

No Exceptions:
The Right to be Treated with Dignity and Respect in
Youth Custody Facilities in British Columbia

by


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ABSTRACT

The youth justice system in British Columbia historically has been kept separate from all other child, youth and family serving systems. The integration of all these systems by the creation of the Ministry for Children and Families necessitates a major shift in focus and philosophy within youth justice in order to implement this ministry's youth-centered, integrated approach to service delivery. The transfer of administrative responsibility from the Ministry of the Attorney General to the Ministry for Children and Families set up an expectation for change and improvement in services for youth in custody.

This study uses a case study approach to determine if this transfer of administrative responsibility has had a discernible effect on services to youth in custody and the honouring of their right to be treated with dignity and respect in practice. A particular youth detention facility in British Columbia was selected for study. The perspectives of key participants were obtained and analysed as to the barriers and opportunities for ensuring that this right is honoured. The findings of what participants discussed is occurring in practice in youth custody was compared to provincial, national and international legislation and conventions to evaluate how well Canada is meeting its commitment to treating youth in custody with dignity and respect.

The findings of this study indicate that the formation of the Ministry for Children and Families has created a number of opportunities to better ensure that youth in custody are

treated with dignity and respect including: integrated case management; separation from the adult system; a youth-centered ministry; a flatter hierarchical structure within the ministry; and a better understanding and connection with other youth services. However, many barriers still exist which can not be addressed by only a transfer in responsibility from one ministry to another. These barriers include overcrowding at the youth custody centre; a lack of resources and programs to develop a full continuum of services for young offenders; public and judicial focus on punitive measures and denunciation; and youth having to serve custody time far away from home. The study concludes with a discussion of the implications of these barriers and opportunities in practice, limitations of the study and the implications for policy and research.

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TABLE OF CONTENTS

ABSTRACT.....	ii
TABLE OF CONTENTS	iv
ACKNOWLEDGEMENTS.....	vii
DEDICATION.....	viii
I. INTRODUCTION.....	1
IDENTIFICATION OF THE PROBLEM.....	1
SIGNIFICANCE OF THE STUDY.....	2
PURPOSE OF THE STUDY	5
IMPETUS FOR RESEARCH	6
II. THE CASE STUDY IN CONTEXT.....	13
HISTORY OF THE YOUTH JUSTICE SYSTEM IN CANADA.....	13
<i>Four Models of Youth Justice</i>	14
<i>The Juvenile Delinquents Act</i>	15
<i>The Young Offenders Act</i>	19
CHALLENGES AND LIMITATIONS OF INCARCERATING YOUTH	23
BRITISH COLUMBIA'S NEW MINISTRY: CONCERNS AND FEARS	26
THE YOUTH CUSTODY CENTRE	28
III. REVIEW OF LITERATURE	33
THE RIGHT TO BE TREATED WITH DIGNITY AND RESPECT IN YOUTH CUSTODY.....	33
<i>The Young Offenders Act</i>	34
<i>The United Nations Convention on the Rights of the Child</i>	34
<i>The United Nations Rules for the Protection of Juveniles Deprived of their Liberty</i>	35
<i>The Corrections Act - Youth Correctional Programs Regulations</i>	36
<i>Themes</i>	36
EFFECTIVE SERVICES FOR YOUTH IN CUSTODY	38
<i>Programmatic Features</i>	40
<i>Nonprogrammatic Aspects</i>	43
<i>Learning Organization</i>	48

IV. METHODOLOGY	54
RESEARCH DESIGN	57
<i>Participants and Sampling</i>	58
<i>Data Collection</i>	60
<i>Data Analysis</i>	61
RIGOR.....	63
ETHICAL CONSIDERATIONS.....	66
V. FINDINGS	70
THE CASE STUDY IN CONTEXT	70
<i>Separation from the Adult System</i>	71
<i>Organizational Differences</i>	74
<i>The Youth Custody Facility</i>	86
RIGHTS OF YOUTH IN CUSTODY.....	93
<i>Right to Be in Custody only as a Last Resort</i>	93
<i>Right to live in Physically and Emotionally Safe Environment</i>	104
<i>Right to Facilities which meet Physical Standards</i>	106
<i>Right to Maintain Contact with Family</i>	107
<i>Right to Rehabilitative Aim of Custody</i>	109
EFFECTIVE PROGRAMS	115
<i>Programmatic Features</i>	115
<i>Nonprogrammatic Components</i>	119
<i>Learning Organization</i>	130
VI. DISCUSSION	141
PRACTICE IMPLICATIONS WITHIN THE YOUTH CUSTODY CENTRE	142
<i>Physical State</i>	142
<i>Location</i>	143
<i>Hiring and Training of Staff</i>	144
PRACTICE IMPLICATIONS WITHIN THE MINISTRY FOR CHILDREN AND FAMILIES	145
<i>Flatter Organizational Structure</i>	145
<i>A Perceived State of Disarray</i>	146
<i>Lack of Knowledge, Understanding, and Attention</i>	146
PRACTICE IMPLICATIONS WITHIN PRE- AND POST-CUSTODY PROGRAMMING AND SERVICES	147
<i>Lack of Services</i>	147
<i>Reasons for these Inadequacies</i>	148
<i>Consequences Resulting from a Lack of Services</i>	149
UNANSWERED DILEMMAS AND CONTRADICTIONS	149
LIMITATIONS OF THE STUDY	151
POLICY AND RESEARCH IMPLICATIONS.....	151
REFERENCES	158
APPENDIX A	170

THE YOUNG OFFENDERS ACT.....	170
APPENDIX B	181
UN CONVENTION ON THE RIGHTS OF THE CHILD.....	181
APPENDIX C	185
UNITED NATIONS RULES FOR THE PROTECTION OF JUVENILES DEPRIVED OF THEIR LIBERTY.....	185
APPENDIX D	199
CORRECTIONS ACT.....	199
APPENDIX E	206
TELEPHONE CONTACT WITH KEY INFORMANTS.....	206
APPENDIX F.....	208
CONSENT FORM FOR KEY INFORMANT PARTICIPATION	208
APPENDIX G	210
INTERVIEW QUESTIONS.....	210

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DEDICATION

This thesis is dedicated to my parents, whose boundless love, support and encouragement have always allowed me to follow my dreams. Tack mamma och pappa.

I. INTRODUCTION

I don't know how to lock up and torture only the ugly "offender-parts" of people, while comforting the hurt parts, emboldening the cautious parts and inspiring the dreaming parts.

- Rupert Ross

Identification of the Problem

In September 1996 the separation of the adult and youth correctional systems occurred in British Columbia. In a restructuring of the child, youth and family serving system, the provincial government created the Ministry for Children and Families. This new ministry brought together the child, youth and family serving portions of five different ministries, including youth justice, under the premise that such an organizational change would improve services to children, youth and families.

Historically, British Columbia has chosen to keep services for young offenders separate from the child welfare system. Custody facilities have been mandated to be used only for the protection of the public from the most dangerous offenders and were not intended to provide habilitative¹ and care functions (Corrado and Markwart, 1988). Therefore, bringing youth justice services together with all other child, youth and family serving

¹ The term "habilitation" is used in this study instead of the term rehabilitation. The Oxford English dictionary defines rehabilitation as: "the restoration to effectiveness or normal life by training etc., esp. after imprisonment or illness". This meaning implies that youth in custody had a "normal life" before entering the facility, something which research shows is not the case. Therefore, I use the term habilitation to indicate developing the skills needed through training to begin to live a "normal life".

system is, at least on paper, a major shift in focus and philosophy within youth justice. To implement this new mission into practice in youth custody necessitates a shift from a corrections focused system similar to the adult system to a more integrated model of justice which recognizes the unique needs of young people and offers quality services for habilitation while still holding youth responsible and accountable for their actions. This youth-centered, integrated model is in line with provincial, national and international legislation and conventions for youth in custody as well as being supported by research and literature discussing the most effective approach to intervention with youth in custody (Andrews and Hoge, 1995; Bazemore and Umbreit, 1995; Federal-Provincial-Territorial Task Force on Youth Justice, 1996; National Crime Prevention Council, 1997; Palmer, 1995; Raychaba, 1993).

The transfer of responsibility for youth custody from the Ministry of the Attorney General to the Ministry for Children and Families set up an expectation for change and improvement in services for youth in custody. It is against this background that this study strives to obtain and analyse the perspectives of key individuals in the youth justice system as to the barriers and opportunities in ensuring that the right of youth in custody to be treated with dignity and respect is honoured in practice. A particular youth detention facility in British Columbia has been selected for study.

Significance of the Study

Such a study focusing on obtaining and analysing the perspectives of key individuals in the youth justice system is important for a number of reasons.

A stated goal of the integration of all services for children, youth and families into a single ministry was to provide “efficient delivery of services, based on provincial standards and delivered according to local client need in the most efficient way possible” (Ministry for Children and Families, 1997, p.6). Since the process of integrating the youth justice system is still in the early stages, this study could provide valuable insight into how this is occurring in practice and identify the barriers and opportunities which may impede or contribute to this process.

Given that the Ministry for Children and Families is still in the early stages of transition, an opportunity exists for the development of new ideas, policies and service approaches. A window is open to affect the approach taken with young offenders in this province. Research shows that increasingly punitive measures consistent with a dominantly Crime Control Model have done little to affect the rate of youth crime or bolster public confidence in the youth justice system (Andrews and Hoge, 1995). The Crime Control Model, which will be discussed more extensively in a subsequent section, emphasizes the protection of society, as well as punitiveness and control of the offender (Corrado and Markwart, 1992). The creation of the Ministry for Children and Families offers an opportunity to shift the direction of the youth justice system away from a primarily punitive and reactive one, to a proactive and prevention-focused system which will begin to address the underlying factors linked to youth crime in a more effective manner.

This study is also aimed at examining the linkage of legislation and policy with actual service delivery and implementation. To what extent is there a gap between the current state of custody facilities and policy statements and their implementation? For example, the Corrections Act has bedroom space specifications for youth that are not followed in practice. Why is the government of British Columbia not making changes to meet the standards set in provincial and federal legislation and international conventions? Is the government of British Columbia keeping its commitment to the young people involved in the youth justice system, the many people who work in the system, and the families and communities of this province? Is the Ministry for Children and Families serious about creating a youth-centered, proactive and integrated approach in the youth justice system, thus shifting from primarily incarcerating youth in custody facilities to implementing more effective approaches to intervention with youth in custody? These types of questions are addressed by examining current legislation, conventions and policies in relation to what the participants in the study report is occurring in practice.

This study also seeks to draw attention to the need to bring youth custody centres in British Columbia in line with provincial, national and international legislation, conventions and standards governing the treatment of young offenders. This study argues that in their current state, youth custody centres in this province are in violation of a number of articles under the United Nations Convention on the Rights of the Child (UNCRC), provincial and national legislation as well as provincial standards and policies. When Canada ratified the UNCRC, a commitment was made to uphold the articles and standards set out therein, such as the right to be treated with dignity and respect. Late in

1999, Canada is to report to the United Nations on the measures that it has taken to implement the UNCRC. For a relatively wealthy and developed country such as Canada, to be violation of the UNCRC should be a source of considerable embarrassment on the international stage. Therefore, this study of one facility adds to the examination of how well Canada is meeting its commitment to treating youth with dignity and respect, especially those locked up in correctional facilities and provides insight into how Canada could act to meet its international obligations.

Lastly, this study recognizes a need for the government to be responsible and accountable for its decisions and actions. The use of the corrections model of service delivery has far-reaching implications in practice. If the primary focus of custody centres is on control and containment, to the virtual exclusion of habilitation and care, this province is in violation of national and international legislation and conventions. In addition, research has shown that such an approach is ineffective in habilitating youth involved with the justice system and affecting the level of youth crime (Andrews and Hoge, 1995). If the Ministry for Children and Families is serious about creating a youth-centered, proactive and integrated approach in youth custody centres, it needs to put these commitments into practice.

Purpose of the Study

This study is based on the belief that the right of youth to be treated with dignity and respect is more likely to be honoured if there are effective quality programs supported by an organization which is oriented towards youth, rights and services. Hence, the purpose of this study is to analyse the perspectives of key individuals in the youth justice system

on what are the barriers and opportunities for ensuring that the right of youth in custody to be treated with dignity and respect is honoured in practice in a particular facility.

This study takes place within the context of the transfer of responsibility for youth justice from the Ministry of the Attorney General to the Ministry for Children and Families. The purpose of the study is addressed through posing the following questions:

- 1) What do key participants view as the major differences between the Ministry of the Attorney General's approach to youth custody and that of the Ministry for Children and Families?
- 2) What do key participants view as the barriers and opportunities for ensuring that the right of youth in custody to be treated with dignity and respect is honoured in practice?
- 3) What institutional arrangements have been or could be made to support the efforts of the Ministry for Children and Families to maximize these opportunities, minimize the barriers and meet its obligations in relation to the right of youth in custody to be treated with dignity and respect?

Impetus for Research

It is my belief that everyone has the right to be treated with dignity and respect. The commission of an offence by youth does not deprive them of their human rights or alleviate our responsibility to provide them with quality services. Many facets of the youth justice system should involve treating youth with dignity and respect: from assessment, to youth participation in a plan of care meeting, to the nature of the physical

environment in a custody facility. Youth in custody should not be treated any differently, or be exempt from any standard or legislation which applies to other youth, except where certain specific modifications need to be made due to the conditions of the custody order.

I believe that the aim of the youth justice system should be to hold youth accountable and responsible for their actions while at the same time supporting youth to develop and build the skills and capacity to make reparation for their behaviour and be accepted as a valued member of the community. This belief is grounded in the restorative justice approach to dealing with individuals involved with the justice system. The current youth justice system is primarily a retributive system, focused on punishment and responsibility controlled by expanding the role of formal and adjudicatory processes (Bazemore and Umbreit, 1995). The restorative justice approach attempts to shift the focus away from the offender to the broader relationship between offender, victim and community. The offenders are still held accountable for the crime but the sanctioning objectives are aimed at more than punishing the individual. Sanctions are established which allow offenders to recognize that their behaviour has affected and harmed someone and though such behaviour is unacceptable, offenders are still an important part of the community and can make amends for their behaviour (Bazemore and Umbreit, 1995). Instead of focusing on the offenders' past behaviour, a restorative justice system would emphasize the harmful consequences of this behaviour and the capacity of offenders to make reparation for their behaviour, and move on. The aim of restorative justice is to restore healing and trust among those individuals involved and to teach them that they are capable of creating the changes that will move everyone towards healing and building safer communities. Simply

incapacitating youth for a period of time in custody will only protect society for that amount of time - a short-term solution for a long-term problem. Though we cannot ignore public calls for tougher laws towards young offenders, it has been my experience working in various capacities in the youth justice system that many of these calls come from individuals asking for more punitive measures out of desperation for clear and consistent sentencing. I believe the public's general perception of young offenders is inaccurate and ill informed and that the government needs to take a leadership role in shifting this view.

In working with youth in custody, I have come to recognize the importance of the actions of those working in the system and the environment they create. I believe that the treatment of youth by staff and the physical environment in which this interaction takes place should convey a message of respect, habilitation and dignity in order to maximize the potential for change within a young person. As will be discussed in the review of literature section, research has found both staff characteristics and physical environment to be important elements of effective treatment for youth in custody (Bowlby, 1989; Brendtro, 1998; Maier, 1994; Rivlin and Wolfe, 1985).

Provincial, federal and international legislation and conventions clearly lay out a youth's right to live in a safe and respectful environment (i.e. Articles 19, 37 and 39 of the UNCRC). Youth justice services and programs should reflect these standards and principles and be evaluated as rigorously as any other program providing a service to children, youth and families. If we are serious about impacting youth crime, I believe we should move beyond a primary reliance on incarceration and begin to address the social

and economic issues at the root of crime by establishing a strong continuum of quality services, with youth custody at the extreme end. Youth should only be placed in custody when all other, less intrusive measures have been exhausted or deemed inadequate in relation to the youths' needs. For the few individuals who need to be incarcerated for their own and the public's safety, we need to ensure quality care in accordance with legislation and conventions as an investment in the successful reintegration of these youth into communities.

When I moved from Ontario to British Columbia I was angered and appalled by the physical conditions of the youth custody facilities in this province. Though British Columbia boasts the second lowest incarceration rate in the country (Statistics Canada, 1998), the conditions under which youth are serving custody time in this province are inadequate and unacceptable. The state of one custody facility is described in detail in the next section. People in the youth justice system openly express great dismay concerning existing facilities and services for young offenders. There is widespread agreement that the custody facilities need to be rebuilt. Through conversations, I learned that in 1982 the first plan to rebuild the facilities was put forward and since that time, numerous announcements and promises for new facilities have been made but have never materialized.

As I tried to make sense of why these promises have never become reality, I reviewed reports and documents relating to youth services and youth custody centres. Over the last decade, several reports have discussed the state of youth custody facilities in British

Columbia, the most significant being Making Changes: A Place to Start (1992) and Public Report No. 34, Building Respect: A Review of Youth Custody Centres in British Columbia (1994). These reports identified the need to separate youth and adult corrections in order to improve the effectiveness of this aspect of the youth justice system. Though this division was not seen as solving all problems, the authors of these reports felt that it would be a crucial first step that would open doors to other changes in the system.

In Making Changes (1992), the Community Panel, appointed by the then Minister of Social Services, stated that:

The Ministry of the Attorney General is also responsible for a much larger adult correctional system. It is our belief that young people are not served best in a system where the adult correctional model is the focus and the driving force. The adult corrections system influences how youth's needs are met within institutions. (p.76)

This panel observed that even though the federal Young Offenders Act (YOA) states that youth should be provided with treatment and rehabilitative programs, these services were lacking in the current system, along with an absence of planning for release. The panel concluded that "in our view, the current system, no matter how hard it tries, cannot accomplish this goal [providing youth with treatment and rehabilitative services]" and recommended that "responsibility for all programs and institutions administered under the Young Offenders Act must be transferred from the Ministry of the Attorney General to the Ministry of Social Services" (p.76)

In 1994, the Ombudsman's Office examined the issue and extent of peer abuse in youth custody centres in Public Report No. 34, Building Respect: A Review of Youth Custody Centres in British Columbia. In this report, the Ombudsman argues that peer abuse:

is a symptom of a deep-rooted problem within the system providing custody services for young offenders [and that] the aberrant conduct of youth living in custody centres cannot be used to relieve officials from the responsibility of providing a respectful environment. ...A complete overhaul of the way youth services are delivered must be undertaken if youth in residential facilities, particularly youth custody centres, are to live without fear and threat of violence. (p.ii)

The Ombudsman concluded with a call for comprehensive changes, major systemic reform and new approaches and philosophies of child care within youth justice services in general and custodial settings in particular. In order to initiate these changes, the Ombudsman recommended that youth justice programs be fully separated from the adult correctional system by transferring responsibility for all programs from the Ministry of the Attorney General to the then Ministry of Social Services. It was believed that such an organizational shift would support a significant paradigm shift in youth custody facilities which would allow for a more comprehensive approach to be taken to address the needs of youth in custody.

In September 1996, the British Columbia government announced the creation of the Ministry for Children and Families. The child, youth and family services of five ministries, including youth justice, were brought together under a single ministry with the aim of improving service delivery. Thus, the first step believed to be necessary to meet in a better way the rights and needs of youth in the justice system had been taken.

In summary, the youth justice system in British Columbia historically has been kept separate from all other child, youth and family serving systems. The integration of all of these systems by the creation of the Ministry for Children and Families necessitates a major shift in focus and philosophy within youth justice in order to implement this ministry's youth-centered, integrated approach to service delivery. The transfer of administrative responsibility from the Ministry of the Attorney General to the Ministry for Children and Families set up an expectation for change and improvement in service for youth in custody. Two years later, this study seeks to determine if this transfer of administrative responsibility for youth justice has had a discernible effect on services to youth in custody and the honouring of their right to be treated with dignity and respect in practice in one particular facility. What are the barriers and opportunities for ensuring this right?

II. THE CASE STUDY IN CONTEXT

Imprisonment is such a ritual. It may be manifestly ineffective in controlling behaviour or making society safer, but it makes a compelling dramatic tableau of crime punished, order restored, and conformity justified. This symbolic function makes it very likely to increase in the face of social turbulence, as of course it has.

- David Cayley

Before turning to the review of literature, it is important to describe the context in which this case study takes place. This context forms the first conceptual framework on which this case study is based. This examination of the history of the youth justice system, the challenges and limitations of incarcerating youth, the concerns and fears surrounding the creation of a new ministry, and the historical situation of the youth custody centre itself all add to a greater and deeper understanding of the study.

History of the Youth Justice System in Canada

In order to put into context the current challenges facing the Ministry for Children and Families in relation to the youth justice system, the history of provincial and national services to young offenders and the philosophies on which these services have been based need to be understood. Four major theoretical orientations to juvenile justice are generally acknowledged and are the bases of specific models of juvenile justice (Reid and Reitsma-Street, 1984). These four models are briefly explained before turning to the history of the youth justice system.

Four Models of Youth Justice

The first model of juvenile justice is the Welfare Model, which is primarily concerned with the rehabilitation of offenders (Reid and Reitsma-Street, 1984). The philosophical basis of this model advances that “children and adolescents engage in deviant criminal behaviour due to problems involving their families, peers, education, poverty, cultural values and other factors affecting their socialization” (Corrado and Markwart, 1992, p.1). Therefore, systems based on the Welfare Model are designed using treatment-oriented sentences, usually of indeterminate lengths, which are aimed at rehabilitation of these misguided delinquents (Corrado and Markwart, 1992).

The second model of juvenile justice is the Justice Model, in which the principles of due process and proportionate punishment are paramount (Reid and Reitsma-Street, 1984). The model is based on the philosophical belief that “adolescents willfully engage in criminal behaviour and therefore should be held responsible and accountable for their actions” (Corrado and Markwart, 1992, p.2). Systems based on the Justice Model are similar to the adult criminal system, which focuses on procedural fairness, sentences which are determinate and proportionate to the charge, and not the needs of the youth or the prior record of the offender (Reid and Reitsma-Street, 1984).

The third model of juvenile justice is the Crime Control Model, in which the principles of punitiveness and societal protection are paramount, resulting in an emphasis on incarceration of youth, particularly violent or repetitive offenders (Reid and Reitsma-

Street, 1984). Systems based on the Crime Control Model are focused on the protection of society, minimize the needs of the young person and concentrate on control.

The last model of juvenile justice, the Community Change Model, is based on the theory that inequality, power imbalance and poverty create the conditions under which youth become involved in crime (Reid and Reitsma-Street, 1984). Systems based on the Community Change Model are focused on creating a more equal society and revising “the policies and programmes of legal and penal establishments to ensure fair and equal assistance to those few youths who truly threaten society’s social and economic relationships” (Reid and Reitsma-Street, 1993, p. 54). Policies which promote the welfare of all youth will result from increased community and citizen involvement.

Each of these four models – Welfare, Justice, Crime Control and Community Change – have influenced the development of the youth justice system over time, as can be seen in the next section which traces the history of the youth justice system from the Juvenile Delinquents Act to the Young Offenders Act.

The Juvenile Delinquents Act

From 1908 to 1984, the Juvenile Delinquents Act (JDA) governed the manner in which the provinces and territories of Canada were to deal with young people found to be “delinquent.” Section 2(c) of the JDA defined a juvenile delinquent as:

Any child who violates any provision of the Criminal Code or any Dominion or Provincial Statute, or of any bylaw or ordinance of any municipality, or who is guilty of sexual immorality or any similar form of

viceThe commission by a child of any of these acts constitutes an offense to be known as delinquency.

The JDA was based upon the Welfare Model which is primarily concerned with the rehabilitation of offenders (Corrado, Bala, Linden and Le Blanc, 1992). Consequently, under the JDA, young people in conflict with the law were seen to be “in need” (i.e. of respect, guidance, parents, education) and society’s response was seen to be the development of social services. The state was allocated responsibility to intervene in the lives of people in order to protect them (Solicitor General Canada, 1975). The courts, under the “*parens patriae*” philosophy, were assigned the role of “kindly parents” and were responsible for taking a comprehensive approach to a child’s well-being by responding to the needs of the child, not only the criminal behaviour.

Demise of the Juvenile Delinquents Act

In the 1960s, the advancement of Becker and Lemert’s (1963) labelling theory raised questions regarding the effectiveness of the juvenile justice system. Their theory postulated that many factors usually considered to cause delinquency are not the most significant factors; rather it is the fact of formally being labelled as a delinquent that causes a young person to develop the self-concept of being a delinquent and to act accordingly (Shoemaker, 1984). According to labelling theory, delinquents are seen to be socially constructed by society’s reaction to their behaviour. Critics of the youth justice system raised concerns around the possibility that the system itself may actually increase future delinquency (Corrado and Markwart, 1992).

Concurrent to the advancement of labelling theory was an increase in focus on civil rights (Corrado and Markwart, 1992). The discretionary treatment of young people before the courts and infringements on their rights resulted in calls for a system similar to that of the adult court system. Violations noted included: the ability of courts to prosecute children as young as seven; minimal restrictions on placing children in training schools, resulting in more punitive practices than necessary; the broad encompassing definition of delinquency; varying ages and procedures in the juvenile justice systems across the country; little emphasis on youth's accountability and responsibility in the commission of the offence; lack of facilities and treatment services; and the stigmatization of juvenile offenders as criminals (Solicitor General's Committee Report on Young Persons in Conflict with the Law, 1975). In 1965 the Department of Justice Committee produced a report which articulated its concern for the rights of young people and the dangers of the Welfare Model:

It does not follow, of course, that acceptance of what has been called the "rehabilitative ideal" means that the question of civil liberties can be safely ignored. So beguiling, in fact, is the language of therapy that all the more care must be taken to ensure the protection of these liberties. (as quoted in Corrado and Markwart, 1992, p. 146)

Despite these concerns, the Department of Justice Committee advocated for a Welfare Model but specified that the legal rights of youth had to be upheld and that the juvenile justice system must be allocated the proper resources to implement effective rehabilitation programs, something the Committee felt had not occurred up to this point (Corrado and Markwart, 1992).

Between 1967 and 1975, several draft acts to replace the JDA were developed and rejected and numerous committees were established to review what was occurring in the criminal justice field (Corrado and Markwart, 1992). During this time period, the Welfare Model of the Juvenile Delinquents Act was further undermined by the publication of Robert Martinson's (1974) review of correctional rehabilitation. Martinson concluded that these programs failed to reduce the recidivism rates of young offenders or the crime rate, and that in effect "nothing works" (Corrado and Markwart, 1992). Though Martinson later recanted this conclusion, (Corrado and Markwart, 1992) the damage was done. Policy makers and proponents of a tougher approach used his research as a platform to discredit the welfare model approach and argued that "if the justice system could do 'no good' it could at least 'do justice'" (Corrado and Markwart, 1992, p. 155). Thus the drive for a system based on a Justice Model, focusing "on due process and the assignment of punishment proportionate to the crime" (Corrado et al., 1992, p. 369), rapidly gained increasing support.

In the last years of the JDA, the public's opinion of how to address youth in conflict with the law began to shift (Wass and Marks, 1992). As the public grew impatient with the inadequacies of the JDA, concern and criticism shifted from being focused on the possibility that the system itself may actually increase future crime, to the perception that the system was treating these "young criminals" as children rather than as young adults who needed to be held responsible and accountable for their actions. Based on their findings and the concerns being voiced from the public, the Solicitor General's Committee put forward a report and draft legislation, entitled Young Persons in Conflict

with the Law in 1975 (Corrado and Markwart, 1992). The Preamble to this legislation focused on the legal rights of youth, some aspects of the Welfare Model, as well as the new concept of responsibility and accountability. This 1975 proposal for new legislation also emphasized that legislative changes would be required by the provinces and territories and that the delivery of services would need to be broadened and developed under adequate financial commitments by the provincial and federal governments. This proposed legislation was debated and revised, the most significant revision being the addition of aspects of the Crime Control Model in the Preamble, “emphasizing incarceration of offenders, particularly repetitive and violent offenders, with the objectives of both punishment and societal protection” (Corrado et al., 368). This revised proposal eventually resulted in the Young Offenders Act (Bill C-61).

The Young Offenders Act

In 1981, the Liberal government introduced Bill C-61, which closely resembled the legislative proposals that had been tabled by the Conservative government in 1979 before the Party’s defeat (Corrado and Markwart, 1992). Consequently, political consensus regarding Bill C-61 was easily achieved between the two dominant political parties. Though the NDP argued for an emphasis on crime prevention, these criticisms proved to be insignificant and the bill eventually passed with unanimous approval (Corrado and Markwart, 1992).

Bill C-61, which was to become the Young Offenders Act, was extensively studied and debated in Parliament in 1981-82 (Corrado and Markwart, 1992). The ever-present issue

of cost-sharing between the federal and provincial governments dominated the debates including the costs of providing counsel as a right of young people, the costs involved to meet the records provisions of the Act and the costs relating to the length of the maximum custodial sentence. Any major concerns raised about the bill were not in the area of the philosophical direction, but around financial issues and costs anticipated through its implementation.

In 1984, after 20 years of deliberation, the Young Offenders Act was finally proclaimed by the federal government to replace the Juvenile Delinquents Act (Burrows, Hudson and Hornick, 1993). The YOA was hailed as the legislative answer to the difficulties of its predecessor, the JDA (Hudson, Hornick and Burrows, 1993). The YOA imposed a uniform age across the country for charging youth with a criminal offence whereas, under the JDA, the age range varied. The YOA also dictated procedural details for the purpose of due process, replacing the discretionary treatment of youth before the court under the JDA. The YOA also limited judicial charges to criminal offences as opposed to the broad charge of “being a delinquent” under the JDA. Sentences were no longer indeterminate but determinate and proportionate to the charge, not the needs of youth: a major change from “need” to “deed.”

The Young Offenders Act in British Columbia

Upon the passing of the Young Offenders Act, “many provinces experienced substantial changes in the organization of youth justice and related services” (Corrado and Markwart, 1988, p. 96). However, in British Columbia, the only major change was the law itself. In

the decade leading up to the implementation of the Young Offenders Act, three major changes had occurred in this province which led to the adoption of policies and procedures to deal with young offenders that remain unique to this province (Ekstedt, 1983). First, there was a growing dissatisfaction waiting for the federal government to pass new legislation to address the inadequacies of the Juvenile Delinquents Act (Ekstedt, 1983). Second, on a provincial level, jurisdictional conflict between the Ministry of the Attorney General (the correctional authority) and the then Ministry of Human Resources (the child welfare authority) was growing regarding differences in philosophies and authority in situations where a youth came under the authority of both a child welfare worker and a probation officer. Third, a change in government, from the socialist-leaning New Democratic Party to the conservative Social Credit Party, occurred in 1975 (Corrado and Markwart, 1992). As a result of these developments, British Columbia changed its policies and procedures dealing with young offenders to include a uniform age for charging youth with a criminal offence; no prosecution for sexual immorality; the development of a diversion² system; determinate sentences (i.e. specified lengths of sentences); and relatively short custodial sentences (Corrado and Markwart, 1988). As Corrado and Markwart (1988) describe, British Columbia also chose to separate, philosophically and practically, its juvenile justice system from child welfare services. Services for young offenders were developed separately, and containment facilities were mandated to be used only for the protection of the public from the most dangerous

² Diversion refers to “the concept that some young persons who have committed offences should not be subject to formal youth court sanction, but rather should be ‘diverted from the system’” i.e. police decision not to lay charges or alternative measures programs (Corrado et al., 1992, p. 368).

offenders and not to provide rehabilitative and care functions (Corrado and Markwart, 1988).

