

*Young Offenders Act*

such horrible crimes as murder. As the Act stands now, judges can only impose a three-year maximum sentence for youths convicted of murder. At this point you may ask yourself the following question: Why is it that an adult convicted of murder can look forward to 25 years in prison with no eligibility for parole, while a young offender convicted of the same crime can be walking the streets again after serving only three years? Obviously, there is a huge disparity between these two sentences, but unfortunately this is the way the system operates.

If the sentencing provisions of the Young Offenders Act are not bad enough, the Act adds insult to injury by allowing the youths themselves to decide whether or not they wish to receive psychiatric counselling.

Let us pause here for a moment and remind ourselves with whom we are dealing. We are dealing with children who obviously cannot be expected to make major decisions alone. Yet, the Young Offenders Act will have us believe that a 14 year old is mature enough to be able to decide whether or not psychiatric counselling is in his or her best interests. The reality of the situation is simple. It is often the young offender who needs counselling the most who refuses it. Therefore, every effort should be made to ensure the young offenders are encouraged to undergo such counselling when deemed appropriate by authorities.

One way which the Young Offenders Act attempts to deal with young offenders who are charged with a serious crime, such as murder, is a provision which allows a youth Court judge to have a murder case transferred to an adult court where the penalties for murder are much stiffer. Unfortunately, this is a good idea that has turned out to be an administrative nightmare.

First, we are faced with the fact that judges have huge discretionary powers over which youths should be transferred to adult court and which should be tried in youth court. While it is clear that this is no easy task for a judge, it is made even harder by the fact that no criteria exists which judges can use in making their decision. Therefore, judges are allowed to use whatever criteria they wish. This has resulted in a situation where, in one instance, in the Ontario Provincial Court a judge denied an application for a transfer of a youth charged with murder to adult court on the basis that the youth was "an average student and a good athlete". What kind of criteria are these? Such decisions serve only to make a

mockery of the Young Offenders Act and ordinary citizens to lose faith in their judicial system.

Second, we have a situation in this country where each province has decided on its own whether or not it is appropriate to transfer young offenders to adult court.

Provinces such as Ontario and Quebec have demonstrated an unwillingness to use the transfer provision on the grounds that the adult prison system is too harsh for the young person and does not provide an opportunity for rehabilitation of the young offender so he or she will emerge from prison worse off than on going in.

On the other hand, provinces such as Manitoba and Alberta have no hesitation in using the transfer provision, citing the need to protect society as the most important factor to be considered in any transfer application.

What the law seems to be saying to our youth is that if they wish to commit murder they had better do it in Ontario or Quebec where they will get off with only a three-year sentence. Clearly, there is an urgency to make the system more uniform and more fair where the law is the same no matter in which part of the country one finds oneself.

After reviewing the deficiencies in the Young Offenders Act, I have taken it upon myself to introduce amendments to the Act which I believe will go a long way in protecting society and in dealing more fairly with today's young offenders. I will now go through these changes.

First, the three-year maximum sentence must be changed in order to reflect the seriousness of the crimes being committed by youths. Therefore, I feel that a maximum sentence of five years less a day more adequately reflects the desire of society to feel protected from violent young offenders.

Second, I am proposing that all youths, 14 years of age and older, charged with murder be automatically transferred to adult court. Not only will this serve to make the current system more fair, it will also reflect the distaste of society for this most despicable crime.

Automatic transfers will mean that youths will be dealt with in the same manner as adults. Therefore, the current provisions of the Young Offenders Act of not disclosing the identity of a young offender will no longer apply as it is in the interest of society, in fact, it is the