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IMPACT OF THE YOUNG OFFENDERS ACT ON TREATMENT OF ADOLESCENT SEX OFFENDERS

Allan Milton Shoom

B.A. York University, Ontario, 1973

THESIS SUBMITTED IN PARTIAL FULFILMENT OF THE REQUIREMENTS FOR THE DEGREE OF
MASTER OF ARTS (CRIMINOLOGY)
in the School of
Criminology

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SIMON FRASER UNIVERSITY
April, 1988

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APPROVAL

Name: Allan Milton Shoom
Degree: MASTER OF ARTS (CRIMINOLOGY)
Title of thesis: Impact of the Young Offenders Act on Treatment of Adolescent Sex Offenders

Examining Committee:
Chairperson: Margaret A. Jackson

__________________________
Raymond Corrado
Senior Supervisor

__________________________
Judith Osborne

__________________________
William Glickman

__________________________
Harry Stevens
External Examiner
Associate Professor, Psychology and Law Institute, School of Criminology

Date Approved: April 14, 1988
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Title of Thesis:
Impact of the Young Offenders Act on Treatment of Adolescent Sex Offenders

Author: Allan Milton Shoom

Date: 20/01/86

ABSTRACT

Burnaby Community Containment Centre (BCCC) is a Corrections Branch open custody institution for young offenders. The majority of offenders at the centre are adolescent sexual offenders. The Young Offenders Act (YOA) of 1984 stipulates that young offenders should be dealt with on the basis of their offence rather than treatment needs; yet the sexual offenders at BCCC are recommended by the Youth Court to attend the Ministry of Health's Juvenile Services to the Court (JSC) out-patient clinic. The attempt to treat young offenders in containment is controversial also because treatment requires youth consent. This thesis examines the impact of the YOA on the treatment of adolescent sexual offenders using a case study of the BCCC.

Most of the descriptive information about BCCC's operation is based upon participant observation. Probation officers, senior Corrections Branch directors, JSC staff and Youth Court judges were interviewed. In addition to participant observation and informed interviews, data were collected from the institution's files of 37 sexual offenders at BCCC. The file information includes character profiles of the adolescent sexual offenders and psychiatric assessments recommending treatment. These data demonstrate that the character profiles of the offenders at BCCC are similar to the profiles in American studies of adolescent sexual offenders.
The results of this study suggest that psychiatric assessments, recommending treatment for young sexual offenders, influence Youth Court decisions in sentencing offenders to BCCC for the purpose of accessing the JSC treatment program. This is consistent with the results from similar studies focusing on the influence of psychiatric reports on the judicial decision-making process. This decision-making influence appears more appropriate to the welfare-based Juvenile Delinquents Act of 1908 than to the YOA.

The BCCC case study illustrates the confusion regarding the treatment order provisions of the YOA. Sentencing young offenders to containment with recommendations for treatment reflects the attempts by policy-makers to cope with problems created by a justice model-based YOA.
ACKNOWLEDGMENTS

A long period of time has elapsed between my thesis proposal and approval. There are many people who have contributed to this project and are deserving of my gratitude.

Firstly, I would like to thank my supervisory committee, Dr. Ray Corrado, Professor Judith Osborne and Dr. William Glackman for their assistance, patience and willingness to read one too many rough drafts. Dr. Ray Corrado's confidence in my ability to complete the thesis and his much-needed friendly advice was greatly appreciated. I am also grateful to Dr. Bob Ley and Dr. Robert Menzies for their comments and guidance.

I am indebted to the B.C. Corrections Branch for their financial assistance and their approval of my thesis topic. Additional thanks are reserved for Hank Mathias and Torry Barnett for their co-operation and support. I am also grateful to the three wise men, Dave, Don and Tom, for their comments and anecdotes. A general thank-you to all my criminal justice friends who graciously provided a few missing links.

For her endless typing and editing and, more importantly, her valuable time, I would like to thank Liz Szockyj. Similarly, I would like to thank Aileen Sams.

Finally, this thesis would not have been completed without the support of Brenda and Zachary. Thank-you for your understanding and capacity to put up with me.
"A man is walking by the riverside when he notices a body floating downstream. A fisherman leaps into the river, pulls the body ashore, gives mouth to mouth resuscitation saving the man's life. A few minutes later the same thing happens, then again and again. Eventually yet another body floats by. This time the fisherman completely ignores the drowning man and starts running upstream along the bank. The observer asks the fisherman what on earth is he doing? Why is he not trying to rescue this drowning body? 'This time', replies the fisherman, 'I'm going upstream to find out who the hell is pushing these poor folks into the water'."

Saul Alinsky
in Stanley Cohen's
Visions of Social Control
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Framework of Youth Programs B.C. Corrections Branch
This thesis examines and explores the operation of Burnaby Community Containment Centre (B.C.C.C.), a British Columbia Corrections Branch open custody facility for young offenders. The Centre is unique in that it contains a high concentration of adolescent sexual offenders. The majority of the sexual offenders at B.C.C.C. attend the outpatient treatment program at Juvenile Services to the Court clinic in Burnaby, B.C. The treatment of sexual offenders at B.C.C.C. is reminiscent of the philosophy of the *Juvenile Delinquents Act*¹, (1908) rather than the current (Canadian juvenile) legislation, *The Young Offenders Act*², (1984). The *Juvenile Delinquents Act* (J.D.A.) focused on the treatment of delinquent children and reflected a welfare model of juvenile justice. Although the *Young Offenders Act* (Y.O.A.) recognizes the special needs of young offenders, it emphasizes that they should be dealt with on the basis of their offence, not their treatment needs.

The recognition of the special needs of young offenders is illustrated by the treatment provisions of the Y.O.A. The Youth Court may order the young person to be detained for treatment under Section 20(1)(i)³. Treatment orders are subject to

3. Section 20(1)(i) states:

subject to section 22, by order direct that the young person be detained for treatment, subject to such conditions as the court considered appropriate, in a
conditions, e.g., no order may be made without the consent of the young person, the parents of the young person and the place where the young person is to be detained for treatment. The inclusion of consent for treatment orders responds firstly to the individual rights of children to protect themselves from what has been seen as involuntary intervention and secondly, to the declining benefits of rehabilitation as a goal of juvenile justice (Leschied & Hyatt, 1986).

