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# Highlights of the proposed new legislation for young offenders



Solicitor General  
Canada

Solliciteur général  
Canada

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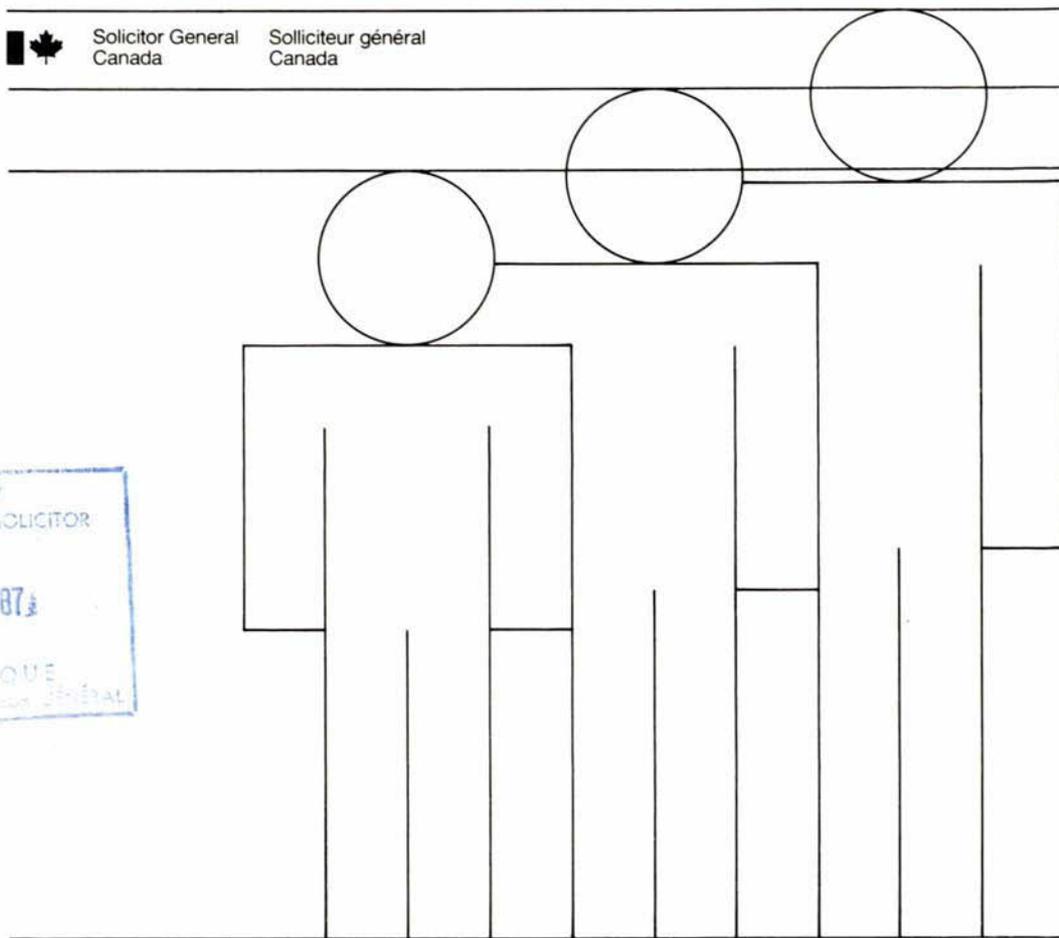
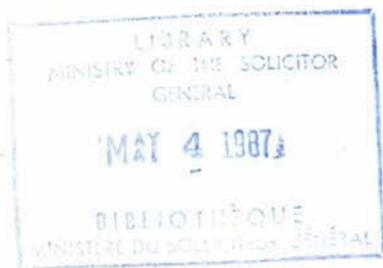
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# Highlights of the proposed new legislation for young offenders,



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# Introduction

As the law now stands, young offenders are dealt with under the Juvenile Delinquents Act of 1908, as amended from time to time. The Act establishes special juvenile courts and special procedures for dealing with young offenders. Previously, children had been brought before the ordinary criminal courts. The intent of the 1908 Act was to treat a child "not as a criminal, but as a misdirected child, and one needing aid, encouragement, help and assistance".

In practice, and particularly in view of changing attitudes toward crime and how to deal with it, the 1908 Act has not fulfilled its promise. In the view of many, young persons have not received proper care and treatment, and are not afforded all the basic rights and protections afforded to adults facing a criminal charge. It is also held that existing procedures fail to protect society and fail to bring about the salutary acceptance of responsibility for delinquent acts that should be part of the educational experience of the young offender.

Rather, the 1908 Act with its concentration upon the offence of juvenile delinquency tends to label and stigmatize a child, thereby reinforcing a delinquent self-image and perpetuating delinquent behaviour.

The Solicitor General of Canada is now proposing that the 1908 Act be replaced by new legislation to be known as "The Young Offenders Act".

*The new Act would have the following objectives:*

— to recognize and give formal effect to the changes and innovations in the treatment of young offenders that have come into being to make good the deficiencies of the 1908 Act;

- to abolish status offences and to deal with the specific offence committed;
- to ensure that young offenders benefit from all the rights and protections enjoyed by adults and to offer certain special guarantees of those rights;
- to encourage acceptance by young offenders of responsibility for criminal acts committed;
- to set up procedures and sentencing practices that will ensure to the young person the protection that a young person needs;
- to protect society from the effects of juvenile crime;
- to ensure that a young offender's experience with criminal justice will tend to turn the young person away from further involvement in criminal activity.

The proposed Act is based upon extensive studies and consultations started in 1973 undertaken by the Ministry of the Solicitor General with the active participation of the Department of Justice and the Department of National Health and Welfare. In 1975 the Solicitor General of Canada published a report entitled "Young Persons in Conflict with the Law", based on these studies and consultations and on a preliminary round of consultations with the provinces.

The Report was then the subject of exhaustive consultations all across the country, involving provincial and territorial governments and interested groups and individuals of all kinds. Countless submissions and briefs were received and considered. The new Act now proposed takes into account to the extent possible the many proposals, suggestions, objections and amendments put forward in the course of these consultations.

# Principles of the new legislation

*The Young Offenders Act would be built on the following principles.*

Young persons who commit offences should bear responsibility for their contraventions and 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, society must nonetheless be afforded the necessary protection from such illegal behaviour.

In affording society protection from illegal behaviour, it is to be recognized that young persons require supervision, discipline and control, but also, because of their state of dependency and lack of maturity, have special needs and require guidance and assistance.

Where not inconsistent with the protection of society, consideration should be given to using alternatives to the formal youth justice process for dealing with young persons who have committed offences which come within the jurisdiction of the Act.

In determining the responsibility of young persons under the Act, it is to be recognized that young persons have rights and freedoms equal to those of adults including those stated 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, as well as special guarantees of these rights and freedoms.

In the application of the Act, the rights of young persons include a right to the least interference with freedom, having regard to the protection of society, the needs of young persons, and the interests of their families.