Thus, before the Young Offenders Act was even proclaimed, British Columbia had already adopted the Crime Control and Justice Models as the guiding philosophies for dealing with young offenders who were kept separate from other services for children, youth and families. Accordingly, British Columbia's orientation towards youth in conflict with the law was focused on the principles of due process, proportionate punishment and punitiveness and societal protection. As will be expanded upon in subsequent sections, British Columbia did not alter this focus, despite other components embedded in the Declaration of Principles of the Young Offenders Act, such as addressing the specific needs of young people. British Columbia continued to locate young offender services under the umbrella and orientation of the adult system provided by the corrections department of the Attorney General's ministry. This approach focused mainly on the protection of society with little attention being paid to the needs of the young person. The needs of the young person were assumed to be met by other ministries and programs mandated to provide preventative and rehabilitative services.

Amendments to the Young Offenders Act

Since the Young Offenders Act became law, it has been amended three times. The first two amendments, occurring in 1986 and 1992, increased the severity of disposition for youth charged with serious criminal offences and allowed for the publication of names of dangerous offenders. In 1994, the last set of amendments tabled as Bill C-37 made

substantial changes to the YOA. Stiffer penalties for violent offenders, the abandonment of the offender consent requirement for treatment participation and a redrafting of the declaration of principles occurred (Kirvan, 1995). The redrafting of the declaration of principles involved two major changes. First, a principle recognition of the importance of crime prevention in the protection of society was added. Secondly, the relationship between the habilitation of offenders and the protection of society was also emphasized, along with the importance of community-based responses to crime. However, if a conflict between the two arose, protection of society would take precedence, especially in regard to serious crimes.

Incarceration and the Young Offenders Act

Numerous researchers have examined the use of custody dispositions in the youth justice system since the implementation of the Young Offenders Act. In 1988, Corrado and Markwart found that “it is clear that under the YOA, BC youth courts have dramatically increased their reliance on incarceration as a dispositional sanction and correspondingly decreased their use of community sanctions” (p.109). The Federal-Provincial-Territorial Task Force on Youth Justice (1996) found that three in ten youth found guilty are given a custodial sentence. The challenges and limitations of incarcerating such a high proportion of youth are examined in the next section.

Challenges and Limitations of Incarcerating Youth

The use of incarceration as a disposition in youth court is surrounded by some fundamental debates - the balance of youth’s need for treatment with society’s need for protection; how and why we respond to youth in contact with the law; how much we are

willing to pay for what types of programs; how willing we are to deal with the underlying issues around youth crime or whether we simply want to “lock ‘em up”. Though evidence exists to show we have found effective ways to support the successful reintegration of young offenders into the community (Andrews and Hoge, 1995; Lee and Haynes, 1980; Palmer, 1995), it is less clear what answers have been found as to how we can eliminate or significantly reduce youth crime (National Crime Prevention Council, 1998; Palmer, 1995).

We live in a society which appears to be focused on punitive measures for young people who come in contact with the law and a need for a public denunciation of their action. A misconception seems to exist that longer and harsher custodial sentences within the youth justice system will decrease youth crime. Researchers have found that more punitive sanctions have no discernible effect on the crime rate (Report of the Standing Committee on Justice and Legal Affairs, 1997). It appears unrealistic to expect that the correctional system alone can “solve the crime problem.” As Bala (1994) states, “the ‘get tough’ critics of the YOA are unrealistic about what any piece of juvenile justice legislation can do to cause or reduce youthful crime, and they tend to ignore complex social problems that have much more effect on youth crime” (p.251).

Even though section 24.1 (1.1) of the Young Offenders Act states that custody should not be used as a substitute for appropriate child protection, health and other social measures, that non-custodial measures should be used whenever possible and that custody should only be imposed when all other alternatives have been exhausted, researchers have found

that an overreliance on incarceration exists within the young offender system both nationally and provincially (Bala, 1994; Corrado and Markwart, 1994; Carrington and Moyer, 1994). Overuse of custody has serious financial and social repercussions. Incarceration is a very expensive program. In Canada, it costs an average of \$200 per day to incarcerate a young person (Standing Committee on Justice and Legal Affairs, 1997). As well, the overuse of custody leads to overcrowding in the facilities which, in turn, leads to a shortage of programs and quality treatment. This situation is in violation of provincial, national and international legislation and conventions which detail the right of youth in custody such as the United Nations Convention on the Rights of the Child (1989), the British Columbia Corrections Act (1994), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990) and the federal Young Offenders Act (1984).

While politicians and the public continue to debate what should be done with young people involved with the justice system, these youth continue to be incarcerated in conditions which are detrimental to their growth and development and in violation of their rights. As recommended by the International Centre for Criminal Justice Reform and Criminal Justice Policy (1994) for the few youth who need to be incarcerated, the youth justice system has:

An obligation to provide for the safe, secure and humane custody of offenders, while exercising only the degree of control necessary. Society is best protected in the long term by the timely and safe release of offenders to serve the balance of their sentence in the community. The prison regime should facilitate their safe return to society by creating, to the extent possible within prison, an environment reflective of the community at large. It is equally important to provide a range of programs and activities

that motivate offenders to address the factors that led to their criminal behaviour and to maintain family and community ties (p.3)

When the British Columbia government created the Ministry for Children and Families, youth justice was integrated with all other youth serving systems under the premise that it would improve services to youth. This integration was viewed with concern by some workers in the youth justice system.

British Columbia's New Ministry: Concerns and Fears

As described above, in this province, the deliberate separation of youth justice from child welfare services has a long and ingrained past that stems from philosophical and jurisdictional conflicts between governmental ministries. The youth justice system has maintained Crime Control and Justice model approaches in dealing with young offenders. On September 23, 1996, Premier Glen Clark announced the creation of the Ministry for Children and Families in a restructuring for the purpose of improving the services for children and families in the province. Parts of five different ministries working with children, youth and families were brought together to form this new ministry. The youth justice division of the Corrections Branch of the Ministry of the Attorney General was one of these five and officially became part of the Ministry for Children and Families on July 11, 1997. The shift in responsibility for youth justice from the Ministry of the Attorney General to the Ministry for Children and Families and the integration of youth corrections with other youth-serving systems is thus a major deviation from the historical path of youth justice in British Columbia. The fostering of a youth-centered, proactive and integrated approach in practice in the youth justice system was met with some skepticism and fears among those working in the youth justice system.

Those working in the youth justice system felt that safety and security issues did not have a place in the new Ministry and therefore youth custody centres would become unsafe places to work. Some thought that public safety would be compromised in a ministry that was only concerned with the needs of youth. Others felt that youth custody centres would become “some sort of namby, pamby place and that we’d be letting kids out on temporary absences every day because we felt sorry for them” (Interview transcript). Lastly, concerns were conveyed that the specialized community services created to keep youth out of custody or to support them upon their release would end up absorbed by other groups, such as youth in care due to child protection concerns, thus leaving those resources unavailable or less available for older adolescent young offenders. All these issues fueled debates and discussions around the integration of youth justice services with other child, youth and family serving systems.

Though the shift in responsibility from the Ministry of the Attorney General to the Ministry for Children and Families includes all aspects of the youth justice system including diversion, probation, and open custody, the focus of this case study is on youth in secure custody. One particular youth custody facility, described in the following section, was the basis of this study.

The Youth Custody Centre

As stated earlier, an impetus for this study is the inadequate and unacceptable state of custody centres in this province. Though the custody centre examined in this study is discussed in greater detail in a subsequent section, a brief description is given here.

The custody centre used in this study is located on south Vancouver Island and is the only secure custody³ facility on the island. It was built in 1963 with an original capacity of 21 youth. Renovations in 1986 and 1990 increased capacity to 30. More recently, renovations in 1998-99 added a new fourteen-bed living unit, so capacity is now at 44.

The custody centre houses both male and female youth who have either been sentenced to a determinate period of secure custody or who have been remanded⁴ into custody.

Approximately half of the youth in the custody centre are remanded awaiting trial or a sentencing hearing (Ministry for Children and Families, 1998). The youth range in age from twelve to nineteen years and are mainly from Vancouver Island. Approximately 45% of the youth are charged with or convicted of a violent crime and the remainder are in custody because of breaches⁵ of probation, drug offences or property crimes (Ministry

³ The Young Offenders Act differentiates between “open” and “secure” (also known as closed) custody in section 24.1 (see Appendix A). Though there is substantial variation between provinces in types of open and secure facilities, open custody tends to generally be a group home, wilderness camp or similar facility whereas secure facilities tend to be more like adult prisons with a greater focus on security and restraint (Corrado et al., 1992).

⁴ Under section 51 of the Young Offenders Act, a youth can be held under “pretrial detention”. Pretrial detention is “a legal process whereby a young person who is arrested and charged with an offence may be held in custody pending the outcome of the charges before the courts” (Federal-Provincial-Territorial Task Force on Youth Justice, 1996, p. 169). Youth are generally detained if it is believed that the youth will not appear in court or is a danger to himself or others (Griffiths and Verdun-Jones, 1989).

⁵ A breach is a charge under section 26 of the Young Offenders Act for a failure to follow an order previously made by the court.

for Children and Families, 1998). Length of stay in the custody centre ranges from overnight to over a year.

The custody centre employs 75 people in 58 full-time equivalent positions, approximately 35 of which are frontline correctional officers. Approximately one quarter of the correctional officers are female. Line staff are divided between “correctional officers” whose role is mainly one of security and the “program staff” who are responsible for delivering various programs in the centre including school, alcohol and drug counselling, arts and crafts, recreational activities, woodworking, violence prevention, and religious and First Nations services. On average, the ratio of staff to youth is 1:6.

The physical state of this youth custody centre has been criticized for a long time. It has been described as “being highly institutional in appearance, operating in cramped and stuffy quarters, ... lacks room for necessary program expansion and has no green space where residents can enjoy normal out-of-door activities” (Ombudsman, 1994, p.17). Two wings are traditional “cell block” types of accommodations and the other two wings are more “living unit” style accommodations. Until the fourteen-bed renovation, overcrowding was a habitual problem in the centre. The centre at times was filled to 140% of its capacity or as high as 180% (Family Court Committee, 1997). Double and triple bunking of youth is exacerbated by the need to designate some youth as “room alone” if there are concerns of victimization, sexual misconduct, mental instability, etc. Those working in the custody centre explained that “at times we’ve had as many as 18 kids designated ‘room alone’ in here and there are actually 24 bedrooms in this place.

That means there are six bedroom left for all the other kids.” As a result, youth have been double and triple-bunked or have slept in non-designated sleeping areas such as the television room, the gym, and visiting rooms.

Overcrowding has immediate ramifications within the centre as well as long-term consequences for youth in the future. Recently, some of the pressure of the chronic overcrowding was relieved by displacing the games room with the classroom and renovating the previous classroom area into the new fourteen-bed living unit. As will be discussed later in greater detail, though this renovation increased bed numbers, it decreased programming space which creates a different set of problems and difficulties. As pointed out by the Victoria Family Court Committee (1998), this is a short-term, emergency solution and “the premises, no matter how refurbished, can never be made functionally adequate.... Although the increase in beds is much needed, it comes at a cost - not to be measured in dollars” (p.2).

The first plan to replace this facility was completed in 1982 and since that time, many reports, investigations and inquires have advocated, to no avail, for its replacement. At the time this study was being completed, Treasury Board had just approved funding to design a new facility. The Ministry for Children and Families still needs to return to Treasury Board to seek approval for funding to build.

In conclusion, this case study on the barriers and opportunities for ensuring that the right of youth in custody to be treated with dignity and respect is honoured in practice in a particular facility takes place in a context shaped by a number of significant factors. A review of the youth justice system in Canada and British Columbia highlights how we have moved from a system based on the Welfare Model, which is primarily concerned with the rehabilitation of offenders, to a system which has adopted the Crime Control and Justice Models as its guiding philosophy. The focus on societal protection, punitiveness, and punishment endorsed by these Models can be seen in the increasingly punitive amendments to the Young Offenders Act and the dramatic increase in reliance on incarceration as a sentence in the youth courts. In addition, historically, the province of British Columbia has chosen to keep services for young offenders separate from the child welfare system. This separation also signals the move away from the Welfare Model focus on rehabilitation to the punitive and punishing principles of the Crime Control and Justice Models.

However, in examining the challenges and limitations of incarcerating youth, research has found that more punitive sanctions have no discernible effect on the crime rate. Incarceration of youth comes at a high cost – on average \$200 per day to incarcerate a young person. Additionally, a look at a secure custody facility in British Columbia indicates that the conditions under which this incarceration is occurring are inadequate and unacceptable. The creation of the Ministry for Children and Families occurred with the goal of “efficient delivery of services, based on provincial standards and delivered according to local client need in the most efficient way possible” (Ministry for Children

and Families, 1997, p.6). In addition to provincial standards, national legislation and international conventions also detail the conditions under which youth are to be incarcerated. The next chapter, the review of literature, explores the standards, legislation and conventions relating to youth in custody. As well, given the high proportion of youth who are incarcerated, a section of the review of literature is dedicated to the analysis of recent research and current philosophies and theories on the most effective manner in which to offer services to youth in custody centres. If we continue to incarcerate such a high proportion of youth, is there anything we can be doing with youth while they are in custody to facilitate their successful return to their communities?

III. REVIEW OF LITERATURE

Distrust everyone in whom the impulse to punish is powerful.

- *Friedrich Nietzsche (1844-1900)*

Two major areas, aside from the context of the case study, were reviewed in the development of the conceptual framework that guided this study. These areas were reviewed based on the belief that the right of youth to be treated with dignity and respect is more likely to occur if there are effective quality programs for youth supported by an effective organization which is oriented towards youth, rights and services. First, relevant provincial, national and international legislation and conventions related to the right for youth in custody to be treated with dignity and respect were collected and assessed for their relevance to this study. Second, current policy and practice literature addressing services for youth in custody, including research on current philosophies and theories on the most effective manner in which to offer services to youth in custody centres, was analysed.

The Right to be Treated with Dignity and Respect in Youth Custody

A cornerstone of a democratic and free society is the right of every individual to be treated with dignity and respect. This right, along with many others, is embodied in international, national and provincial legislation and conventions, and is not forfeited because a youth has committed an offence.

Four major pieces of legislation, conventions or standards set out the rights which ought to apply to youth in custody. Some highlights and themes from these important documents are presented below and a detailed citation is included in Appendices A, B, C, and D.

The Young Offenders Act

The Young Offenders Act is a federal act governing the administration of youth justice in Canada. Section 3 of the Young Offenders Act details the principles by which the Act is to be implemented including youth taking responsibility for their criminal acts, though not to the same extent as adults; the need to protect society from youth crime; the recognition of the special needs of youth; the need for guidance, rehabilitation and support for youth; and the rights of young people (see Appendix A). As discussed earlier, amendments to the YOA in 1994 resulted in a greater focus on the protection of society principle and stiffer penalties with a greater punitive focus.

The United Nations Convention on the Rights of the Child

The preamble to the United Nations Convention on the Rights of the Child (UNCRC) states that all parties who ratify the UNCRC, recognize “the inherent dignity and the equal and inalienable rights of all members of the human family” as well as reaffirm “their faith in fundamental human rights and in the dignity and worth of the human person.” When Canada ratified the UNCRC in 1992, a commitment was made to uphold the standards set out in the UNCRC. Canada has also implemented national legislation, The Charter of Rights and Freedoms, to indicate its commitment to the right of every Canadian to be treated with dignity and respect.

While the entire UNCRC is relevant, Articles 3, 19, 37 and 39 relate directly to youth in custody (see Appendix B). These Articles discuss the youth's right to a safe environment, the use of custody as a last resort, the treatment of youth deprived of their liberty with dignity and respect and the promotion of social integration. For example Article 37 (b) states: "No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time."

The United Nations Rules for the Protection of Juveniles Deprived of their Liberty

The United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the UN Rules) details the fundamental principles of the youth justice system and sets minimum standards for the treatment of youth deprived of their liberty while under arrest and before and after trial. Sections on the physical environment and accommodation of youth, recreation, personnel and complaints procedures are included (see Appendix C). For example, Article 28 of the UN Rules states that: "The detention of juveniles should only take place under conditions that take full account of their particular needs, status, and special requirements according to their age, personality, sex, and type of offence, as well as mental and physical health, and which ensure their protection from harmful influences and risk situations." Article 85 states: "The personnel should receive such training as will enable them to carry out their responsibilities effectively, in particular training in child psychology, child welfare and international standards and norms of human rights and the rights of the child, including the present Rules."

The Corrections Act - Youth Correctional Programs Regulations

The Corrections Act is provincial legislation that includes a section on youth correctional programs. The Youth Correctional Programs Regulations sets numerous standards for youth correctional programs including those for sleeping rooms, washrooms, clothing and personal effects to which a youth is entitled (see Appendix D). The Regulations also outlines the duties of various individuals including the case manager, the medical officer, the youth program committee and lists the services which should be accessible to any youth in custody such as educational, recreational and religious services. For example, section 29(2) states that “A youth in a youth correctional program shall be provided with a single bed for the youth’s exclusive use while in the program.”

Themes

Several rights themes run through these various conventions and pieces of legislation.

Right to have Custody Used only as a Measure of Last Resort

Article 37 of the UNCRC, Article 1 of the UN Rules, and section 24.1 (1.1) of the YOA all specify that custody should only be used as a measure of last resort when all other alternatives have been exhausted.

Right to Live in a Physically and Emotionally Safe Environment

Article 19, 37 and 39 of the UNCRC and Articles 1 and 33 of the UN Rules address the right of youth in custody to be safe from all forms of abuse, degrading treatment or punishment.

Right to Facilities which meet Physical Standards

Articles 33, 34 and 35 of the UN Rules and Sections 29, 30 and 31 of the Youth Correctional Programs Regulations of the Corrections Act specify the minimum physical standards of the sleeping accommodations, sanitary installments and privacy levels in custodial facilities. For example, section 29(3) of the Youth Correctional Programs Regulations states that: “The distance between each bed in a sleeping room containing 2 or more beds shall be 0.9 m or more.”

Right to Maintain Contact with Family

Article 37 of the UNCRC and Articles 59, 60 and 61 of the UN Rules specify the right of youth deprived of their liberty to maintain contact with their family. For example, Article 60 of the UN Rules states that: “Every juvenile should have the right to receive regular and frequent visits, in principle once a week and not less than once a month, in circumstances that respect the need of the juvenile for privacy, contact and unrestricted communication with the family and defence counsel.” Sections 18 and 19 of the Youth Correctional Programs Regulations specify that “at the discretion of the director, a youth shall be allowed reasonable opportunity to telephone parents, the solicitor of the youth, or other persons” and that “a director shall establish general rules to regulate visits to youth by a parent, solicitor, or other persons.”

Right to the Rehabilitative Aim of Custody

The promotion of rehabilitation and successful reintegration into society as the aim of custody is emphasized in Article 39 of the UNCRC, Articles 31, 32, 79 and 80 of the UN Rules and sections 3(1a), 3(1c) and 3(1c.1) of the Young Offenders Act.

All programs and services for young offenders should ensure that the rights bestowed to youth in provincial, national and international legislation and conventions are met.

Canada has made a commitment to follow these national and international standards and should therefore do so in practice, including in youth custody centres. Current policy and practice literature also addresses services for youth in custody and current philosophies and theories on the most effective manner in which to offer services to youth in custody centres.

Effective Services for Youth in Custody

Article 39 of the United Nations Convention on the Rights of the Child, Articles 31, 32, 79 and 80 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and sections 3(1a), 3(1c) and 3(1c.1) of the Young Offenders Act all articulate a youth's right to the promotion of rehabilitation and successful reintegration into society as an important aim of custody. But what do "promotion of rehabilitation" and "successful reintegration" entail? Findings on what they do not involve appear quite clear. In their review of research, Andrews and Hoge (1995) summarize, "criminal sanction without correctional treatment services simply does not work... Variation in the type and severity of offender penalties is largely irrelevant to future criminal conduct. Punishment alone does not work" (p.2). What does the research and literature on the effectiveness of "treatment" of youth in custody as well as youth in care have to say? Four major points need to be clarified before turning to this literature.

First, the term “treatment” can be interpreted in one of two ways (Raychaba, 1993).

Treatment can have a narrow focus on specific services (programmatic features) or be discussed broadly in terms of placement environment/milieu and overall service delivery (nonprogrammatic features). Both of these aspects of treatment are discussed in the literature and will be addressed in the following sections.

Second, programs can be strengthened or weakened depending on the effectiveness of the organization within which they are run. The recent focus in management thinking on effective organizations recognizes the large impact that organizational structure and management has on the effectiveness of their production, or in this case, services.

Therefore, the effectiveness of the Ministry for Children and Families, as a newly formed organization, impacts on the barriers and opportunities for ensuring that the right of youth in custody to be treated with dignity and respect is honoured in practice.

Third, the literature in the broader area of “youth in care” is relevant to this study because of a significant overlap of youth who have a history with social services and youth who become involved in the criminal justice system. As the National Crime Prevention Council (1997) stated in its report:

Not every young person who leaves the child welfare system goes on to a life of crime or even unemployment or homelessness but the numbers are significant enough to look more closely at the reasons why. In all cases, youth and researchers agree that the road to crime and involvement with the criminal justice system starts long before the first offence.” (p.9)

Fourth, research stresses that community-based treatment has greater positive effects than programs run in custody facilities (Bazemore and Umbreit, 1995; Doob, 1990; NACRO, 1994; Pinnock, 1995). However, given that the focus of this study is on youth custody, the emphasis here is on treatment in custody facilities.

A review of the literature on treatment which supports youth to reintegrate successfully into their communities suggests several significant themes. The following sections consider these themes in terms of programmatic and nonprogrammatic features as well as the disciplines of an effective organization.

Programmatic Features

Extensive research has been done to discover what programs are the most effective in supporting youth to reintegrate into their communities without reaching any definitive conclusion (Palmer, 1995). In a broad literature review and meta-analysis, Palmer found that the most successful programs were behavioural, cognitive-behavioural or cognitive, life skills or skill oriented, multi-focused and family intervention. Least successful were programs that were confrontational, focused on broad community strategies instead of individual needs, systems diversion, group counselling/therapy and individual counselling/therapy (Palmer, 1995). However, as Palmer points out, many examples exist of successful and unsuccessful programs from both groups.

Some researchers argue that successful programs are ones that have a wider breadth of intervention and offer a combination of program components (Andrews and Hoge, 1995;

Lee & Haynes, 1980; Palmer, 1995). Criminologists tend to stress a social-psychological understanding of criminal conduct which argues that a youth's "choices or assessments are all shaped by the individual's immediate situation in combination with antisocial attitudes, antisocial associates, a history of antisocial behaviour and complex personality variables associated with antisocial behaviour" (Andrews and Hoge, 1995, p.1).

Therefore, they maintain that effective services for young offenders should address these major risk factors.

In his article, "The Rehabilitation of Correctional Treatment", Ross (1991) emphasizes the need for programs to be based on a social learning model which is to teach new skills and attitudes; have a cognitive development component; and be tailored to meet the unique needs and characteristics of the offender. These findings were later supported in Palmer's (1995) meta-analysis, as discussed above.

The Federal-Provincial-Territorial Task Force on Youth Justice (1996) reviewed rehabilitation and reintegration programs for young offenders and found that rehabilitation programs can have a significant effect on reducing recidivism. Promising interventions included:

Psycho-educational interventions which address social and personal competencies (e.g. cognitive, social skills); residential therapeutic milieu (i.e. token economy); group counselling (e.g. substance abuse); intensive family-based training and counseling. (p.269)

Research literature relating to effective programs also emphasizes the need for a follow-up component once the youth returns to the community (National Crime Prevention Council, 1997). It also suggests that programs should be applicable to the real experiences and needs of youth. Structured community programs need to be available to reinforce the gains achieved while in custody (Federal-Provincial-Territorial Task Force on Youth Justice, 1996).

Youth's substance abuse and parental physical or sexual abuse are two major factors which have been found to contribute to youth involvement in criminal activities (National Crime Prevention Council, 1997). Therefore, in order to support the successful integration of youth into the community, it would appear that these two areas should be targeted in programs within the custody facility.

Young people who have been involved with the criminal justice system state that family counseling programs are important in their rehabilitation (National Crime Prevention Council, 1997). Many youth return to their familial home upon release from custody. Youth felt that working with their family would allow them and their families to "gain skills to positively influence the young offender's behaviour and possibly help change or remove some of the things that may have initially contributed to the youth's problem" (National Crime Prevention Council, 1997, p. 3).

Little agreement has been reached on which programmatic features are the most successful with young offenders. For example, Palmer (1995) found group counselling to be less successful whereas the Federal-Provincial-Territorial Task Force on Youth Justice (1996) found group counselling to be a promising intervention. This inconsistency amongst successful program components has led some researchers to examine nonprogrammatic aspects of services, attempting to understand why the same program works in one place but not in another.

Nonprogrammatic Aspects

Relationships

The importance of therapeutic relationships emerges in the literature as a crucial component in effective treatment for young people in care (Bowlby, 1989; Brendtro, 1998; Maier, 1994; Moore, Moretti and Holland, 1998). The focus on relationships is grounded in attachment theory, defined by Maier (1994) as “lasting psychological connections between human beings as well as their anchorage in their ongoing community” (p. 36). Maier (1994) states that fundamental to attachment formation is the consistent availability of an individual for the youth and the active involvement of this person in the youth’s life (p. 45). This relationship develops because:

The worker can offer genuine identification with the youths’ struggles and readiness to stick with them through the ups and downs while searching for better ways. Most important is the challenge to steadfastly remain the children’s rather than the establishment’s advocate. Here connections are made. (Maier, 1994, p. 46).

Many of the youth involved in the justice system have not successfully developed attachment skills and the impact of minimal or a complete lack of attachment experiences

In summary, Table 2 and 2.1 illustrate the frequency and variability of depression items reported by the probation officers who participated in this study. “Sleep difficulties”, “lack of energy and a sense of fatigue” and “slowed down or restless and agitated” show the greatest frequencies for how often (as in “fairly often”) they reported experiencing these symptoms over the 2 week period prior to participating (42.24%, 44.72% and 36.92% respectively). The mean scores for these three items were also respectively, 0.71 (SD = 0.70), 0.75 (SD = 0.70) and 0.50 (SD = 0.62).

The last three items of the depression measures in Table 2.1 were reported most frequently as “never” experiencing the symptoms (those being “thoughts that life is not worth living”, “thoughts of death or suicide without a plan” and “thoughts of death or suicide with a plan forming”). This is significant as far as determining the level of suicidal thoughts at the time of participation for this particular group. The results generally demonstrate low reported levels of a sense of hopelessness. Nonetheless, it is also noteworthy that some of the participants were in significant difficulty as indicated by their responses to these last three items. Fourteen out of the one hundred and sixty-one officers or 9% of those officers who responded to these items reported these symptoms as at least “fairly often”. One officer reported “consistently” experiencing these three suicide-related symptoms, and another reported having thoughts of suicide with a plan forming “fairly often”.

Question 4: What are the inter-correlations among the STS workplace risk variables?

An inter-correlation statistical procedure was used to help identify which of the variables was most closely related using Pearson R’s correlation coefficient, and an alpha level of .05. For

willingness to change their behaviour is enhanced, a condition indicated by research to be necessary for the resolution of emotional and behavioural problems (p.45)

Consistency and Permanence

The themes of consistency and permanence manifest themselves in different ways. Most importantly, consistency and permanence were judged by youth as crucial components to developing relationships which, as discussed above, are essential to effective treatment with youth. High staff turnover, inadequate or improper placement of youth, and short term placements of youth (Raychaba, 1993) all contribute to a breakdown in consistency and permanency in a youth's life.

Most youth in care have experienced between two and ten placements, with lots of youth having experienced many more (National Crime Prevention Council, 1997). "The combination of not trusting adults, and a high level of transiency, makes it difficult for these young people to make and maintain close personal relationships. Meaningful relationships can prevent or stop a drift towards criminal activity" (National Crime Prevention Council, 1997, p. 6).

Youth also spoke about the importance of consistency of messages they receive from staff and service providers (Office of the Child and Family Service Advocacy, 1998). Youth felt that "the ability of staff to deliver clear, consistent messages and spell out expectations are [sic] critical to understanding the rules and following them. Within such

an environment, youth have the sense that structure and safety promotes healing” (Office of the Child and Family Service Advocacy, 1998, p. 5).

Suit Program to Youth – Not Youth to Program

Programs need to be flexible enough that they can be molded to address the needs of the youth (Office of the Child and Family Services Advocacy, 1998). In order to achieve this, proper assessments of the youth’s needs must be a component of any program. After a proper assessment has been completed, a continuum of services needs to exist so that the program can be shaped to meet the needs of the youth instead of trying to fit a youth into a program with an already set structure.

Staff Professionalism

Lastly, youth spoke about the importance of having staff who model the behaviour expected of the youth and who don’t “sound like they are talking from a textbook” (VanderVen, 1994). Staff need to be trained and equipped to deal with the issues and areas affecting youth in their care. In the Building Respect report, the Ombudsman’s office (1994) discussed the continuum of experience and training that staff working in custody centres draw upon; it ranges from no specialized training in dealing with youth issues to considerable youth correctional experience and formal education. The complexity of normal adolescent development and of the past experiences of youth entering custody increases the demand on staff to deal with a variety of issues. The youth who become involved in the criminal justice system often have multiple needs and are frequently aggressive towards themselves or others (Office of the Child and Family Service Advocacy, 1998). It has been found that “a lack of training, lack of hands-on

supervision and role modeling and insufficient staffing resources [have] often led to the care system being an unsafe work environment” (Office of the Child and Family Service Advocacy, 1998).

Youth in custody have stressed that they do not want special treatment but they do want help from caring, respectful adults to deal with the problems and issues that led to them into criminal activities (Children’s Commission, 1999). Youth have also asked to be involved in their own release planning and have improved access to alcohol and drug programs as well as other treatment services (Children’s Commission, 1999). These services should be long term but “most important of all is adults can show youth that respect is a two way street by respecting the rights of youth and helping youth get the support they need” (Children’s Commission, 1999, p. 32).

Physical Environment

The program staff have an effect on the success of a program but so does the physical environment in which the program is delivered. Research has shown that the setting “in both its material reality and its symbolic meaning, affects people’s actual behaviour as well as their understanding of themselves and the world” (Rivlin & Wolfe, 1985, p. 6). The physical environment has both a functional role that can promote or hinder certain behaviour and a symbolic role that conveys “what is expected, what is normative, what is acceptable and taboo, defining in the end the individual’s sense of self and competence as well as how that individual is perceived by others” (Rivlin & Wolfe, 1985, p. 8). Thus,

careful attention must be given to creating a respectful and appropriate environment which supports the treatment aims of the program.