Accordingly, the B.C.C.C. provides a unique context in which to examine the impact of the Y.O.A. on the treatment of a highly controversial category of young offenders, i.e., young persons who have committed sexual offences or who have demonstrated a propensity to do so. Responsibility, punishment and the protection of society are key issues, particularly with regard to sexual offenders. However, it appears that these offenders at the same time remain very important treatment and rehabilitation targets. The majority of adolescent sexual offenders at B.C.C.C. are recommended, by the Court, to attend the treatment program at Juvenile Services to the Court even though Correction Branch

3(cont'd) hospital, or other place where treatment is available, where a report has been made in respect of the young person pursuant to subsection 13(1) that recommends that the young person undergo treatment for a condition referred to in paragraph 13(1)(e).

4Section 22(1) states:

No order may be made under paragraph 20(1)(i) unless the youth court has secured the consent of the young person, the parents of the young person and the hospital or other place where the young person is to be detained for treatment.
Policy states open custody does not provide treatment.

It can be argued that punishment and rehabilitation are based on conflicting ideologies of juvenile justice. The difference between treatment and punishment is seen in the justification of the stated purpose and the distinction between treating offender and punishing the offender for the offence. Treatment is ostensibly for the purpose of improving the offender's welfare. Punishment, on the other hand, has two justifying aims: the prevention of undesired conduct and the retribution for perceived wrongdoing (Packer, 1968). The Y.O.A. incorporates both a punishment and rehabilitative ideology in its declaration of fundamental principles: responsibility, accountability, the special needs of the young person and protection of the public. Critics of the Y.O.A. suggest that it is impossible to balance these four fundamental principles in an ideological framework of juvenile justice (Reid, 1986). A close examination of B.C.C.C. will illustrate the conflicting philosophical principles of the Y.O.A. regarding the treatment of adolescent sexual offenders in containment.

In order to examine the impact of the Y.O.A. on the treatment of young sexual offenders at B.C.C.C., it is important to understand the foundation of treatment in the juvenile justice system. The treatment of young offenders is entrenched in the philosophy of early 20th century delinquency legislation. The J.D.A. defined delinquents as misdirected and misguided children in need of treatment and rehabilitation. The commission
of a criminal offence was not necessary to bring children under the aegis of the juvenile justice system. While the motivation and objectives for treatment remain subject to considerable controversy no one denies that treatment and the welfare model of justice have significantly impacted the juvenile justice system over the past 100 years (Corrado, 1983; Hagan & Leon, 1977; Leon, 1977; Platt, 1969; West, 1984).

The philosophy of this treatment-focused justice system began to be questioned in the 1960's by the Canadian government. The Conservative party proposed changes to the federal juvenile justice system and set up a committee to make recommendations concerning the problems of juvenile delinquency (Osborne, 1979). In a similar fashion, B.C. began to address the issue of juvenile delinquency and, in the 1960's and 1970's, the Corrections Branch entered a new phase regarding juvenile corrections (Ekstedt, 1985). Changes in political parties and provincial legislation influenced the Corrections Branch's programs and policies on youth containment. Across Canada the momentum to change juvenile justice grew in the 1970's culminating with the enactment of the Y.O.A. in 1982 which replaced the J.D.A. The treatment and rehabilitation philosophy of the J.D.A. was superceded by legislation emphasizing accountability and responsibility for criminal behaviour. The Y.O.A. acknowledges treatment and rehabilitation but clearly states that Youth Court dispositions should be in response to the offence committed by the young person.
B.C.C.C. was opened in 1986 after the proclamation of the Y.O.A. Although it is important to understand the previous legislation and its influence on current Corrections Branch policy regarding the B.C.C.C. operation, the most significant force in shaping the history of B.C.C.C. has been the Y.O.A. One of the results of the Y.O.A. was a dramatic rise in custodial dispositions in B.C. In one year, after the implementation of the Y.O.A., the counts of young offenders in custody doubled; from 138 in 1984-85 to 287 in 1985-86 (see Table 1). In early 1986 the counts of young offenders in open and secure custody facilities nearly equalled the Corrections Branch bed load capacity of 237. Consequently, in May, 1986, B.C.C.C. was opened as a temporary measure to control institutional overcrowding.

The number of young offenders continued to escalate during the summer of 1986 (see Table 1) and B.C.C.C. was gazetted a permanent facility in August 1986. Initially the classification criteria for young offenders at B.C.C.C. was that youth had to be manageable, with no history of escapes or violence. Ironically, in view of the generally aggressive nature of the offence, the adolescent sex offender was considered suitable for B.C.C.C. and met the classification criterion. Within the first four months of operation the majority of offenders at B.C.C.C. were sexual offenders and the Centre became known as a "sex offender" unit.5

5The sexual offenders at B.C.C.C. are a heterogeneous group of offenders. Although it is not the purpose of this thesis to categorize sexual offenders, it should be noted that the offenders at B.C.C.C. are made up of different subgroups, i.e., child molesters, exhibitionists and rapists. The different
### Table 1

**B.C. Youth Containment Centres**

**Custody Counts 1984-1987**

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<th>Apr</th>
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**Source:** Correction Branch Headquarters, Research Division, Ministry of Attorney General, 1988. The years are recorded in fiscal years commencing April 1. Note: In British Columbia prior to April, 1985 a juvenile was defined as under 17 years and over six years of age.
The majority of sex offenders at B.C.C.C. attend the Ministry of Health Juvenile Services to the Court (J.S.C.) sexual offender treatment program. Although the treatment clinic is not on the grounds of B.C.C.C., nor is it part of the Corrections Branch organization, it does nonetheless affect the programming, policy and operation of B.C.C.C. Case management strategy and token economy systems (an altered behaviour modification system) within the facility do not operate in isolation from the treatment of the young offenders.