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Young persons have the right, in every instance where they have rights or freedoms which may be affected by the Act, to be informed as to what those rights and freedoms are.

Parents have primary responsibility for the care and supervision of their children and, therefore, young persons should be removed from parental supervision either partly or entirely only when all other measures that provide for continuing parental supervision are inappropriate; however, if it is necessary so to remove them, they shall be dealt with, in all respects and as nearly as may be, as they would be dealt with if they were under the care and protection of wise and conscientious parents.

# Major legislative provisions of the young offenders act

## Offences Covered

The proposed legislation would deal only with offences against the Criminal Code and other federal statutes and regulations. The general offence of delinquency would be abolished and offences now included under the Juvenile Delinquents Act such as infractions of provincial statutes and municipal by-laws and status offences would be excluded.

The general intent of this proposal is to exclude from the criminal law less serious misconduct that could better be dealt with by other social or legal means, leaving minor behavioural problems to the provinces under child welfare and youth protection laws.

## Ages of Applicability

Under the existing legislation the minimum age of criminal responsibility is seven years as fixed by Section 12 of the Criminal Code. The maximum for treatment under the Juvenile Delinquents Act of 1908 is 16, with provision for the provinces to designate 17 or 18.

Under the proposed Young Offenders Act the minimum age of criminal responsibility would be twelve years. In setting this age, consideration has been given to the stage of development of the child in physiological, mental and emotional terms, particularly as these factors apply to the formulation of a criminal intent. The setting of a precise age is necessarily arbitrary as children vary greatly in their rate of development but it is assumed that deviant behaviour by children under the age of twelve is better and more effectively dealt with under provincial legislation pertaining to child welfare or youth protection.

The Government recognizes the desirability of standardizing a maximum age across the country. However, the consultations which were conducted during 1976 while favouring a uniform age failed to achieve agreement as to what that age should be.

The Young Offenders Act would establish the maximum age of jurisdiction at 18 years although the provinces and territories would have the option of setting the maximum age at either 16 or 17.

The Government continues to support the goal of establishing a uniform maximum age of 18 so that the procedures, practices and services of the juvenile justice process will apply equally to all young Canadians.

### **Screening and Diversion**

One objective of the proposed legislation is that the application of the formal youth court process should be limited to those instances when a young person cannot be adequately dealt with by other social or legal means. To achieve this objective, the proposed legislation contains provisions that would encourage screening and diversion.

The proposals do not contain provisions for the establishment of a formal screening mechanism to guide the diversion process but, rather, set out basic factors to be considered when screening and diversion is practised. For example, the legislation would stipulate that, when considering whether to invoke the formal procedure of the court rather than using alternative social and legal measures, regard shall be had to factors such as the following:

- the seriousness of the alleged offence;
- the previous history of the young person in respect of offences;
- the manner in which the young person has responded to alternative social and legal measures in the past;
- the willingness of the young person to participate in a plan to use alternative social or legal measures.

### **Detention of Young Persons Prior to Court Disposition**

The Young Offenders Act would establish strict guidelines and procedures relating to the detention of young persons upon apprehension by the police, pending and during proceedings of the youth court, as well as before the implementation of a court disposition.

In particular, the proposed legislation specifies that the rules and criteria set out in the Criminal Code including those pertaining to bail, shall be applied to those cases involving young persons. In addition to these criteria, consideration would be given to the necessity of detention to prevent injury to another person, and to whether a young person could be placed in the care of a responsible person to achieve the same ends.

The proposed legislation also requires that parents be given notice of the arrest or detention of a young person and further provides that the judge of

the youth court undertake regular reviews of the need for detention, in accordance with the provisions of the Criminal Code. Finally, the legislation provides that when young persons are held in detention, they are to be kept apart from adults.

### **Sentencing**

The Young Offenders Act would set out a precisely-defined range of sentencing dispositions available to the youth court judge to meet the needs of young persons, to protect society and to take into consideration the rights of the victims of crime. The dispositions contained in the legislation include the performance of community service orders, the making of compensation and restitution, the payment of a fine up to a maximum of \$1,000.00, probation and committal to open or secure custody, all for a maximum period of up to three years. In those instances where a young person would be committed to custody, the committal would be for a fixed period of time, in contrast to the provisions contained in the present Juvenile Delinquents Act which allow for indefinite committals to custody.

### **Review of Dispositions Involving Care and Custody**

The progress and welfare of young persons who receive sentences of open or secure custody would be subject under the Young Offenders Act to continuing review by a youth court judge or, at the option of the provinces, a provincially appointed review board. The youth court judge or review board could confirm the original disposition, reduce the degree of custody or release the child to the community under supervision. Under no circumstances could the judge or review board reduce the length of the sentence.

**Transfer to Adult Court**

Inevitably there will be exceptional cases of such gravity that the provisions of the proposed Young Offenders Act cannot effectively deal with the young offender. In such cases, the proposed Act provides explicit guidelines and procedures for the transfer of the case to the adult court. However, in cases involving a young person aged 12 or 13, an application by the prosecutor to transfer a young person to the adult court must have the approval of the Attorney General.

**Legal Representation**

The proposed Young Offenders Act recognizes that young persons have all the rights of adults under the Canadian Bill of Rights and the Criminal Code when charged with a criminal offence. Young persons would have their rights explained to them, including the right to retain and instruct counsel as soon as they are detained, arrested or summoned by the police. The proposals provide that a young person must be represented at his trial by a lawyer, unless the judge of the youth court is satisfied that no lawyer is reasonably available. In such instances, the judge would allow a young person to be assisted by a responsible adult.

# Federal financial support of the youth justice system

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A primary concern in the development of the new federal policy has been the recognition that the federal government should encourage the development of better services and resources to young offenders by increasing the financial assistance it provides to the provinces.

At present, financial assistance to the juvenile justice system is extended through funding programs administered by the Department of National Health and Welfare, the Department of Justice and the Ministry of the Solicitor General.

The Ministry of the Solicitor General provides funds to the juvenile justice system principally through the sponsorship of research and evaluation projects and the funding of innovative and demonstration projects. The Department of Justice provides cost-sharing assistance for criminal legal aid services, a portion of which is spent in the juvenile court system. The Department of National Health and Welfare participates in cost-sharing services to young offenders through the mechanism of the Canada Assistance Plan. Cost sharing is limited to care and after-care services and excluding such services as diversion and pre-dispositional assessments which focus on a study of young persons' needs and provision of services to the young person in his own home and community, including probation supervision. Current federal funding is therefore weighted in favour of services that seek the solution to the young person's problems through his removal from his home and community to secure or open custody.

These existing arrangements do not take into account the new proposals advocating a greater reliance on community and social service solutions to the problems of young offenders. The federal government is now prepared to extend the range of juvenile services eligible for cost-sharing to include diversion services, pre-dispositional assessments and reports, and post-dispositional community supervision including probation. Funding would be extended under the framework of the proposed Social Services legislation. Extended federal financial assistance is subject of course to the provincial support of the proposed new legislation and to discussions with the provinces of the details and conditions for cost-sharing.