Learning Organization

Programs can also be strengthened or weakened depending on the effectiveness of the organization within which they are run. The work of organizational analyst, Peter Senge (1990) offers a useful framework for assessing this dimension.

Recent literature on effective organizations has focused on what has become known as the “learning organization.” Peter Senge (1990) defines the learning organization as a place where “people continually expand their capacity to create the results they truly desire, where new and expansive patterns of thinking are nurtured, where collective aspiration is set free, and where people are continually learning how to learn together” (p. 3). Senge (1990) discusses five basic disciplines, or “bodies of theory and technique that must be studied and mastered to be put into practice” (p. 10), which distinguish learning organizations. According to Senge, these disciplines - systems thinking, personal mastery, mental models, shared vision, and team learning - must all be present and developed in an integrated manner in order to maximize the potential of a learning organization. A brief description of each discipline will now be given.

Systems thinking

Senge (1990) identifies systems thinking as the discipline which fuses the other four disciplines together. Systems thinking is defined as “as discipline for seeing wholes. It is a framework for seeing interrelationships rather than things, for seeing patterns of change

rather than static ‘snapshots’” (Senge, 1990, p. 68). Systems thinking encourages a long-term focus and a restructuring of how we think (Senge, 1990). It is a useful approach in understanding complex situations because it can be used to see the “structures” that are underlying these complex situations in order to start shifting how we think and how we can address a problem (Senge, 1990).

Personal Mastery

Personal mastery can be considered the spiritual foundation of the learning organization. Senge (1990) defines it as “the discipline of continually clarifying and deepening our personal vision, of focusing our energies, of developing patience, and of seeing reality objectively” (p. 7). In order to foster personal mastery within an organization, Senge argues that the organizational environment should be one in which people feel safe to create visions, offer new ideas and question the status quo. Personal mastery is grounded in competence and skills and results in a greater sense of responsibility and commitment to the organization.

Mental Models

Senge (1990) discusses the influence of mental models as “deeply ingrained assumptions, generalizations, or even pictures or images that influence how we understand the world and how we take action” (p. 8). Though we may not be conscious of our mental models, they affect our thinking and our actions because they form the lens through which we see and act. Without explicitly dealing with mental models, any attempts at transformation which diverge from these ingrained assumptions will fail because individuals will not consciously support the changes and will not feel a commitment to making change

happen. Training to develop new skills and ideas and creating opportunities in the organization to implement these new skills and ideas will support the development of new mental models. In the growth of new mental models, old assumptions are brought to the surface, addressed and dispelled.

Shared Vision

A shared vision can be developed once the mental models of individuals become consistent with the purpose of the organization (Senge, 1990). This shared vision will focus the organization on a common purpose and goal and coordinate efforts in the best possible manner. A shared vision is fostered by proper leadership. Senge discusses the concept of the leader as a teacher with the ability to empower others in the organization. Traditionally, leaders ruled their organizations by controlling the behaviour of their employees and reacting to changes facing the organization. Leaders of learning organizations focus on teaching others the purpose of their work and building a common vision. This shared purpose creates a sense of direction and commitment because each individual feels a sense of belonging and responsibility for the direction of the organization. Once this commonality has been fostered, effective leaders will give others the latitude to make decisions within the limits set by the common vision. By sharing this responsibility, every one in the organization is allowed the opportunity to be innovative, creating an atmosphere of respect and collective learning.

Team Learning

As Senge (1990) describes, team learning “starts with dialogue”, the capacity of members of a team to suspend assumptions and enter into genuine “thinking together” (p. 10). It is

as a team, not as individuals, that an organization will be successful and work at its highest potential. Team learning is built on high spirit, strong leadership and a shared vision.

The transfer of responsibility for the youth justice system creates the opportunity to foster the five disciplines of the learning organization in this new ministry. How this transfer of responsibility was handled will greatly affect the ability to implement these disciplines. Various authors have discussed how a successful transition should be handled.

Transition

William Bridges (1991) discusses the difference between change and transition. The Oxford dictionary defines change as: “the act or an instance of making or becoming different” and transition as: “a passing or change from one place, state, condition, etc., to another.” Bridges (1991) describes change as a process which is external and situational as opposed to transition which is internal and psychological. In order for transition to be successful, the people involved need to let go of inadequate ways of thinking and acting in order to internalize a new mission based on new ways of thinking and acting. Trust and a shared vision are key to letting go and internalizing a new mission. Bridges (1991) states that “the key to capitalizing on change lies in understanding and utilizing the cycle of challenge and response...challenge and response is the key to success in a time of rapid and far reaching changes” (p. 82).

The shift in responsibility for youth justice from the Ministry of the Attorney General to the Ministry for Children and Families can be described as potentially involving both a change and a transition. This study examines to what extent the Ministry for Children and Families can be described as a learning organization as well as to what extent the shift in responsibility could be called a true transition as opposed to simply an organizational change. Both of these aspects impact on the organization's ability to treat youth in custody with dignity and respect.

In summary, two major areas were assessed and discussed in the review of literature section. First, provincial, national and international legislation and conventions related to the right of youth in custody to be treated with dignity and respect were reviewed, highlighting their relevance to this study. The review found that five major rights themes run through these documents – the right to live in a physically and emotionally safe environment, the right to rehabilitative aim of custody, the right to facilities which meet physical standards, the right to maintain contact with family and the right to have custody used only as a measure of last resort. Next, current policy and practice literature addressing services for youth in custody, including research on current philosophies and theories on the most effective manner in which to offer services to youth in custody centres, was assessed. Behavioural, cognitive-behavioural or cognitive focused programmatic features were found to be effective with youth as were programs centered on developing life skills or other particular skills, i.e. anger management and those involving family interventions. Therapeutic relationships, control and empowerment, consistency and permanence, individualized programs, staff professionalism, and the

physical environment are all nonprogrammatic features which impact on the effectiveness of programs. As well, the five disciplines of a learning organization offer a framework for assessing the nature and degree of organizational change and transition achieved. Any of these programmatic or nonprogrammatic features can be either a barrier to, or an opportunity for, treating youth in custody with dignity and respect.

The methodology utilized to examine how these various conventions and concepts have been put into practice, or not, is discussed in the next section.

IV. METHODOLOGY

Each of us has the right and responsibility to assess the roads which lie ahead, and those over which we have travelled, and if the future road looms ominous or unpromising, and the road back uninviting, then we need to gather our resolve and, carrying only the necessary baggage, step off that road into another direction. If the new choice is also unpalatable, without embarrassment, we must be ready to change that as well.

- *Maya Angelou (b. 1928)*

This inquiry is situated within an interpretive interactionist perspective. Denzin (1989) advocates this approach when “the researcher wants to examine the relationship between personal troubles...and the public policies and public institutions that have been created to address those personal problems” (p. 10). This study is looking at the barriers and opportunities for ensuring the right of youth in custody to be treated with dignity and respect is put into practice in a particular facility. This study takes place in the context of the transfer of administrative responsibility for the youth justice system from the Ministry of the Attorney General to the Ministry for Children and Families.

Denzin (1989) outlines five contributions that an interpretive approach can make to evaluation research:

- 1) It can help identify different definitions of the problem and the program being evaluated.
- 2) The assumptions, often belied by the facts of experience, that are held by various interested parties- - policy makers, clients, welfare workers, on-line professionals - can be located and shown to be correct or incorrect.
- 3) Strategic points of intervention into social situations can be identified.

- 4) Because of its emphasis on lived experience, the interpretive method suggests that programs must always be judged by and from the point of view of the persons most directly affected.
- 5) Its emphasis on the uniqueness of each life holds up the individual case as the measure of the effectiveness of all applied programs. (p. 11)

By seeking the perspectives of key individuals in the youth justice system, this study highlights the assumptions of interested parties and how these assumptions converge or diverge. The organizational change caused by the creation of the Ministry for Children and Families directly affected, and still affects, those working in the youth justice system and, therefore, they are a good source of information about what is happening in practice at an organizational level. This study also seeks to determine if there are barriers to ensuring youth are treated with dignity and respect in custody and to identify the points of intervention and opportunities available to uphold this right more effectively.

Interpretive Interactionism attempts to join the theories of symbolic interactionism with the interpretive approach (Denzin, 1989). One of the founders of symbolic interactionism, Herbert Blumer (1969), describes the components of this approach in the following manner:

Symbolic interactionism rests in the first analysis on three simple premises. The first premise is that human beings act towards things on the basis of the meanings that the things have for them...The second premise is that the meaning of such things is derived from, or arises out of, the social interaction that one has with one's fellows. The third premise is that these meanings are handled in, and modified through, an interpretive process used by the person in dealing with the things he [sic] encounters. (p. 2)

The theory of symbolic interactionism fits well with this study. First, this inquiry is attempting to understand the multiple realities of different individuals in the youth justice

system and the meanings around youth custody that these individuals have derived from their experience. Second, this study is also attempting to understand how these individuals' experiences, through the transfer of responsibility from the Ministry of the Attorney General to the Ministry for Children and Families, have affected their actions at work and the meanings they derive from their work experience in the youth justice system.

Interpretive Interactionism also “focuses on the study of socially meaningful or purposeful social action [and] strives for empathetic understanding of how people feel, create meaning and their reasons or motivations for understanding the social act” (Felske, 1994, p. 185). Everyday life consists of people interpreting and trying to understand the behaviour and actions of themselves and others (Denzin, 1989). The interpretive approach acknowledges that people have multiple realities and roles, and tries to gain an understanding of how they play out in people's actions.

Denzin (1989) outlines two types of interpretive research - pure interpretation and interpretive evaluation. The purpose of pure interpretation is to build “meaningful interpretations of social and cultural problematics” (Denzin, 1989, p. 22), whereas interpretive evaluation research is conducted on “a fundamental social problem in order to provide policy makers with pragmatic, action-oriented recommendations for alleviating the problem” (Majchrzak, as quoted in Denzin, 1989, p. 22). This study falls into the second category, interpretive evaluation. It seeks to understand how youth in custody have been affected by the transfer of responsibility for youth justice from the Ministry of

the Attorney General to the Ministry for Children and Families. In order to make recommendations on how to improve services, this study attempts to identify the aspects of the youth justice system that create or contribute to barriers that prevent youth in custody from being treated with dignity and respect. Finally, this inquiry attempts to identify opportunities for youth in custody to be treated with the dignity and respect that is their right.

Research Design

In addition, this research inquiry is also a case study. As Yin (1994) notes, “case studies are the preferred strategy when “how” and “why” questions are being posed, when the investigator has little control over events, and when the focus is on a contemporary phenomenon within some real life context” (p. 1). This research design fits well with the purpose of this study as it questions how the transfer of responsibility for youth justice from the Ministry of the Attorney General to the Ministry for Children and Families has affected the treatment of youth in custody and why they are being, or are not being, treated with dignity and respect. The creation of the Ministry for Children and Families, which initiated this transfer, is certainly a contemporary phenomenon outside the control of the researcher.

It is important to recognize, as Stake (1994) points out, that “issues are not simple and clean but intricately wired to political, social, historical and especially personal contexts” (p. 17). The use of the case study model allows for the examination of this contemporary phenomenon in context (Yin, 1994). Therefore, the contextual reality of this transfer of

responsibility remains a focus throughout the study and, consequently, a multi-perspective approach is seen as being the most effective and beneficial.

Multiple sources were used for the data for this inquiry because each source has different strengths and weaknesses in terms of what it can contribute to the study. Collectively, these sources help to build a multi-layered understanding of the case. Second, the use of multiple sources, a technique known as triangulation, increases the validity of the study (Yin, 1994). As Yin (1994) describes, “any finding or conclusion in a case study is likely to be much more convincing and accurate if based on several different sources of information, following a collaborative mode” (p. 92). Each different strategy, along with the strengths and weaknesses, is described below.

Participants and Sampling

A purposive sample was used. Nine participants were selected based on their job descriptions and daily functions, and were contacted by telephone to seek their participation in the study (telephone contact guide included in Appendix E). Willing participants were asked to sign a consent form (included in Appendix F). The participants were workers from several levels of the youth justice system including senior bureaucrats, managers of the youth custody facility, line staff and probation officers. Six of the participants work, or have worked, directly in the facility and the remaining three are professionally connected, in different capacities, to the management of the custody centre. All those interviewed worked in the youth justice system both before and after the transfer of responsibility for youth justice occurred. These individuals were chosen in

order to gain an understanding of their experience of the transition of administrative responsibility for youth justice from the Ministry of the Attorney General to the Ministry for Children and Families. They were asked what they feel are the barriers to, and opportunities for, ensuring the right of youth in custody to be treated with dignity and respect. It had been hoped to include interviews with youth as well to provide feedback on the findings of the interviews with individuals working in the youth justice system. However, numerous obstacles to reaching this goal resulted in the exclusion of youth participation from the study. This is certainly an area that could be focused on in future research.

The particular youth facility was selected based upon accessibility to the researcher. Though portions of the findings are unique to this facility, several generalizations can be drawn in relation to the barriers and opportunities to ensuring that youth in custody are treated with dignity and respect. For example, other custody facilities may not be in as dilapidated a state as the facility used in this case study. Therefore, the barriers to treating youth with dignity and respect raised, in relation to overcrowding and other effects of the physical state of this particular facility, might not be applicable to other custody centres. However, this study can also serve as an example of how international documents, such as the United Nations Convention on the Rights of the Child, can be employed to evaluate custody facilities based on internationally established standards of care for youth in custody.

Data Collection

Interviews

In case studies, one of the most important sources of information is the interview (Yin, 1994). As Stake (1994) states, “much of what we cannot observe for ourselves has been or is being observed by others. Two principal uses of the case study are to obtain the descriptions and interpretations of others. The case will not be seen the same by everyone... The interview is the main road to multiple realities” (p. 64). Interviews address another important aspect of the case study, the human element (Yin, 1994). Since the administration of youth justice is affected by the views and work of individual people, understanding how the case is viewed through their eyes is vital to an overall comprehension of the case.

In depth, semi-structured individual interviews with nine key informants were audiotaped and transcribed verbatim. Interviews ranged from one to two hours in duration and were held at the convenience of the participants. An interview question guide (included in Appendix G) formed the basis of the interview, but the semi-structured format of the interviews left room for further exploration of topics that arose naturally during the interview.

An important aspect to keep in mind when considering the information given in an interview is that it is “subject to bias, poor recall and poor or inaccurate articulation”

(Yin, 1994, p. 85). Interviews provide one person's views, interpretations and opinions and therefore should be corroborated with information from other sources (Yin, 1994).

Document Review

Yin (1994) outlines the role of documents in case studies as the following

For case studies, the most important use of documents is to corroborate and augment evidence from other sources. First, documents are helpful in verifying the correct spellings and titles or names of organizations that might have been mentioned in an interview. Second, documents can provide other specific details to corroborate information from other sources. If the documentary evidence is contradictory rather than corroboratory, the case study investigator has specific reason to inquire further into the topic. Third, inferences can be made from documents... However, these inferences should be treated only as clues worthy of further investigation rather than as definitive findings because the inferences could later turn out to be false leads (p. 81).

Documents also allow access to records of activities that have occurred in the past or that are not observable by the researcher (Stake, 1994). In this study, reports and government documents relating to youth custody centres in British Columbia in general and also specifically to the facility were reviewed. Yin (1994) cautions that when reviewing a document, it is important to

understand that it was written for some specific purpose and some specific audience other than those of the case study being done... By constantly trying to identify these conditions, you are less likely to be misled by documentary evidence and more likely to be correctly critical in interpreting the contents of such evidence (p. 82).

Data Analysis

With the permission of the participants, interviews were audiotaped and then transcribed. As Kvale (1996) describes "to *transcribe* means to *transform*, to change from one form to another. Attempts at verbatim interview transcriptions produce hybrids, artificial

constructs that are adequate to neither the lived oral conversation nor the formal style of written texts” (p. 166). While an interview is a fluid process which takes place in a context, transcripts are static and decontextualized versions of the conversation (Kvale, 1996). Since interpretation is based on the main premise that “meaning depends on context, then transcripts in isolation make an impoverished basis for interpretation” (Kvale, 1996, p. 167). Therefore, when analyzing for themes using the interview transcripts, the contextual reality of the interview needs to be kept in mind and the notes of the interviewer becomes part of the analysis.

The data was analysed utilizing the method of thematic analysis as outlined by Colaizzi (1978). After transcribing the interviews verbatim, each transcript was reviewed several times to get a sense of the whole interview as well as to make the content of each interview familiar. As a next step, Colaizzi (1978) suggests extracting significant statements from the transcripts, which were written in a column to the right of the transcript. Next, meanings from each significant statement were formulated and then grouped into clusters of themes. For example, the statement: “There is one group that concerns me that we get that I don’t think need to be here, and it is Victoria kids who are probably appropriate for open custody but because we don’t have open custody they get a secure custody disposition and in fact their lawyers or their parents request it so they can stay in Victoria” would be categorized under the theme of “the right to be in custody only as a last resort.” These thematic clusters were then referred back to the original transcripts to ensure that all the data was accounted for and that no misrepresentation of the data occurred in the themes. Continuing to follow Colaizzi’s thematic analysis framework, the

theme clusters were then formulated into an exhaustive description of the barriers to, and opportunities for, ensuring the right of youth in custody to be treated with dignity and respect in practice in a particular facility. These exhaustive descriptions were then reduced down to a statement of identification which contains the “fundamental structure” of the description (Colaizzi, 1978).

In order to ensure accurate representation of the participant’s view and to strengthen the validity of the study, a summary of the cluster of themes for each interview was returned to the participant for comment. Any corrections or new comments were worked into the findings.

Rigor

Based on Guba and Lincoln’s work (1981), Sandelowski (1986) describes four factors to be used to test rigor in research: credibility, applicability, consistency, and confirmability. In order to assess the rigor of this research, each of these factors will be discussed as it applies to this study.

The first factor is credibility. As Sandelowski (1986) describes

In qualitative research, truth is a much more elusive goal... The truth value of a qualitative investigation generally resides in the discovery of a human phenomena [sic] or experiences as they are lived and perceived by subjects, rather than in the verification of a priori conceptions of those experiences. Significantly, truth is subject-oriented rather than research-defined...A qualitative study is credible when it presents such faithful descriptions or interpretations of a human experience that the people having that experience would immediately recognize it from those descriptions or interpretations as their own. (p. 30)

The present study can be considered credible because it represents multiple perspectives of the participants that have been verified by presenting summaries of each interview to the applicable participant. Sandelowski (1986) also states that a study is deemed credible when “other people can recognize the experience when confronted with it after having only read about it in a study” (p. 30). An independent reader who has no experience within the youth justice field was given the final paper to read and was asked to provide feedback on it. A number of terms and areas were identified which would only be familiar to someone with experience working in the field. Consequently, definitions and explanations were added to increase understanding of the study. Secondly, areas of confusion were rewritten for clarity. Subsequent discussions with this independent reader about young offenders and youth custody centres highlighted the ability of the reader to recognize barriers and opportunities in the youth justice system to ensuring that the right of youth in custody to be treated with dignity and respect.

The second factor Sandelowski (1986) details is applicability or fittingness and states that:

A study meets the criterion of fittingness when its findings can ‘fit’ into contexts outside the study situation and when its audience views its findings as meaningful and applicable in terms of their own experiences. In addition, the findings of the study, whether in the form of description, explanation or theory, “fit” the data from which they are derived (p.32).

Sandelowski (1986) cautions against three major threats to applicability: holistic fallacy, the elite bias, and “going native.” First, holistic fallacy refers to the tendency to “make data look more patterned or regular or congruent than they are” (p. 32). Though many

similarities existed between the themes which emerged in the interviews, discrepancies also arose. These discrepancies are identified in the findings. Second, Sandelowski (1986) cautions that the “elite bias” is a particular problem in qualitative research because subjects are “frequently the most articulate, accessible or high-status members of their groups...[so that] the validity of its findings is threatened by overweighing those stories or not placing them in their proper perspective” (p. 32). This problem has been partially addressed by purposefully selecting individuals from several levels of the youth justice system based on their job descriptions and daily functions. However, the inclusion of youth in this study would have strengthened the argument against “elite bias”. Third, to address the danger of “going native” where researchers become so enmeshed with their subject that they can not differentiate their own experiences from that of the participants, a journal of the writer’s thoughts and experiences during the research process was kept. Two individuals continually shared these thoughts and experiences which helped the writer remain self-aware.

The third factor Sandelowski (1986) outlines in determining rigor is auditability: “a study and its findings are auditable when another researcher can clearly follow the “decision trail” used by the investigator in the study” (p. 33). To address this criterion, another researcher was asked to read the transcripts and follow the “decision trail” used in the study. This individual developed similar themes to those developed by the principal researcher. Secondly, this study has been discussed with a number of individuals, some familiar with the youth justice system and others who are not, for comments and feedback.

The fourth factor in determining rigor is confirmability, which acknowledges the subjectivity of the research but ensures that the findings of the study are not based solely on the views of the researcher. Confirmability is achieved “when auditability, truth value, and applicability are established” (Sandelowski, 1986, p. 33). By discussing how these three factors were established, this research fulfills the criterion of confirmability.

Ethical Considerations

This study involved human subjects and, therefore, applicable ethical considerations were addressed. Ethics approval from the University of Victoria Human Subjects Review Committee was obtained. As described by Kvale (1996) “an interview inquiry is a moral enterprise: the personal interaction in the interview affects the interviewee, and the knowledge produced by the interview affects our understanding of the human situation” (p. 109).

The first area for ethical consideration was informed consent. Kvale (1996) defines informed consent as follows:

Informed consent entails informing the research subjects about the overall purpose of the investigation and the main features of the design, as well as of any possible risks and benefits from participation in the research project. Informed consent further involves obtaining the voluntary participation of the subject, with his or her right to withdraw from the study at any time, thus counteracting potential undue influence and coercion (p. 112).

In this study, voluntary participants were explained the purpose of the study and were asked to sign a letter of consent (included in Appendix F). This letter outlines the purpose and method of the study as well as emphasizes the participant's right to withdraw from the study at any point in time.

Second, confidentiality was an ethical consideration (Kvale, 1996). The interviews were coded and the master list of names kept in a separate location from the interview transcripts. Both the audiotapes and transcripts were stored in a locked filing cabinet. The audiotapes of the interviews were erased and the transcripts destroyed upon the completion of this study. No names are disclosed in the final product but, due to the specific nature of work of the participants, the chances of identification are increased. The letter of consent signed by the participants outlines the attempts made to maintain confidentiality and the limits involved.

The third ethical issue to be considered is referred to by Kvale (1996) as beneficence, meaning "that the risk of harm to a subject should be the least possible. The sum of potential benefits to the subject and the importance of the knowledge gained should outweigh the risks of harm to the subject and thus warrant a decision to carry out the study" (p. 116). In the writing of this study, all possible attempts were made to represent the views of the participants in a respectful, accurate, and fair way that reflected their contextual situations while preserving their confidentiality. Care was taken not to appear to blame individuals for flaws which may be systemic or out of their control. Care was also taken not to give the impression that the barriers identified will be addressed or

changed by the researcher, or that the researcher had influence over governmental decisions or actions.

This study also offers potential benefits to the participants. Participants may benefit from having the opportunity to articulate their perspectives and personally examine their role and responsibility for fostering dignity and respect in youth custody. Barriers and opportunities that exist to ensure the right of youth in custody to be treated with dignity and respect are also identified in the thesis. This information can be used to enhance opportunities and minimize barriers and thereby possibly support the efforts of these individuals in their work. Last, by gaining the perspectives of various individuals in the system, organizational obstacles, which limit the ability of individuals in the system to foster dignity and respect in youth custody, are suggested.

One last ethical consideration in the study is the participation of youth. A limitation of this study is the absence of direct participation by youth. As mentioned previously, this study was originally intended to include an advisory group of youth who had been in the custody facility before and after youth justice was transferred to the Ministry for Children and Families to provide feedback on the findings of the interviews with individuals working in the youth justice system. The rationale behind the inclusion of youth was based on the belief that what professionals perceive to be happening does not always correspond with the lived experience of youth and their perceptions of what is occurring, and that this discrepancy is a barrier to ensuring the right of youth in custody to be treated with dignity and respect. Unfortunately, numerous obstacles to reaching this goal resulted

in the exclusion of youth participation from the study. Research and literature either written by youth or based on interviews with youth were included to give some insight into the youths' perspective.

In summary, the interpretive interactionist perspective was used in this case study to seek and analyse the perspective of key individuals in the youth justice system about the barriers and opportunities to ensuring the right of youth in custody to be treated with dignity and respect. The findings of this inquiry are discussed in the next chapter.

V. FINDINGS

One is absolutely sickened, not by the crimes that the wicked have committed, but by the punishments that the good have inflicted; and a community is infinitely more brutalized by the habitual employment of punishment than it is by the occasional occurrence of crime.

- *Oscar Wilde (1854-1900)*

This chapter has been divided into three major sections that reflect the findings in relation to the major conceptual frameworks that guided this study – the context of the case study; relevant provincial, national and international legislation and conventions relating to youth in custody; and the effective treatment of youth in custody. In this chapter, each framework is discussed in relation to the relevant literature and findings of this study. Though each concept is examined individually, it is important to recognize that the conceptual frameworks overlap and only when taken together will a true understanding of the situation emerge.

The Case Study in Context

The second chapter of this paper described the context in which this study takes place. In their interviews, participants raised a number of barriers and opportunities to ensuring the right of youth in custody to be treated with dignity and respect in practice which stem from the context in which this study takes place. They include separation from the adult system, organizational differences, and the youth custody facility.

Separation from the Adult System

As discussed in the review of literature, historically the youth justice system in British Columbia has been based under the umbrella and orientation of the adult correctional system provided by the corrections department of the Ministry of the Attorney General (Corrado and Markwart, 1988). Participants discussed their experiences in youth justice before and after this tie was administratively severed by the creation of the Ministry for Children and Families.

Those interviewed for this study felt that the connection between youth and adult systems under the Ministry of the Attorney General had a detrimental effect on ensuring the right of youth in custody to be treated with dignity and respect in practice. Participants agreed that being under the Corrections Branch led to a tendency to apply the same standards, rules and vision to both systems. Participants viewed the adult system as a more militant system focusing on rules, regulations, consequences and disciplines. Participants also perceived the adult system as applying uniform standards and routines with no acknowledgment of the individual's needs or situations, a critical component to effective habilitation (Office of the Child and Family Service Advocacy, 1998; Ross, 1991). Consequently, this "adultification" of the youth system was perceived as a barrier to treating youth with dignity and respect because of its focus on the Crime Control Model which gives little priority to individual needs.

The separation of youth justice from the adult correctional system with the creation of the Ministry for Children and Families was viewed by the participants as being a positive step towards ensuring the right of youth in custody to be treated with dignity and respect in a number of ways. One participant stated:

I think by the very nature of the fact that the Ministry for Children and Families is targeted to children, youth and families rather than in addition, as the Attorney General did, at looking at adults as well, that it is bound to make a difference.

With the creation of the Ministry for Children and Families, staff in the Corrections Branch of the Attorney General could choose whether to remain with the Attorney General and work exclusively in the adult system or stay with the youth system and become part of the Ministry for Children and Families. Participants felt that with individuals having to choose whether to go with the adult or youth system, the staff who remained with the youth system are a group of individuals who are dedicated and committed to working with young people. The past policy under the Corrections Branch allowing staff to transfer back and forth between the adult and youth system was seen by those interviewed to be counterproductive to treating youth with dignity and respect as the lines between these systems became lost and the same standards and rules were applied in both.

One individual pointed out that Canada has a separate youth system predicated on the recognition that youth need to be treated differently than adults. This recognition is articulated in section 3 of the Young Offenders Act, the Declaration of Principle, which states:

(a.1) while young persons should not in all instances be held accountable in the same manner or suffer the same consequences for their behaviour as adults, young persons who commit offences should nonetheless bear responsibility for their contraventions;

(c) young persons who commit offences require supervision, discipline and control, but, because of their state of dependency and level of development and maturity, they also have special needs and require guidance and assistance;

Some individuals working in the youth justice system interviewed for this study also concurred that separating from the adult correctional system increased the recognition of the unique needs of young offenders and their need for treatment and habilitation specified in the Declaration of Principle. One participant, regarding the possibility of a new youth custody facility, gave a good example:

With the Attorney General, it [plan for a new facility] never got past Treasury Board because you always had this comparison. That's something we suffered from was "well how much does it cost to run a youth custody centre vs. an adult custody centre?" Which is the stupidest question. It's like comparing an elementary school to a university. So, whenever we went forward with just plain old youth custody vs. adult custody, the costs were always much greater because we're smaller, the staffing is much richer so we kept getting turned down.

In discussing the very recent approval of Treasury Board for the design portion of the proposed new facility, the same participant stated:

The only reason it made it through Treasury Board was that turn in thinking. Yes, this is a Ministry for Children and Families. We expect that we are going to have to do things for these kids.

However, another participant was not as confident that the transfer of responsibility for youth justice to the Ministry for Children and Families has improved chances of receiving funding for a new facility:

I'm not sure that if we were still with the AG that we still wouldn't have a good chance of getting a new jail. I'm not connected enough at a high enough level to understand the ramifications of those decisions but it is still Treasury Board with the final decision.

Overall, the separation of youth and adult corrections was perceived by participants to have led to a new philosophical recognition of the differences between adult and youth offenders. Participants generally remained hopeful that this new recognition would lead to opportunities to make changes in practice that will ensure the right of youth to be treated with dignity and respect such as recognition of individual needs instead of uniform application of standards and rules. An important influence on whether or not this philosophy will translate into concrete action is the organizational structure of the ministry. The next section explores the organizational differences between the Ministry of the Attorney General and the Ministry for Children and Families.

Organizational Differences

The Ministry for Children and Families was created to bring all child, youth and family-serving systems together in one ministry. The organizational structure of this Ministry was developed with this focus. The areas which are explored are organizational infrastructure, proportion of the ministries, and youth justice connections to other youth services.

Organizational Infrastructure

Both positive and negative points were raised by participants regarding the organizational infrastructure of the Ministry for Children and Families as compared with the Ministry of the Attorney General. Support for the flatter hierarchical structure of the Ministry for Children and Families was expressed. However, concerns were raised regarding the number of Regional Executive Directors involved and the perceived disarray of the ministry.

In a governmental ministry, responsibility and authority are usually divided between directors either regionally or functionally. When youth justice was with the Corrections Branch of the Ministry of the Attorney General, responsibility was regionalized. This meant that one regional director was responsible for adult institutions and probation, youth institutions and probation, and family court counselling for a particular region. Since youth justice became part of the Ministry for Children and Families' responsibility, the Corrections Branch has reorganized to a functional model. Responsibility is now divided between streams of adult institutions, adult probation and family court counselling. The Ministry for Children and Families is similar in structure to the way the Ministry of the Attorney General had been organized when it was responsible for youth justice in that it has adopted a regional model.

Despite similar structural models, a few individuals commented on the differences in the organizational infrastructure of the two ministries that play out in practice. A significant

difference between the two ministries is the number of regional directors involved.

Whereas the Corrections Branch involved five regional directors, the Ministry for Children and Families originally had twenty different regional operating officers. Though the number of Regional Operating Officers, now referred to as Regional Executive Directors, has been reduced to ten, this is still double the number of individuals that were involved when youth justice was with the Ministry of the Attorney General. This increase in numbers was felt to complicate decision making processes overall, for example in setting provincial policies.