The J.S.C. treatment program is closely related, not only to the B.C.C.C. operation, but also to the judicial process. Prior to commencing treatment, the majority of sexual offenders at B.C.C.C. are assessed by J.S.C. under Section 136 of the Y.O.A. (cont'd) groups of sexual offenders have different personality traits and treatment needs (Able, Mittleman & Becker, 1985). For the purpose of this thesis, the sexual offenders at B.C.C.C. will be referred to as a homogeneous group.

5Section 13(1) states:
For the purpose of
a) considering on application under Section 16
b) determining whether to direct that an issue be tried whether a young person is, on account of insanity, unfit to stand trial, or,
c) making or reviewing a disposition under the act.
A youth court may, at any stage of proceedings against a young person
d) with the consent of the young person and the prosecutor, or
e) on its own motion or on the application of either the young person or the prosecutor, where the court has reasonable grounds to believe that the young person may be suffering from a physical or mental illness or disorder, a psychological disorder, an emotional disturbance, a learning disability, or mental retardation, and where the court believes a medical, psychological or psychiatric report in respect of the young person might be helpful in making any decision pursuant to this Act
to assist in the decision making process regarding disposition. These psychiatric and psychological assessments influence the judicial decision making process (Jackson, 1986; Menzies, 1986; Menzies, Jackson & Glasberg, 1982; Webster, Menzies, Turner & Turner, 1982). The recommendations of a psychiatric report have implications on the type of sentence (custodial or community), the length of sentence and the actual court warrants of committal recommending classification to specific institutions.

The Y.O.A. authorization of court ordered psychiatric assessments and recommended treatment influenced the decision to increase the mental health services available to young offenders. At the same time that mental health services were expanding and containment counts were increasing, adolescent sexual offenders, both in custody and on probation, began to surface in larger numbers in the B.C. criminal justice system. The increase of adolescents charged with sexual offences may be related to the expansion of treatment services. If one is able to receive help for a problem it will be easier to recognize the problem:

Also where there are programs for sexually abusive adolescent offenders, courts are more likely to charge the adolescent with the actual sexual offence rather than euphemistic charges such as assault or disturbing the peace, a common practice where treatment programs specifically for sex offences do not exist (Knapp, 1979: 7).

The increase of adolescent sexual offenders in the B.C. criminal

(cont'd) by order require that the young person be examined by a qualified person and that the person who conducts the examination report the results thereof in writing to the court.
The sentencing of an adolescent sexual offender is an anomaly in our criminal justice system. As one Youth Court judge has pointed out, the informal criteria for sentencing a sexual offender seem to differ from the sentencing of other nonsexual young offenders. The community tends to respond negatively to lenient sentences for sexual offenders. According to the Judge the Youth Court dispositions involving sexual offences reflect the public outcry against sex offenders. The psychiatric assessments indicate that the young sex offender is a risk to the community and may benefit from treatment. The Courts are advised that B.C.C.C. has a high sex offender population who attend treatment at J.S.C. Custodial dispositions, with recommendations for B.C.C.C., meet the fundamental principles of the Y.O.A. in that the community is protected and the special needs of the young person are recognized. Nonetheless, in certain cases, these custodial dispositions may contravene the precepts of minimal judicial intervention and offence based disposition which are the two guiding principles of the Y.O.A.

This thesis examines the origins and operation of B.C.C.C., a Corrections Branch containment facility providing treatment for adolescent sexual offenders. Chapter I identifies the personal conversation with Judge J. Auxier, Burnaby Youth Court, B.C.
history of a treatment philosophy which has been entrenched in juvenile justice legislation for over 100 years. The impact of this treatment ideology on B.C. Corrections Branch containment policy will be addressed in this chapter. The most significant changes in Branch policy and programming resulted from the movement away from the welfare model of juvenile justice. Corrections Branch policy followed the shift from a "welfare model" to a "due process" model of juvenile justice prior to the proclamation of the Y.O.A. in 1984. Chapter I will discuss several of the consequences, both intended and unintended, of the Y.O.A. which played a major role in the opening of B.C.C.C.

Chapter II provides a descriptive account of the B.C.C.C. operation and its relationship to J.S.C., a mental health service for young offenders. Most of the descriptive information about B.C.C.C. is based on participant observation. I am employed as a probation officer at B.C.C.C. and during the course of my duties I have interviewed all offenders at B.C.C.C. and served as a liaison between B.C.C.C. and J.S.C. Informal interviews of probation officers, senior correctional managers and researchers, J.S.C. staff, lawyers and several Youth Court judges were also conducted. Furthermore, I have been part of the senior management team at B.C.C.C. and consequently have been involved in the policy decision making process. In addition to participant observation, data was collected from the institutional files of the sexual offenders at B.C.C.C. during the period of August 1, 1986 - January 31, 1988.
The final chapter of this thesis focuses on several crucial issues relating to the role of treatment in the Y.O.A. as illustrated by the B.C.C.C. program. The impact of the psychiatric assessments and treatment of sex offenders at B.C.C.C. on the judicial decision-making process is discussed. Several offenders have been required to continue treatment after release from custody. Critics argue that offenders who have been released from B.C.C.C. to attendance programs in order to access the treatment program are serving more onerous sentences than was originally intended. According to the Y.O.A., young offenders should be sentenced on the basis of their offence, not their treatment needs. Although B.C.C.C. and JSC are separate organizations guided by different goals and objectives, the traditional dilemma of treatment in a correctional setting exists (Ericson, 1976).