## APPENDIX A

# Recommendations for new legislation to replace the juvenile delinquents act

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### 1. PREAMBLE

1. that new legislation incorporate a preamble, containing a declaration of the philosophy, spirit and intent of the legislation, as a guide for its administration.

the preamble should be as follows:

- (i) Young persons who commit offences should bear responsibility for their contraventions and 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, society must nonetheless be afforded the necessary protection from such illegal behaviour.
- (ii) In affording society protection from illegal behaviour, it is to be recognized that young persons require supervision, discipline and control, but also, because of their state of dependency and level of development and maturity, young persons have special needs and require guidance and assistance.
- (iii) Where not inconsistent with the protection of society consideration should be given to using alternative social and legal measures for dealing with young persons who have committed offences, which come within the jurisdiction of this Act.
- (iv) In determining the responsibility of young persons under this Act, it is to be recognized that young persons have rights and freedoms equal to those of adults including those stated 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 as well as special guarantees of these rights.
- (v) In the application of this Act, the rights and freedoms of young persons include a right to the least interference with freedom, having regard to the protection of society, the needs of young persons, and the interests of their families.
- (vi) Young persons have the right, in every instance where they have rights or freedoms which may be affected by this Act, to be informed as to what those rights and freedoms are.
- (vii) It is recognized that parents have responsibility for the care and supervision of their children, therefore, young persons should be removed from parental supervision

either partly or entirely only when all other measures that provide for continuing parental supervision are inappropriate; however, if it is necessary so to remove them, they shall be dealt with, in all respects, as nearly as may be, as they would be dealt with if they were under the care and protection of wise and conscientious parents.

**2. TITLE**

2. that "The Young Offenders Act" be the title of new legislation.

**3. INTERPRETATION**

3. that new legislation contain an interpretation section to clearly define the meaning of the terms employed such as "youth court", "secure custody", "open custody", "detention", etc.

**4. HOW YOUNG PERSONS ARE DEALT WITH**

4. that there be a provision that the legislation be liberally construed and interpreted in accordance with the principles enunciated in the preamble.

**5. JURISDICTION OF YOUTH COURT (offences)**

5. that the jurisdiction of new legislation extend solely to offences against federal statutes and regulations, excluding territorial ordinances.

**6. JURISDICTION OF YOUTH COURT (age)**

6. that the minimum age of criminal responsibility under the new legislation and in the Criminal Code be set at 12 years of age.
7. that the maximum age under new legislation be set at under 18 years but the provinces could request the Governor in Council to set the maximum age at 16 or 17 years in their respective province or territory.
8. that a person who has committed an offence while under the maximum age of jurisdiction, be subject to being dealt with in the Youth Court until he reaches an age 3 years hence, and thereafter, he is to be dealt with in the adult court.

9. that where a person commits an offence while under the maximum age of the jurisdiction, that the jurisdiction of the Youth Court be extended three years beyond the maximum intake age and that services be provided for the same period of time.

#### **7. DETENTION NOT PURSUANT TO DISPOSITION**

10. that young persons must be held in detention separate from adults.
11. that, in addition to the requirements set out in the Criminal Code regarding bail, a young person could be detained to prevent injury to another person and if he could not be placed safely with a responsible person to achieve the same end.
12. that the decision to detain a young person prior to his appearance in court may be made by the police but the young person should appear before a Youth Court judge as soon as possible to determine the necessity for continuing the detention.
13. that subsequent to the appearance of the young person in court, the young person is provided the right to appeal detention decisions as set out in the Criminal Code.

#### **8. NOTICES TO PARENTS, RELATIVES OR FRIENDS**

14. that a parent, relative or friend be kept aware by means of notices, of the arrest and/or temporary detention, and of the appearance in Youth Court of the young person.

#### **9. ATTENDANCE OF PARENTS**

15. that a parent shall be present in Youth Court but, should a parent fail to appear, it would be left to the judge to decide if such an appearance was necessary.

#### **10. SCREENING**

- 16(i). that when considering whether to invoke the formal procedures of the court rather than using alternative social and legal measures for dealing with young persons who are alleged to have committed offences, regard shall be had to the following:
  - (a) the seriousness of the alleged offence, the circumstances in which the offence was allegedly committed, and the length of time that has passed since the alleged occurrence;

- (b) the previous history of the young person in respect of offences;
  - (c) the manner in which the young person has responded to alternative social and legal measures in the past;
  - (d) the willingness of the young person to participate in a plan to use alternative social and legal measures;
  - (e) any plans put forward by or on behalf of the young person to make amends;
  - (f) the views of injured parties or of those who have suffered loss from the occurrence, or parents and guardians of such persons;
  - (g) the civil remedies available;
  - (h) punishment or loss already undergone by the young person;
  - (i) the evidence is sufficient to bring the case before the Youth Court;
  - (j) the danger to the public represented by the young person and the possibility of the repetition of the offence, or of similar or other offences; and
  - (k) the extent to which public rights or interests are involved and the extent to which private interests are involved;
- 16 (ii). No proceeding under this Act shall be invalidated because of a failure to comply with the above provisions.
- 16 (iii). However, when any person or agency is considering whether to invoke the processes and procedures of the Youth Court rather than using alternative social or legal measures for dealing with young persons who are alleged to have committed offences under federal legislation, this Act shall not be construed or applied so as to:
- (a) compel the young person to deal or negotiate with a screening agent or agency;
  - (b) prevent any person from swearing an information or securing the issuance of process in accordance with law;
  - (c) require any admission or confession as a condition precedent when any alternative social or legal measures are used;
  - (d) justify an agreement not to prosecute or to compound or conceal an offence;

- (e) justify the acceptance of or justify consent to the acceptance of a plea of guilty (to an offence which has not been committed) or to an offence that cannot be prosecuted because it is barred at law;
- (f) justify representations to a judge other than in court;
- (g) justify any person or agency in failing to perform a duty to swear an information or to issue process in accordance with law;
- (h) justify expediency in reducing the workload of a Youth Court or in the disposing of an alleged violation of federal law;
- (i) justify the withdrawing of charges or the staying of proceedings for reasons other than those listed in 16 (i);
- (j) justify a plea of guilty to a lesser number of charges or to a lesser or included offence;
- (k) justify an agreement as to a specific sentence to be recommended to the court.

#### **11. RIGHTS OF YOUNG PERSONS TO ASSISTANCE AND REPRESENTATION**

- 17. that a young person be given the right to retain counsel and instruct him without delay, at all stages of the proceedings in which he is involved.
- 18. that a young person not be entitled to be represented at his trial by a person who is not a lawyer unless the judge is satisfied that no lawyer is reasonably available.