Another individual felt that the flatter organizational structure of the Ministry for Children and Families has made it easier to get provincial level approval or decision. The interviewee explained that:

There is not as many layers of bureaucracy to go through to get, say, from my position to the Deputy Minister. Whereas before there used to be the [youth custody centre] Director, District Director, Regional Director, then a number of Assistant Deputy Ministers and finally the Deputy Minister. Now it is basically from me to the director, to the Regional Operating Officer and then to the Deputy Minister.

Other individuals spoke about what they perceived to be a state of disarray within the Ministry for Children and Families infrastructure that was not present in the Ministry of the Attorney General. It was felt that much confusion still exists, particularly in terms of who has the capacity to make decisions and how decisions are made. It was also pointed out that:

An original theory behind the Ministry's creation was that if you bring all of these components together that they can build upon one another's

strengths...In fact what has happened is that everybody has sunk to the lowest common denominator which is in fact the old social services ministry which was very dysfunctional.

One participant felt that the Corrections Branch has “always had very good information systems, very good contract management systems, good relations with contractors, and good training systems” but that these strengths had been lost when youth justice became part of the Ministry for Children and Families.

Participants concurred that in the Ministry of the Attorney General, senior directors and supervisors at the middle management level generally had working knowledge and experience within the corrections system. Participants also agreed that, in general, this circumstance could not be said for the Ministry for Children and Families. One individual noted that of the twenty original Regional Operating Officers in the Ministry for Children and Families, only three had any experience within corrections.

Participants had varying views on the effect of this lack of justice background in practice. Some individuals felt that being an “unknown” had its advantages as indicated in the following statement:

In some sense, it's the best of both worlds - we're part of this larger Ministry but we are still being allowed a fair amount of independence in terms of setting internal policies and procedures, probably more so than we had in the old Corrections Branch...Most of the people to whom we are reporting have not worked in this area and to their credit, do not presume to tell us what to do. They are very supportive when we want to do something and so I don't think it's bad times for youth custody at all.

Other participants spoke about the time and energy going into educating others in the Ministry for Children and Families who are not familiar with the justice system. It was felt that a lack of knowledge and understanding about the justice system and the roles and functions of different players in this system has led to some misunderstandings and difficulties in practice. One interviewee gave the following example to illustrate this point

If a probation officer is in court, he's in court and he had to report the facts, identify alternatives and if there aren't any alternatives, he's going to tell the judge. Well, sometimes that is perceived by others as not being on the train, not being a team player. But that is the probation officer's role... I don't by any means want to suggest that it's wide spread but it does come up from time to time and that has contributed to a lot of problems in the field in terms of morale and not feeling understood.

Therefore, participants expressed varying degrees of support and understanding in the Ministry for Children and Families as to their role and the role of the youth justice system. Both barriers and opportunities stemming from the organizational infrastructure of the Ministry for Children and Families to ensure that the right of youth in custody to be treated with dignity and respect in practice is honoured were identified by participants.

From a Large to a Small Section in a Ministry

When youth corrections was with the Corrections Branch of the Ministry of the Attorney General, it consumed approximately 30% of the overall budget. With the Ministry for Children and Families, youth corrections is less than 5% of the budget. Participants argued that being such a small piece of the Ministry for Children and Families had both positive and negative effects.

One participant observed that the level of attention and understanding that youth justice receives in the Ministry for Children and Families is commensurate to the percentage of the budget it is allotted. Several individuals expressed that other areas of the ministry, in particular child protection, dominate the attention, discussions, and resource allocations of the Ministry for Children and Families. Participants felt that this situation was understandable, as the following comments indicate:

Resources have flooded to the child protection side. I'm not going to argue that they shouldn't have. When you look at social priorities and you are talking about one, two or three year old kids dying versus services for a seventeen year old young offender, who's going to win the argument? It's hardly even worth making.

Another participant explained that:

I think that people at the top have always had an interest in youth justice but it's one of many interests and it doesn't attract nearly as much attention as for example, child protection. I don't feel bitter about that. It's just not a huge piece of business compared to some of the other things the Ministry does.

As one individual found, being small also has its advantages in that any resource allocations made to youth corrections generally have a noticeable effect. For example, last year when the Ministry for Children and Families announced 250 new line positions, 10% of those positions were designated to youth justice. In a system of only 125 probation officers, an additional 25 positions was an enormous increase.

A few participants mentioned that whether youth justice is with the Ministry of the Attorney General or the Ministry for Children and Families it seems to be "a bit of a

mystery” to the rest of the ministry. One participant stated that “even with the Corrections Branch, youth custody was always a little bit of its own thing and I think people in adult [system] looked at people who worked in youth custody as some sort of wild and crazy guys.”

Youth Justice Connections to Other Services

The deliberate separation of youth justice from child welfare services has a long and ingrained past stemming from different philosophical and jurisdictional conceptions between governmental ministries. A review of recent research revealed that the youth justice system under the Corrections Branch umbrella maintained Crime Control and Justice Model approaches to dealing with young offenders in line with the adult correctional philosophy (Markwart, 1988).

Interviews with participants in this study confirmed the findings in the literature that youth justice programs were systematically and philosophically separated from other youth-serving systems when youth justice was with the Ministry of the Attorney General. All participants at some point spoke about the effect the split between youth corrections and other youth-serving systems has had in practice and the barriers to treating youth with dignity and respect they perceived created by this separation.

Participants felt that the separation of the youth justice system from other youth services resulted in a division between “corrections” youth and other youth. Once youth became involved with the justice system, they were viewed as being part of “that” system and no

longer a part of the social services system. Nearly all participants spoke about the resulting tendency for all other services, including child and family service workers, to cease involvement and close files once youth became involved with the youth justice system. Many examples were given about the lack of communication, coordination and cooperation that existed between different service providers and the effects in practice. Participants perceived that the resulting inefficiencies in the system led to either duplication or complete absences in services for youth. As one participant stated:

There were a number of incidents where I had a youth who was going to be released after a long stay in custody, who was a ward and had a social worker. We hadn't seen the social worker for months and on the day of release, what do we do with this kid? It's off to Kiwanis [a youth emergency housing shelter]. Although efforts had been made at this end to try and get some involvement it wasn't always forthcoming from social workers, etc. To be fair, I may be focusing on specific incidents that concerned me. I don't know if it can be generalized.

Another example given of the split between youth justice and other youth serving systems when youth justice was with the Attorney General were the clinical meetings that are held every Wednesday at the custody centre. Generally these meetings involve the psychiatrist or psychologist, the nurse, and the custody staff. When asked if the youth's probation officer or social worker attended, the answers varied from "no" to "we invite certain ones that we know will come." Apparently in the past, few of these individuals have come to these meetings and therefore the staff stopped inviting outside individuals long ago.

Other participants spoke about the stereotypes created as a result of the separation of youth corrections from other youth serving systems. Traditionally, probation officers have

been stereotyped as the “heavies” and the “tough guys” whereas the social workers are the “bleeding hearts.” Participants recognized that this was not always the case:

Sometimes you find probation officers, and this has happened in the past, who are pressured to lay a breach [by the social worker]. You have a kid who’s in care and who’s in a resource and he’s a relatively minor offence on probation with conditions. He’s not a terrible criminal problem but he’s a great social management problem. Whole lot of pressure to breach him and get him out of here and the probation officer is sitting there saying “We don’t put kids in jail for social control purposes, thank you.”

The creation of the Ministry for Children and Families brought youth justice together with all other youth serving systems. In order to begin to integrate these systems and improve service delivery to youth, the Ministry for Children and Families has undertaken an initiative to implement integrated case management. The Ministry’s push for an integrated case management approach to service delivery was viewed by participants as an opportunity for ensuring that the right of youth in custody to be treated with dignity and respect is honoured in practice. Participants believed that for youth in custody, an integration of services between child and family services workers and probation officers would improve discharge planning and coordination of resources so that gaps which have been identified above would be minimized.

Though integrated case management has not yet been fully implemented, the Ministry for Children and Families has undertaken a number of initiatives to support integrated case management to begin to occur in practice. First, a social worker position has been created at the custody centre to begin to integrate youth justice with the other youth services and programs in the Ministry. This individual is responsible for ensuring that discharge

planning occurs for youth soon to be leaving the centre to connect them with any applicable community resources in preparation for reintegration into the community. He is also in the process of preparing a resource book of services and programs available in the field. Secondly, the Ministry for Children and Families is striving to co-locate youth probation officers with child and family services workers in all regions of the province. For the most part, participants indicate that a huge effect of these changes has not been felt yet in practice within the custody centre, though the preponderance of participants felt that in the long run, co-location would contribute to a more coordinated service delivery for youth. One participant described how co-location is improving services in the field:

I do think there are major advantages to having integrated offices and I hear stories all the time. People say that they've got a crisis at 3:30 in the afternoon. This kid's family is falling apart. We've got to find a place or do this or whatever. Low and behold there is a social worker in the office and the A&D [alcohol and drug] worker and whoever and they go gather them up and have a meeting on the spot and come up with some sort of emergency plan. As opposed to the old days when you pick up the phone to the social worker and either get their voice mail or "Sorry, he's your kid. We can't do it." People can't say he's your kid anymore and that forces people to take responsibility.

Participants recognized that integrated case management was still in its infancy and that there was still a long way to go before the issues caused by a lack of integrated case management were solved:

Our thought when we came into this Ministry was that we'd work a lot closer with the social workers but a lot of them still seem to have the attitude that kids in custody, that's not my business. Not my problem, he's your problem now. Let me know when he gets out and I'll deal with him. Okay, now that's not the way to do it.

Another participant stated:

There is still not enough coordination between the social workers and probation officers...Some of them are really good and some of them are pretty tragic...but there's got to be more involvement from social workers and other agencies to give these kids something to go to when they get out.

Participants gave examples illustrating that the problems of duplication of services and lack of discharge planning are still very much a reality in the system. One participant stated: "I was at a case conference early last week and I guess there was about ten of us there. We decided by the end of the meeting only about half of us really needed to be there." Other participants mentioned still seeing youth end up going to Kiwanis Youth Shelter (an emergency youth shelter) from court or upon discharge from the custody centre because no discharge plans had been developed.

Two significant barriers to integrated case management were discussed by a number of participants. The first barrier is the number of resources available to support what is decided upon in the case management meetings. One participant discussed the fact that even if "we put it all together and have integrated services with integrated case management" it will not solve all the problems because:

The reality is if you take an under-resourced child protection system, an under-resourced youth corrections system, an under-resourced mental health and addiction system and put them all together you get one big under-resourced system.

Without the proper resources to implement integrated case management, a huge barrier to ensuring the right of youth to be treated with dignity and respect will continue. Specific services which are lacking is discussed in greater detail in a subsequent section.

A second barrier identified by those interviewed is the custody centre's ability to access information systems. A couple of participants raised the fact that the youth custody centre is still connected with the Offender Information System, a joint youth-adult computer system, in the Ministry of the Attorney General and not the Ministry for Children and Families' information system. Though the social worker who is now attached to the custody centre has access to the Ministry for Children and Families' system through his computer at the youth team office, participants felt that having access to ministry files from the custody centre would increase case management effectiveness and efficiency.

In order to improve the implementation of integrated case management, one participant made a suggestion by emphasizing the need for a more formal policy around case management meetings and effective case managers:

I think sometimes they [the social workers] are the wrong person to be the case manager. You need somebody who is closer to the kid. So you need maybe that foster parent who is very proactive and very articulate or the child care worker that doesn't mind rattling some cages and saying "Hey you guys. What the heck are you doing? This kid needs this so let's get on with it" kind of thing.... Everybody's good at making suggestions but the follow through – what does it look like on a day to day operation? ...Nobody is following up.

To summarize, a number of significant organizational differences exist between the Ministry of the Attorney General and the Ministry for Children and Families that have either created barriers to, or opportunities for, ensuring the right of youth in custody to be treated with dignity and respect in practice. The flatter hierarchical structure of the

Ministry for Children and Families and its focus on integrated case management were both seen as opportunities whereas the number of Regional Executive Directors and the Ministry for Children and Families state of bureaucratic disarray were viewed as barriers. Participants discussed both positive and negative aspects of being a smaller part of a ministry as well as the varying levels of correctional experiences amongst middle and upper management in the Ministry for Children and Families. Participants felt that the Ministry for Children and Families' initiatives to implement integrated case management by adding a social worker to the youth custody centre and co-location social workers and probation officers were a good start. However, those interviewed recognized that the detrimental effects of the historical separation of youth services from other youth serving systems and the historical influence of the adult system would take a long time to overcome. Finally, the inadequacies of resources and information systems were raised as two additional barriers to implementing integrated case management in ways that would enhance the right of youth to be treated with dignity and respect.

The Youth Custody Facility

A third aspect of the context in which this study takes place is the facility itself which was used in this study. As described earlier, the custody centre is a 44 bed secure custody facility located on Vancouver Island. It houses both male and female youth between the ages of twelve and nineteen who have either been sentenced to a determinate period of secure custody or who have been remanded into custody. The centre employs approximately 75 different people to fill its 58 full-time equivalent positions. On average,

the ratio of staff to youth is 1:6. The inadequate and unacceptable physical state of this facility has been the subject of criticism for a long time. The facility is highly institutional in appearance, has no green space, no room for necessary expansion and has been losing programming space to accommodate a chronic overcrowding problem.

When asked if the change in ministries had directly impacted on the day-to-day operations in this youth custody facility, the unanimous response from participants was “No”. As one participant explained: “No, we didn’t notice a large impact on us here [in the youth custody centre]. We came as a package and it was pretty well business as usual.”

Organizational Structure

The organizational structure of the facility itself reportedly remains unaltered except for the fact that the Director now reports to the Regional Executive Director in the Ministry for Children and Families. Previously the Director reported to a district director with the Ministry of the Attorney General. The running of the facility is still overseen by three individuals: the Director, Director of Operations and Director of Programs. The Case Management Coordinator oversees the whole case management process. This individual completes the initial admission and screening of youth and assessment of the youth’s needs. He also oversees the visits, connections to the community and release planning for youth. Also on staff are full and part-time nurses. A physician, a psychologist, a psychological assistant, and a psychiatrist all visit the centre regularly and are available to meet privately with youth.

The interaction between management and line staff was reported by participants as always having been quite democratic and respectful. Participants perceived good relations and open communication between management and line staff . As one participant stated, “I think there’s maybe always been more of a tradition of democracy, particularly in a smaller centre like this.”

Line Staff

The transfer of responsibility for youth custody from the Ministry of the Attorney General to the Ministry for Children and Families has not had a significant impact on the line staff. Of the 58 full-time equivalent positions within the custody centre, approximately 35 are frontline correctional officers. Approximately one quarter of the correctional officers are female. Line staff are divided between “correctional officers” whose role the participants perceived to be mainly one of security and “program” staff who are responsible for delivering the various programs offered at the custody centre. Staffing is discussed in the later section on effective programs for youth.

Volunteers

In addition to the employed staff, approximately 150 individuals, generally university and college students, volunteer at the custody centre in the hobby and recreation programs. A sub-committee of the Family Court Committee meet on a monthly basis to review what is happening with youth in the custody centre and advocate on their behalf.

Programs and Services

The same programs and services exist in the facility now as were present with the Ministry of the Attorney General. Programs offered in the custody facility include school, alcohol and drug counselling, arts and crafts, recreational activities, and woodworking. Other programs include Second Step, the name for the violence prevention program and Breaking Barriers, the title of the cognitive based program about making life choices. Price Freedom One, Price Freedom Two, and Price Freedom Three are the alcohol and drug programs. Religious and First Nations services are also offered. These programs are discussed in more detail in the programmatic factors piece of the “Effective Treatment for Youth” section.

Legislation and Policy and Procedures Manual

The legislation which impacts on youth custody has not changed. Legislation includes the Young Offenders Act, the Criminal Code, the Child, Family and Community Services Act, the Freedom of Information Act, the Corrections Act of BC, and the Public Service Act. Other legislation mentioned by participants which impact peripherally include the Infants Act, the Adoption Act, the Child Care Act, and the BC Benefits Act.

Participants agreed that the Manual of Operations for Youth Centres is the overriding policy manual used in the youth facility. This document, developed by the Corrections Branch of the Ministry of the Attorney General, has remained virtually the same except for minor cosmetic changes such as language use and reporting structure charts. In

addition to the Manual of Operations are Local Standing Orders that apply specifically to this particular youth facility.

Physical Facility

The physical state of the youth custody centre has been described in detail previously. This outdated, institutional looking facility has no room for proper expansion and no green space. The recent renovations to add bed space resulted in the loss of programming space. The immediate need to rebuild this facility is obvious by the evidence given by participants from the overcrowded and depreciated state of the custody centre. These unacceptable conditions existed and continue to exist regardless of whether the Ministry of the Attorney General or the Ministry for Children and Families holds administrative responsibility for youth justice. Specific barriers resulting from the physical state of the custody centre to ensuring the right of youth in custody to be treated with dignity and respect are discussed in the next section on youth's rights. However, one practice resulting from the state of the facility itself is discussed here as a barrier – transferring.

Transfers

Under section 24.2(4) of the Young Offenders Act youth can be moved from one secure facility to another during their period of custody. Participants discussed that transfers occur for various reasons including youth who are causing trouble in the facility, youth who are bullying or have a high degree of control over the other youth in the centre, and youth who require a particular program that may only be available in one facility.

However, the most compelling reason for transfers given by participants is to relieve

overcrowding. Interviewees spoke about the practice of transferring youth when the count in the facility gets near the mid-40s. As one individual stated, “unfortunately here, we don’t have the luxury of always holding onto the kids that should be here. If we are getting overcrowded, we need to ship people.” Another informant emphasized that transfers could occur “at a moment’s notice...and this may be a kid who’s been here for a number of months, is fully engaged in a program but we’re down to the crunch and no one is exempt from transfer”. Since this facility is the only secure custody facility on the island, when youth have to be transferred they are sent to the mainland, usually to Willingdon in Burnaby, BC but participants stated that youth have also been sent to Prince George. Youth from Vancouver Island who are transferred to these locations are far from home. Though the recent renovations to the custody facility has temporarily alleviated much of the overcrowding, it still occurs due to the number of youth who are designated ‘room alone’.

Participants explained that several factors are taken into account in deciding who is going to be transferred. If youths have pending court appearances within a few weeks, they usually stay. If youths have been recently sentenced and have no further court appearances, they are more vulnerable to being transferred. Youth who have made a connection at the centre in terms of a therapeutic relationship, are less likely to be transferred. For example, if youths are working with a psychologist or drug and alcohol counsellor and making some progress they will likely remain. If possible, staff try and keep youth who have family in Victoria or the surrounding area, but as one individual stated

Quite often we have shipped kids who have family in Victoria who are very angry and upset and I'm saying I'm sorry but there just isn't a compelling enough reason to keep them here and run the count up over 50 because I know when it gets up over 45 it gets nuts here. Then you are creating an unsafe environment for all the kids so instead you sacrifice some of them.

Youth who are serving short-term custodial periods or are not engaging in programs at the centre are more likely to be transferred. However, as described by the key participants, youth at the custody centre are vulnerable to transfers at any point in time.

Therefore, it can be concluded that the transfer of administrative responsibility for youth justice from the Ministry of the Attorney General to the Ministry for Children and Families had little impact on the day-to-day operations of the custody facility itself. The same barriers and opportunities to ensuring the right of youth in custody to be treated with dignity and respect in practice which were present in the facility under the Ministry of the Attorney General, are still present under the Ministry for Children and Families.

In summary, participants noted various barriers and opportunities stemming from the context in which this study takes place in the areas of separation from the adult system, organizational differences between the ministries and the youth custody facility itself. The barriers and opportunities discussed in this section were of a broader more organizational nature. The next section looks at the barriers and opportunities which are more immediately felt by youth in custody organized around the five themes found in provincial, national and international legislation and conventions – the right to have custody used as a last resort; the right to a physically and emotionally safe environment;

the right to a facility which meets physical standards; the right to maintain contact with family; and the right to the rehabilitative aim of custody.

Rights of Youth in Custody

The articulated principles and guidelines of the Young Offenders Act, the United Nations Convention on the Rights of the Child, the Corrections Act, and the United Nations Rules for Youth Deprived of their Liberty, mutually reinforce one another on how services to youth should be provided, structurally and ethically. However, as Clark and O'Reilly-Fleming (1993) state in relation to another provincial context:

But clearly principles, no matter how noble their intent, when left unanimated by programmes represent merely broken promises, which have impacted directly to produce the current disarray in service provision to the youth in Ontario.... The principles are not apparently presented as an exercise in rhetorical idealism. Their purpose, rather, is to provide a functional integrity and moral order for policy decisions, the application of law, and the conduct of agents and agencies of social control. (p. 193)

Though Clark and O'Reilly-Fleming are discussing young offender services in Ontario, their points appear applicable to British Columbia. The gap that is revealed between the stated principles and the current conditions in youth custody is a testimonial to British Columbia's continuing inability to bring the stated principles fully into practice. This section will examine the five major themes that run through the various conventions and pieces of legislation in relation to the findings of this study.

Right to Be in Custody only as a Last Resort

The UN Rules article 1, the UNCRC Article 37, Article 3(1f) of the Young Offenders Act state that custody should only be used as a last resort for the shortest possible period of time.

In brief, interviewees and research on the use of custodial dispositions argue that a significant portion of youth in closed custody should not be there for a number of reasons. This improper and over use of custody disposition appears to exist independent of what ministry is responsible for youth justice. Specific areas that influence and affect the use of incarceration with youth were discussed by participants including the youth court system, lack of prevention and other services, and public perception of youth justice.

Youth Court System

Particular components of the youth court system were identified by participants which result in the violation of the right of youth to be placed in custody only as a last resort. The areas of the youth court system discussed included remands, sentencing principles of judges, and inconsistency in sentencing.

Remands

An area of concern in the youth justice system raised by participants was remands. Approximately half of youth in the custody centre are remanded awaiting trial or a sentencing hearing (Ministry for Children and Families, 1998). As discussed previously, under section 51 of the Young Offenders Act, youth can be held under pretrial detention before their trial or sentencing if it is believed that the youth will not appear in court or are a danger to themselves or others (Griffiths and Verdun-Jones, 1989). Participants discussed that though some youth are in need of being held, many others are not:

I had a kid come in one night and our count was 52. The police brought this kid in and they wanted to lodge him here because he had two joints. I said "I'm not taking him" and they said they had nowhere else for him to go. I said "Sorry, we are not a babysitting service" and asked them what

they would do if he was an adult. “Well, we’d give him a summons.”
“Well, summons him up because I’m not taking him!”

It was also felt that some lawyers carry caseloads which are much larger than they can manage. In order to prepare for the case or find a time in which the lawyer can fit a trial into their schedule, a youth’s case is remanded numerous times. As a result, youth end up spending much longer periods of time in custody than was felt necessary. One participant felt that lawyers should refer the case on to someone else if they are going to be away or very busy in order to minimize the time a youth is held in remand.

Before changes to the Canadian Criminal Code in 1995, youth remanded into custody to await trial had the right to have their case reviewed in court every eight days. Participants discussed how refusing to waive this right was a strategy used by lawyers to keep youth in a particular facility. Though this law has since changed and this right no longer exists, other avenues under the law are available to lawyers to keep bringing a youth back to court often, thus discouraging the facility from transferring the youth. For example, a lawyer may only adjourn the case a week at a time or make applications to the court for such things as bail hearings. One participant felt these strategies used by lawyers were, at times, a barrier to the best interests of youth. Youth who are going to be in custody for a lengthy period prior to their trial or sentencing may benefit from some programming, possibly in another facility. The custody centre may also wish to transfer youth because of overcrowding, trouble caused by the youth in the current centre, or the fact that they may be at risk or be a risk to someone else at the centre. For the youth, a number of reasons

may exist as to why they want to stay in the custody centre. Perhaps their family is nearby or they have a lot of control over the other kids at the centre that they may not have elsewhere. Regardless of the reasons, continuously bringing a youth back to court for whatever reason may result in a lot of additional travel and staff expense to bring the youth back and forth from a facility on the mainland. Youth may also be kept in a facility that may not be meeting their needs or in which they are causing a lot of unnecessary problems.

The concerns around remands and delays in court were summarized as follows:

The adult system is exactly the same. The number of remands and the number of delays and the wasting of court resources and time with all the remands that are happening every day is just a travesty of justice. I mean, it should not be happening.

Sentencing principles

The participants indicated that sometimes they felt youth who do not necessarily belong in youth custody were placed there by the sentencing practices of judges. When asked what sentencing principles judges used when deciding on a disposition, the majority of participants stated that youth being a risk to themselves or others was a primary consideration as well as the severity and impact of the crime. The past history of the youth including what other measures have previously been tried to curb the youth's offending behaviour, were also raised as a factor which influences sentencing. Numerous participants also felt that at times, judges placed youth in custody out of desperation created by a lack of services elsewhere. One individual stated:

I think that on occasion we are used as a babysitting service, as a place to put a kid until something can be found for them. Jail is not the place for some of these kids and they are just placed here as a holding facility until something more appropriate is available. I don't think that judges place the kids in custody without good cause but I think there could be better reasons not to have them in custody. There should be something more.

More specific details around the services that participants felt are lacking are discussed in a subsequent section.

The need for denunciation was another factor raised as an influence on a judge's disposition. One participant commented that:

I think that part of the incarceration rate is a judicial impression that regardless of the needs of the kid, there's this need for denunciation. You might say this is a kid whose risk of reoffending is not that high or like the kid who does lots of property crime but he's never hurt anybody. Does he really need to be in jail? Well, he keeps violating court orders, he has a terrible attitude, he won't cooperate with anybody, therefore we need to put him in jail. So there is that sort of denunciatory attitude that this kid has a real attitude that we've got to do something to give him a shake.

Inconsistency in sentencing

The participants generally agreed that sentencing in youth court is quite inconsistent. One participant stated: "Some judges are really tough and some judges are not so tough... We just had a kid who was sentenced to fourteen months for B&Es [break and enters] and we've had people who got less for very violent crimes." A number of individuals pointed out that judges rotate in and out of youth court and though there are a few judges who quite regularly sit in youth court, the constant rotation of judges causes much inconsistency in sentencing. A number of participants felt that a longer rotation of judges and crown counsel in the youth court would improve consistency with one judge who has

been sitting in youth court for quite some time always present. A two-year minimum term was suggested with a one-year overlap between judges coming into youth court and judges leaving.

A number of individuals also pointed out that inconsistency in sentencing is not just a local or provincial problem but occurs across the country despite the fact that youth justice falls under a federal statute.

Lack of Prevention and Other Services

A second major theme which emerged in the interviews with participant regarding the use of custody as a last resort was a lack of services for youth pre- and post- custody.

A number of individuals discussed the tendency for programs and services to be reactive in nature and the desire to have a greater focus on prevention and early intervention programs. However, as one individual stated:

Everyone in the world knows that if you put some dollars into the front end that overall it is going to be of great assistance in the long run. Just by identifying that relationship, provision of services at the front end is a much more preferable alternative than to walk down the road of eventually youth custody. We haven't been able to achieve nearly as much success in that area as we'd hoped... We are so crisis-driven in this Ministry.

Participants also identified a few significant groups of youth with particular needs that would be better met elsewhere but who end up in custody due to a lack of resources. As one individual found:

We become the catch-all for everybody. A lot of the kids are here because they need to be here but there are a lot of situations that happen where kids end up here when they don't need to be here.

Staff at the custody centre conveyed that they had done a snapshot survey a few months ago and found that in 30-40% of the cases, there was no compelling reason why the youth was in custody. They were in custody because of a breach or they would have been more appropriately placed in another type of facility; i.e. mental health, alcohol and drug. Some specific gaps in youth services were identified which were felt by participants to lead to youth whose needs would be better met elsewhere, being placed in custody.

Youth with mental health issues

According to the staff at the custody facility, a significant proportion of youth there has been diagnosed with some type of mental health issue. As one individual stated:

Kids with mental health concerns are becoming an increasing problem for us. On any given day we've got 60-70% of our kids with mental health concerns. At least 20-30% of those kids maybe should be somewhere else rather than in jail.

While youth are in the custody centre they have access to a youth psychologist. However, as one participant emphasizes, "where the rubber hits the road is when the line crosses and they actually need residential [mental health] treatment as opposed to custody." There are no residential treatment facilities where youth can serve custody time available in the province.

Though custody centre staff receive some training on dealing with youth who have mental health issues, the majority of staff do not have extensive training or background experience in this area. However, as one individual pointed out:

We are lucky locally, ironically, because I think that the centre has been amazing in how they've coped with these kids for not really being fully trained. I mean they are not mental health professionals and I am always amazed that they haven't had a major incident with the overcrowding and all that kind of thing. But ironically, when they do such a good job, the judges sit up on the bench and feel no compulsion to find something else.

Youth with addictions

Another group identified by participants as ending up in closed custody facility when they should be in specialized service are youth with addictions. As one individual stated:

I have, on more than on a few occasions, and this is tragic, but you have these kids that are out there, they are just totally out on the drug and alcohol scene and they may be prostituting, and really at risk to themselves and I guess somewhat to the community but to be really honest, more of a risk to themselves. So in desperation, because you think this kid is going to head off with a pimp for somewhere, you get her arrested and put into custody where she is going to get three square meals a day, some sleep and you've got a whole new person. She is detoxed, she can think straight and she can make decisions.

Again, the staff at the custody facility is not all trained as alcohol and drug counsellors, nor is the facility equipped as a detox service. A variety of group counselling programs are offered and self-assessment and individual counselling sessions are available to longer-term residents by the contracted alcohol and drug counsellor who is regularly at the centre.

Youth who are appropriate for open custody

Youth who are placed in closed custody but probably appropriate for open custody is another group of concern raised by interviewees. One individual expressed that:

There is one group that concerns me that we get that I don't think need to be here and it is Victoria kids who are probably appropriate for open custody but because we don't have open custody, they get a secure disposition and in fact their lawyers or their parents request it so they can stay in Victoria. I don't think it is a huge part of our population, and at one time there may be 2-3 kids in here that fall into that category out of 40-50 kids, but it does concern me that secure custody in those cases is being used inappropriately.

As discussed previously, only one open custody facility exists on Vancouver Island in Campbell River. However, this is a male-only facility. Any female youth from Vancouver Island are sent to the mainland and this is also often the case with males as the open custody facility in Campbell River is often full.

A few individuals expressed concerns around the possibility of opening an open custody facility on the lower island. One individual stated that:

My concern is that if you have an open custody centre here, you will address those 2-3 kids who otherwise are in secure custody but I would bet that the judges will put a lot more kids in... You use what is in your neighbourhood.

Other participants felt that an open custody facility would be a good idea because it would allow for transition time for youth to adjust to greater amounts of freedom while still having some structure imposed. Another participant stated that when a youth is going to get a longer sentence they should "go open custody because, damn it all, quite frankly they have to work harder up there [in open custody unit]."