Although the efficacy of treatment is not addressed in this thesis, given the nature of this study, it is certainly an important concern. A critical question that must be asked is, what happens to B.C.C.C. if in ten years the data show the J.S.C. treatment program has had an insignificant impact on controlling the adolescent sexual offenders' deviant behaviour? Given the self-perpetuating nature of social-service organizations it is possible that the system will continue to expand, notwithstanding, caution, therefore, should prevail in the developmental stages (Cohen, 1985). This thesis will seek to act as such a cautionary measure.
CHAPTER I

HISTORY OF BURNABY COMMUNITY CONTAINMENT CENTRE

Burnaby Community Containment Centre (B.C.C.C.) is an 18 bed, open custody, youth facility located outside the main gates of the Lower Mainland Regional Correctional Centre in Burnaby, B.C. It is staffed by Correction Branch personnel. The majority of offenders at B.C.C.C. are attending Juvenile Services to the Court (J.S.C.) for psychological treatment and consequently a subgroup of these offenders are adolescent sexual offenders. Prior to their custodial dispositions most of the sexual offenders underwent court-ordered psychiatric assessments and it was recommended to the court that they attend a treatment program. The offenders are escorted between facilities by correctional officers. They attend approximately three sessions a week at J.S.C. and the rest of their time is spent participating in the B.C.C.C. program (school, recreation, leisure activities, etc.). The Corrections Branch maintains B.C.C.C. is not a treatment facility. The Branch contends that B.C.C.C., in accordance with the "special needs" provisions of the Y.O.A., merely affords young offenders in open-custody with the opportunity to participate in a treatment program.

The treatment of young offenders in containment is a controversial issue dating back to 19th century legislation governing reformatories and industrial schools (Act Respecting the Custody of Juvenile Offenders, 1890' and Act Respecting 1890 53 Vict., C. 76 (Ont.).
Industrial Schools, 1874\(^2\)). The treatment philosophy inherent in 19th century juvenile justice influenced the Canadian juvenile legislation, J.D.A., which was based on a welfare model of justice. The current legislation, the Y.O.A. (1984) reflects significant changes in attitudes towards young offenders as well as the movement towards a justice model of juvenile legislation. This shift has caused substantial modifications to the juvenile correction policies and programs in B.C. For example, the role of the probation officer has changed since the implementation of the Y.O.A. The development of Probation Services was founded upon the treatment ideology of 19th century juvenile justice (Leon, 1977). The probation officer was an integral part of Juvenile Court proceedings. He/she assisted the young offender during the entire judicial process, from initial arrest to disposition. The trend now, in accordance with the precept of minimal intervention, is for probation officers to become involved with the young offender only after disposition (B.C. Corrections Branch Manual of Operations).

Another example of the change in juvenile correction policies is in the area of containment dispositions. The Youth Courts decide on the level of security necessary to contain the young offender. Section 24.1(1) of the Y.O.A. defines open custody and secure custody facilities\(^3\) and sets out the

\(^2\) 1874 37 Vict., C. 29 (Ont.).

\(^3\) Section 24.1(1) states:

Open custody means custody in (a) a community residential centre, group home, child care institution, or forest or wilderness camp, or
conditions which must be met prior to recommending containment dispositions. The Youth Court shall not commit a young person to custody 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.

In stark contrast, the treatment of sexual offenders in B.C.C.C. reflects the treatment philosophy of 19th century juvenile justice and the ideology of the former delinquency legislation, the J.D.A. Yet, the Centre is bound by the principles and ideology of the current legislation, the Y.O.A. Offenders should be sentenced according to offences, not treatment needs. The initial opening of B.C.C.C. and subsequent developments leading up to the treatment of sexual offenders at the B.C.C.C. unit are consequences of the Y.O.A. yet they paradoxically contravene its spirit. This chapter examines the issue of treatment under the J.D.A. and Y.O.A. and the impact this legislation has had, both directly and indirectly, on the operation of B.C.C.C.

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3 (cont'd) (b) any other like place or facility.

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 person, and includes a place or facility within a class of such places or facilities so designed.
The Shift in Juvenile Justice

The history of legislative policy and social reform surrounding the development of juvenile justice is characterized by several philosophical shifts. While the 19th century legal reform movements were partly motivated by humanitarian notions and a sense of universal principles, those of the 20th century appear to be concerned more with administrative concepts, technological and organizational complexities and population growth (Lemert, 1970). The 19th century welfare justice system, based on a parens patriae philosophy is currently being challenged by a movement towards criminal proceedings against juvenile offenders. This shift is reflected in recent legislation such as Washington State Juvenile Code (1977) and Canada's Young Offenders Act (1984) (Trepanier, 1983). The current justice model legislation is based on the 'due process' model of juvenile justice and consequently raises significant questions regarding the 'welfare model' of juvenile justice. Proponents of the latter model, such as social workers, psychologists and psychiatrists are critical of the focus on criminal proceedings, and, as expected, claim that the treatment needs of the young offender should take precedence (West, 1984).

To understand the conflict between the 'welfare' and 'due process' models of juvenile justice one must examine the crucial and entrenched role that treatment has played in the evolution of juvenile justice. During the 1850-1900 period, much of the deviant and criminal behaviour of young persons began to be
attributed to parental neglect, poverty and weak family ties. This theory of youth deviancy and crime provided the major rationale for the child saving movement which began to promote the need for a welfare or treatment based justice system for the young (Corrado, 1983).

The treatment strategy for young offenders evolved from the claims of the child saving movement that they could transform potential criminals into respectable and responsible citizens. The transformation would occur by way of training schools, better known as reformatories. The reformatory system was based on the assumption that proper training could offset a poor family life, poverty and parental neglect (Macdonald, 1975). In 1890, An Act Respecting the Custody of Juvenile Offenders restricted the use of reformatories and expanded the use of treatment-focused industrial schools. In 1891, the Commission of Inquiry into Prisons and Reformatories in Ontario established the organizational base for probation, the new treatment strategy in juvenile justice. The Probation Service was designed to protect the children through the prevention of crime by keeping them out of institutions and providing the delinquent youth supervision in their home environment (Leon, 1977). Probation officers were to "take a personal interest in the child so as to secure its reformation". Probation emphasized a treatment strategy and paid little attention to accountability.

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1980, 53 Vict., C. 75 (Ont.).
The success of the lobbying of the child saving movement was evident when statutory enactments, such as the Canadian Juvenile Delinquents Act (J.D.A.) was passed. This legislation afforded young people a distinct status in the criminal justice system. The central principle of the child saving movement was that children should be treated, not punished. Removing juveniles from adult criminal proceedings occurred primarily because of the belief that children were not sufficiently responsible for their actions due to immaturity, neglect, and mental and cultural deficiencies. These defects could be remedied with the appropriate state interventions into their lives. Proper values and discipline, not punishment, were necessary (Corrado, 1983).