#### **12. ADMISSIBILITY OF STATEMENTS**

- 19. that any written statement given by a young person without the young person having had explained by a police officer the consequences of making a statement and having been given the opportunity to consult with a lawyer, parent or relative, or in the absence of a parent or relative, a responsible adult, before any written statement is taken, shall be inadmissible as evidence. The admissibility of oral statements would be governed by the present rules of evidence.

#### **13. APPEARANCE OF YOUNG PERSON IN YOUTH COURT**

- 20. that when a young person against whom an information has been laid appears before the court, the judge shall inform him that he is entitled to be represented by a lawyer if

he is not already so represented, cause the information to be read to him and explain to the young person his right to plead guilty or not guilty to the charge.

#### **14. ADJOURNMENTS**

21. that the judge may adjourn proceedings at any time and that each such adjournment should not exceed eight days, unless there is consent of both the Attorney General and the young person concerned.

#### **15. SUBSTITUTION OF JUDGES**

22. that different judges may preside over different stages of proceedings, but that where a trial has commenced before one judge and an adjudication has not been made, the substituting judge shall recommence the trial.

#### **16. TRANSFER TO ADULT COURT**

23. a. that where the young person is charged with a serious indictable offence, except those mentioned in Section 483 of the Criminal Code, the young person may be transferred to the adult court upon a motion from the agent of the Crown or the young person.
  - b. that proceedings in adult court be restricted to the offence or offenses for which the young person has been transferred to adult court;
  - c. that proceedings before the Youth Court be suspended until proceedings before the adult court and any dispositions resulting therefrom have concluded.
24. that where a motion of transfer is being considered by the agent of the Crown in respect of a young person who had not attained the age of fourteen at the time that the young person was alleged to have committed the offence, approval of the motion shall be required from the Attorney General.
25. that the Youth Court judge should render his decision regarding transfer to adult court after considering a number of factors, including the following:
  - a) the degree of seriousness of the alleged offence and the circumstances in which it was allegedly committed;

- b) the age, maturity, character and previous history of the young person;
  - c) the comparative adequacy of the dispositions available under the Criminal Code, this legislation and any other federal act, for dealing with the case;
  - d) the nature of any community services rendered to the young person in the past, whether pursuant to this or any other federal or provincial act and his response to these services;
  - e) the contents of a pre-disposition report; and
  - f) any representations made by or on behalf of the young person or the Attorney General or his agent.
26. that the judge file written reasons for his decision to transfer a young person to adult court.

#### **17. ADJUDICATION**

27. that where a young person admits to an offence and the judge is satisfied that the admission is true, he shall proceed to make a disposition as provided in the act.
28. that where a young person does not admit to an offence, or the judge is not satisfied that the admission of the offence is true, the judge shall proceed to hold a trial and shall
- a) if he decides that the evidence is not sufficient to prove beyond a reasonable doubt that the young person committed the offence, he shall find him not guilty and dismiss the young person; or
  - b) if he decides that the evidence is sufficient to prove beyond a reasonable doubt that the young person committed the offence, he shall find him guilty and proceed to make a disposition as provided in the Act.

#### **18. FINDING AND DISPOSITION**

29. that the judge be enabled to give a young person an absolute discharge.
30. that the judge be enabled to impose a fine not exceeding \$1,000.00. In doing so, regard shall be had to the young person's present ability to pay or to his ability to earn through employment.
31. that where the young person is convicted of an offence, the court shall order that any property obtained by the commission of the offence be restored to the person entitled to

- it, if at any time during the trial the property is before the court or has been detained so that it can be immediately restored to that person under the order.
32. that the judge may order a young person to pay to another person by way of compensation an amount not exceeding \$1,000.00, including compensation to a bona fide purchaser after the property has been restored to its owner under paragraph 31. In doing so, regard shall be had to the young person's present ability to pay or to his ability to earn through employment.
  33. that the judge may order a young person to perform an appropriate community service. In making a community service order:
    - (i) the judge shall be satisfied that the young person is a suitable candidate and may in this determination consider a pre-disposition report;
    - (ii) the judge shall secure the consent of the young person to perform the community service, explain the purpose of the order and the consequences of breach;
    - (iii) the order shall not be less than 40 hours or more than 240 hours and should be completed within 12 months from the date of the order;
    - (iv) the judge shall ensure that the community service order does not interfere with the normal hours of work or education in which the young person is engaged.
  34. that the Youth Court judge may impose upon a young person a term of probation not exceeding three years.
  35. that the Youth Court judge may impose a combination of two or more dispositions under recommendations 30 to 34.
  36. that the Youth Court judge may commit a young person to continuous or, with the concurrence of the provincial authority, intermittent care in either open or secure custody for a period not exceeding three unbroken years from the date of committal.
  37. that the judge shall file written reasons for any dispositions involving probation, open or secure custody, and a copy of the decision be given to the young person, his parent, the provincial director, the Attorney General and the lawyer acting on behalf of the young person.
  38. that a young person could suffer no greater penalty than the maximum penalty applicable to an adult if committing the same offence.

**19. PRE-DISPOSITION REPORTS**

39. that a judge shall require a pre-disposition report before making a disposition, if that disposition is to be an order for probation, open or secure custody; in all other cases, a pre-disposition report would be discretionary.
40. that the distribution of the pre-disposition report to the young person, his parents, their lawyer(s), the prosecutor, the judge and the provincial director should be mandatory and automatic.
41. that the pre-disposition report shall be in writing and shall contain as much information as is reasonably obtainable and relevant to an order or disposition that may be made in respect of the young person.
42. that the pre-disposition report should be prepared by or under the direction of the responsible provincial authority designated for that purpose.
43. that where lack of time prevents a pre-disposition report from being committed to writing prior to the disposition, the report may be made orally in the first instance, but it shall immediately thereafter be committed to writing and placed in the Youth Court record of the case.
44. that a judge may direct that any part of a pre-disposition report be withheld from the young person, if in his opinion the contents of the report would prove to be harmful to him if disclosed; but in so doing the judge should explain the reason for this as well as circumstances permit, without occasioning the injury which the withholding of the report is meant to avoid.
45. that no statement, made in the course of an investigation for the purpose of preparing a pre-disposition report, by a young person who is the subject of such report, be admissible in evidence against him in any proceeding, whether civil or criminal, except for the purpose of considering an order to proceed against the young person in adult court or in the determination of a disposition.

**20. MEDICAL EXAMINATIONS, PSYCHOLOGICAL AND PSYCHIATRIC ASSESSMENTS**

46. that the judge may, at any stage of proceedings, order a young person that the judge has reason to believe may be suffering from any physical or mental illness, learning disability

or mental retardation, to be examined by a qualified person who will provide a written report of the results of the examination to the judge.

47. that the judge may, for the purposes of obtaining a medical report, order that a young person be held for a maximum of thirty days.

