Children and Youth Services

In November 2003, the new Liberal Ontario government announced the creation of the Ministry of Children and Youth Services – a Ministry that would include Youth Justice Services.

This move was a profound re-orientation of YJ policies and values – and one in keeping with the principles and intentions of the YCJA.




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Milestone #3
Rationalization of Youth Justice Services

Ontario (MCYS) is currently in the third phase of a rationalization of Youth justice Services – transforming a large portion of its “custody” resources to YCJA-compliant community-based services.

There will be at least two more phases in this rationalization: (1) Secure Custody rationalization; and (2) move to Prevention and After-Care.




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(Potential) Milestone #4

Integration of YJ and other children's sectors

The intent of MCYS is to improve the well-being of Ontario's children by removing the service barriers and gaps created by service "silos".

This process is under policy development and should begin within two or three years.



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(Potential) Milestone #5


Provincial Director determination of level of Custody

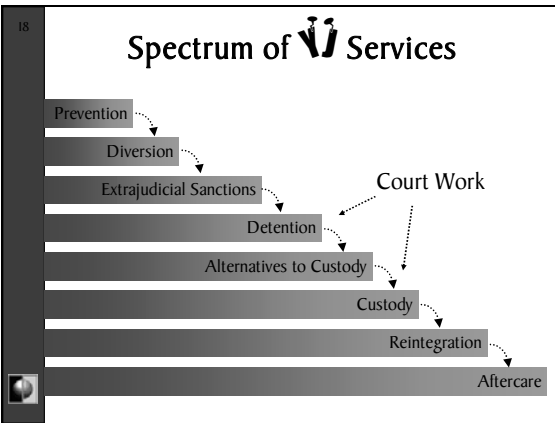
Presently, the Court determines level of Custody (i.e., Secure versus Open) at sentencing.

There is hope that Ontario will follow most other provincial jurisdictions by implementing PD determination of custody level.

ADVANTAGE: PD determination permits the system to respond to the youth's needs. [YCS love this.]

DISADVANTAGE: it may result in different levels of custody for the same offence. [Lawyers hate this.]






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Prevention

Youth not yet involved in criminal activity.

- Youth under the age of 12 that commit criminal offenses
- UNIVERSAL programs/services
- TARGETED programs/services (at risk)



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Diversion

*Youth that have committed a criminal offence (which is non-violent in nature and **usually** first-time). Also called **Extrajudicial Measures** or **Pre-Charge Diversion**.*

The intent is to avoid the formal judicial system. [Parts can be initiated by either the Police or the Crown.]

- no action
- warning (verbal)
- caution (written)
- community referral (with consent)

If the youth fails to follow through, the Police or Crown can proceed with the charge.



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Extrajudicial Sanctions


When an Extrajudicial Measure is not adequate but the desire is to avoid the formal judicial process.

It cannot be used if the youth denies responsibility for the offence OR desires formal judicial process.

Police ⇔ Crown ⇔ Provincial Director

• restitution	• Youth Justice Circles
• compensation	• Restorative Justice programs
• community service	• specialized treatment
• counselling	• mediation

If the youth fails to follow through, the Police or Crown can proceed with the charge.




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Detention

A youth charged with an offence may be held in detention:

- if it is necessary to ensure his/her appearance in court;
- if it is necessary for the protection or safety of the public (including the victim); or
- if the Judge or JP determines any other "just cause" – e.g., to establish identity, secure evidence, prevent commission of an offence.

- OPEN Detention
- SECURE Detention




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Alternatives to Detention

A youth charged with an offence but not held in detention will receive either:

- an **UNDERTAKING** – i.e., a contract between the youth and a "responsible person" assuring the youth's attendance at court (and specifying certain conditions like association, curfew, and residence); or
- a **RECOGNIZANCE ORDER** – i.e., an order directly from the court to the youth specifying attendance at court (and conditions of association, curfew, and residence).




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Alternatives to Custody

A youth found guilty of an offence may receive Custody or any of the following:

• reprimand	• community service order
• absolute discharge	• prohibition, seizure, forfeiture
• conditional discharge	• probation
• a fine (maximum \$1,000)	• ISSP
• compensation / damages	• attendance centre
• restitution	• deferred custody
• personal services	• other reasonable/ancillary condition




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Custody

A youth found guilty of an offence may receive Custody if:

- the offence involved violence;
- the youth failed to comply with any previous non-custodial sentences;
- the offence would carry imprisonment for more than two years if committed by an adult; or
- there are aggravating circumstances that make a non-custodial sentence inconsistent with the purpose & principles of the YCJA


- OPEN Custody
- SECURE Custody
- IRCS – Intensive Rehabilitative Custody & Supervision



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YC Roles in Custody and Detention

- security routines
- court support (supervision, information, & transportation)
- intake / orientation
- primary worker
- programming (counselling & groupwork)
- report writing
- advocacy




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Reintegration

2/3 of each Custody sentence is to be served in a custodial facility, and the remaining 1/3 is to be served under supervision in the community.

- Mandatory Conditions (similar to probation)
- Other conditions: special needs, rehabilitation, reintegration




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Aftercare

Services for youth that have completed all previous sentences and are free of outstanding charges.

- Complete range of youth services from community support to treatment.



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Categories of Criminal Offence

[Tracking]

Property I shoplifting, theft under, vandalism, possession ...

Property II arson, theft over, malicious damage ...

Person I threatening, fighting, assault ...

Person II assault with weapon, hospitalization, rape, murder, sexual assault ...

Administrative failure to comply, escape custody, failure to appear ...