The J.D.A. was based on the *parens patriae* philosophy, which justifies, in common law, the right of the state to intervene in the lives of young people. Intervention in turn occurred because of the needs or best interests of the young person. These two rationales were central to the welfare model which was the basis of the J.D.A. The J.D.A. legislation was concerned with how best to treat the child in order to effect adequate socialization before the child became a convicted criminal. If the family was not capable then the state would intervene to reform the child (Leon, 1977).

According to Leon (1977) the J.D.A. failed to distinguish between the adjudication stage and dispositional stage of the

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5Where a child is adjudged to have committed a delinquency he shall be dealt with not as an offender but as one in a condition of delinquency, and therefore requiring help and guidance and proper supervision (Section 4, Juvenile Delinquents Act).
criminal proceedings. The trial became part of the treatment proceedings and resulted in unnecessary infringements on procedural rights and legal safeguards on criminal proceedings. The conceptual confusion regarding notions of protection from, and protection of, the children was a fundamental flaw of the J.D.A.

**Containment in British Columbia**

The child saving movement of 19th century and the subsequent legislation, the J.D.A., formed an ideological base for Canadian juvenile justice in the 20th century. Juvenile corrections adopted the training school and probation treatment strategies of the child saving movement. In the late 1960's and 1970's in B.C., the Correction Branch entered a new phase of juvenile justice (Ekstedt, 1985). In 1969, the repeal of the *Training School Act*\(^6\) ended judicial commitment to training schools (Brannon Lake School for Boys and the Willingdon School for Girls). Judges committed persistent juvenile offenders to the Superintendent of Child Welfare or the Children's Aid Society. Children were still to be admitted to Brannon Lake and Willingdon, but the intake would be screened by Child Welfare rather than judicial administration. Although the numbers at Willingdon remained constant, the intake at Brannon Lake dropped from 630 in 1968-1969 to 314 in 1969-1970. At the same time the number of children committed under the J.D.A. to the


The emphasis on child welfare placements instead of institutions shifted the responsibility of treatment and rehabilitation from corrections to social service agencies. The shift from institutions to child welfare placements was partly due to the Canada Assistance Plan\(^7\) (1970), a federal incentive program authorizing funds for child welfare services. Financial support for juvenile welfare programs rather than correctional services influenced the direction of correctional programming. Each province began to develop new strategies for young offenders. The initiative for developing juvenile justice programs was shifting from the federal government to provincial administrators (Osborne, 1979). Each province developed separate control systems and individual approaches to the treatment of the young offender.

In British Columbia a new government policy emphasized community placements rather than correctional institutions. This followed the North American trend of "deinstitutionalization", i.e., community resources replacing correctional institutions as an alternative treatment strategy (Khanna, 1975; Lerman, 1983). However this new policy failed to recognize the number of youths in need of community residences. The number of foster homes, 

\(^{7}\text{R.S.C. 1970 C. C-1.}\)
group homes and treatment facilities did not keep up with the number of youths committed from the courts to child welfare agencies. In 1970, the Province lowered the age of juvenile prosecution from 18 to 17 years of age in order to lessen the burden on juvenile facilities (Macdonald, 1978).

The welfare model of juvenile justice in B.C. was further advanced by the election of the N.D.P. in 1972. Mr. D. Barrett, a former social worker in the criminal justice system, was leader of the N.D.P. and Premier of British Columbia. During the 1972-1975 period several young offender treatment services were funded. In addition, a Royal Commission on Family and Children's Law (1974) was mandated to study Unified Family Courts. The Commission, headed by Mr. Justice T. Berger, recommended a separate Ministry of Family and Children Services and identified the need for a specialized coordinated youth service delivery approach. This recommendation for coordination threatened the then Departments of Corrections and Human Resources with the loss of youth services and their jurisdictional quarrels were set aside in order to ward off any losses by cooperating in service delivery (Ekstedt, 1985).

In 1974, B.C. proclaimed the Administration of Justice Act. The purpose of the Act was to create a mechanism within the Ministry of the Attorney General for assuming administrative control of the provincial courts from the municipalities and consequently assume all responsibility for justice issues.

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8Statutes of British Columbia, 1974.
(Ekstedt, 1985). The officers of the court, social workers and probation officers, represented different parent organizations with conflicting goals and objectives. As a result of these changes, juveniles were being supervised by professionals accountable to separate social control systems with different approaches to the control and treatment of the juvenile offender (Macdonald, 1978). In the past, juveniles who failed to comply with probation orders would be committed to a correctional training school. Under the new procedures the juveniles were to be put in a child care community resource.

The government policy outlining the use of containment was clearly defined. A youth could only be contained, at either the Vancouver or Victoria detention centre, for remand purposes. However, social workers and probation officers continued to recommend containment for purposes other than remand. Containment was used as a "short sharp shock" to get the attention of the offender and impress upon him or her the serious consequences for delinquent behaviour. Youths were remanded in custody as a last resort. Juvenile delinquents who exhausted the community placements forced social workers, who had no alternatives left, to recommend that the youths be remanded in custody. Remand periods became open ended sentences substituting for residential placements. Although the criteria for use was clear, containment became a continual source of controversy (Ekstedt, 1983).
In 1975, the N.D.P. lost the provincial election and the Social Credit Party was elected to power. The Social Credit Party initiated a Youth Containment Program policy\(^9\) under the **Corrections Amendment Act** (1977).\(^{10}\) The program would not adopt a rehabilitation ideology but would adhere to the concern for public safety. Any treatment that might be required would be provided under arrangement with the Ministries of Health, Education or Human Resources (Ekstedt, 1985). In 1978, the Youth Containment Program became operational. The containment program included two 30 secure bed institutions and two open camp type facilities. There were plans to contract out to the private sector and for community-based residential facilities. Thus, the program was intended to operate at three levels of security.