Lack of follow-up services

Planning for discharge and follow-up services for youth coming out of custody was discussed as a huge gap in services with detrimental effects. A number of individuals expressed dismay at the consequences of this gap:

That's my pet peeve with this whole system - the lack of transition...If you've been free all your life and now all of a sudden you get thrown in jail and somebody's telling you what to do every second you are awake, you'd go "Whoa, this is just too much to process." But you wouldn't really have the chance to do anything detrimental to your safety or anything when you are put in that situation because someone is always watching over you. But if you go the other way and you have all that freedom, pressure and stress what do you do? You go out, find your friends, smoke some dope, beat someone up, rob their belongings and back here you are...You can't go from that much structure to that much freedom that quickly and expect any kind of success.

My concern is that there needs to be more resources and programs in the field. I think we are pretty program rich here [youth custody centre] but it is what happens to kids after release. There aren't enough beds or enough programs available to place kids appropriately so then they go out and we see them again in two or three weeks on a breach because there was nothing for them.

One individual, in discussing the lack of planning for a youth's release stated:

All of a sudden everybody realizes that Johnny is going to be released next week and everybody starts to scramble. And so this poor kid comes out, particularly if they are institutionalized and they need lots of back up and direction to get through this period of time. Well, all these professionals, we've just dropped the ball. Then we're running around wondering why the kid struggles and screws up. I think we could be doing a heck of a lot better. We are still in the stovepipe kind of thing but we have to start looking at fixing it up a lot better.

Participants felt that without quality follow-up services available to youth upon their release, the chances of a youth re-offending greatly increased.

A transition worker is contracted to the custody centre to support youth leaving the centre but as several individuals emphasized, that one worker is not enough. Besides demand, another barrier to supporting youth leaving the centre is the long distance many youth are from home. This distance impedes the coordination of services and continuity of relationships which is critical for effective follow-up services.

Public Perception

Another area identified by participants as being a barrier to ensuring that custody is used as a last resort with youth is public perception. A few participants discussed how they believe the public overestimates youth crime and has the view that youth are “out of control”. Consequently, the public outcry for increasingly punitive measures and demands that “we get tough on youth” influences government to make harsher changes to legislation, as seen in the amendments to the Young Offenders Act and influences court decisions. Participants felt that the public views other less intrusive measures than custody as being too “soft” and therefore unacceptable. The public perception regarding youth crime and the outcry for denunciation is a major barrier to treating youth in custody with dignity and respect and has existed regardless of which ministry was responsible for youth custody. As one participant emphatically stated:

I think part of the incarceration rate is a judicial and public impression that regardless of the needs of the kid, there’s this need for denunciation. That’s this real hearty tangible to deal with...I don’t know how you satisfy, and it’s one of the real challenges in both adult and youth corrections, is to satisfy that lust for denunciation without costing us a fortune and putting kids who don’t need to be in jail, in jail.... That’s the real challenge and I think we need to invest a lot more in public education and dialogue and debate and there is a certain amount of that going on but

that's the single biggest enemy to doing creative things in the corrections area. There is a public attitude out there that is pretty hateful towards offenders and intolerable [sic] and wants them locked up and wants them doing hard time.

Right to Live in Physically and Emotionally Safe Environment

The right of youth in custody to be safe from all forms of abuse, degrading treatment or punishment is articulated in Articles 19, 37 and 39 of the UNCRC and Articles 1 and 33 of the UN Rules. Participants in the study discussed numerous violations of these articles. Again, these breaches of rights appears to exist independently of what ministry is responsible for youth justice.

Articles 33, 34 and 35 of the UN Rules and sections 29, 30 and 31 of the Youth Corrections Programs Regulations of the Corrections Act specify the minimum physical standards of the sleeping accommodations, sanitary installations and privacy levels in a custodial facility. Participants explained that, due to the overcrowding situation at the custody centre, it is not uncommon for youth to be sleeping two, three or sometimes even four to a room. The custody centre subscribes to a policy of one youth per room. As one individual explained:

That's not because we think they're such wonderful kids they deserve to have a private bedroom. It's purely safety reasons that it in fact eliminates the danger of victimization and it also eliminates the danger of kids colluding and attacking a staff member who opens the door. So it's kid safety and staff safety.

But this one youth per room policy is not implemented in practice. The double or triple-bunking of youth in the custody facility violates these physical standards and does not

allow for youth to have personal belongings kept with them, something the UN Rules view as being “a basic element of the right to privacy and essential to the psychological well-being of the juvenile.” Obviously, with an increase in number of residents, the ability for privacy diminishes. One individual stated “the real challenge for use is the physical plant. I mean it takes so much away from individual’s right to privacy when they are all within six feet of each other. That’s a real barrier to how we operate right now.”

Overcrowding also places youth at a greater risk for victimization or abuse.

Overcrowding breeds the conditions under which peer abuse occurs. Incidents of peer abuse and other forms of violence or victimization were reported to increase when residential numbers rose above the custody centre’s capacity. In the 1994 inquiry into youth custody centres in British Columbia, the Ombudsman’s office found that peer abuse was a serious problem in these facilities and that “a feeling of hopelessness” existed among both the staff and the youth in an ability to address this issue (p. 1). In October 1992, the Making Changes: A Place to Start report also discussed the prominence of the problem of both peer and self-abuse in custodial facilities (p. 75).

Youth and staff interviewed for the Building Respect report stated that they believed peer abuse to be “an inevitable part of institutional life” (Ombudsman, 1994, p. 61). However, peer abuse is not found in every youth custody facility. The chances of peer abuse increases with “high noise levels, limited access to, or disruption of, programs and recreational activities, residents doubling up in rooms designed for one person or sleeping on the floor” (Office of the Ombudsman, 1994, p. 44). Though participants commended

the staff of the custody facility on their skill in recognizing the beginnings of conflict or abuse between youth and the swiftness with which it can intervene and control these situations, it was acknowledged that incidents of peer abuse still occur in the facility.

Right to Facilities which meet Physical Standards

As discussed in the previous section, the UN Rules and sections 29, 30 and 31 of the Youth Correctional Programs Regulations of the provincial Corrections Act specify the minimum physical standards of the sleeping accommodations, sanitary installations and privacy levels in a custody facility. The double or triple bunking of youth and having youth sleep in the lobby, visiting rooms, gym, etc. when overcrowding occurs, violates the space standards set out in legislation. Increased overcrowding also obviously puts strain on programming space and washroom:youth ratios. The absence of outdoor green space is also a violation.

Not only do these physical violations impact on the youth's physical needs but they also impact on other aspects of the youth's overall health. The Ombudsman's report (1994) emphasizes the importance of the architectural aspects of the facility in promoting rehabilitation. A building which "is more aesthetically pleasing gives youth a clear message that they are young people in need of rehabilitation not punishment" (p. 18). If one sees the validity in this argument, it is obvious that the "highly institutional appearance" of the custody centre is conveying a retributive not restorative message. The physical structure of the youth custody centre also impedes program implementation. The physical environment of the custody facility can promote or hinder certain behaviour and

also convey to youth what is expected (Rivlin & Wolfe, 1985) The loss of program area to beds, the cramped space currently available for programs, and the increase in the number of individuals in each program due to the overcrowding, are all destructive to effective program implementation.

Right to Maintain Contact with Family

According to the orientation package given to youth arriving at the custody centre, youth in the custody centre can maintain contact with family and community in different ways including mail, telephone calls and visits. Youth wishing to write letters are provided with paper, pencils and envelopes. Any outgoing mail can be examined by the staff. Youth are also entitled to receive mail. Any incoming mail is examined by staff “for contraband and inappropriate content” except privileged correspondence (i.e. lawyer, Ombudsman).

Youth can make telephone calls during visiting hours to parents, guardians and relatives who have been approved by the case manager. Calls to professional contacts, i.e. lawyers, can be made during the day and may be received at any time. Phone calls are limited to 10 minutes in length and “except for calls to and from professional contacts can be monitored for security reasons.” Youth’s use of the telephone is limited by availability of telephones, staff to monitor calls, and behaviour within the facility.

According to one participant, visiting with family and significant others is encouraged in the facility. Visitors must be approved by the case manager and are limited to parents,

guardians and relatives. No visits with teenaged friends are allowed. Scheduled visiting times at the facility are as follows:

Monday to Friday	4:00 pm – 4:45 pm 6:00 pm – 8:45 pm
Weekends and Holidays	11:00 am – 12:30 pm 1:15 pm – 2:30 pm 4:00 pm – 4:45 pm 6:15 pm – 8:45 pm

Professionals such as probation officers, social workers, lawyers, etc. can visit at any time.

Though philosophically the custody facility encourages visiting, in practice a number of barriers were mentioned both by those interviewed and in the document review to enact Article 37 of the UNCRC, which specifies the right of youth deprived of their liberty to maintain contact with his or her family. Only one closed custody facility exists on all of Vancouver Island and three other facilities serve the rest of British Columbia. The scarcity of these facilities, along with the common practice of transferring youth between facilities, were issues raised by participants as two major factors contributing to youth often being far away from their home communities while serving their custodial dispositions. As discussed earlier, when the custody centre reaches residential counts around 45, youth are transferred to other facilities such as Willingdon in Burnaby, BC. For a youth whose family is on the island, this transfer can seriously impede the family's ability to maintain contact and visit with the youth. Participants reported that the custody centre tries to take into consideration the whereabouts of a youth's family when they make decisions about moving. However, it is not always possible to keep youth near their

families. The Community Panel, in the Making Changes: A Place to Start report (1992) indicated that many youth in custody facilities are far away from their communities and families, thus the contact is minimal, if at all. Participants also raised the point that if youth are far away from their home communities, it becomes difficult to maintain or develop any connections between the youth and support services in that community. Participants felt these ties are critical in supporting the youth's reintegration into their communities upon release from custody. Placements far away from the home community also impede the ability of probation officers to maintain contact with youth on their caseloads. Heavy caseloads amongst probation officers and social workers often do not allow for the time required to bridge distances for individual youth. This lack of connection was expanded further in the 1994 report from the Ombudsman's Office, Building Respect, where it was found that visiting in the youth custody centres in British Columbia was severely restricted by limited visiting space, inadequate staffing to supervise visits, and minimal hours of visitation dependent on the schedule of the facility. The overcrowding at a custody centre further restricts the access youth have to phones and personal contact. If the visiting time, space and amount of supervision remain the same, though the number of youth increases, less contact will occur for all youth.

Right to Rehabilitative Aim of Custody

Overcrowding and access to reintegration services interfere with a youth's right to the rehabilitative aim of custody, as emphasized in Article 39 of the UNCRC, Articles 31,

32, 79 and 80 of the UN Rules and sections 3(1a), 3(1c), and 3(1c.1) of the Young Offenders Act.

Overcrowding

Independent of which ministry is responsible for youth custody, the issue of overcrowding is a major barrier to ensuring that the right of youth in custody to habilitative programs. The Ombudsman's office (1994) points out the importance of being able to group youth appropriately in a custody facility by considering such factors as age, type of crime committed, previous history, physique, and mental and emotional maturity. One can see the logic in this argument if the example of housing a thirteen year old first time offender with a seventeen year old chronic offender is considered. In order to address the unique needs of each youth, young offenders need to be grouped accordingly to facilitate effective program planning. In an overcrowded facility, situations conducive to peer abuse and lack of opportunity to build on youth's potential exist, and frequently appropriate grouping is not possible.

Program space

In order to alleviate the chronic overcrowding at the custody centre, a new living unit has recently been added (1999) by sacrificing the old games' room for a classroom and renovating the old classroom into a new living unit for fourteen youth. However, as a number of individuals pointed out, programming space was lost in order to increase living space. This creates other issues and problems, as one individual explained:

We've increased our bed load but by doing so we've eliminated program space. So in one respect it's going to be good because you are not going to have kids at each other's throats in the middle of the night because they are

going to be sleeping in separate rooms now. But during the day we can only have so many kids in programs so there is going to be a large group of kids elsewhere that are going to be at each other's throats because they can't get into programs.

A number of individuals discussed the staff's struggle to manage everyday operations when the centre is above capacity. Though extra staff can be brought in, as one individual explained, "it almost compounds the problem. You have too many people tripping over each other. A lot of bodies, not enough programming space and so on."

Program capacity

Overcrowding also impacts heavily on programs. In any given day, only so many programs and only so much programming space are available. Though staff try to accommodate each youth as best as possible, some cannot go to programs because there is no room or there may be a compromise of one arts and crafts block a week instead of three. Staff also spoke about wanting to begin other programs such as parenting groups, gardening, etc. but were unable to because of a lack of space.

Reintegration Services

It is also important that the unique needs of young offenders are addressed in the context of the rest of the offender's life in order to maximize the potential of these young persons to successfully reintegrate into their community upon their release. The significance of promoting the youth's integration is emphasized in legislation and conventions. However, numerous reports referred to in this review document state that this goal is not being achieved in the current youth justice system.

In the Making Changes: A Place to Start report, the Community Panel stated a lack of planning for the release of youth existed and despite the fact that the Young Offenders Act calls for the provision of treatment and rehabilitation services for youth, this goal cannot be realized under the current system. In 1992, the Ombudsman's office acknowledged the serious lack of planning services offered to youth while in custody and in 1994 this office found "BC's youth custody facilities offer a patchwork quilt of programs that depend on the availability of resource persons, varying talents of staff and the personal priorities of administrators [resulting in] sporadic offerings of programs" (p. 27). With the high residents' count in the custody centre, available programs are in constant demand and overflowing.

Despite initial fears that specialized services for young offenders would be swallowed up in the Ministry for Children and Families, leaving little or no services for older youth, the majority of participants have found that young offenders' access to services has increased or at least not gotten worse. One participant reflected:

Contrary to a lot of people's fears in the youth justice side, kids are actually getting better access to resources, or at least no worse. Initially, and this was my fear, was that the kind of specialized community alternatives to custody programs we had would end up being kind of absorbed and used for younger kids and again, it's a difficult kind of argument to make, but essentially leaving those resources not available or less available for older adolescent young offenders. In fact the reverse to some extent has happened [greater access to other services for young offenders].

The Ministry also attempted to improve the coordination and integration of its services in the 1997/98 fiscal year by beginning the Contract and Program Restructuring (CPR) initiative with the following goals (as quoted in Allen, 1998):

- redefine services from the client's perspective and restructure services to meet the new definition;
- better integrate and coordinate programs and services offered by the ministry to fill in gaps in service delivery;
- streamline bureaucracy and administration to maximize dollars in front-line services; and
- use good business practices to provide government services as efficiently and effectively as possible (p.1)

The aim of the CPR process was viewed by participants to be a positive step to improving service delivery to youth in custody facilities. However, in April 1998 a review of CPR was completed by D.E. Allen Consulting Ltd. resulting in a discontinuation of the CPR process with the recommendations for the Ministry to “take more time to achieve change; to clarify objectives, priorities and processes for integrated service delivery; to refine and develop integrated financial and information systems; and to build relationships through dialogue” (MCF, 1998, p.2). As one interviewee explained, the Ministry is now deciding on “how can we forward this discussion and work this through in a consensual sort of way with people who provide services in the community”.

A few informants discussed their frustration in trying to access existing programs and services for youth coming out of custody. Participants explained that programs are often mandated to serve a certain population of youth - for example, youth in care, youth at

risk, young offenders, etc. The rigidity of these limitations has negative consequences to meeting the needs of youth in practice. As one individual stated:

I think we still tend to focus - I come up against this all the time - on what the institution or the program needs and not what the kid needs. Oh sorry, you can't put that kid in that program because they are not in care. They have to be in the care of the Ministry before they can access that program, or vice versa kind of thing. It gets a little frustrating.

Other individuals spoke about how program needs undermine good service delivery. For example, a youth may have been working with a youth worker for a significant period of time and has built up a trusting relationship. However, if the youth becomes involved with the youth justice system, the involvement with this youth worker may be severed because the youth worker is only mandated to work with "youth at risk." The value of a therapeutic relationship, which many interviewees felt is key to effective practice with youth, is not recognized.

An integration and coordination of services for youth, including those who have been in custody, was definitely advocated by the participants and was seen as a key factor in treating youth with dignity and respect.

In summary, this section of the findings examined the five major themes – the right to have custody used as a last resort; the right to a physically and emotionally safe environment; the right to a facility which meets physical standards; the right to maintain contact with family, and the right to the rehabilitative aim of custody. As stated earlier, the right of youth in custody to be treated with dignity and respect in custody is more

likely to be honoured if effective quality programs are supported by an effective organization which is oriented towards youth, rights and services. Participants raised numerous barriers and opportunities to ensuring these rights in the custody facility, the majority of which have not been affected by the shift in administrative responsibility from the Ministry of the Attorney General to the Ministry for Children and Families. The next section of the Findings chapter examines the programmatic and nonprogrammatic features of effective programs and the disciplines of an effective organization in relation to the perspectives of the interviewees.

Effective Programs

As discussed in the literature review, there is a predominant view in the literature on effective treatment with young offenders that custody without treatment simply does not work (Andrews and Hoge, 1995). Research has shown that both programmatic and nonprogrammatic features impact on the level of success achieved. These factors will now be discussed individually as they relate to the findings from the case study.

Programmatic Features

Little agreement has been reached on which programmatic features are the most successful with young offenders. However, extensive reviews of effective rehabilitation and reintegration programs seem to indicate that programs with a wider breadth of intervention and offering a combination of program components are more effective (Andrews, et al., 1980; Federal-Provincial-Territorial Task Force on Youth Justice, 1996; Lee & Haynes, 1980; Palmer, 1995). Though a thorough assessment and evaluation of the programs offered at the custody centre is beyond the scope of this study, several areas

were raised by participants relating to programmatic features. Participants viewed the effort put into programs and services within the custody centre as indicating that the custody centre itself is not simply focused on incarceration.

A focus on cognitive and social skills has been found to be a component of effective programs (Andrews and Hoge, 1995; Task Force on Youth Justice, 1996). A number of programs in the custody facility target cognitive and social skills development. These programs include Second Step, a violence prevention program; Breaking Barriers, a cognitive-based program focusing on making different life choices; an educational school program; and Price Freedom, an alcohol and drug intervention program. Participants generally agreed that these programs are beneficial to the youth in the centre. In particular, the school program was highlighted as a strength of the custody facility. A few participants indicated that they felt some programs needed to go further and be more intensive than what is currently offered. For example, one participant stated that Breaking Barriers is more of a treatment readiness type of program and that it needs to be followed up with a more sophisticated and intensive cognitive skills development program.

Group counselling is another component which was found in some research to increase the quality of a program (Task Force on Youth Justice, 1996). Participants reported that the majority of the programs offered in the custody centre are done in a group format and this was felt by the participants to work well.

The literature review of youth's input into what they found effective in treatment showed that youth stressed family counselling (National Crime Prevention Council, 1997). Several participants indicated that family work was an area the staff at the custody centre is interested in pursuing and that they viewed it as important to supporting youth in successfully reintegrating in their home communities. However, staffing levels and space were two barriers perceived by participants in implementing family counselling programs. Youth who are far away from home was another barrier raised by the participants. One individual also indicated that in the past the custody facility had attempted to organize a parents' group but received little interest from parents.

There is some evidence that the needs of many youth in the justice system are best met outside of the custody facility, and in the youth's community (Bazemore and Umbreit, 1995; Doob, 1990). This program factor speaks to the importance of having programs in the community in order to prevent youth from entering the custody facility in the first place. The lack of prevention and early intervention programs was discussed in the previous section. Participants in the study all stressed the lack of early intervention and prevention programs available in the community. It was felt that if more of these types of programs existed, many youth would never end up in the custody facility because they could receive the support they need to get them back on track before they become too heavily involved in criminal activity. One participant stated:

If we could only get a continuum of care, if we could get positive activities for the kids to do that are affordable. Get counsellors into the schools that can get to a kid without a two-year waiting list. Test the kids for learning disabilities and get them the help right away, not in two years. By that time they can never really catch up with their peer group. It is just too

late....And then there is the whole business of kids that do fall off the rails, getting them back gently [first time offenders or offenders who commit minor crimes] rather than throwing them into the justice system. So if they've got a drug problem and they are stealing to feed that, then maybe we can try and get them off the drugs or do something differently than what they are doing now.

A second area of community programs that was raised was follow-up services for youth upon release from custody. If a youth has made progress in custody, key to continuing this success is follow-up support upon release. The lack of follow-up services available to youth leaving the custody facility was discussed in the previous section. Participants all agreed that follow-up support is crucial but lacking as only one transition worker is available for all youth leaving custody. For youth from up island or the mainland, transition and follow-up support in their home communities is even more difficult.

Most participants discussed the lack of resources within the Ministry for Children and Families and how this is a barrier to the development of comprehensive programs. As stated before but worth repeating:

The reality is that if you take an under-resourced child protection system, an under-resourced youth corrections system, an under-resourced mental health and addictions system and put them all together you get one big under-resourced system. Putting a ministry together like that has not resolved the problem of shortages of resources.

Without a proper investment by the government to develop a strong continuum of services for youth, participants felt that barriers to ensuring the right of youth in custody to be treated with dignity and respect would continue to exist in the system.

Nonprogrammatic Components

Looking beyond programmatic components, some researchers have examined nonprogrammatic aspects of effective programs. These are now discussed in relation to the findings of the study.

Relationships

The importance of therapeutic relationships emerged in the literature as a crucial component in effective treatment (Bowlby, 1989; Brendtro, 1998; Maier, 1994; Moore, et al., 1998). Participants in the study also emphasized the importance of therapeutic relationships. The majority of individuals interviewed emphasized the importance of relationship building between youth and staff. Line staff at the custody centre are encouraged to talk things out with youth and develop a professional relationship with them. However, as one informant explained:

It's a major effect [overcrowding]. Stressful, they don't have any time to spend with the kids and that's what we want. I mean, we tell people we want you to talk to kids. We want you to work things out with them rather than saying "Okay, you are going to your room, you are going to your room, and you're going to your room. Here's what you did wrong, here's what I want you to do, and here's what's going to happen if you do it again." That's the kind of philosophy we follow. But when it gets to that many kids, when you've got three staff in a room with maybe 25 kids, you don't have time for a lot of stuff then because you've got to watch everybody. Many times there is going to be violence that happens, kids picking on other kids, so it's really important that you are watching the majority of the kids during a period of time. You don't have time to say to a kid, "Hey, come here. I want to talk to you for five minutes." Now you are leaving your two buddies with 24 kids.

With chronic overcrowding, staff end up "watching" youth, not relating to them.

Consequently, therapeutic relationships are not formed, or take longer to form.

Most participants also commented on the respectful relationship which they perceive to exist between staff and youth in general. Respect appears to be a foundational element of therapeutic relationships (Children's Commission, 1999). Participants also spoke highly of what they perceived to be mutually respectful relationships between staff and management. These positive relationships will likely have a positive influence on the effectiveness of programs (Children's Commission, 1999). Participants made the following comments:

I have really been impressed with the relationship between the staff and the youth....It's always been a very respectful relationship both ways. I have been really impressed with how they have managed to maintain that personal respect even in the institutional setting and even in the power balance.

Most people who work here want to do things for the kids, want to try and help them and change their behaviour. Of course everywhere you go you are going to have a diverse style of staffing. Some staff think they [the youth] should be punished but I don't think most people here agree with that approach.

Some concerns were expressed regarding what participants viewed as this small percentage of staff who are corrections and punishment oriented. Though interviewees agreed that the majority of staff at the facility do not subscribe to this orientation, the influence of those that do was of some concern:

I don't want to be overly critical because there are a lot of good people there but unfortunately ... what happens in that kind of closed institutional environment is if you have even a relatively small percentage of people who come from a very negative kind of orientation, controlling and law and order and these are bad kids who need to be put in line then they can exert a tremendous amount of influence on the rest of the staff.

The issue of staffing is further discussed in the subsequent section on staff professionalism.

Personal Control and Empowerment

Raychaba's (1993) work with youth in care found that a sense of personal control and empowerment for youth contributes to youth internalizing new behaviours and being successful in their treatment plans.

Though interviewees seemed in agreement that youth should participate in the planning of their time in custody and afterwards, in practice this did not seem to occur a lot. Some participants acknowledged that youth should be given more control and empowerment in the centre, but several individuals felt this was not possible due to the very nature of custody. When asked how involved youth were, one participant responded: "Not very. Just because of the setting it's in." While in the centre, youth have little opportunity to make decisions about their daily activities. Though the case management coordinator meets with youth upon admission to discuss their individual programs schedule, many programs are "mandatory", thus not much choice is available. The extremely structured routine of the centre was viewed as resulting in a loss of control and empowerment. Daily life in the custody centre is described as being "highly supervised and controlled, and focuses on safety, security, and participation in constructive activity" (Ministry for Children and Families, 1998). Youth in the custody facility have a set schedule from 7:30 am – 9:30 pm on weekdays, have one hour of free time on Friday evenings, and four hours of free time on each weekend day. However, even free time has some structure around it as described in the facility's orientation package for residents:

Several hours during the weekend and occasionally during weekdays you may participate in “free time” activities. These include watching television, listening to music, or other activities organized by the staff.

This strict schedule does not leave room for youth to make many choices and decisions on how to spend their time. A number of individuals interviewed emphasized that many youth coming into custody need this type of control to be imposed so that they can begin to learn self control. One interviewee stated: “For many of these youth, it is probably the best thing that has ever happened to them in terms of providing a stable, predictable environment for them to live in and having that structure makes all the difference.” However, becoming accustomed to the strict schedule and structure of the custody centre can make things difficult for youth upon their release. When they return to the community, it is often hard to regain that control, as exemplified in the following statement:

Kids have told me “Boy, I was in here so long that when I woke up in the middle of the night, I knocked on my door to go to the bathroom.” That’s how you get, you get institutionalized. You can’t go from that much structure to that much freedom that quickly and expect any kind of success.

Again, the need for transition and follow-up programs for youth returning to the community was talked about by participants as greatly needed but currently lacking in the system. Participants also agreed in principle that youth should partake in their release planning. However, as discussed in a previous section on integrated case management, case management meetings take place on an ad hoc basis and not with all youth. As well, when the facility becomes overcrowded, the greater demand on staff’s time decreases the time available to plan for the youth’s discharge.

Most participants commented on the resident advisory committee as one avenue available for youth in the facility to have some control. This committee, made up of youth in the facility, meets once a month with the director, program director and case management coordinator to discuss issues, concerns, ideas, and complaints. However, it was perceived that most comments raised by the committee related to basic, immediate needs such as “I don’t like this on the menu” or “When are we going to get some new video games?” and not systemic issues such as overcrowding or programs available while in custody. One individual suggested getting ex-offenders involved in determining what programs are missing in the communities and schools and what can be done to fill in these gaps.

Consistency and Permanency

In his research, Raychaba (1993) identified high staff turnover, inadequate or improper placement of youth and short term placement of youth as possible barriers to attaining consistency and permanency for youth. Participants in this study also discussed these factors.

High staff turnover was not reported to be a problem at the custody centre, with participants reporting that the majority of staff had been consistent for quite a long time but the other two factors were discussed as barriers.

As detailed earlier, participants often discussed the inadequate or nonexistent services in the mental health and alcohol and drug treatment areas which resulted in youth being placed in custody who would have their needs better met elsewhere if these services

existed. The literature and study participants both agree that without proper placement and treatment, youth are much less likely to reintegrate into the community successfully.

Youth are placed in custody for a determinate amount of time set by the courts. While youth are now more likely to receive custody sentences than in the past, the custody terms have become shorter (Statistics Canada, 1998). The shortening of custodial sentences can be viewed positively; however, some researchers (Conrad, 1985; Gendreau, 1987) have found that frequent incarceration increases the chances of recidivism. Several participants discussed their perceptions of the negative aspects to the current pattern. Each time youth get sent to custody or are held in custody on remand, their normal routine in the outside world is interrupted. They are out of school or away from work, and out of a foster home or group home placement, or away from their families and support networks. The more often these interruptions occur, the harder it becomes for the youth to reintegrate into their normal routine successfully. Shorter custodial sentences without follow-up also do not allow for the time needed to build therapeutic relationships with staff or complete programs available while in custody. Participants emphasized that to address this barrier they are not advocating for longer sentences but instead the crucial need for follow-up services to support youth in moving from the custody centre to their community.

Transfers to other facilities due to overcrowding and being held in custody on remand also have a negative impact on staff and program consistency.

Consistency can also be viewed from the point of view of consistency in treatment approach and messages being given to the youth. Youth need clear and consistent

information in order to “promote healing” (Office of the Child and Family Service Advocacy, 1998). Participants all discussed how a lack of integrated case management often results in mixed messages being sent to the youth. One participant explained:

The biggest problem I think is sometimes you get too many people involved and they are all pulling in different directions trying to do the same thing. They are giving different information. Like if you are talking about a kid with an anger management problem well you have one program saying “Here’s how to deal with your anger.” Then you may have a psychiatrist coming and saying “Oh no, no, that’s wrong. Here’s how you deal with your anger.” And then you’ve got their parents saying “No, no, here’s how you have to deal with your anger.” So all that does is cause massive confusion for the youth. That’s the whole idea of the integrated approach is that everybody can be communicating and talking together and saying here’s what’s best for the kid.

Participants spoke about how the youth custody facility tried to foster consistency within its own operation. Cross shift meetings, weekly team meetings and staff supervision all try and ensure that staff are using a consistent approach with youth. Advanced training for staff was raised by participants as an area which would improve consistency.

A major barrier to consistency within the facility raised by the participants is the division between the line staff and the program staff. One participant stated:

The way Juv. [abbreviation for Juvenile Custody Centre] works now and my fear about the way it will work in the future is essentially you have program people and professional people vs. the line. What you really need to do is bring the line on board and make them part of the overall program which means that if you are doing cognitive skills or something, substance abuse awareness, life skills, whatever – that each of the staff members has to be trained in and familiar with whatever the kids are learning in these programs so that when they go out into the living units or they are out in the recreation areas that the staff members are dealing with them in a consistent way, reinforcing what they have learned in the course or program.

Suit program to youth - not youth to program

The literature review raised the need for programs to be flexible enough to meet the individual needs of youth and for proper assessments of the youth's needs to be completed to be the most effective (Office of the Child and Family Service Advocacy, 1998; Ross, 1991).

Participants discussed a number of factors impeding the ability of staff to complete a swift and thorough assessment of the youth upon their arrival at the custody facility. First, if the facility is overcrowded, staff's time is stretched and consequently, they have less time for each youth. Therefore, staff may not have the time required to spend with the youth to develop a relationship in which the youth feel safe enough to share or admit what programs they need. Secondly, participants discussed difficulties in obtaining information on the youth coming into custody and the amount of time they spend trying to track down social workers, probation officers or files on the youth. The youth custody centre is not yet hooked into the information system of the Ministry for Children and Families which would give them access to the past history of a youth with the Ministry. These factors all impede on the proper assessment of youth so that the right program can be determined.

As mentioned above, a core component of effectively meeting the needs of youth is matching the right program to the youth. Participants identified significant gaps in the continuum of services available to young offenders. Of greatest need were programs for youth dealing with mental health or alcohol and drug issues. Also mentioned as lacking

were programs for females and violent offenders. The shortage of these programs impedes the ability to meet the needs of individual youth effectively.