## **21. DISQUALIFICATION OF JUDGES**

48. that a judge who has made an order transferring the young person to adult court, or who has examined a pre-disposition report prior to deciding on the involvement of a young person in an offence, has no jurisdiction in any capacity to try that young person for the offence in question.
49. that where in the opinion of the accused and of the prosecution, information available to the judge from a pre-disposition report is not likely to prejudice the judge, disqualification may be waived and the judge may continue to preside over the trial, unless the judge himself believes he has been prejudiced in which case he would step down.

## **22. ISSUE OF INSANITY**

50. that the Youth Court judge shall refer a young person to the provincial director, for consideration under appropriate provincial legislation, where he finds that a young person was insane at the time an indictable offence was committed, or that a young person is unfit on account of insanity to stand trial, and order that he be kept in such place as the judge deems suitable, until the appropriate provincial legislation takes effect.
51. that a judge may subsequently try a young person for the alleged offence, unless the trial of the issue of insanity was postponed in keeping with provisions of the Criminal Code and the young person was found not to have committed the offence at the close of the case against the young person.

## **23. TRANSFER OF DISPOSITION**

52. that provisions allow for the disposition to be transferred from one province to another or from one territorial division to another, and that in so allowing, the disposition will be implemented and carried out as if the disposition had been made by a judge in the province or division to which the case has been transferred.

**24. TRANSFER OF JURISDICTION**

53. that there be a self-contained provision permitting a transfer of charges from one Youth Court to another if both the young person and the Attorney General of the province in which the offence was alleged to have been committed, consent.

**25. PROBATION ORDERS**

54. that all probation orders contain mandatory conditions for the term of the probation order, requiring that the young person be of good conduct, appear as directed before the court, notify the designated youth worker of changes in his life circumstances as directed, and report to and be under the supervision of the person designated in the probation order.
55. that the judge may stipulate the addition of any or all of the following conditions to the probation order, as he deems relevant to the circumstances of the young person, including that the young person remain within a specific geographical area, assume employment, attend school or another facility for instructional or recreational purposes, and comply with any other reasonable ancillary conditions that may be stipulated in the probation order.
56. that the judge shall read and explain to a young person the contents of the probation order and shall provide him and his parent or guardian with a copy of that order.
57. that the young person should sign a declaration at the end of the probation order stating that he has been explained and understands the content of the order.

**26. ASSIGNMENT AND DUTIES OF YOUTH WORKERS**

58. that the youth worker may attend the Youth Court proceedings relating to the young person to whom he is assigned.
59. that the function of the youth worker include supervision of the young person in complying with the conditions of any disposition made in respect of the young person including the conditions of any probation. This may also involve supervising or ensuring the payment of a fine or the performance of a community service which may be coupled with a probation order, or after-care when such after-care takes the form of probation following a disposition of open or secure custody.

60. that the function of the Youth Court worker include preparation or supervision of the preparation of a pre-disposition report when so required by the provincial director.
61. that the function of the Youth Court worker also include such other duties in respect of the young person as are required by the provincial director.

#### **27. PRIVACY OF YOUTH COURT PROCEEDINGS**

62. that proceedings in a Youth Court shall take place without publicity or the presence of the general public, except for those persons the judge may admit to the proceedings on the basis that they have a valid interest in the case at hand or in the work of the court.
63. that one or two representatives of the mass media, as agreed upon by all such representatives who present themselves, be allowed to be present at proceedings in a Youth Court and additional such representatives in the discretion of the judge.
64. that no person may, without the permission of the Youth Court judge, publish or make known any proceedings of the Youth Court which would have the effect of identifying a young person who is charged in the proceedings, or appears as a victim or as a witness.

#### **28. EXCLUSION FROM HEARING**

65. that the judge may exclude from the court any person whose presence the judge deems to be unnecessary to the conduct of the proceedings, except the Attorney General or the prosecutor, the young person, his lawyer, parent or other person assisting him, the provincial director and any youth worker, when the judge considers such exclusion to be necessary in the interest of the young person, or that the information presented would be seriously injurious to the young person if presented in the presence of the person so excluded.
66. that the judge may, after making a finding of an offence, exclude from the court the young person and any other person, except the young person's lawyer, when the judge considers such exclusion to be necessary in the interest of the young person, or that the information presented would be seriously injurious to the young person if presented in the presence of the person so excluded.
67. that where a judge excludes a young person in order to protect him from damaging information, he shall explain the reasons to the young person.

**29. EFFECT OF FINDING OR DISCHARGE**

68. that a finding of guilt shall be deemed not to have occurred when a disposition has ceased to have effect or when the young person has been granted an absolute discharge, except that the finding may be considered by a judge for the purpose of bail or a subsequent disposition, and that any disqualification to which the young person is subject under any Act or Regulation of Parliament by reason of such finding be removed.

**30. INTERPROVINCIAL ARRANGEMENTS FOR YOUNG PERSONS**

69. that where arrangements have been made between provinces, a young person who has been placed on probation, committed to open or secure custody in one province, may be held on probation, or in any place of open or secure custody in the province to which the agreement applies.

**31. REVIEW OF DISPOSITIONS INVOLVING CARE AND CUSTODY**

70. that the provincial director be authorized to give notice of his intention to decrease the level of intervention of any dispositions involving care and custody, and in so doing be required to advise the young person, the parent, prosecutor and the judge of an intention to amend such a disposition.
71. that upon notice of the service administrator's intention to reduce the level of disposition, the judge may cause a review of the young person's case in the Youth Court and, the judge may grant or deny the proposed amendment after conducting a review.
72. that a young person may be brought back to the Youth Court for review of the disposition during the first six months of the term of the disposition with leave of the judge, or at any time thereafter until the disposition has expired, at the instance of the prosecutor, the judge, the provincial authority, the young person or his parent.
73. that the judge shall conduct a review of a young person committed to care and custody one year after the inception of the disposition, if no earlier review has taken place, or one year after the date of an earlier review.
74. that when a judge conducts a review of the disposition he shall consider a report of the progress of the young person prepared by the provincial director and if the content of

this report suggests the merit of having the young person appear before the court, the judge will so order the young person's appearance. The young person will be given a copy of this report, except, as in the case of a pre-disposition report, contents that would be injurious to him would be withheld.