In April 1979, however, the constitutionality of the **Corrections Amendment Act**\(^{11}\) was successfully challenged in provincial court. It was found *ultra vires*. The Courts ruled in favor of federal legislation (J.D.A.) taking precedence over a provincial statute (**Corrections Act**). The Corrections Branch could not operate a containment program outside the jurisdiction of the J.D.A. Consequently the administration of the programs under the Youth Containment Program was reorganized and the programs operated under different circumstances than originally intended. Containment camps were declared attendance programs

\(^9\)The Berger Commission recommended that a small number of juveniles needed containment.

\(^{10}\)B.C. Corrections Act (R.S.B.C. 1977 C90).

rather than medium security containment facilities. Juvenile Courts ordered young persons to attend the programs as part of the condition of a probation order. The secure facilities reverted back to remand facilities. Only young offenders on remand were placed in detention. The sentenced offenders were placed on probation with the condition to attend specific attendance programs. In 1980 it was successfully argued in the B.C. Court of Appeal that provincial legislation, did not take precedence over the federal legislation. Mr. Justice Macdonald's decision denied the province the authority to screen for admissions or establish early release procedures.

Although these court decisions changed the administrative policies of juvenile containment, it was expected the proposed federal legislation, the Y.O.A., would support the original provincial intent of the Youth Containment Policy and its philosophy adhering to public safety rather than the rehabilitation of the young offender. The origins of B.C.C.C. are fundamentally based in the Youth Containment Program ideology. The passage of the Y.O.A. in 1982 and its proclamation in 1984 essentially revived the Youth Containment Policy ideology in juvenile Correction Branch programming.

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12 R. v. S. (1980) 6 W.W.R. 75, 17 R.F.L. (2d) 97, 53 C.C.C. (2d) 453 Sub NOM. R. v. W. 57 C.C.C. 2d 54, 119 D.L.R. (3d) 558. It was held that a juvenile delinquent, 13 years of age, sentenced to four years in custody should serve his sentence in a juvenile facility, not a federal penitentiary.
**Young Offenders Act**

The passing of the *Young Offenders Act* forced a rethinking of juvenile justice in Canada. The Y.O.A. is based on a new set of fundamental assumptions regarding criminal justice which reflects the evolution of cultural values (Archambault, 1983). The Y.O.A. protects the young offender from the 'child savers' through procedural safeguards while at the same time demanding accountability and the protection of society.

The fundamental principles of the Y.O.A. can be broken down into four different philosophical components: crime control, justice, welfare and community change (Reid, 1986). In the crime control component it is the responsibility of the state and courts to maintain order for society. The justice component supports a 'due process' system protecting legal safeguards and procedures and ensuring minimal judicial intervention. In the welfare component it is society's responsibility to address the needs of the youth and the family. The community change component is tied closely to the welfare model in its claims that it is the responsibility of society to promote welfare, but adds that it is also society's responsibility to prevent youthful crime. The four models support competing principles of juvenile justice; principles inherent in the *Young Offenders Act* which are responsibility, accountability, protection of society and the special needs of the young person (Archambault, 1983). The principles serve as guidelines for four different models of justice (Reid, 1986).
Declaration of Principles

The declaration of principles set out in Section 3(1) of the Young Offenders Act serve as a guide to the interpretation and application of the Act (Bala & Lillies, 1984). The Young Offenders Act respects the relationship between age and capacity to form criminal intent. The latter is a fundamental requirement for criminal responsibility. It recognizes adolescence as the maturation phase between childhood and adulthood. The Y.O.A. also respects the common law doli incapax doctrine which means that a child of tender years is incapable of malice. Prior to 1984, children under seven were deemed incapable of forming criminal intent. With children seven to 14 the Crown had to establish competency. Since 1984, however, no child under the age of 12 years can be charged with an offence under the Y.O.A.

The separate status of the criminal responsibility of children compared to that of the adults is reflected in section 3(1)(a):

> While young persons should not in all instances be accountable in the same manner and suffer the same consequences for their behaviour as adults, young persons who commit offences should nonetheless bear responsibility for their contraventions.

The Y.O.A. states that young persons who commit offences should be responsible for their illegal actions and society must be afforded the necessary protection. Section 3(1)(b) states:

> ...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.
While the concepts of responsibility and public protection are integral to the juvenile justice system, the emphasis of the special needs of the offender is of paramount importance to the Act. Section 3(1)(c) states:

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.

Responsibility, one of the fundamental principles, is to be a shared responsibility. The state is to take responsible measures to prevent criminal conduct by young persons.

Where it is not inconsistent with the protection of society, taking no measure or taking measures other than judicial preceedings under this Act should be considered for dealing with young persons who have committed offences. (Section 3(1)(d)).

The Y.O.A. respects society's right to protection and also encourages the state to take responsibility for crime prevention.

The Y.O.A. states that the criminal law must be used with restraint, intervention being justifiable only where a young person has committed an offence. Section 3(1)(f) declares:

...on 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.

This principle is a significant shift from the J.D.A. (1908) treatment orientated philosophy. Section 3(1)(f) indicates that serious restraining measures, such as custodial dispositions, should only be used as a last resort. It is clearly stated that treatment is not to be a prime consideration for a custodial
The Y.O.A. supports a due process model of juvenile justice and affords young persons similar rights and freedoms as those afforded to adults. More specifically, the rights and freedoms are:

...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 on, the processes that lead to decisions that affect them, and young persons should have special guarantees of their rights and freedoms (Section 3(1)(e)).

Young persons have the right to be informed of their rights, in every instance where their rights may be affected by the Act (Bala & Lillies, 1984). Section 3(1)(g) states:

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

The Act recognizes the rights and the responsibility of the parents as well as the offender.

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 (Section 3(1)(h)).

Although the parents are responsible for the care and supervision of their children it is interesting to note that, unlike in the J.D.A., they are under no legal obligation to assume financial responsibility.