Staff Professionalism

Properly trained and qualified staff are generally considered important in implementing an effective program (Office of the Child and Family Service Advocacy, 1998; Ombudsman, 1994; Ross, 1991; Task Force on Youth Justice, 1996). Participants felt that the program staff hired to implement programs did a good job in doing so and were well qualified in the applicable areas. Some participants felt that more sophisticated programs could improve support offered to youth but that this would require more staff or further training of the current staff to implement.

An impediment to effective program implementation raised by participants was the lack of formal training – in particular for security staff. The majority of participants spoke about the split between program staff and security staff. As discussed above, for programs to be the most effective, these two groups cannot exist in isolation. The line staff need to be fully trained in whatever programs are offered in the centre so that the youth can practice these skills at all times and receive consistent and ongoing feedback and encouragement from staff. All staff in the custody centre need a knowledge base in adolescent development as well as in other specific challenges faced by youth including those involving mental health, alcohol and drugs, suicide, gender and ethnicity issues, abuse, and violence. The youth in custody often have multiple needs and in order to

receive the most effective support, all staff need to be fully trained to respond appropriately.

Though, as described in a previous section, participants spoke highly of the staff that work in the youth custody centre, a number of issues around staffing were raised which the participants felt impeded their ability to treat youth in custody with dignity and respect.

First of all, the historical link between adult and youth corrections led to staff choosing to transfer between the two systems. Consequently, some staff have come from an adult system and have not had any formal training in dealing with youth issues. It was felt by participants that the separation of these systems with the creation of the Ministry for Children and Families will alleviate some of the problems created by staff transferring between adult and youth systems. Though the option to transfer between adult and youth facilities is still possible, since the creation of the Ministry for Children and Families, it is much more difficult to do so.

A few participants felt that a major impediment to getting well qualified and trained staff into the custody centre is “the union component, that is the correctional component which is largely an adult component.” As these participants explained, to be hired as a youth correctional officer, you must take the Employment Readiness Training Program at the Justice Institute which costs approximately \$1500, is six weeks long, and is in New

Westminster. Completion of the program does not guarantee you employment. However, if you are hired, you begin on the auxiliary list which gives you part-time employment and you work your way up the seniority list until eventually you become a regular employee. As one participant observed

if you look at how that whole process works it really acts as a disincentive for more qualified people to come and work because if somebody has graduated with a diploma or an undergraduate degree, they are looking and saying "I just finished school. I've got to go and pay another 12-1500 dollars plus living expenses. There is no guarantee of a job and even if I get a job it is going to be part time. I might work two days a week." So you are not likely to attract those kinds of people.

Participants expressed that as long as the workers in the youth facility remain with the adult corrections union that it would continue to be difficult to attract staff with a social and health services focus as opposed to individuals with strictly a correctional focus.

For staff currently working at the custody centre, further training in specific areas was raised as a huge need. Though participants agreed that the staff do an excellent job in difficult and trying circumstances, further training is always needed to support both youth and staff. However, a number of factors impede the training of staff. Resources is one and the second is a lack of advanced training being offered. As one participant described, the Employment Readiness course used to be paid for by the Ministry for newly hired staff. Then it was changed so that individuals wanting to work in corrections had to take the course, at their own expense, first. The rationale behind this change was, as one participant described,

They were going to take all that money that they were spending on training people in Vancouver and put it into advanced training for staff... Well, that

was a really nice idea but apparently all that money they were spending on training people got lost somewhere, it just disappeared. The advanced training was supposed to get better. We'd have courses for sex offender training, high risk offenders, mentally disordered offenders, suicide prevention, all those kinds of courses, the advanced courses. At first there was a fair number, now they are just dwindling and dwindling and dwindling. Two years ago there was no courses all year. They kept scheduling them and they they'd cancel them.

Participants felt that proper education and training would ensure the right of youth in custody to be treated with dignity and respect.

Learning Organization

Programs can be strengthened or weakened depending on the effectiveness of the organization within which they are run. In order for an organization to be effective, Peter Senge (1990) argues that five disciplines need to be present - personal mastery, mental models, shared vision, team learning and systems thinking. Each concept is discussed in relation to the study findings in order to determine to what extent the Ministry for Children and Families can be considered a "learning organization."

Mental Models

Mental models encompass assumptions that influence our view and understanding of the world (Senge, 1990). These internal paradigms, or mental frameworks, are the lenses through which we see and act upon the world. Therefore, the mental models which individuals working in the justice system have concerning their work, young offenders, other professionals, and the justice system will have an important effect in practice.

The mental models that individuals have about other professionals emerged in most of the interviews. Those interviewed perceived that the majority of people working in the youth justice system viewed social workers as the “bleeding hearts” and probation officers as the “heavies.” These two roles were viewed as oppositional, leading to little coordination of services. An important component to treating youth with dignity and respect is providing adequate services and proper rehabilitation and follow up services to youth. If probation officers and social workers are not coordinating their efforts, too many or too few people are involved. This becomes confusing for youth because they will receive mixed messages from those involved or they will not have access to the proper programs and services. The Ministry for Children and Families’ focus on integrated case management is attempting to influence these inaccurate mental models.

Inadequate or inaccurate mental models also have a negative effect on relations with other disciplines in a learning organization. For example, participants spoke about the role of the probation officer not being understood and consequently, probation officers not being seen as being team players or sharing the same vision for youth services. The varying knowledge and experience in youth justice of individuals in middle and upper management was also raised by individuals as creating inaccurate mental models. In practice, these misunderstandings led to participants expressing varying degrees of support and understanding in the ministry.

It appeared that most participants had similar mental models in relation to young offenders. Treatment and habilitation was seen as a fundamental component of an

effective youth justice system and custody. A genuine commitment to provide quality services was expressed by all participants. It was agreed that youth needed to be held accountable and responsible for their actions but that this accountability needed to be balanced with treatment and habilitation.

The long standing mental model that youth corrections should be kept separate from other youth-serving systems seems to be breaking down. All participants supported the move towards integrated case management and integrated youth systems. However, though participants generally had similar mental models regarding young offenders, they expressed varying degrees of recognition and concerns regarding the extent to which these views are implemented in practice. Often these mental models did not match the conditions under which the interviewees are working. For example, though they agree that a fundamental component of effective treatment is habilitation, individuals working in the youth custody centre are in a physical environment which is completely contrary to a treatment environment.

Personal Mastery

Personal mastery involves our personal vision and focusing of our energy (Senge, 1990). All participants appeared to be genuinely committed to meeting the needs of youth in custody and treating them with dignity and respect.

At times, individuals expressed frustrations and concerns around still feeling “separate” from other youth systems or not being understood in terms of the role and function of the

youth justice system in general or their role in it, in particular. These factors all negatively affect the sense of personal mastery of individuals.

Participants also all appeared to be quite realistic about their expectations towards where youth justice was heading and its integration into the Ministry for Children and Families. Participants' comments around this transition being "a long-term process" and "it's still really early" reflect an understanding that these changes are not going to occur overnight.

Participants also expressed cynicism around a new custody centre being built. As stated previously, the first plan to replace this facility was completed in 1982 and since that time, many reports, investigations and inquiries have advocated, to no avail, for its replacement. When discussing the new centre, interviewees generally made comments which were cynical about the possibility of having a new centre within the next five years. The comments included referring to the new facility as "dreamland"; another participant stated that whenever the new facility was discussed "staff roll their eyes, and say "Yeah, yeah, we'll believe it when we see them pouring the concrete!". Another interviewee pointed out "There is only so much money to go around although Treasury Board did give approval to proceed on the new site. Though they've done that before so it doesn't mean a whole lot because when financial times get tough it comes off the planning process." The cynicism that exists around the building of a new facility definitely has a negative impact on those working in the youth justice system internalizing the vision of the Ministry for Children and Families as being "youth-centered" given the physical conditions they work in every day.

Shared Vision

A shared vision focuses the organization on a common purpose and goal (Senge, 1990).

The mission statement of the Ministry of the Attorney General reads: “to provide an accessible and fair justice system, responsive to the needs of the people it serves.”

(Ministry of the Attorney General, 1997, p.1). The Ministry of the Attorney General is responsible for the administration and delivery of justice services to all communities in British Columbia. The Corrections Branch of the Ministry of the Attorney General is “responsible for the delivery of provincial institutional and community-based correctional programs.”

The Ministry for Children and Families’ mission statement is “to ensure a child-centered, integrated approach that promotes and protects the healthy development of children and youth while recognizing their lifelong attachment to family and community. Communities and clients must be an integral part of the work of this Ministry. Quality assurance, accountability and openness are fundamental to its success” (Ministry for Children and Families, 1997).

When commenting on the differences between the mission statements of the two ministries, participants generally felt that the Ministry of the Attorney General’s mission statement has a narrower focus on public safety and overall fairness in the criminal justice system. The mission statement of the Ministry for Children and Families, on the other

hand, was believed by participants to be much broader in scope and focusing on the individual needs of youth.

When commenting on the mission statement, participants agreed that even though the mission statement of the Ministry of the Attorney General is much more “corrections” and security oriented, the youth custody facility before and now has always strived to take a youth-centered approach. As one participant expressed:

I mean, public safety is important but we are here to deal with youth so that’s what we do. The only reason we are here in this facility is because we have youth in custody and we provide programs and opportunities for them to learn and grow and change their behaviour and develop cognitive skills and abilities to avoid those lifestyles and behaviours that got them here in the first place. The entire focus is on the youth.

For the most part, participants felt that the mission statement of the Ministry for Children and Families was compatible with the youth justice system, though some components were viewed as incongruent. As one individual stated:

...what you do in youth justice sometimes, and it doesn’t have to but it does, clashes a little bit with the general thrust of the ministry which is the health and well-being of children, the protection of children and all that. Yet we are in an enterprise where we lock kids up. I don’t apologize for that but sometimes we lock them up in some pretty awful places. It is a bit of a clash and there is a peace officer and an officer of the court function which is very different and there is a public safety role to play. It’s not necessarily inconsistent but there are some points of incongruence, I think.

Again, the physical state of the custody facility was viewed by those interviewed as being a barrier to fostering the Ministry for Children and Families vision of a “youth-centered” approach.

Team Learning

The discipline of team learning is the ability of a group of individuals on occasion, to suspend personal assumptions and views and work and think together for the good of everyone.

The Ministry for Children and Families' focus on integrated case management has created the opportunity to increase the team learning of individuals in the Ministry. By having an integrated approach, professionals are beginning to learn about the roles and responsibilities of others and are breaking down stereotypes. More of a cooperative approach is being taken to meeting the needs of youth, whereas before it was more of a case of "He's your problem not mine". As one individual stated, "People can't say "He's your kid" anymore and that forces people to take responsibility." However, as discussed earlier, integrated case management is still far from being fully implemented in the Ministry.

Systems Thinking

One of the premises that the Ministry for Children and Families is built on is that of systems thinking. Systems thinking involves seeing wholes and the interrelationship amongst pieces. One of the identified problems which led to the creation of the Ministry for Children and Families was the lack of integration and coordination of services. For youth justice, its connection to the adult system and separation from all other youth-serving systems when youth justice was with the Ministry of the Attorney General is reflective of a non-systems thinking approach. Integrating youth justice into the Ministry

for Children and Families philosophically recognizes that youth involved in the justice system need to be looked at as more than just “criminals”. However, as the findings of this study indicate, barriers still exist which prevent this philosophical shift to be implemented in practice.

Transition

Researchers argue that how a major organizational transition is handled will greatly affect the ability of an organization to implement the five disciplines of a learning organization (Bridges, 1991). As discussed in the section on organizational differences between the Ministry of the Attorney General and the Ministry for Children and Families, barriers to ensuring that the right of youth in custody to be treated with dignity and respect is honoured in practice were raised by participants as stemming from how this transition was managed and implemented.

Participants spoke about the perceived state of disarray within the Ministry for Children and Families and the negative impact this chaos has on decision making and the ability to fulfill administrative responsibilities. Though Bridges (1991) argues that organizations making transitions need to go through a period of chaos which he calls the “wilderness” in order to internalize significant changes and make new beginnings, the several participants in this study felt that this disarray was not being dealt with by the Ministry and would therefore continue indefinitely.

Also key to successful transitions is the ending of the old ways and the starting of new beginnings (Bridges, 1991). Findings in this study indicate that the creation of the Ministry for Children and Families has set up the expectation for change and improvements in services for youth in custody, yet very little impact has been felt in practice in the youth custody facility itself. Major barriers to ensuring that the right of youth in custody to be treated with dignity and respect is honoured in practice exist independent of which ministry is responsible for youth justice. If not addressed, these barriers, such as overcrowding and lack of services, will continue to undermine all other efforts including organizational change.

In summary, this section discussed the programmatic and nonprogrammatic features of effective treatment for youth and the disciplines of an effective organization. The youth custody facility's implementation of cognitive and social skills programs was generally viewed positively by those interviewed, though areas needing improvement and updating were raised including the need for family counselling. Again, the need for prevention, early intervention and follow-up programs were emphasized by participants as critical components of effective treatment. A lack of resources in the Ministry for Children and Families, the location of the facility far from the home communities of many youth, and the heavy caseload of the transition worker were all mentioned by the participants as barriers to implementing effective prevention, early intervention and follow-up programs. In relation to nonprogrammatic components of effective treatment, the importance of therapeutic relationships was discussed with the general commitment of staff to helping

youth seen as a major opportunity for effective treatment. Overcrowding, the influence of a small percentage of corrections-oriented individuals, lack of training, and the split between program and line staff were raised as barriers to fostering therapeutic relationships and the professionalism of staff. The area of control and empowerment was also highlighted in research as contributing to effective treatment. The structured routine and physical structure of the centre and the lack of treatment, transition and follow-up programs available were cited as barriers to youth having control and being empowered whereas participation on the resident advisory committee was one avenue participants felt was available to youth to have some control. The low turnover of staff, meetings within the facility and integrated case management were opportunities discussed by participants as contributing to consistency and permanency, strong components of effective treatment. Negatively impacting on these components were inadequate or nonexistent services in mental health and alcohol and drug treatment, the number of times a youth enters the custody centre, lack of follow-up services and integrated case management, and the division between programming and line staff. Last, the effectiveness of the organization responsible for programs, the Ministry for Children and Families, has an impact on program effectiveness. The ability for the Ministry to implement the five disciplines of a learning organization – personal mastery, mental models, shared vision, team learning and systems thinking – were discussed as well as the nature and degree of organizational change and transition that the Ministry for Children and Families has achieved.

This chapter was divided into three major sections that reflect the findings in relation to the major conceptual frameworks that guided this study – the context of the case study;

relevant provincial, national and international legislation and conventions relating to youth in custody; and the effective treatment of youth in custody. Barriers and opportunities to ensuring the right of youth in custody to be treated with dignity and respect in practice were discussed in relation to these conceptual frameworks.

Capitalizing on these opportunities and addressing these barriers will have implications for both youth and other individuals involved with the custody centre. The implications of these findings in practice are discussed in the next chapter.

VI. DISCUSSION

Much deviance is expressive, a clumsy attempt to say something. Let the crime then become a starting point for a real dialogue, and not for an equally clumsy answer in the form of a spoonful of pain.

- Nils Christie

The purpose of this study was to analyse the perspectives of key individuals in the youth justice system on what are the barriers and opportunities for ensuring that the right of youth in custody to be treated with dignity and respect is honoured in practice in a particular facility.

This study takes place within the context of the transfer of responsibility for youth justice from the Ministry of the Attorney General to the Ministry for Children and Families. A case study was conducted using an interpretive interactionist perspective to understand, from the participants' perspectives, what the differences are between the ministries as well as the barriers and opportunities. This study was guided by three conceptual frameworks - the context of the case study; relevant provincial, national and international legislation and conventions relating to youth in custody; and the effective treatment of youth. This chapter will highlight the implications in practice relevant to the custody centre, the Ministry for Children and Families and pre- and post-custodial services and programs; unanswered dilemmas and contradictions; the limitations of the study; and implications for policy and research.

Practice Implications Within the Youth Custody Centre

A number of implications for practice within the youth custody centre were raised by the findings in this study. They include the physical state of the custody centre, the location of the facility, and the hiring and training of staff.

Physical State

The physical state of the youth custody centre was found to be a source of many barriers to ensuring the right of youth in custody to be treated with dignity and respect as well as many other rights embodied in international, national and provincial legislation and conventions. Until recent renovations created additional bed space, overcrowding resulted in the double and triple bunking of youth, along with youth sleeping in areas not designated as sleeping quarters such as the lobby, visiting rooms, the gymnasium and the cafeteria. Treating youth with dignity and respect means listening to them, allowing them to make choices, and giving them some power and control over their lives. Yet we are putting youth in custody facilities which are overcrowded, having them sleep on the floor, being assisted by staff who are struggling to manage bodies with little time to talk to the residents. What messages are we sending to youth? Certainly not that youth are valued and respected. They are not even deserving of a bed to sleep on every night.

Though the recent renovations have temporarily relieved some of the overcrowding pressure, many other rights violations are still occurring and the physical state of the facility itself continues to undermine other efforts to treat youth in custody with dignity and respect. Programs which contribute to effective treatment cannot be created or

expanded due to a lack of space. An absence of green space deprives youth of the right to exercise outdoors. As this study was being completed, the Ministry for Children and Families had just received approval from Treasury Board to create the design of the new custody facility. The Ministry for Children and Families now has the opportunity to return to Treasury Board in the fall of 1999 to ask for funding to begin construction. If this process goes forward and funding is granted, a new facility is still three to four years away.

Let us for the moment assume that a new facility will be built. Some problems caused by the physical state of the custody facility such as overcrowding, lack of programming space, lack of green space, will presumably be addressed. However, not all barriers relating to the custody centre raised by the participants to ensuring the right of youth in custody to be treated with dignity and respect in practice stem from the physical state of the facility.

Location

Another barrier mentioned by participants is the location of the facility. This facility is the only secure custody centre on Vancouver Island. If it is replaced, it will be replaced by only one facility which will be on the south part of the Island. A new facility located on south Vancouver Island will also not address the issue of many youth being far away from their families and home communities, a situation which impedes the youth's right to maintain contact with their family.

Hiring and Training of Staff

A continuation of the current hiring and training procedures for staff will not address the need for trained and qualified staff. Individuals wishing to work in youth custody must take the Employment Readiness Training Program at the Justice Institute that costs between \$1200 - 1500. Then, if the individual is hired, they begin as an auxiliary worker and have to work their way up the seniority list. This hiring and advancement criterion was seen by participants to dissuade more qualified people who will not be willing to pay an additional \$1500 for the opportunity to work part time. Though the selection and initial and advanced training for new youth custody staff is different than that for adult custody, the qualifications are still generally the same because both adult and youth custody staff belong to the same union. No plans within the Ministry for Children and Families to deal with the obstacles created by these hiring and advancement criteria were known to the participants. Though some participants felt that when youth justice separated from the adult system the staff who remained with the youth system were committed and dedicated to working with young people, other participants spoke about the negative influence a small number of staff with an adult corrections focus could have. Without proper training to shift the view of these staff to that of the Ministry for Children and Families, the implementation of the Ministry's mission statement will be difficult. A lack of training for line staff in the programs offered within the centre was raised by participants as a barrier to treating youth with dignity and respect. In order to treat youth most effectively, participants felt each of the staff members has to be trained in and familiar with whatever the kids are learning in these programs so that when they go out into the living units or they are out in the recreation areas that the other staff members are dealing with them in a

consistent way, reinforcing what they have learned in the course or program. Without proper training, this is less likely to happen. Last, though participants generally perceived staff to be respectful and committed to the youth in the facility, good intentions are not a replacement for proper training. Youth coming into custody often have multiple needs and in order to receive the most effective support, all staff need to be fully trained to respond appropriately. Participants did not know of any training initiatives underway in the Ministry for Children and Families for staff of youth custody centres.

Practice Implications Within the Ministry for Children and Families

The findings of this study raised a number of implications in practice relevant within the Ministry for Children and Families including a flatter organizational structure, a perceived state of disarray, and a lack of knowledge, understanding, and attention regarding the youth justice system.

Flatter Organizational Structure

The flatter organizational structure of the Ministry for Children and Families compared to that of the Ministry of the Attorney General was seen as an opportunity to ensure that youth in custody are treated with dignity and respect in practice. The flatter structure was found to increase efficiency in getting decisions or needed approvals. One barrier to this increased efficiency raised by participants was the number of regional directors involved. When the Ministry for Children and Families was originally created, twenty Regional Operating Officers were appointed. Since that time, the number has been reduced to ten

Regional Executive Directors, though ten is still double the number of individuals involved when youth justice was with the Ministry of the Attorney General.

A Perceived State of Disarray

Another organizational barrier raised by participants was what they perceived to be a state of disarray and confusion within the Ministry for Children and Families. The administrative infrastructure of an organization is something that is generally taken for granted but can be a huge problem if not attended to in order to function smoothly and efficient. This perceived state of disarray is a source of frustration when trying to get a decision or answer to an issue facing youth justice.

Lack of Knowledge, Understanding, and Attention

A lack of knowledge and experience with youth justice in middle and upper management was also a source of frustration for some participants who felt that a lot of time and energy was going into educating these individuals. Most participants also believed that this lack of knowledge and experience resulted in misunderstandings and difficulties in practice. A few participants however felt this situation was advantageous because it increased the independence of the custody facilities to make decisions. What participants failed to recognize are the potential benefits of having individuals with little knowledge and experience of the "old way" under the Ministry of the Attorney General. If the Ministry for Children and Families continued with the same people from the Ministry of the Attorney General, thinking the same way without anyone questioning things, the potential for change is greatly decreased.

Last, participants discussed how other areas of the Ministry for Children and Families, such as child protection, dominate the discussions, attention and resource allocation of the Ministry. Participants generally expressed understanding about this situation and blamed social priorities and the fact that youth justice is only a minor piece of what the Ministry does for the lack of attention youth justice receives. However, “the squeaky wheel gets the grease”! It may be time that individuals in youth justice stop making excuses for the Ministry as to why a facility as rundown and in violation of youth’s rights continues to operate. Some individuals in the system believe that there is a better chance of receiving funding for a new facility now that youth justice is with the Ministry for Children and Families. This ministry has a broader and more treatment-oriented mission statement than the correctional and incarceration focus of the Ministry of the Attorney General. Therefore, these individuals feel that more support exists for spending the money needed to build a proper new facility.

Practice Implications Within Pre- and Post-Custody Programming and Services

The third area of implications in practice focuses on pre-and post-custody programming and services. Topics discussed include a lack of services, reasons for these inadequacies, and the consequences resulting from a lack of services.

Lack of Services

Participants unanimously believed that the lack of services available to youth pre- and post- custody was a major barrier to treating youth with dignity and respect. Participants argued that if more support services with a preventative focus were available to younger

children and adolescents, some youth who are currently in custody would not be there. Of greatest need were programs for youth dealing with mental health or alcohol and drug issues. Also mentioned as lacking were programs for females and violent offenders and follow up programs for youth upon their release. The shortage of these programs impedes the ability to meet the needs of individual youth effectively. The Ministry for Children and Families' focus on integrated case management is wonderful in principle. However, without the needed resources available to implement the supports decided upon in case management meetings, the resources and energy being invested to put integrated case management into practice is wasted.

Reasons for these Inadequacies

The historical connection between the youth and adult correctional systems could be seen as contributing to the lack of community programs to keep youth out of custody or to support them upon their release. As the literature states, the past focus of the youth custody system on the protection of the public and the resulting lack of provision of rehabilitation and care functions (Corrado and Markwart, 1988) led to little investment in community programs by the youth justice system. The observation by Clark & O'Reilly-Fleming (1993) that in 1989, up to 90% of federal YOA funding was being spent on custody beds further explains the huge gap in services for youth coming out of custody, a point mentioned during the interviews. These types of programs are emphasized both by the participants and the literature as being key components to the successful reintegration of youth.

Consequences Resulting from a Lack of Services

Without equal investment into community-based programs, more youth may actually get sent to custody in the name of treatment - a costly and intrusive solution to an incomplete service continuum. A lack of other options available to judges may also be increasing the number of youth being sent to custody by the courts out of desperation due to a lack of services elsewhere. The tendency to send youth to custody for treatment may be exacerbated if the new youth custody centre is built.

Unanswered Dilemmas and Contradictions

Other questions still remain unanswered. Though participants were open and willing to discuss the unacceptable situation of the youth custody centre, no real answers for why a facility as run down and in violation of youth's rights has been allowed to continue to operate for so long were heard. Fiscal restraints and cutbacks were the only reasons given as answers to that question. But are fiscal restraints sufficient excuse for the violation of individual rights? If the rights of children at large, the elderly or some other group were being violated to this extent, the public outcry likely would be enormous. We as a country are very quick to condemn other countries for human rights violations. Perhaps before we point the finger at others we need to look in our own backyard. Have we as a society deemed that youth who break the law are not deserving of basic human rights? If so, then we'd better rethink our status as a developed and democratic society.

This study uses provincial, national and international legislation and conventions as tools to examine and evaluate the extent to which British Columbia fulfills its' commitment to

ensure that youth in custody are treated with dignity and respect in practice. Significant gaps between the standards and principles set out in these evaluation tools and the current conditions and practices in youth custody were found. If we as a society hold individuals accountable for their actions and measure this accountability with tools such as the Young Offenders Act, why should we as a community, organization or government then not be held accountable in meeting the standards and principles set out in these documents? In particular, the international conventions are an excellent means to evaluate and compare services universally.

Or perhaps we need to accept that it is functional to have such a dysfunctional place. With such a dismal example as the state of the custody facility, focus remains on it. This draws attention away from the need to invest more in early intervention and prevention programs or address society's apparently insatiable cry for denunciation. Focus is also diverted from the societal issues of poverty, power imbalance, oppression and inequality which all contribute to youth crime. Until these types of issues are put on the table and addressed, we will continue to have a reactive system, waiting until youth end up in custody to shake our heads in bewilderment and wonder how we can "fix" them.

Do we need to criminalize youth before we recognize the needs and supports they require? What a tragic waste of resources, time, hopes, dreams and human value! If we invested in social programs that address the root causes of crime we would likely not need a new custody facility of the envisioned magnitude. The portion of youth who

actually present a risk to society is minimal, and they require a sensitive and effective response as a basic human right.

Limitations of the Study

This study examined the perspectives of key individuals working in the youth justice system on what the barriers and opportunities are to ensuring the right of youth in custody to be treated with dignity and respect. Since it is a case study, this inquiry is limited in time, context, and location-dependent.

A second limitation of this study is the absence of direct participation by youth. As discussed in the methodology chapter, this study was originally intended to include an advisory group of youth who had been in the custody facility before and after youth justice was transferred to the Ministry for Children and Families to provide feedback on the findings of the interviews with individuals working in the youth justice system. Numerous obstacles to reaching this goal resulted in the exclusion of youth participation from the study. Research and literature either written by youth or based on interviews with youth, were included to give some insight into the youth's perspective.

Policy and Research Implications

Several policy and research implications were raised throughout the writing of this thesis. The proposed new young offenders law, the need to amend current legislation, the use of

international documents as tools of evaluation, the high level of youth in custody on remand, the court system and effective treatment programs for youth were all mentioned.

At the time this thesis is being completed, there is a new law pending to replace the Young Offenders Act. The new Youth Criminal Justice Act was announced in the House of Commons on March 11, 1999. The Department of Justice (1999) stated in the press release announcing the new legislation:

The principles say that protection of society is the primary objective of the youth justice system and is best achieved through prevention, meaningful consequences for youth crime and rehabilitation. ...The Act emphasizes that, in all cases, youth should face consequences that promote responsibility and accountability to the victim and the community and teach good values by helping the young person understand the effect of his or her actions. (p. 1)

Other key areas in the new legislation include an expansion of the charges and group of offenders which can receive an adult sentence and an intensive custody sentence for repeat violent offenders. In relation to youth custody, the proposed Youth Criminal Justice Act includes the sentencing principle that youth should receive a sentence proportionate to the seriousness of the offence and places criteria on the use of custody. An intensive period of supervision in the community equal to half the period of custody will follow all custody sentences. The proposed Youth Criminal Justice Act also "recognizes the principles of the United Nations Convention on the Rights of the Child to which Canada is a signatory" (Department of Justice, 1999, p.2).

A number of points in relation to this study can be made about the proposed Youth Criminal Justice Act. By changing the Declaration of Principles to state that the primary

objective of the youth justice system is the protection of society reflects an even stronger commitment to the Crime Control Model than existed with the Young Offenders Act. This commitment is also reflected in the expansion of charges and group of offenders who can receive an adult sentence. Stating that in all cases the Youth Criminal Justice Act emphasizes “the teaching of good values” implies a short-sighted and narrow view of the circumstances of young offenders and makes the assumption that the problem of youth crime lies within the individual youth and their lack of “good values”.

The sentencing principle set out in the proposed Youth Criminal Justice Act that youth should receive a sentence proportionate to the seriousness of the crime could, philosophically, address the concern expressed by participants in this study regarding youth in custody who would have their needs better met elsewhere or who are in custody out of frustration by the courts. However, the use of the word “should” leaves a large loophole in following through on this principle.

The use of intensive supervision equal to half the period of custody following any custody sentence could potentially also address barriers to treating youth in custody with dignity and respect. Such mandatory supervision could possibly increase the number of follow up services available to youth upon their release. The question here though is whether the focus of this new provision is “supervision” or “reintegration.” The press release by the Department of Justice (1999) states that intensive supervision:

...would allow authorities to closely monitor and control the young person and to ensure that he or she receives the necessary treatment and programs to return safely and successfully to the community. ... New

reintegration programs are expected to be a priority area for federal funding made available to the provinces and territories to support the Youth Justice Strategy (p. 4)

Given the staff costs alone involved in placing all youth coming out of custody on “intensive supervision”, one is left to wonder where the funding for the development and implementation of new programs will come from.

The proposed Youth Criminal Justice Act states that it recognizes the principles of the United Nations Convention on the Rights of the Child. Upon examination of the proposed legislation, it is doubtful that this legislation will allow these principles to be implemented in practice. The proposed Act’s paramount focus on the protection of society and increasingly punitive sentences again leads to a one dimensional view of youth crime as stemming from the youth and not the collective societal problems which contribute to the problem of crime. Not enough new funding exists to implement an intensive supervision program as well as to develop the needed continuum of services to keep youth out of custody or to support them to reintegrate successfully upon their release from custody. Consequently, the youth justice system will continue to be a reactionary and punitive one, a solution demonstrated in research to be ineffective in reducing youth crime and not in keeping with the right for youth in custody to be treated with dignity and respect.

This study recognizes that the transfer of responsibility for youth justice from the Ministry of the Attorney General to the Ministry for Children and Families and the bringing together of youth justice services with all other child, youth and family serving

services is, at least on paper, a major shift in focus and philosophy within youth justice. To implement this new mission in practice in youth custody necessitates a shift from the corrections focused system similar to the adult system to a more integrated model of justice which recognizes the unique needs of young people and offers quality services for habilitation while still holding youth responsible and accountable for their actions.