75. that when a judge has committed a young person to care and custody for a period exceeding two years, the provincial director will cause the young person to be brought for a review of the disposition on a date two years after the inception of the disposition or two years from the date of an earlier review.
76. that the grounds for a review of the disposition at the instance of the young person or his parent relate to the fact that the young person is being detained in a category of custody that was not directed in the disposition, that he has been subjected to unreasonable restrictions in respect of custody, that he has made progress that justifies a change in the disposition, that he is not making satisfactory progress in respect of education, training or otherwise, that the circumstances that led the young person to being committed to care and custody have changed materially, that services are available that were not available at the time when the disposition was made or at the time of the last review, or that there are other grounds that the judge considers to be substantial or relevant.
77. that the grounds for review of the disposition at the instance of the prosecutor, the judge or provincial authority are the grounds provided for review of the disposition at the instance of the young person or his parent, as well as that the young person has failed to comply with a material condition of a disposition, that the young person has repeatedly refused to comply with a reasonable direction as to the deportment from the young person's custodian, that the young person has evaded or attempted to evade custody and any other grounds that the Youth Court judge considers to be substantial and relevant.
78. that on an occasion of a review of disposition, the judge shall consider the best interest of the young person and the community, and confirm the disposition, or amend the disposition in a manner which will diminish the effect of its restraint.
79. that the provinces would have the option to endow the responsibilities set out in Sections 70 to 78 inclusive to be carried out by a board appointed by the province for that purpose instead of a judge, except that in Section 77 where a review is initiated by

judge or provincial authority in order to determine if the young person has wilfully failed to comply with the terms of his disposition, in which case an increase in the level of custody or the degree of restraint is possible, the review shall be conducted by the Youth Court judge. Decisions of a provincially appointed review board would be reviewable by the Youth Court judge.

80. that when a review is conducted by a provincially appointed review board, notice of the decision of the board shall be given to the young person, his parent, the prosecutor, the Youth Court judge and the provincial director, and within ten days of the notification, the young person, his parent, the prosecutor, or the Youth Court judge may call for a review of the decision of the review board to be held in the Youth Court, whereupon the Youth Court judge may confirm, alter, or deny the decision of the review board. If the decision of the review board goes uncontested during the 10 day notification period, then the decision of the review board will take effect.
81. no appeal shall lie in respect of a review carried out in the Youth Court.

### **32. FAILURE TO COMPLY WITH DISPOSITION**

82. that where a judge finds during a review of a disposition that the young person has wilfully failed to comply with the disposition he shall either amend the conditions of that disposition or make it more constraining, or alter the form of the disposition to one which would have the effect of providing the next most restraining form of constraint, or in the case of probation to either open or secure custody, but in no event can the total time exceed three years.
83. that the failure to comply with the disposition or condition of the disposition not be a separate offence and only be dealt with under the provisions for judicial review.

### **33. LIMITATIONS ON FINGERPRINTING AND PHOTOGRAPHING**

84. that the taking of fingerprints and photographs by the police would be allowed in the cases of indictable offences as is now permitted under the Identification of Criminals Act subject to the following provisions.
85. that upon conviction of the young person the fingerprints and photographs would be stored in two places;

- i) as part of the record of the young person; and
  - ii) in a central depository controlled by the Commissioner of the R.C.M.P.
86. that the police would have access to fingerprints and photographs of young persons in the central depository for comparative purposes in the investigation of indictable offenses, without permission of the court. Access to the summary of the Youth Court record held in the central depository, would be limited by the provisions governing access to Youth Court records.
87. that where a young person is acquitted, the fingerprints and photographs will be returned to him and all copies destroyed.
88. that anyone making illegal use or improper use of fingerprints or photographs of a young person would be subject to a summary conviction offence.

#### **34. YOUTH COURT RECORDS**

89. that the Clerk of the Youth Court shall keep a record of each case separately from all records relating to cases in adult court;
90. that the Youth Court record of a young person, during any proceedings against him before the Youth Court or during the term of any disposition made in the Youth Court should be made available, subject to the qualifications regarding injurious information, to the young person, his parent, his lawyer, a prosecutor, any Youth Court judge or any judge, to a police officer, for the purpose of investigating an offence, to a provincial correctional or social service representative and, subject to the consent of the Youth Court judge, to any person or class of persons whom he considers to have a valid interest in the proceedings against the young person or the work of the Youth Court;
91. that the Youth Court record of a young person where there are no proceedings against him before the Youth Court or when any disposition made in the Youth Court has ceased to have effect, should be available, subject to the consent of the Youth Court judge who shall satisfy himself that the disclosure is desirable in the interest of the administration of justice, to any person or class of persons whom he considers to have a valid interest in such disclosure;
92. that the restrictions mentioned above would be applicable with respect to the dissemination of information in records maintained by police forces; and departments

and agencies of governments engaged in the execution or administration of the law of Canada, including a summary of the youth court record held with fingerprints and photographs in the central depository but excluding the fingerprints and photographs;

93. that any person authorized to have access to a Youth Court record who wilfully discloses any part of the record or any information contained in it, to an unauthorized person, be guilty of an offence punishable on summary conviction;
94. that no person may make or retain a copy of any material in the youth court record or of any transcription thereof without the leave of a judge. It should be provided, however, that, for the material already in writing, no leave of the judge is required to have copies made for the prosecution and defense lawyer as well as for the young person and his parent, except for such reports which the judge has decided to withhold from the young person because it may be injurious to him.

### **35. APPLICATION OF CRIMINAL CODE PROVISIONS**

95. that except to the extent that they are inconsistent with or irrelevant to this legislation, all the provisions of the Criminal Code apply with such changes as may be required in respect to offences charged and proceedings taken under this legislation. In the case of both indictable and summary conviction offences, the proceedings would be by way of summary conviction.

### **36. FUNCTIONS OF CLERKS OF COURT**

96. that a Youth Court clerk should have such powers as are ordinarily exercised by a clerk of the court, and more specifically the power to administer oaths and in the absence of the judge exercise the powers of adjournment.

### **37. APPEALS**

97. that a young person need not obtain any special leave to appeal and that he have the same right of appeal as an adult, and in addition, he would have the right of appeal with respect to transfers to adult court and increases in the level or length of a disposition where wilful failure has been found.
98. that in matters involving an indictable offence, the procedure be the same as provided for in the Criminal Code in relation to indictable offences.

99. that in matters involving summary conviction, an appeal lies in the same manner as if it were an indictable offence except that the appeal is first to a Supreme Court judge and thence to the Court of Appeal.

### **38. REGULATIONS**

100. that the Governor in Council should have the power to make regulations governing procedural matters.

### **39. AMENDMENT OF CRIMINAL CODE**

101. that Section 12 of the Criminal Code is repealed and replaced to provide that no person shall be convicted of an offence in respect of an act or omission on his part while he was under the age of 12 years.
102. that Section 13 of the Criminal Code be repealed.
103. that no adult shall be subject to trial under the new legislation.
104. that consequential amendments, as required, be made to the Criminal Code to provide for instances where adults contribute to the commission of offences by young persons.
105. that a judge be allowed with the consent of the provincial authority involved to sentence a young person who has been transferred to an adult court and, subsequently, tried and convicted by such court, to an institutional facility for young persons for a period of time which will not be three years beyond the maximum age established by the Governor in Council.

### **40. AMENDMENT OF PAROLE ACT**

106. that the definition of "inmate" in the Parole Act be amended so as to exclude a young person subject to the jurisdiction of the Young Offenders Act from the operation of the Parole Act.