Archambault (1983) claims the principles and assumptions of the Y.O.A. will preserve a specialized juvenile justice system.
emphasizing rehabilitation and reformation concepts. However, the legal safeguards protecting the young offender and the precept of minimal judicial intervention restrict treatment measures. Critics argue that too much emphasis has been placed on the legal safeguards and due process and not enough attention paid to the well-being of the young offender (Hacker, 1987). The problem is an increase in the resources for tasks directly related to criminal proceedings, i.e., lawyers and a decrease in the resources providing social services to the young offender and his family. The Y.O.A. has increased the legal resources required to convict a young offender. There still remains a lack of community correctional based programs to accommodate the special needs of the offender once he/she is convicted.

Deciding on guilt is not a major problem in Youth Court, but knowing what to do with troubled and troublesome youth is a major problem (Hacker, 1987: 206).

The Y.O.A. has strengthened due process in criminal proceedings against young persons at the expense of the "welfare" of young offenders. The fundamental principle acknowledging the special needs of the young offender preserves the rehabilitation and reformation concept of the previous judicial legislation, however, other principles of the Y.O.A. place limitations on this specialized juvenile justice system.
Consequences of the Enactment of the Y.O.A.

The implementation of the Y.O.A. has impacted significantly on juvenile corrections in B.C. The Corrections Branch Youth Containment Program policy for containment (1977) with its three levels of security was modified to comply with the definitions of open and secure custody. Corrections Branch camps were declared open custody facilities and the detention centres (Victoria and Willingdon Youth Detention Centre) were gazetted secure custody facilities. The Corrections Branch was prepared for the reorganization of custodial facilities but not for the dramatic increase in usage due to 17 year old offenders being redesignated "young" rather than "adult" offenders.

The custodial population in open and secure custody increased from an average of 138.1 in 1984-1985 to 221.7 in 1985-1986 (see Table 1). The resource capacity for young offenders in custody increased from 177.8 in 1984-1985 to 221.7 in 1985-1986. In 1986-1987 the numbers reached an average 338.1 with a resource capacity of 339.2. The Branch was not prepared for the dramatic increase in custodial dispositions in 1986-1987. Youth Courts were also experiencing an increase in the number of youth cases before the Court and the frequency of arrests and subsequent remands by the police (Table 2) This increase of both remanded and sentenced young offenders put a strain on the system.
Table 2
Vancouver Youth Court

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>New cases</td>
<td>852</td>
<td>1524</td>
<td>1915</td>
<td>2307</td>
</tr>
<tr>
<td>In Custody</td>
<td>**</td>
<td>629</td>
<td>1068</td>
<td>1684</td>
</tr>
<tr>
<td>Court Time (hrs)</td>
<td>1045</td>
<td>751</td>
<td>1249</td>
<td>1431</td>
</tr>
</tbody>
</table>

Estimated Annual Y.O.A. additional court workload caused by 17 year olds

New cases - 783 (+52%)
Court time - 680 (hrs) (+95%)
In custody - 1055 (114%)

Source: E. Hall, Vancouver Family Court, Ministry of Attorney General, 1988

*New cases are defined by youths appearing in Vancouver Youth Court on first appearances. In custody figures represent the young offenders who are arrested by police and remanded in custody prior to their first appearance. It should be noted that in B.C., prior to April 1985, a juvenile was defined as under 17 years and over six years of age.

** Not available

Several factors contributed to the sudden increase of young offenders in containment centres in B.C. The most significant factor was what can be described as the after-effects of the 'honeymoon' period, the transition period between J.D.A. and Y.O.A. Under the Y.O.A. all young persons are afforded the opportunity to be represented by a lawyer. The influx of lawyers in Youth Court meant each young offender would be represented by a lawyer. This resulted in increased court time. Court services
were not prepared for the additional work. There were also several court challenges that impacted on other agents of the juvenile justice system. The new waiver forms and the procedures required for police to arrest young offenders were considered cumbersome. Initially it was felt the decreased arrest rate of juveniles was attributed to the cumbersome arrest process and the legal safeguards of the Y.O.A. As the legal complications were unravelled by both policy and precedents, the lawyers, judiciary, probation officers and police officers became more comfortable with their roles. The juvenile justice system needed a transition period to adopt the new principles and legislative implications of the Y.O.A. Once the system was in place and working to capacity the number of cases before the Court increased and consequently custodial disposition became utilized.

The Y.O.A. also had an impact on other government ministries besides the Attorney General. The Youth Court and the Attorney General have jurisdiction over dispositions and the resources required to meet the dispositions. The Ministry of Social Services and Housing is not required to provide child care resources as part of Youth Court dispositions. In a Ministry of Social Services and Housing report, Mr. Dubensky, District Supervisor, writes:

The court has jurisdiction over its dispositions; consequently there will be no need to use Provincial Legislation and make a young offender a ward because of his offences....A resource required as a result of a court disposition and one that would not be expected of a responsibility of the Attorney General (Report on Young Offenders, 1983).
The young offender before the Court is not considered a child in need of Ministry of Social Service and Housing resources. The offender committed an offence and the disposition should reflect the seriousness of the offence. Young persons before the Court will be dealt with by the Ministry of the Attorney General. This was contrary to the 1970's where young offenders were moved from correctional facilities to child welfare placements. Young offenders, now convicted of a criminal offence, are the responsibility of the Ministry of Attorney General. Young offenders before the Court, whether they be temporary or permanent wards of the Superintendent of Child Welfare, will be contained in Correction Branch facilities if the seriousness of the offence warrants a custodial disposition. The relationships between social workers, probation officers and their parent organizations have been more clearly defined.

In addition to the legal complications and transfer of Ministerial responsibilities, the burden of the 17 year old offender has contributed to institutional overcrowding. In the 1970's the 17 year old offender strained the community resources but under the Y.O.A. it is the containment centres that feel the effect of these older youths. In 1985/86 young offenders 17 years of age and older represented 39% of the total youth institutional population in B.C.