However, besides a shift in responsibility, the Ministry for Children and Families needs to ensure that this inclusion of youth justice with all other child, youth and family services is reflected in legislation. Section 70 of the Child, Family and Community Service Act is one example of legislative changes which need to be made. Section 70 details the rights of youth in care including the right to be fed, to be informed about their plans of care, to be free from corporal punishment, etc. However, section 70(3) states that “this section does not apply to a child who is in a place of confinement.” Continuing to make youth in custody an exception in provincial legislation to rights which they are entitled to under international standards is a major barrier to integrating youth justice with other child, youth and family services as well as ensuring that youth in custody are treated with dignity and respect. Not repealing section 70(3) also reflects a failure on part of government to uphold the right of youth in custody to be treated with dignity and respect. If the government is truly committed to implementing an integrated, youth-centered approach within youth justice, legislative changes, such as the repealing of section 70(3), need to occur.

This study employs provincial, national and international conventions and legislation as tools to examine and evaluate the extent to which British Columbia fulfills its’

commitment to ensure that the youth in custody are treated with dignity and respect in practice. Future research utilizing these documents to evaluate other programs and services would support the recognition and awareness of these international standards of care for youth in custody and the need to hold countries responsible and accountable for upholding the rights of youth.

Several areas requiring further research were brought up in the process of completing this study which would contribute to the existing knowledge and research related to youth in custody. The high percentage of youth (50%) held in custody on remand was found to be disturbing. Do all these youth need to be held in remand? On what basis does a judge make the decision to hold a youth in custody before trial or sentencing? A second area needing further research is what impact, if any, has the change in ministries responsible for youth justice had on the court system and the sentencing practices of judges? Research has shown an increase in the use of incarceration with youth and the new proposed Crime Control-focused youth justice legislation has the potential to skyrocket the incarceration rate. More research on effective programs and pilot projects for pre- and post-custodial programs would also greatly contribute to ensuring youth in custody the right to be treated with dignity and respect. Lastly, research focusing on youth's perception of youth custody and other aspects of the youth justice system would also be useful and relevant.

The present study has documented the perspectives of key individuals in the youth justice system regarding the barriers and opportunities to ensuring the right of youth in custody to be treated with dignity and respect in practice. As soon becomes evident in the reading

of this study, more than a transfer of administrative responsibility for youth justice from the Ministry of the Attorney General to the Ministry for Children and Families is required if youth in custody are truly going to be treated with dignity and respect.

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APPENDIX A

The Young Offenders Act

DECLARATION OF PRINCIPLE

Policy for Canada with respect to young offenders

3. (1) It is hereby recognized and declared that

(a) crime prevention is essential to the long-term protection of society and requires addressing the underlying causes of crime by young persons and developing multi-disciplinary approaches to identifying and effectively responding to children and young persons at risk of committing offending behaviour in the future;

(a.1) while young persons should not in all instances be held accountable in the same manner or suffer the same consequences for their behaviour as adults, young persons who commit offences should nonetheless bear responsibility for their contraventions;

(b) society must, although it has the responsibility to take reasonable measures to prevent criminal conduct by young persons, be afforded the necessary protection from illegal behaviour;

(c) young persons who commit offences require supervision, discipline and control, but, because of their state of dependency and level of development and maturity, they also have special needs and require guidance and assistance;

(c.1) the protection of society, which is a primary objective of the criminal law applicable to youth, is best served by rehabilitation, wherever possible, of young persons who commit offences, and rehabilitation is best achieved by addressing the needs and circumstances of a young person that are relevant to the young person's offending behaviour;

(d) where it is not inconsistent with the protection of society, taking no measures or taking measures other than judicial proceedings under this Act

should be considered for dealing with young persons who have committed offences;

(e) young persons have rights and freedoms in their own right, including those stated in the Canadian Charter of Rights and Freedoms or in the Canadian Bill of Rights, and in particular a right to be heard in the course of, and to participate in, the processes that lead to decisions that affect them, and young persons should have special guarantees of their rights and freedoms;

(f) in the application of this Act, the rights and freedoms of young persons include a right to the least possible interference with freedom that is consistent with the protection of society, having regard to the needs of young persons and the interests of their families;

(g) young persons have the right, in every instance where they have rights or freedoms that may be affected by this Act, to be informed as to what those rights and freedoms are; and

(h) parents have responsibility for the care and supervision of their children, and, for that reason, young persons should be removed from parental supervision either partly or entirely only when measures that provide for continuing parental supervision are inappropriate.

Act to be liberally construed

(2) This Act shall be liberally construed to the end that young persons will be dealt with in accordance with the principles set out in subsection (1).

R.S., 1985, c. Y-1, s. 3; 1995, c. 19, s. 1.

20. (1) Where a youth court finds a young person guilty of an offence, it shall consider any pre-disposition report required by the court, any representations made by the parties to the proceedings or their counsel or agents and by the parents of the young person and any other relevant information before the court, and the court shall then make any one of the following dispositions, other than the disposition referred to in paragraph (k.1), or any number thereof that are not inconsistent with each other, and where the offence is first degree murder or second degree murder within the meaning of section 231 of the Criminal Code, the court shall make the disposition referred to in paragraph (k.1) and may make such other disposition as the court considers appropriate:

(k) subject to sections 24 to 24.5, commit the young person to custody, to be served continuously or intermittently, for a specified period not exceeding

(i) two years from the date of committal, or

(ii) where the young person is found guilty of an offence for which the punishment provided by the Criminal Code or any other Act of Parliament is imprisonment for life, three years from the date of committal;

(k.1) order the young person to serve a disposition not to exceed

(i) in the case of first degree murder, ten years comprised of

(A) a committal to custody, to be served continuously, for a period that shall not, subject to subsection 26.1(1), exceed six years from the date of committal, and

(B) a placement under conditional supervision to be served in the community in accordance with section 26.2, and

(ii) in the case of second degree murder, seven years comprised of

(A) a committal to custody, to be served continuously, for a period that shall not, subject to subsection 26.1(1), exceed four years from the date of committal, and

(B) a placement under conditional supervision to be served in the community in accordance with section 26.2; and

(l) impose on the young person such other reasonable and ancillary conditions as it deems advisable and in the best interest of the young person and the public.

Coming into force of disposition

(2) A disposition made under this section shall come into force on the date on which it is made or on such later date as the youth court specifies therein.

Duration of disposition

(3) No disposition made under this section, other than an order made under

paragraph (1)(h), (k) or (k.1), shall continue in force for more than two years and, where the youth court makes more than one disposition at the same time in respect of the same offence, the combined duration of the dispositions, except in respect of an order made under paragraph (1)(h), (k) or (k.1), shall not exceed two years.

Combined duration of dispositions

(4) Subject to subsection (4.1), where more than one disposition is made under this section in respect of a young person with respect to different offences, the continuous combined duration of those dispositions shall not exceed three years, except where one of those offences is first degree murder or second degree murder within the meaning of section 231 of the Criminal Code, in which case the continuous combined duration of those dispositions shall not exceed ten years in the case of first degree murder, or seven years in the case of second degree murder.

Conditions for custody

24. (1) The youth court shall not commit a young person to custody under paragraph 20(1)(k) unless the court considers a committal to custody to be necessary for the protection of society having regard to the seriousness of the offence and the circumstances in which it was committed and having regard to the needs and circumstances of the young person.

Factors

(1.1) In making a determination under subsection (1), the youth court shall take the following into account:

(a) that an order of custody shall not be used as a substitute for appropriate child protection, health and other social measures;

(b) that a young person who commits an offence that does not involve serious personal injury should be held accountable to the victim and to society through non-custodial dispositions whenever appropriate; and

(c) that custody shall only be imposed when all available alternatives to custody that are reasonable in the circumstances have been considered.

Pre-disposition report

(2) Subject to subsection (3), before making an order of committal to custody, the youth court shall consider a pre-disposition report.

Report dispensed with

(3) The youth court may, with the consent of the prosecutor and the young person or his counsel, dispense with the pre-disposition report required under subsection (2) if the youth court is satisfied, having regard to the circumstances, that the report is unnecessary or that it would not be in the best interests of the young person to require one.

Reasons

(4) Where the youth court makes a disposition in respect of a young person under paragraph 20(1)(k), the youth court shall state the reasons why any other disposition or dispositions under subsection 20(1), without the disposition under paragraph 20(1)(k), would not have been adequate.

R.S., 1985, c. Y-1, s. 24; R.S., 1985, c. 24 (2nd Supp.), s. 17; 1995, c. 19, s. 15.

Definitions

24.1 (1) In this section and sections 24.2, 24.3, 28 and 29,

"open custody" «garde en milieu ouvert»

"open custody" means custody in

(a) a community residential centre, group home, child care institution, or forest or wilderness camp, or

(b) any other like place or facility

designated by the Lieutenant Governor in Council of a province or his delegate as a place of open custody for the purposes of this Act, and includes a place or facility within a class of such places or facilities so designated;

"secure custody" «garde en milieu fermé»

"secure custody" means custody in a place or facility designated by the Lieutenant Governor in Council of a province for the secure containment or restraint of young persons, and includes a place or facility within a class of such places or facilities so designated.

Youth court to specify type of custody

(2) Subject to subsection (3), where the youth court commits a young person to custody under paragraph 20(1)(k) or (k.1) or makes an order under subsection 26.1(1) or paragraph 26.6(2)(b), it shall specify in the order whether the custody is to be open custody or secure custody.

Provincial director to specify level of custody

(3) In a province in which the Lieutenant Governor in Council has designated the provincial director to determine the level of custody, the provincial director shall, where a young person is committed to custody under paragraph 20(1)(k) or (k.1) or an order is made under subsection 26.1(1) or paragraph 26.6(2)(b), specify whether the young person shall be placed in open custody or secure custody.

Factors

(4) In deciding whether a young person shall be placed in open custody or secure custody, the youth court or the provincial director shall take into account the following factors:

- (a) that a young person should be placed in a level of custody involving the least degree of containment and restraint, having regard to
 - (i) the seriousness of the offence in respect of which the young person was committed to custody and the circumstances in which that offence was committed,
 - (ii) the needs and circumstances of the young person, including proximity to family, school, employment and support services,
 - (iii) the safety of other young persons in custody, and

(iv) the interests of society;

(b) that the level of custody should allow for the best possible match of programs to the young person's needs and behaviour, having regard to the findings of any assessment in respect of the young person;

(c) the likelihood of escape if the young person is placed in open custody; and

(d) the recommendations, if any, of the youth court or the provincial director, as the case may be.

R.S., 1985, c. 24 (2nd Supp.), s. 17; 1992, c. 11, s. 4; 1995, c. 19, s. 16.

Place of custody

24.2 (1) Subject to this section and sections 24.3 and 24.5, a young person who is committed to custody shall be placed in open custody or secure custody, as specified pursuant to subsection 24.1(2) or (3), at such place or facility as the provincial director may specify.

Warrant of committal

(2) Where a young person is committed to custody, the youth court shall issue or cause to be issued a warrant of committal.

Exception

(3) A young person who is committed to custody may, in the course of being transferred from custody to the court or from the court to custody, be held under the supervision and control of a peace officer or in such place of temporary detention referred to in subsection 7(1) as the provincial director may specify.

Young person to be held separate from adults

(4) Subject to this section and section 24.5, a young person who is committed to custody shall be held separate and apart from any adult who is detained or held in custody.

Subsection 7(2) applies

(5) Subsection 7(2) applies, with such modifications as the circumstances require, in respect of a person held in a place of temporary detention pursuant to subsection (3).

Transfer

(6) A young person who is committed to custody may, during the period of custody, be transferred by the provincial director from one place or facility of open custody to another or from one place or facility of secure custody to another.

Transfer to open custody - youth court

(7) No young person who is committed to secure custody pursuant to subsection 24.1(2) may be transferred to a place or facility of open custody except in accordance with sections 28 to 31.

No transfer to secure custody - youth court

(8) Subject to subsection (9), no young person who is committed to open custody pursuant to subsection 24.1(2) may be transferred to a place or facility of secure custody.

Exception - transfer to secure custody - youth court

(9) Where a young person is placed in open custody pursuant to subsection 24.1(2), the provincial director may transfer the young person from a place or facility of open custody to a place or facility of secure custody for a period not exceeding fifteen days if

(a) the young person escapes or attempts to escape lawful custody; or

(b) the transfer is, in the opinion of the provincial director, necessary for the safety of the young person or the safety of others in the place or facility of open custody.

Transfer to open custody - provincial director

(10) The provincial director may transfer a young person from a place or facility of secure custody to a place or facility of open custody when the provincial director is satisfied that the needs of the young person and the interests of society would be better served thereby.

Transfer to secure custody - provincial director

(11) The provincial director may transfer a young person from a place or facility of open custody to a place or facility of secure custody when the provincial director is satisfied that the needs of the young person and the interests of society would be better served thereby

(a) having considered the factors set out in subsection 24.1(4); and

(b) having determined that there has been a material change in circumstances since the young person was placed in open custody.

Notice

(12) The provincial director shall cause a notice in writing of the decision to transfer a young person under subsection (11) to be given to the young person and the young person's parents and set out in that notice the reasons for the transfer.

Where application for review is made

(13) Where an application for review under section 28.1 of a transfer under subsection (11) is made to a youth court,

(a) the provincial director shall cause such notice as may be directed by rules of court applicable to the youth court or, in the absence of such direction, at least five clear days notice of the review to be given in writing to the young person and the young person's parents; and

(b) the youth court shall forthwith, after the notice required under paragraph (a) is given, review the transfer.

Interim custody

(14) Where an application for review under section 28.1 of a transfer under

subsection (11) is made to a youth court, the young person shall remain in a place or facility of secure custody until the review is heard by the youth court unless the provincial director directs otherwise.

R.S., 1985, c. 24 (2nd Supp.), s. 17; 1995, c. 19, s. 17.

Consecutive dispositions of custody

24.3 (1) Where a young person is committed to open custody and secure custody pursuant to subsection 24.1(2), any portions of which dispositions are to be served consecutively, the disposition of secure custody shall be served first without regard to the order in which the dispositions were imposed.

Concurrent dispositions of custody

(2) Where a young person is committed to open custody and secure custody pursuant to subsection 24.1(2), any portions of which dispositions are to be served concurrently, the concurrent portions of the dispositions shall be served in secure custody.

R.S., 1985, c. 24 (2nd Supp.), s. 17; 1995, c. 19, s. 18.

Committal to custody deemed continuous

24.4 (1) A young person who is committed to custody under paragraph 20(1)(k) shall be deemed to be committed to continuous custody unless the youth court specifies otherwise.

Availability of place of intermittent custody

(2) Before making an order of committal to intermittent custody under paragraph 20(1)(k), the youth court shall require the prosecutor to make available to the court for its consideration a report of the provincial director as to the availability of a place of custody in which an order of intermittent custody can be enforced and, where the report discloses that no such place of custody is available, the court shall not make the order.

R.S., 1985, c. 24 (2nd Supp.), s. 17.

Transfer to adult facility

24.5 (1) Where a young person is committed to custody under paragraph 20(1)(k) or (k.1), the youth court may, on application of the provincial director made at any time after the young person attains the age of eighteen years, after affording the young person an opportunity to be heard, authorize the provincial director to direct that the young person serve the disposition or the remaining portion thereof in a provincial correctional facility for adults, if the court considers it to be in the best interests of the young person or in the public interest, but in that event, the provisions of this Act shall continue to apply in respect of that person.

Where disposition and sentence concurrent

(2) Where a young person is committed to custody under paragraph 20(1)(k) or (k.1) and is concurrently under sentence of imprisonment imposed in ordinary court, the young person may, in the discretion of the provincial director, serve the disposition and sentence, or any portion thereof, in a place of custody for young persons, in a provincial correctional facility for adults or, where the unexpired portion of the sentence is two years or more, in a penitentiary.

R.S., 1985, c. 24 (2nd Supp.), s. 17; 1992, c. 11, s. 5.

APPENDIX B

UN Convention on the Rights of the Child

PREAMBLE

The States Parties to the present Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules); and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict,

Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child,

Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries,

Have agreed as follows:

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child
2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 37

States Parties shall ensure that:

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

APPENDIX C

United Nations Rules for the Protection of Juveniles Deprived of their Liberty**Resolution 45 / 113****14 December 1990, 68th plenary session****The General Assembly,**

Bearing in mind the Universal Declaration of Human Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading * Treatment or Punishment and the Convention on the Rights of the Child, as well as other international instruments relating to the protection of the rights and well-being of young persons,

Bearing in mind also the Standard Minimum Rules for the Treatment of Prisoners adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Bearing in mind further the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, approved by the General Assembly by its resolution 43/173 of 9 december 1988 and contained in the annex thereto,

Recalling the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules),

Recalling also resolution 21 of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenses, in which the Congress called for the development of rules for the protection of juveniles deprived of their liberty,

Recalling further that the Economic and Social Council, in section II of its resolution 1986/10 of 21 May 1986, requested the Secretary-General to report on progress achieved in the development of the rules to the Committee on Crime Prevention and Control at its tenth session and requested the Eight United Nations Congress on the Prevention of Crime and the Treatment of Offenders to consider the proposed rules with a view to their adoption,

Alarmed at the conditions and circumstances under which juveniles are being deprived of their liberty world wide,

Aware that juveniles deprived of their liberty are highly vulnerable to abuse, victimization and the violation of their rights,

Concerned that many systems do not differentiate between adults and juveniles at various stages of the administration of justice and that juveniles are therefore being held in gaols and facilities with adults,

1. *Affirms* that the placement of a juvenile in an institution should always be a disposition of last resort and for the minimum necessary period;
2. *Recognizes* that, because of their high vulnerability, juveniles deprived of their liberty require special attention and protection and that their rights and wellbeing should be guaranteed during and after the period when they are deprived of their liberty;

3. *Notes with appreciation* the valuable work of the Secretariat and the collaboration which has been established between the Secretariat and experts, practitioners, intergovernmental organizations, the non-governmental community, particularly Amnesty International, Defence for Children International and Rädde Barnen International (Swedish Save the Children Federation), and scientific institutions concerned with the rights of children and juvenile justice in the development of the United Nations draft Rules for the Protection of Juveniles Deprived of their Liberty;
4. *Adopts* the United Nations Rules for the Protection of Juveniles Deprived of their Liberty contained in the annex to the present resolution;
5. *Calls upon* the Committee on Crime Prevention and Control to formulate measures for the effective implementation of the Rules, with the assistance of the United Nations institutes on the prevention of crime and the treatment of offenders;
6. *Invites* Member States to adapt, wherever necessary, their national legislation, policies and practices, particularly in the training of all categories of juvenile justice personnel, to the spirit of the Rules, and to bring them to the attention of relevant authorities and the public in general;
7. *Also invites* member States to inform the Secretary-General of their efforts to apply the Rules in law, policy and practice and to report regularly to the Committee on Crime Prevention and Control on the results achieved in their implementation;
8. *Requests* the Secretary-General and invites Member States to ensure the widest possible dissemination of the text of the Rules in all of the official languages of the United Nations;
9. *Requests* the Secretary-General to conduct comparative research, pursue the requisite collaboration and devise strategies to deal with the different categories of serious and persistent young offenders, and to prepare a policy-oriented report thereon for submission to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;
10. *Also requests* the Secretary-General and urges Member States to allocate the necessary resources to ensure the successful application and implementation of the Rules, in particular in the areas of recruitment, training and exchange of all categories of juvenile justice personnel;
11. *Urges* all relevant bodies of the United Nations system, in particular the United Nations Children's Fund, the regional commissions and specialized agencies, the United Nations institutes for the prevention of crime and the treatment of offenders and all concerned intergovernmental and non-governmental organizations, to collaborate with the Secretary-General and to take the necessary measures to ensure a concerted and sustained effort within their respective fields of technical competence to promote the application of the Rules;
12. *Invites* the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the Commission on Human Rights to consider this new international instrument, with a view to promoting the application of its provisions;
13. *Requests* the Ninth Congress to review the progress made on the promotion and application of the Rules and on the recommendations contained in the present resolution, under a separate agenda item on juvenile justice.

* Resolution 39/46, annex

I. FUNDAMENTAL PERSPECTIVES

1. The juvenile justice system should uphold the rights and safety and promote the physical and mental well-being of juveniles. Imprisonment should be used as a last resort.
2. Juveniles should only be deprived of their liberty in accordance with the principles and procedures set forth in these Rules and in the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules). Deprivation of the liberty of a juvenile should be a disposition of last resort and for the minimum necessary period and should be limited to exceptional cases. The length of the sanction should be determined by the judicial authority, without precluding the possibility of his or her early release.
3. The Rules are intended to establish minimum standards accepted by the United Nations for the protection of juveniles deprived of their liberty in all forms, consistent with human rights and fundamental freedoms, and with a view to counteracting the detrimental effects of all types of detention and to fostering integration in society.
4. The Rules should be applied impartially, without discrimination of any kind as to race, colour, sex, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, and disability. The religious and cultural beliefs, practices and moral concepts of the juvenile should be respected.
5. The Rules are designed to serve as convenient standards of reference and to provide encouragement and guidance to professionals involved in the management of the juvenile justice system.
6. The Rules should be made readily available to juvenile justice personnel in their national languages. Juveniles who are not fluent in the language spoken by the personnel of the detention facility should have the right to the services of an interpreter free of charge whenever necessary, in particular during medical examinations and disciplinary proceedings.
7. Where appropriate, States should incorporate the Rules into their legislation or amend it accordingly and provide effective remedies for their breach, including compensation when injuries are inflicted on juveniles. States should also monitor the application of the Rules.
8. The competent authorities should constantly seek to increase the awareness of the public that the care of detained juveniles and preparation for their return to society is a social service of great importance, and to this end active steps should be taken to foster open contacts between the juveniles and the local community.
9. Nothing in the Rules should be interpreted as precluding the application of the relevant United Nations and human rights instruments and standards: recognized by the international community, that are more conducive to ensuring the rights, care and protection of juveniles, children and all young persons.
10. In the event that the practical application of particular Rules contained in sections II to V, inclusive, presents any conflict with the Rules contained in the present section, compliance with the latter shall be regarded as the predominant requirement.

II. SCOPE AND APPLICATION OF THE RULES

11. For the purposes of the Rules, the following definitions should apply:

a) A juvenile is every person under the age of 18. The age limit below which it should not be permitted to deprive a child of his or her liberty should be determined by law;

b) The deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting, from which this person is not permitted to leave at will, by order of any judicial, administrative or other public authority.

12. The deprivation of liberty should be effected in conditions and circumstances which ensure respect for the human rights of juveniles. Juveniles detained in facilities should be guaranteed the benefit of meaningful activities and programmes which would serve to promote and sustain their health and self-respect, to foster their sense of responsibility and encourage those attitudes and skills that will assist them in developing their potential as members of society.

13. Juveniles deprived of their liberty shall not for any reason related to their status be denied the civil, economic, political, social or cultural rights to which they are entitled under national or international law, and which are compatible with the deprivation of liberty.

14. The protection of the individual rights of juveniles with special regard to the legality of the execution of the detention measures shall be ensured by the competent authority, while the objectives of social integration should be secured by regular inspections and other means of control carried out, according to international standards, national laws and regulations, by a duly constituted body authorized to visit the juveniles and not belonging to the detention facility.

15. The Rules apply to all types and forms of detention facilities in which juveniles are deprived of their liberty. Sections I, II, IV and V of the Rules apply to all detention facilities and institutional settings in which juveniles are detained, and section III applies specifically to juveniles under arrest or awaiting trial.

16. The Rules shall be implemented in the context of the economic, social and cultural conditions prevailing in each Member State.

III. JUVENILES UNDER ARREST OR AWAITING TRIAL

17. Juveniles who are detained under arrest or awaiting trial ("untried") are presumed innocent and shall be treated as such. Detention before trial shall be avoided to the extent possible and limited to exceptional circumstances. Therefore, all efforts shall be made to apply alternative measures. When preventive detention is nevertheless used, juvenile courts and investigative bodies shall give the highest priority to the most expeditious processing of such cases to ensure the shortest possible duration of detention. Untried detainees should be separated from convicted juveniles.

18. The conditions under which an untried juvenile is detained should be consistent with the rules set out below, with additional specific provisions as are necessary and appropriate, given the requirements of the presumption of innocence, the duration of the detention and the legal status and circumstances of the juvenile. These provisions would include, but not necessarily be restricted to, the following:

- a)*Juveniles should have the right of legal counsel and be enabled to apply for free legal aid, where such aid is available; and to communicate regularly with their legal advisers. Privacy and confidentiality shall be ensured for such communications;
- b)*Juveniles should be provided, where possible, with opportunities to pursue work, with remuneration, and continue education or training, but should not be required to do so. Work, education or training should not cause the continuation of the detention;
- c)*Juveniles should receive and retain materials for their leisure and recreation as are compatible with the interests of the administration of justice.

IV.THE MANAGEMENT OF JUVENILE FACILITIES

A.Records

19.All reports, including legal records, medical records and records of disciplinary proceedings, and all other documents relating to the form, content and details of treatment,

should be placed in a confidential individual file, which should be kept up to date, accessible only to authorized persons and classified in such a way as to be easily understood. Where possible, every juvenile should have the right to contest any fact or opinion contained in his or her file so as to permit rectification of inaccurate, unfounded or unfair statements. In order to exercise this right, there should be procedures that allow an appropriate third party to have access to and to consult the file on request. Upon release, the records of juveniles shall be sealed, and, at an appropriate time, expunged.

20.No juvenile should be received in any detention facility without a valid commitment order of a judicial, administrative or other public authority. The details of this order should be immediately entered in the register. No juvenile should be detained in any facility where there is no such register.

B.Admission, registration, movement and transfer

21.In every place where juveniles are detained, a complete and secure record of the following information should be kept concerning each juvenile received:

- a)*Information on the identity of the juvenile;
- b)*The fact of and reasons for commitment and the authority there for;
- c)*The day and hour of admission, transfer and release;
- d)*Details of the notifications to parents and guardians on every admission, transfer or release of the juvenile in their care at the time of commitment;
- e)*Details of known physical and mental health problems, including drug and alcohol abuse.

22.The information on admission, place, transfer and release should be provided without delay to the parents and guardians or closest relative of the juvenile concerned.

23.As soon as possible after reception, full reports and relevant information on the personal situation and circumstances of each juvenile should be drawn up and submitted to the administration.

24.On admission, all juveniles shall be given a copy of the rules governing the detention facility and a written description of their rights and obligations in a language they can understand, together with the address of the authorities competent to receive complaints,

as well as the address of public or private agencies and organizations which provide legal assistance. For those juveniles who are illiterate or who cannot understand the language in the written form, the information should be conveyed in a manner enabling full comprehension.

25. All juveniles should be helped to understand the regulations governing the internal organization of the facility, the goals and methodology of the care provided, the disciplinary requirements and procedures, other authorized methods of seeking information and of making complaints, and all such other matters as are necessary to enable them to understand fully their rights and obligations during detention.

26. The transport of juveniles should be carried out at the expense of the administration in conveyances with adequate ventilation and light, in conditions that should in no way subject them to hardship or indignity. Juveniles should not be transferred from one facility to another arbitrarily.

C. Classification and placement

27. As soon as possible after the moment of admission, each juvenile should be interviewed, and a psychological and social report identifying any factors relevant to the specific type and level of care and programme required by the juvenile should be prepared. This report, together with the report prepared by a medical officer who has examined the juvenile upon admission, should be forwarded to the director for purposes of determining the most appropriate placement for the juvenile within the facility and the specific type and level of care and programme required and to be pursued. When special rehabilitative treatment is required, and the length of stay in the facility permits, trained personnel of the facility should prepare a written, individualized treatment plan specifying treatment objectives and time-frame and the means, stages and delays with which the objectives should be approached.

28. The detention of juveniles should only take place under conditions that take full account of their particular needs, status and special requirements according to their age, personality, sex and type of offence, as well as mental and physical health, and which ensure their protection from harmful influences and risk situations. The principal criterion for the separation of different categories of juveniles deprived of their liberty should be the provision of the type of care best suited to the particular needs of the individuals concerned and the protection of their physical, mental and moral integrity and well-being.

29. In all detention facilities juveniles should be separated from adults, unless they are members of the same family. Under controlled conditions, juveniles may be brought together with carefully selected adults as part of a special programme that has been shown to be beneficial for the juveniles concerned.

30. Open detention facilities for juveniles should be established. Open detention facilities are those with no or minimal security measures. The population in such detention facilities should be as small as possible. The number of juveniles detained in closed facilities should be small enough to enable individualized treatment. Detention facilities for juveniles should be decentralized and of such size as to facilitate access and contact between the juveniles and their families. Small-scale detention facilities should be established and integrated into the social, economic and cultural environment of the community.

D. Physical environment and accommodation

31. Juveniles deprived of their liberty have the right to facilities and services that meet all the requirements of health and human dignity.

32. The design of detention facilities for juveniles and the physical environment should be in keeping with the rehabilitative aim of residential treatment, with due regard to the need of the juvenile for privacy, sensory stimuli, opportunities for association with peers and participation in sports, physical exercise and leisure-time activities. The design and structure of juvenile detention facilities should be such as to minimize the risk of fire and to ensure safe evacuation from the premises. There should be an effective alarm system in case of fire, as well as formal and drilled procedures to ensure the safety of the juveniles. Detention facilities should not be located in areas where there are known health or other hazards or risks.

33. Sleeping accommodation should normally consist of small group dormitories or individual bedrooms, while bearing in mind local standards. During sleeping hours there should be regular, unobtrusive supervision of all sleeping areas, including individual rooms and group dormitories, in order to ensure the protection of each juvenile. Every juvenile should, in accordance with local or national standards, be provided with separate and sufficient bedding, which should be clean when issued, kept in good order and changed often enough to ensure cleanliness.

34. Sanitary installations should be so located and of a sufficient standard to enable every juvenile to comply, as required, with their physical needs in privacy and in a clean and decent manner.

35. The possession of personal effects is a basic element of the right to privacy and essential to the psychological well-being of the juvenile. The right of every juvenile to possess personal effects and to have adequate storage facilities for them should be fully recognized and respected. Personal effects that the juvenile does not choose to retain or that are confiscated should be placed in safe custody. An inventory thereof should be signed by the juvenile. Steps should be taken to keep them in good condition. All such articles and money should be returned to the juvenile on release, except in so far as he or she has been authorized to spend money or send such property out of the facility. If a juvenile receives or is found in possession of any medicine, the medical officer should decide what use should be made of it.

36. To the extent possible juveniles should have the right to use their own clothing. Detention facilities should ensure that each juvenile has personal clothing suitable for the climate and adequate to ensure good health, and which should in no manner be degrading or humiliating. Juveniles removed from or leaving a facility for any purpose should be allowed to wear their own clothing.

37. Every detention facility shall ensure that every juvenile receives food that is suitably prepared and presented at normal meal times and of a quality and quantity to satisfy the standards of dietetics, hygiene and health and, as far as possible, religious and cultural requirements. Clean drinking water should be available to every juvenile at any time.

E. Education, vocational training and work

38. Every juvenile of compulsory school age has the right to education suited to his or her needs and abilities and designed to prepare him or her for return to society. Such

education should be provided outside the detention facility in community schools wherever possible and, in any case, by qualified teachers through programmes integrated with the education system of the country so that, after release, juveniles may continue their education without difficulty. Special attention should be given by the administration of the detention facilities to the education of juveniles of foreign origin or with particular cultural or ethnic needs. Juveniles who are illiterate or have cognitive or learning difficulties should have the right to special education.

39. Juveniles above compulsory school age who wish to continue their education should be permitted and encouraged to do so, and every effort should be made to provide them with access to appropriate educational programmes.