### **41. AMENDMENT OF PRISONS AND REFORMATORIES ACT**

107. that the definition of "child" in the Prisons and Reformatories Act be amended so as to

exclude a young person subject to the jurisdiction of the Young Offenders Act from the operation of the Prisons and Reformatories Act.

**42. REPEAL OF THE JUVENILE DELINQUENTS ACT**

108. that the Juvenile Delinquents Act is repealed at the enactment of the Young Offenders Act.
109. that all proceedings under the Juvenile Delinquents Act, in which a young person is charged with a delinquency, that were commenced by the laying of an information before the coming into force of this Act shall be continued as if that Act were not repealed, except that if no adjudication and disposition have been made under that Act, the proceedings shall be so continued only up to and including the adjudication and thereafter under this Act as if the adjudication were a finding under this Act.
110. that any offence by a young person before the coming into force of this Act in respect of which an information has not been laid before such coming into force shall be dealt with as if the offence had occurred after the coming into force of this Act.

APPENDIX B

# Legislative proposals and comparison with Solicitor General's committee report and juvenile delinquents act.

SUBJECT	LEGISLATIVE PROPOSALS	SOLICITOR GENERAL'S REPORT	JUVENILE DELINQUENTS ACT
1. Title.	The Young Offenders Act.	The Young Persons In Conflict With The Law Act.	The Juvenile Delinquents Act.
2. Preamble.	A preamble would be incorporated, expressing the philosophy and intent of the legislation as a guide to its administration.	Recommended that a preamble be included in new legislation.	A preamble is not included in the Juvenile Delinquents Act.
3. Jurisdiction (A) Offences.	Provision for offences only against the Criminal Code and other federal statutes and regulations.	Recommended provision for offences only against the Criminal Code and other federal statutes and regulations.	Includes Criminal Code, other federal statutes and regulations, provincial statutes and municipal by-laws. In addition, it includes "status offences", that is sexual immorality or any other similar form of vice.
Jurisdiction (B) Age i) Minimum.	The minimum age would be uniform throughout Canada and set at 12 years. The provinces would continue to have this flexibility to deal with young persons over 12 years under provincial legislation where they deem it inappropriate to use the Young Offenders Act.	A uniform minimum age of 14 was recommended.	The minimum age is governed by the Criminal Code and is set at age 7.
ii) Maximum.	The maximum age would be set at under 18. Provinces could request the Governor in Council to set the maximum age at 16 or 17 years in their respective province or territory.	A uniform maximum age of under 18 was recommended.	The age is not uniform and while pronounced as under 16 in the Act, provinces have been permitted to administer such other ages as under 17 or 18.

SUBJECT	LEGISLATIVE PROPOSALS	SOLICITOR GENERAL'S REPORT	JUVENILE DELINQUENTS ACT
4. Detention Prior to Disposition.	Additional criteria to that of the Criminal Code would apply. Temporary detention could be authorized by the police as per Section 452 of the Criminal Code. The place of detention must be separate from adults and notice must be given to parents by the person detaining. Review of the need for detention is mandatory and the right of appeal from detention decisions is provided.	Similar provisions to the proposals were outlined in the Committee's Report, although the decision to detain would have been authorized only by a Youth Court judge or responsible provincial authority.	The only specific provisions are that detention be separate from adults. No notice is required and no review is provided for.
5. Notices to Parents, Relatives or Friends.	Notification of parents would be required in all cases of arrest, detention, appearance to attend court and issuance of summons or warrant. Proof of notification may be made to the satisfaction of the judge. When a parent is not available, notice would be given to an adult relative or friend.	The Committee's Report recommended similar provisions to those recommended in new legislation.	Only notice of trial must be provided for.
6. Attendance of Parents at Proceedings of Youth Court.	Parents shall be present in Youth Court but upon failure to appear, the judge would decide if such an appearance is necessary.	Attendance of parents would be left to the discretion of the judge.	No obligation on the part of a parent to attend court proceedings.

SUBJECT	LEGISLATIVE PROPOSALS	SOLICITOR GENERAL'S REPORT	JUVENILE DELINQUENTS ACT
7. Screening and Diversion from the Youth Court.	Proposed legislation would not prescribe a specific screening mechanism. A statement of the purpose of diversion would be included in the preamble and the factors to be considered when diverting cases, would be outlined in legislation.	A specific mechanism known as a screening agency was recommended. Standard practices and procedures were required when referring cases to the screening agency although young persons could participate on a voluntary basis.	No specific provisions or formal mechanisms are provided. Diversion can be accomplished by deciding not to proceed with the laying of an information or by withdrawing a charge.
8. (A) Rights of Young Persons with Respect to Representation.	Young persons would have the right to legal representation at all stages of the proceedings. Young persons would be explained their rights to retain counsel as soon as they are detained, arrested or summonsed by the police. A young person is entitled to be represented at his trial by a person who is not a lawyer if the judge is satisfied that no lawyer is available.	Right to representation by counsel at all stages of proceedings or to have parent or adult assist.	Makes no provision giving the right to counsel. Practice varies from region to region and is based on the availability of services as well as the decisions of individual judges.
(B) Rights of Young Persons with Respect to Written Statements.	Young persons must be explained by police consequences of making a statement. Young persons must be given opportunity to consult with a lawyer, parent, relative, or responsible adult, before any written statement is given. Waiver of this necessity must be in writing. Non-compliance would lead to inadmissibility of statements.	In addition to the ordinary rules regarding the admissibility of statements, specific limitations would be placed on the taking of statements from young persons. Young persons would be given an opportunity to consult counsel and statements would be taken in the presence of parent or adult. Restriction on admissibility of statements if non-compliance occurs.	Ordinary rules of admissibility of statements applies.

SUBJECT	LEGISLATIVE PROPOSALS	SOLICITOR GENERAL'S REPORT	JUVENILE DELINQUENTS ACT
9. Appearance of Young Person in Youth Court and Admissions.	When a young person appears before the Youth Court, a judge shall inform him that he is entitled to legal representation, read and explain to the young person his right to plead guilty or not guilty to the charge.	The Solicitor General's Report contained identical provisions.	No reference is made to the appearance of a young person in court respecting his rights to counsel, an explanation of the information, the consequences of making an admission or the necessity of pleading guilty or not guilty.
10. Transfer to Adult Court.	Transfer to adult court would be provided for all young persons in cases involving serious indictable offences. Decision to transfer would be based upon a motion by the Crown or the young person only. In cases involving 12 and 13 year olds, a motion by the Crown requires consent by the Attorney General.	Transfer to adult court provided for young persons over the age of 16 years in cases involving serious indictable offences. Judge could authorize transfer to adult court on his own motion. Young persons could apply to transfer to adult court to be tried by judge and jury.	Transfer to adult court is provided for young persons over the age of 14 years for indictable offences. Judge may authorize transfer on his own motion.
11. Dispositions.	A wide range of dispositions is provided including absolute discharge, a maximum fine of \$1,000.00, compensation not exceeding \$1,000.00, restitution, community service order, probation, open custody and secure custody up to a maximum of 3 years. Upon pronouncement of a disposition, the Youth Court retains jurisdiction over the young person until it terminates.	A similar range of dispositions to those recommended in proposed legislation were recommended in the Solicitor General's Report. The limit on fines, restitution, etc., was set at \$200.00.	The range of dispositions is limited. There is no provision for absolute discharge, community service, compensation or restitution, and fine imposition is limited to \$25.00. Probation, open and secure custody are provided for but in most cases, those involve transfer to provincial law resulting in loss of jurisdiction by the court.