40. Diplomas or educational certificates awarded to juveniles while in detention should not indicate in any way that the juvenile has been institutionalized.

41. Every detention facility should provide access to a library that is adequately stocked with both instructional and recreational books and periodicals suitable for the juveniles, who should be encouraged and enabled to make full use of it.

42. Every juvenile should have the right to receive vocational training in occupations likely to prepare him or her for future employment.

43. With due regard to proper vocational selection and to the requirements of institutional administration, juveniles should be able to choose the type of work they wish to perform.

44. All protective national and international standards applicable to child labour and young workers should apply to juveniles deprived of their liberty.

45. Wherever possible, juveniles should be provided with the opportunity to perform remunerated labour, if possible within the local community, as a complement to the vocational training provided in order to enhance the possibility of finding suitable employment when they return to their communities. The type of work should be such as to provide appropriate training that will be of benefit to the juveniles following release. The organization and methods of work offered in detention facilities should resemble as closely as possible those of similar work in the community, so as to prepare juveniles for the conditions of normal occupational life.

46. Every juvenile who performs work should have the right to an equitable remuneration. The interests of the juveniles and of their vocational training should not be subordinated to the purpose of making a profit for the detention facility or a third party. Part of the earnings of a juvenile should normally be set aside to constitute a savings fund to be handed over to the juvenile on release. The juvenile should have the right to use the remainder of those earnings to purchase articles for his or her own use or to indemnify the victim injured by his or her offence or to send it to his or her family or other persons outside the detention facility.

F. Recreation

47. Every juvenile should have the right to a suitable amount of time for daily free exercise, in the open air whenever weather permits, during which time appropriate recreational and physical training should normally be provided. Adequate space, installations and equipment should be provided for these activities. Every juvenile should have additional time for daily leisure activities, part of which should be devoted, if the juvenile so wishes, to arts and crafts skill development. The detention facility should

ensure that each juvenile is physically able to participate in the available programmes of physical education. Remedial physical education and therapy should be offered, under medical supervision, to juveniles needing it.

G. Religion

48. Every juvenile should be allowed to satisfy the needs of his or her religious and spiritual life, in particular by attending the services or meetings provided in the detention facility or by conducting his or her own services and having possession of the necessary books or items of religious observance and instruction of his or her denomination. If a detention facility contains a sufficient number of juveniles of a given religion, one or more qualified representatives of that religion should be appointed or approved and allowed to hold regular services and to pay pastoral visits in private to juveniles at their request. Every juvenile should have the right to receive visits from a qualified representative of any religion of his or her choice, as well as the right not to participate in religious services and freely to decline religious education, counselling or indoctrination.

H. Medical care

49. Every juvenile shall receive adequate medical care, both preventive and remedial, including dental, ophthalmological and mental health care, as well as pharmaceutical products and special diets as medically indicated. All such medical care should, where possible, be provided to detained juveniles through the appropriate health facilities and services of the community in which the detention facility is located, in order to prevent stigmatization of the juvenile and promote self-respect and integration into the community.

50. Every juvenile has a right to be examined by a physician immediately upon admission to a detention facility, for the purpose of recording any evidence of prior ill-treatment and identifying any physical or mental condition requiring medical attention.

51. The medical services provided to juveniles should seek to detect and should treat any physical or mental illness, substance abuse or other condition that may hinder the integration of the juvenile into society. Every detention facility for juveniles should have immediate access to adequate medical facilities and equipment appropriate to the number and requirements of its residents and staff trained in preventive health care and the handling of medical emergencies. Every juvenile who is ill, who complains of illness or who demonstrates symptoms of physical or mental difficulties, should be examined promptly by a medical officer.

52. Any medical officer who has reason to believe that the physical or mental health of a juvenile has been or will be injuriously affected by continued detention, a hunger strike or any condition of detention should report this fact immediately to the director of the detention facility in question and to the independent authority responsible for safeguarding the well-being of the juvenile.

53. A juvenile who is suffering from mental illness should be treated in a specialized institution under independent medical management. Steps should be taken, by arrangement with appropriate agencies, to ensure any necessary continuation of mental health care after release.

54. Juvenile detention facilities should adopt specialized drug abuse prevention and rehabilitation programmes administered by qualified personnel. These programmes

should be adapted to the age, sex and other requirements of the juveniles concerned, and detoxification facilities and services staffed by trained personnel should be available to drug- or alcohol-dependent juveniles.

55. Medicines should be administered only for necessary treatment on medical grounds and, when possible, after having obtained the informed consent of the juvenile concerned. In particular, they must not be administered with a view to eliciting information or a confession, as a punishment or as a means of restraint. Juveniles shall never be testees in the experimental use of drugs and treatment. The administration of any drug should always be authorized and carried out by qualified medical personnel.

I. Notification of illness, injury and death

56. The family or guardian of a juvenile and any other person designated by the juvenile have the right to be informed of the state of health of the juvenile on request and in the event of any important changes in the health of the juvenile. The director of the detention facility should notify immediately the family or guardian of the juvenile concerned, or other designated person, in case of death, illness requiring transfer of the juvenile to an outside medical facility, or a condition requiring clinical care within the detention facility for more than 48 hours. Notification should also be given to the consular authorities of the State of which a foreign juvenile is a citizen.

57. Upon the death of a juvenile during the period of deprivation of liberty, the nearest relative should have the right to inspect the death certificate, see the body and determine the method of disposal of the body. Upon the death of a juvenile in detention, there should be an independent inquiry into the causes of death, the report of which should be made accessible to the nearest relative. This inquiry should also be made when the death of a juvenile occurs within six months from the date of his or her release from the detention facility and there is reason to believe that the death is related to the period of detention.

58. A juvenile should be informed at the earliest possible time of the death, serious illness or injury of any immediate family member and should be provided with the opportunity to attend the funeral of the deceased or go to the bedside of a critically ill relative.

J. Contacts with the wider community

59. Every means should be provided to ensure that juveniles have adequate communication with the outside world, which is an integral part of the right to fair and humane treatment and is essential to the preparation of juveniles for their return to society. Juveniles should be allowed to communicate with their families, friends and other persons or representatives of reputable outside organizations, to leave detention facilities for a visit to their home and family and to receive special permission to leave the detention facility for educational, vocational or other important reasons. Should the juvenile be serving a sentence, the time spent outside a detention facility should be counted as part of the period of sentence.

60. Every juvenile should have the right to receive regular and frequent visits, in principle once a week and not less than once a month, in circumstances that respect the need of the juvenile for privacy, contact and unrestricted communication with the family and the defence counsel.

61. Every juvenile should have the right to communicate in writing or by telephone at least twice a week with the person of his or her choice, unless legally restricted, and should be assisted as necessary in order effectively to enjoy this right. Every juvenile should have the right to receive correspondence.

62. Juveniles should have the opportunity to keep themselves informed regularly of the news by reading newspapers, periodicals and other publications, through access to radio and television programmes and motion pictures, and through the visits of the representatives of any lawful club or organization in which the juvenile is interested.

K. Limitations of physical restraint and the use of force

63. Recourse to instruments of restraint and to force for any purpose should be prohibited, except as set forth in rule 64 below.

64. Instruments of restraint and force can only be used in exceptional cases, where all other control methods have been exhausted and failed, and only as explicitly authorized and specified by law and regulation. They should not cause humiliation or degradation, and should be used restrictively and only for the shortest possible period of time. By order of the director of the administration, such instruments might be resorted to in order to prevent the juvenile from inflicting self-injury, injuries to others or serious destruction of property. In such instances, the director should at once consult medical and other relevant personnel and report to the higher administrative authority.

65. The carrying and use of weapons by personnel should be prohibited in any facility where juveniles are detained.

L. Disciplinary procedures

66. Any disciplinary measures and procedures should maintain the interest of safety and an ordered community life and should be consistent with the upholding of the inherent dignity of the juvenile and the fundamental objective of institutional care, namely, instilling a sense of justice, self-respect and respect for the basic rights of every person.

67. All disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned. The reduction of diet and the restriction or denial of contact with family members should be prohibited for any purpose. Labour should always be viewed as an educational tool and a means of promoting the self-respect of the juvenile in preparing him or her for return to the community and should not be imposed as a disciplinary sanction. No juvenile should be sanctioned more than once for the same disciplinary infraction. Collective sanctions should be prohibited.

68. Legislation or regulations adopted by the competent administrative authority should establish norms concerning the following, taking full account of the fundamental characteristics, needs and rights of juveniles:

- a) Conduct constituting a disciplinary offence;
- b) Type and duration of disciplinary sanctions that may be inflicted;
- c) The authority competent to impose such sanctions;
- d) The authority competent to consider appeals.

69. A report of misconduct should be presented promptly to the competent authority, which should decide on it without undue delay. The competent authority should conduct a thorough examination of the case.

70. No juvenile should be disciplinarily sanctioned except in strict accordance with the terms of the law and regulations in force. No juvenile should be sanctioned unless he or she has been informed of the alleged infraction in a manner appropriate to the full understanding of the juvenile, and given a proper opportunity of presenting his or her defence, including the right of appeal to a competent impartial authority. Complete records should be kept of all disciplinary proceedings.

71. No juveniles should be responsible for disciplinary functions except in the supervision of specified social, educational or sports activities or in self-government programmes.

M. Inspection and complaints

72. Qualified inspectors or an equivalent duly constituted authority not belonging to the administration of the facility should be empowered to conduct inspections on a regular basis and to undertake unannounced inspections on their own initiative, and should enjoy full guarantees of independence in the exercise of this function. Inspectors should have unrestricted access to all persons employed by or working in any facility where juveniles are or may be deprived of their liberty, to all juveniles and to all records of such facilities.

73. Qualified medical officers attached to the inspecting authority or the public health service should participate in the inspections, evaluating compliance with the rules concerning the physical environment, hygiene, accommodation, food, exercise and medical services, as well as any other aspect or conditions of institutional life that affect the physical and mental health of juveniles. Every juvenile should have the right to talk in confidence to any inspecting officer.

74. After completing the inspection, the inspector should be required to submit a report on the findings. The report should include an evaluation of the compliance of the detention facilities with the present rules and relevant provisions of national law, and recommendations regarding any steps considered necessary to ensure compliance with them. Any facts discovered by an inspector that appear to indicate that a violation of legal provisions concerning the rights of juveniles or the operation of a juvenile detention facility has occurred should be communicated to the competent authorities for investigation and prosecution.

75. Every juvenile should have the opportunity of making requests or complaints to the director of the detention facility and to his or her authorized representative.

76. Every juvenile should have the right to make a request or complaint, without censorship as to substance, to the central administration, the judicial authority or other proper authorities through approved channels, and to be informed of the response without delay.

77. Efforts should be made to establish an independent office (ombudsman) to receive and investigate complaints made by juveniles deprived of their liberty and to assist in the achievement of equitable settlements.

78. Every juvenile should have the right to request assistance from family members, legal counsellors, humanitarian groups or others where possible, in order to make a complaint. Illiterate juveniles should be provided with assistance should they need to use the services

of public or private agencies and organizations which provide legal counsel or which are competent to receive complaints.

N.Return to the community

79.All juveniles should benefit from arrangements designed to assist them in returning to society, family life, education or employment after release. Procedures, including early release, and special courses should be devised to this end.

80.Competent authorities should provide or ensure services to assist juveniles in re-establishing themselves in society and to lessen prejudice against such juveniles. These services should ensure, to the extent possible, that the juvenile is provided with suitable residence, employment, clothing, and sufficient means to maintain himself or herself upon release in order to facilitate successful reintegration. The representatives of agencies providing such services should be consulted and should have access to juveniles while detained, with a view to assisting them in their return to the community.

V.PERSONNEL

81.Personnel should be qualified and include a sufficient number of specialists such as educators, vocational instructors, counsellors, social workers, psychiatrists and psychologists. These and other specialist staff should normally be employed on a permanent basis. This should not preclude part-time or volunteer workers when the level of support and training they can provide is appropriate and beneficial. Detention facilities should make use of all remedial, educational, moral, spiritual, and other resources and forms of assistance that are appropriate and available in the community, according to the individual needs and problems of detained juveniles.

82.The administration should provide for the careful selection and recruitment of every grade and type of personnel, since the proper management of detention facilities depends on their integrity, humanity, ability and professional capacity to deal with juveniles, as well as personal suitability for the work.

83.To secure the foregoing ends, personnel should be appointed as professional officers with adequate remuneration to attract and retain suitable women and men. The personnel of juvenile detention facilities should be continually encouraged to fulfil their duties and obligations in a humane, committed, professional, fair and efficient manner, to conduct themselves at all times in such a way as to deserve and gain the respect of the juveniles, and to provide juveniles with a positive role model and perspective.

84.The administration should introduce forms of organization and management that facilitate communications between different categories of staff in each detention facility so as to enhance cooperation between the various services engaged in the care of juveniles, as well as between staff and the administration, with a view to ensuring that staff directly in contact with juveniles are able to function in conditions favourable to the efficient fulfilment of their duties.

85.The personnel should receive such training as will enable them to carry out their responsibilities effectively, in particular training in child psychology, child welfare and international standards and norms of human rights and the rights of the child, including the present Rules. The personnel should maintain and improve their knowledge and

professional capacity by attending courses of in-service training, to be organized at suitable intervals throughout their career.

86. The director of a facility should be adequately qualified for his or her task, with administrative ability and suitable training and experience, and should carry out his or her duties on a full-time basis.

87. In the performance of their duties, personnel of detention facilities should respect and protect the human dignity and fundamental human rights of all juveniles, in particular, as follows:

a) No member of the detention facility or institutional personnel may inflict, instigate or tolerate any act of torture or any form of harsh, cruel, inhuman or degrading treatment, punishment, correction or discipline under any pretext or circumstance whatsoever;

b) All personnel should rigorously oppose and combat any act of corruption, reporting it without delay to the competent authorities;

c) All personnel should respect the present Rules. Personnel who have reason to believe that a serious violation of the present Rules has occurred or is about to occur should report the matter to their superior authorities or organs vested with reviewing or remedial power;

d) All personnel should ensure the full protection of the physical and mental health of juveniles, including protection from physical, sexual and emotional abuse and exploitation, and should take immediate action to secure medical attention whenever required;

e) All personnel should respect the right of the juvenile to privacy, and, in particular, should safeguard all confidential matters concerning juveniles or their families learned as a result of their professional capacity;

f) All personnel should seek to minimize any differences between life inside and outside the detention facility which tend to lessen due respect for the dignity of juveniles as human beings.

APPENDIX D

Corrections Act

[RSBC 1996] Chapter 74

Sections 25 to 32 are intended for the protection and benefit of young persons and for the protection of the public, by assisting young persons to resolve their conflict with the law.

Youth program committee

26 (1) The minister may

- (a) establish a youth program committee composed of persons providing services for young persons who have committed or are likely to commit offences against a Provincial or federal enactment,
- (b) appoint members of the committee, and
- (c) prescribe the powers and duties of the committee.

(2) The purpose of the youth program committee is to advise the Attorney General on policy and administration under sections 25 to 32.

(3) A member of the committee must be reimbursed for reasonable travelling and out of pocket expenses necessarily incurred by the member in the discharge of duties, and, in addition, may be paid remuneration for his or her services as the Lieutenant Governor in Council, by order, may decide.

Designation of youth custody centres

27 The minister may designate facilities as youth custody centres.

Programs for young persons

28 The minister must establish programs for young persons and, without limiting that responsibility, the programs may include one or more of the following:

- (a) a restitution or compensation program;
- (b) a community service program;
- (c) an attendance program;
- (d) a probation supervision program;
- (e) a custody program.

Care of youth admitted to custody centre

29 (1) A youth who is admitted to a youth custody centre is subject to the care, control and custody of the government, and all rights and powers of care, control and custody of a parent or guardian over the youth cease until the youth is released

- (a) on the completion of his or her term under the court order, or
- (b) on the making of a conditional release order under sections 25 to 32.

(2) The Lieutenant Governor in Council may designate a person to act under subsection (1) as agent for the government.

Transfers and outside programs

30 (1) In this section, "**adult**" means an adult as defined in the *Young Offenders (British Columbia) Act* or in the *Young Offenders Act (Canada)*.

(2) A young person in custody must be detained in a youth custody centre that the minister specifies.

(3) The minister may, during the period of custody, transfer the young person from one centre to another.

(4) If a young person in custody becomes an adult, the minister may transfer the person to a correctional centre to serve his or her custody order or any balance of it.

(5) The minister may permit a young person in custody

(a) to be temporarily released from custody for medical, compassionate or humanitarian reasons, or

(b) to participate in any educational, treatment or counselling program inside or outside the youth custody centre.

(6) If a young person is absent from a youth custody centre as permitted under subsection (5), the young person is subject to

(a) the rules, regulations and discipline of the centre, and

(b) any terms for his or her supervision that a person in authority at the centre imposes on the young person for the period of the absence.

Section Repealed

31 [Repealed 1997-7-12.]

Inspection of centres

32 (1) The director must inspect each youth custody centre or facility annually.

(2) Each year, the director must make a written report to the minister recommending any changes that, in the opinion of the director, should be made in the youth custody program or in a centre or facility inspected.

Investigation, Inspection and Standards Office

33 (1) The minister must maintain an office to be known as the Investigation, Inspection and Standards Office.

(2) [Repealed 1997-7-14.]

Director

34 (1) The director,

(a) with the prior approval of the minister, may delegate in writing any of the director's powers and duties to an employee of the office,

(b) must maintain a program of periodic inspection by the office of all correctional centres established under sections 8 to 24, youth custody centres and other facilities established under this Act,

(c) must investigate any matter respecting the administration of this Act on the written request of the minister or on the director's own motion,

(d) must investigate complaints about the administration of this Act as it affects the complainant, on receiving a written complaint from

(i) an inmate,

(ii) a young person who has been held in a youth custody centre,

- (iii) a person on probation under this Act or on parole under the *Parole Act*, or
- (iv) a parent or guardian of a youth described in subparagraph (ii) or (iii),
- (e) must report his or her findings under paragraph (b), (c) or (d) in writing to the minister,
- (f) has, for the purpose of paragraphs (b), (c) and (d), all the powers, privileges and protections of a commissioner under sections 12, 15 and 16 of the *Inquiry Act*, and
- (g) is entitled to access at any time to
 - (i) a part of a centre or facility described in paragraph (b), and to a person held there,
 - (ii) a person appointed or approved as described in section 3 or 4, and
 - (iii) a file or document under the custody and control of the ministry or of a person appointed or approved as described in section 3 or 4.
- (2) An employee to whom a power or duty is delegated under subsection (1) (a) may not delegate that power or duty to another person.

Rules and regulations

35 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

- (a) for the qualifications, duties and powers of probation officers;
- (b) for the office and other accommodation and clerical and other assistance to be provided for a probation officer;
- (c) for reports and returns by probation officers;
- (d) for the management, operation, discipline and security of correctional centres and youth custody centres;
- (e) prescribing the duties of any person employed in or about a correctional centre;
- (f) for the diet, clothing, maintenance, employment, training and discipline of the inmates;
- (g) governing inmates duly authorized to be absent from a correctional centre;
- (h) establishing disciplinary panels;
- (i) establishing a process by which decisions made or dispositions imposed by a disciplinary panel may be reviewed and establishing the practices and procedures to be used in that process;
- (j) prescribing allowances for members of disciplinary panels who are not employees under the *Public Service Act*;
- (k) for the disposal of unclaimed property abandoned by an inmate at a correctional centre or a young person at a youth custody centre;
- (l) for the seizure and disposal of drugs, weapons or any other object that may threaten the management, operation, discipline or security of a correctional centre or a youth custody centre;
- (m) prescribing the health care, diet, clothing, accommodation, education, training, employment, custody and discipline standards applicable to a young person held in a youth custody centre.

(3) The minister must post in legible characters and in conspicuous parts of a correctional centre, so that every inmate may have notice, copies of those regulations made under subsection (2) (d) to (l) that relate to the treatment and conduct of the inmates.

Corrections Act – Youth Correctional Programs Regulations

Assignment of case managers

4 A director shall, for each youth for whom the director has management responsibility, assign a youth supervisor to work as case manager.

Duties of a case manager

5 When a youth supervisor is case manager for a youth, the youth supervisor shall assist the youth to understand the youth's responsibilities, to benefit from the youth correctional program, to prepare for release, and to obtain services as needed.

Contact and correspondence with family, lawyer, and others

17 (1) On admission of a youth to a youth containment centre, the director shall, as soon as reasonably possible, advise a parent of the youth concerning the admission.

(2) A youth in a youth correctional program has the right to correspond directly with

- (a) the director referred to in section 44 of the Act,
- (b) the Ombudsman,
- (c) the Superintendent of Child Welfare,
- (d) a Member of the Legislative Assembly of the Province or of the Parliament of Canada,
- (e) the solicitor of the youth,
- (f) the parents, siblings, or other relatives of the youth, or
- (g) such other persons as the director may specify.

(3) Correspondence referred to in subsection (2)(f) or (g) may be examined by the director.

(4) Where, in the opinion of the director, an object enclosed with correspondence examined by the director endangers the security, discipline or operation of a youth correctional program, the director may seize the object and file it in a secure place.

(5) Where an object is seized under this section, the director shall give the youth a receipt identifying it.

(6) No correspondence described by subsection (2) (a), (b), (c), (d) or (e) shall be examined under this section.

Telephone privileges

18 (1) At the discretion of the director, a youth shall be allowed reasonable opportunity to telephone parents, the solicitor of the youth, or other persons.

(2) On admission to a youth correctional program on order of remand or warrant for arrest, a youth has the right to telephone a parent, solicitor or both, as soon as practical.

Visiting privileges

19 (1) A director shall establish general rules to regulate visits to youths by a parent, solicitor, or other persons.

(2) On admission to a youth correctional program on order of remand or warrant for arrest, a youth shall be allowed a visit by the youth's parent, solicitor, or both, as soon as practical.

Medical examination of youth on admission to a detention centre or youth containment centre

20 (1) On admission to a detention centre or youth containment centre, a youth shall, as soon as practical, be examined by a medical officer, who shall prepare a written report on the state of the youth's health.

(2) Where a youth is being transferred from a detention centre or youth containment centre to either a detention centre or youth containment centre, the senior medical officer at the centre from which the youth is being transferred shall ensure that a medical report on the youth is forwarded forthwith to the centre to which the youth is transferred.

Educational services

25 (1) A director shall provide an adequate location, within a facility used for a youth correctional program under the management responsibility of the director, for the provision of educational services to the youths there.

(2) The director shall cooperate with local educational authorities so that they may provide teaching staff, materials, and other educational services appropriate to the needs of the youth.

Recreational services

26 To promote good health, self-discipline, and teamwork among youths in a youth correctional program under a director's managerial responsibility, the director shall provide recreational opportunity to the youths, including

- (a) not less than one hour each day devoted to such recreation, and
- (b) where practical, both indoor and outdoor activities.

Other services

27 A director shall make all reasonable efforts to ensure that services provided by community and government agencies that would benefit youths under the management responsibility of the director are made available to the youths.

Religious services

28 (1) The chaplain assigned to the youth correctional program at a particular location shall develop and maintain a program of religious observance and counselling in order that those youth who wish to take part in these religious services may do so.

(2) No youth shall be required to participate in any religious service against the youth's will.

(3) On request of a youth under his managerial responsibility, a director may, in consultation with a chaplain, authorize a minister, priest, rabbi or similar religious figure to visit the youth.

(4) Requests by a youth to see a chaplain shall be communicated to a chaplain as soon as practical and, on receipt of a request, a chaplain shall, as soon as practical, arrange for the youth to be visited.

(5) In the performance of the chaplain's duties the chaplain shall, subject to whatever restrictions the director considers necessary, have access to youth, staff, and every part of all buildings and grounds within a youth correctional program.

Sleeping room standards

29 (1) Within a youth correctional program,

- (a) each sleeping room must contain at least 6.2 m² of floor area,
- (b) each sleeping room intended to house more than one youth must contain a minimum of floor area calculated as follows:
 - (i) 4.95 m² for the first youth, plus
 - (ii) 3.15 m² for each additional youth,
- (c) a sleeping room must be at least 50% above grade level,
- (d) the window area in each sleeping room must equal at least 10% of the floor area of the room,
- (e) a sleeping room must have adequate ventilation, and
- (f) while a youth is in a sleeping room, the temperature in the room must be at least 18° C.

(2) A youth in a youth correctional program shall be provided with a single bed for the youth's exclusive use while in the program.

(3) The distance between each bed in a sleeping room containing 2 or more beds shall be 0.9 m or more.

(4) A youth shall be provided with sufficient furnishing to store clothing and personal effects.

Washroom standards

30 (1) The ablution area for a youth correctional program facility shall be constructed in a manner to ensure privacy to a youth.

(2) There shall be a minimum of one toilet and one hand basin for each 5 youths in a room or unit, and at least one both or shower for each 10 youths in a room or unit.

Clothing and personal effects

31 On admission and thereafter as needed, a youth in a youth correctional program shall, in accordance with standards to be specified by the director having management responsibility, be issued bedding, towels, items of toiletry, and clothing.

Duties of the youth program committee

33 (1) The duties of the committee are to review the policy and administration of each youth program operating by the branch and to advise the Lieutenant Governor in Council concerning

- (a) the quality and content of youth programs,
- (b) the quality and content of staff training and development measures for the youth programs,
- (c) the allocation of resources among the youth programs,
- (d) the community's involvement, understanding, and acceptance of youth programs, and

- (e) other matters of concern to the committee or the Lieutenant Governor in Council related to youth programs.
- (2) The committee shall, on or before March 31 each year, make a written report to the Attorney General concerning its activities.
- (3) A report under subsection (2) shall
 - (a) be in a form, and
 - (b) comment on issuesspecified by the Attorney General.
- (4) On request by a member of the committee, the director referred to in section 44 of the Act shall provide the member with all records of the branch relative to standards and procedures for youth programs.
- (5) Section 7 of these regulations applies to the committee and its members.

APPENDIX E

Telephone Contact with Key Informants

Hello _____.

My name is Monica Jobe and I am a graduate student at the University of Victoria, BC. I am presently working on my thesis for a Masters of Arts degree. The purpose of my thesis is to understand the perspectives of individuals in the youth corrections system relating to youth containment in the Ministry for Children and Families on how to ensure the right of youth in containment to be treated with dignity and respect.

I am interested in gaining an understanding of what different individuals throughout the youth justice system view as being treated with dignity and respect in youth containment and whether or not they feel that the current conditions in a containment facility do so, and why or why not. With the recent transfer of responsibility for youth justice from the Ministry of the Attorney General to the Ministry for Children and Families, I am interested in discovering what the informants feel the differences are between these two ministries and the approach they take to fostering dignity and respect in youth containment.

All of the information that you give me will be written up under an assumed identity to protect you from being identified. The interview questions are focused to help you express your views and opinions from your perspective. If at any time you feel you would like to withdraw from the project you are free to do so with no negative consequences. If you choose to withdraw from the project, all your information collected will be destroyed none of it will be used in the final report. The information collected will always be kept in a secure location to ensure confidentiality. At no time will your name or any other personally identifying information be shared in any manner.

If you are interested in participating in my study I would like to arrange to meet with you so I can answer any further questions you may have and if you are still interested I will have you sign a consent form. The consent form is an agreement that I will uphold during this research project. Never during the research project will your name or other personally identifying information be used. The data will be collected by audiotape interviews between yourself and me at a mutually agreed upon location. The audiotapes will be erased once the project is completed.

If you have any questions before our scheduled meeting, please feel free to contact me at (250) 388-0644 or email me at mcjobe@uvic.ca. Thank you for your consideration to participate in my study.

APPENDIX F

Consent Form for Key Informant Participation

Hello, my name is Monica Jobe and I am a graduate student at the University of Victoria, working towards my Masters of Arts degree. This research project is a part of my degree. My supervisor for my thesis is Jim Anglin at the University of Victoria. If you have any questions or concerns regarding this research or myself, you can call Jim at (250) 721-7986. My telephone number is (250) 388-0644.

This research project is studying the perspectives of selected individuals involved with youth custody in the Ministry for Children and Families on how to ensure the right of youth in custody to be treated with dignity and respect. You will be asked, based on your own experiences, values and beliefs how youth in custody can be treated with dignity and respect, whether you feel the current conditions in a custody facility fulfill this right, and why or why not. With the recent transfer of responsibility for the youth justice system from the Ministry of the Attorney General to the Ministry for Children and Families, I am interested in discovering what you feel are the differences between these two ministries and the approach they take to fostering dignity and respect in youth custody centres. Your participation should require approximately two hours of your time. The results will be reported in my masters thesis.

Your participation is completely voluntary and you can withdraw from the study at any time, without explanation and with no negative consequences. If you choose to withdraw from the study, all data, documentation, and/or audiotapes will be destroyed immediately and none of this information will be used in the final report. You have the right to refuse to answer any question you do not wish to answer.

I will take some notes during the interviews and would also like to audiotape the conversation. If you are uncomfortable with being taped, please let me know and I will forego taping. Your interview will be audiotaped and the tape will be erased upon completion of this project. Your interview will be transcribed by the principal investigator. You will get a copy of the summary of your interview transcript to read and check the accuracy of, and you can make any changes to it at that time.

The information you share with me will remain confidential and secure at all times. I will ascribe a code name to the transcripts and at no time will your name or any other identifying information be attached to the data or in any summary or report of the project. The data (audiotapes, written transcripts) will be kept in a locked filing cabinet and on my computer (a password will be used to access thesis information).

The compiled summary findings of the interview will be presented verbally to an advisory group of youth who have previously been in custody facilities for comment. At no time will your name or any other identifying information be attached to the data. The findings will also be presented in my Masters thesis. Again, your name or any other identifying information will not be attached to the data.

Your signature below indicates that you have read and understand the information provided above, that you have had time to ask questions about it and that you willingly agree to participate. You may withdraw your consent at any time and discontinue participation at any time.

Name

Signature

Witness

Date

APPENDIX G

Interview Questions

The following questions will be the starting points in helping the participants express their views and opinions. The questions may or may not follow this exact order; however, they will be guidelines to the investigator to address similar issues for each participant.

1. Was your position, responsibilities, mandate, etc. affected by the creation of the Ministry for Children and Families? Please explain.
2. How do you view the transfer of responsibility for youth justice from the Ministry of the Attorney General to the Ministry for Children and Families? Please explain.
3. In your view, how does the Ministry for Children and Families differ from the Ministry of the Attorney General?
4. What do you feel are the principles guiding the use of containment with young offenders?
5. How do you view these principles fitting with the MCF's guiding mission and principles?
6. A basic right of youth in containment is the right to be treated with dignity and respect. Do you feel that this right is currently being met in containment? What do you see as being the opportunities or barriers to meeting this right - a) presently, b) in the future?
7. As far as you are aware, are there any specific initiatives being taken, or planned, within the Ministry for Children and Families to address these opportunities and barriers?
8. If you were in charge and you had no financial constraints, what initiatives would you ensure occurred in youth containment to address the right of youth to be treated with dignity and respect?

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Title of Thesis: No Exceptions: The Right to be Treated with Dignity and Respect in Youth Custody Facilities in British Columbia

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