SUBJECT	LEGISLATIVE PROPOSALS	SOLICITOR GENERAL'S REPORT	JUVENILE DELINQUENTS ACT
12. Pre-Disposition Reports.	A judge may require a predisposition report before he makes any disposition but he must require a report before considering a transfer to adult court or a disposition of probation, open or secure custody. The distribution of a pre-disposition report to specific persons would be mandatory.	Similar provisions to those recommended in proposed legislation were contained in the Solicitor General's Report.	No mandatory requirements are outlined in the Juvenile Delinquents Act. Reports are optional in all cases.
13. Medical Examinations, Psychological and Psychiatric Assessment.	Provides, at the judge's discretion, for a medical, psychiatric or psychological examination of a young person believed to be suffering from a physical or mental illness, learning disability or mental retardation.	Similar provisions to those recommended in proposed legislation were contained in the Solicitor General's Report.	No direct reference to medical, psychiatric or psychological examination is made in the Juvenile Delinquents Act.
14. Disqualification of Judge.	Provides that a judge, who has made a transfer order to adult court, or who has examined a pre-disposition report prior to making a decision to hold a trial of a young person who does not admit to an offence, has no jurisdiction to conduct or continue the trial of a young person for an offence in respect of which the transfer order was made or the pre-disposition report was prepared. Disqualification may be waived if, in the opinion of the accused and the prosecution, information available to the judge is not likely to prejudice him.	Similar provisions to those recommended in proposed legislation, although provision was not made for waiving of the disqualification on agreement by the accused and the prosecution.	No provision for disqualification of judges appears in the Juvenile Delinquents Act.

SUBJECT	LEGISLATIVE PROPOSALS	SOLICITOR GENERAL'S REPORT	JUVENILE DELINQUENTS ACT
15. Issue of Insanity.	Provides for a judge who, finds that a young person was insane at the time of the commission of an offence or finds that a young person is unfit on account of insanity to stand trial, to refer the young person to the provincial authority for consideration under appropriate provincial legislation.	Similar provisions to those recommended in the proposed legislation were made in the Solicitor General's Report.	There are no specific provisions in the Juvenile Delinquents Act covering cases of insanity.
16. Probation Orders.	Outlines specific mandatory conditions that must be included in probation orders and also includes optional conditions which the judge may include in the probation order. A copy of a probation order would be given to the young person and his parent.	Provisions similar to those recommended in proposed legislation were made in the Solicitor General's Report.	Authorizes a judge to place a young person on probation and prescribe conditions he deems appropriate. Specific conditions are not outlined, discretion is left to the court.
17. Assignment and Duties of Youth Workers.	The term "youth worker" is generic. Generally, the functions of a youth worker would include attending proceedings of Youth Court, supervising the young person in complying with the terms of a disposition, preparing predisposition reports when so directed.	Advocated two major roles of a youth worker. 1. officer of the court 2. advocate for the young person. Duties of traditional probation officer would be expanded and youth worker would be assigned to the case of a young person upon arrest.	No provision for a youth worker but the powers and duties of a probation officer are spelled out. General role is that of officer of the court.

SUBJECT	LEGISLATIVE PROPOSALS	SOLICITOR GENERAL'S REPORT	JUVENILE DELINQUENTS ACT
18. Privacy of Youth Court Proceedings.	Proceedings in Youth Court to take place without publicity and the general public is excluded except those persons who the judge feels have a valid interest in the case. Two mass media representatives allowed to attend but only judge may allow additional representatives.	Provisions similar to those recommended in proposed legislation were made in the Solicitor General's Report.	Provides trials without publicity, separate and apart from adults.
19. Effect of a Finding or Disposition.	Provides protections for young persons against the consequences of a criminal record including <ol style="list-style-type: none"> <li>1. restricted and controlled access to the records of young persons</li> <li>2. no recording of a finding of guilt against a young person in the adult criminal record system.</li> </ol>	Provisions of proposed legislation were recommended in the Solicitor General's Report.	Does not protect young persons from consequences of criminal record. A juvenile court record forms part of a criminal record which may be used against a young person once an adult. Access to records is not restricted.
20. Review of Dispositions.	Mandatory and periodic review of dispositions provided. Service administrators authorized to decrease level of intervention involving care and custody but must advise parent, Crown and judge or the review board who have right to seek a review. Wilful failure by a young person to comply with a disposition could lead to the application of the next most restrictive disposition.	Mandatory and periodic reviews provided. Judge would have single authority to vary terms or length of a disposition. Wilful failure by a young person to comply with a disposition judge would be authorized to apply the next most restraining form of disposition.	No mandatory review process is provided for. Power is given to the judge in any case, for any reason to have a young person brought back to court until he reaches age 21 and power to impose any disposition in substitution for the original.

SUBJECT	LEGISLATIVE PROPOSALS	SOLICITOR GENERAL'S REPORT	JUVENILE DELINQUENTS ACT
21. Fingerprinting and Photographing.	Taking of fingerprints and photos permitted by police in cases of indictable offences as is permitted under the Identification of Criminals Act. Prints and photos must be returned if young person is acquitted. Summary conviction offence for misuse. Special procedures set up for the storage of records and access is restricted.	Restrictions on taking fingerprints and photos; allowed in all cases only if judge gives leave and if permitted in the same circumstances for adults.	No provisions, the Criminal Records Act applies.
22. Youth Court Records.	Youth court records would be kept separate from adult records. Restricted access to the records would be provided and any person wilfully disclosing information contained in the record to an unauthorized person would be guilty of offence punishable on summary conviction.	Provisions of the proposed legislation were recommended in the Solicitor General's Report.	Contains no specific provisions regarding the creation, maintenance, confidentiality and accessibility of juvenile court records.
23. Application of Criminal Code Provisions.	All provisions of the Criminal Code would apply in respect of offences charged and proceedings taken pursuant to new legislation, except to the extent that they are not consistent with or relevant to new legislation.	Identical provisions to those recommended in new legislation were recommended in the Solicitor General's Report.	Provides for some parts of the Criminal Code to apply and is unclear in others.
24. Appeals.	Young persons would have the same right of appeal as adults. Appeal procedures as Criminal Code with minor modifications in summary conviction matters.	Same general provisions in new legislation were recommended by Solicitor General's Committee.	Appeals allowed only by special leave of the judge and on special grounds and as per procedure in the Criminal Code.