In the early part of 1986 the open custody count began to rise from 80.3 in January, 1986 to 123.9 in May, 1986 (see Table 1). The increase was due, in part, to one renovated open custody
facility, Holly Open Custody Centre. Holly Open Custody Centre is the intake unit for most young offenders sentenced to open custody. Prior to the Y.O.A., Holly Open Custody Centre was a minimum security cottage of the secure Youth Detention Centre, and therefore, the security level was minimum. In the first two years at Holly, approximately 177 young offenders escaped lawful custody. As a result of this high rate of absent without leave (AWOL) from open custody, the courts were more inclined to sentence young offenders to secure custody. The Youth Courts were disenchanted with the concept of open custody. In the fall of 1985 a security fence was built around Holly Open Custody Centre and the AWOL's decreased significantly. This second level of security and control of the young offenders influenced the courts' decision to sentence young offenders to open custody in late 1985 and early 1986.13

The steady increase of young offenders being admitted to open custody in the spring of 1986 required reactive planning by the Corrections Branch. An adult community correctional centre, Burnaby Community Correctional Centre, underwent a transition from an adult facility, to a young offender open custody centre in three days in May 1986. The change from an adult facility to a young offender unit was not new to Corrections Branch planning and had occurred in both Chilliwack and Naniamo youth custody.

13 The absent without leave incidents rose from 67 in 1984/85 to 110 in 1985/86 and 53 in 1986/87. It should be noted that the open custody counts in 1984/85 were significantly less than those in 1985/86. The construction of the security fence was completed in April 1986. The data suggest the Courts were satisfied with the ability of Holly to contain young offenders in 1986/87.
centres. The time frame, however, reflects a decision made in the midst of an apparently critical situation of institutional overcrowding.

**Correction Branch Goals, Beliefs and Strategies**

Within three days, the Branch undertook to change an adult facility, with adult correctional officers, into a juvenile open custody centre staffed by youth correctional officers. The impact on the staff will be discussed in the next chapter. The B.C.C.C.C. program was developed under the organizational goals outlined in the Corrections Branch Beliefs, Goals and Strategy statement (1986). Protection of the community, reintegration, positive programming, appropriate levels of supervision of offenders, and assurances that court-imposed sentences are carried out consistent with the intent of sentence are fundamental principles of the Correction Branch mandate. Young offenders are sentenced to containment with court recommendations regarding alcohol and drug counselling, psychological classification and future early release dates. Youth Court judges specify which young offenders should not be contained in the same facility. The Branch attempts to accommodate the recommendations of the Court, and satisfy the intent of sentence. However, once a young offender is sentenced to either open or secure custody, the care and control of the young offender is the responsibility of the Corrections Branch.
In addition, the community must be satisfied that justice has been done within the framework of societal norms and expectations. The Branch provides programs that do not conflict with apparent community standards and regulates the operations of containment centres. A citizen advisory board maintains regular contact with containment centres offering and providing community support. The board reports to the containment centre managers. The provincial government has set up a Youth Containment Program Committee to monitor the activities of containment facilities. The committee visits each centre, interviews staff and reports the findings to the Attorney General. The Corrections Branch makes every effort to ensure the Branch goals, beliefs and strategies coincide with principles of the Y.O.A. The containment centres are accountable to the Youth Containment Program Committee, an independent community group.

The Branch is also bound by provincial legislation, The B.C. Corrections Act (1980). The B.C. Corrections Act states: "...offenders should be afforded the opportunity to participate in an educational treatment or counselling program inside or outside the youth containment centre". The protection of community remains of paramount importance to correctional programs and policies. The Y.O.A. and B.C. Corrections Act encourage community based programming for contained offenders. A balance must be stricken between utilizing community services and protecting the public. The definition of open custody allows facilities may be located in the community. Open custody facilities utilizing community social service agencies such as
alcohol and drug counselling, pre-employment courses, and educational facilities, appear to be supported by the provisions of the Y.O.A. and B.C. Corrections Act. The Branch's goals, beliefs and strategies incorporate the legislative intent of both the Y.O.A. and B.C. Corrections Act. B.C.C.C. is located in the urban community and takes advantage of community programming opportunities.

Treatment

Even though the Y.O.A. does not emphasize treatment, it does acknowledge that young offenders have 'special needs and require guidance and assistance'. There are provisions for court ordered assessments and treatments. Section 13 of the Y.O.A. authorizes Youth Court to require a young person before the court to be examined by a qualified person if it is believed the young person may suffer from a mental illness or disorder, a psychological disorder, an emotional disturbance, a learning disability or mental retardation. Section 20(1)(i) authorizes youth court to order a young person before the court to be detained for treatment in a hospital or other place where treatment is available for one of the conditions listed above.

The Y.O.A. requires the consent of the young offender, young offender's parents and designated hospital prior to making a treatment order. The notion of consent to treatment focuses on the ability of the patient to understand the information and make a reasonable decision to be treated. The legal profession
argues that consent provides the necessary check on the indiscriminate use of therapeutic procedures and makes the medical profession accountable and liable for its treatment decisions. The counter-argument provided by the medical profession claims consent is a myth: the mentally ill patient is not able to make reasonable treatment decisions. The conflict regarding consent is grounded in the differences in orientations and attitudes of the legal and medical professions (Kauffman, Roth, Lidz & Meisel, 1981). The law protects the rights of the individual and promotes autonomy and self-determination. In medicine, the patient trusts the decisions and expertise of the medical profession.

One of the controversies regarding treatment orders under section 20(1)(i) of the Act focuses on the issue of consent. Under section 22(1) the courts must ensure that any consent is valid and assume that a refusal to consent to treatment is made intelligently, voluntarily and knowingly.

Rada (1978) cites three elements that must be established before informed consent can be given. The offender must be of the legal capacity to give consent and the consent must be obtained voluntarily and the treatment procedure and its risks must be fully explained. Juvenile Services to the Court requires informed consent be given by all participants' parents and guardians as well as the adolescent sexual offender.

The legal capacity for consent in British Columbia is 18
years of age. However, under the Mental Health Act, a young person, 16 years of age or over, is deemed to have the capacity to authorize treatment. The National Task Force (1976) claims juveniles are competent to determine what is in their best interests and have the right to refuse services. Consent presumes that young offenders can decide on their treatment, an issue which they may be too immature to comprehend. It is argued in some quarters that young offenders making treatment decisions is a major impediment to the therapeutic process (Leschied & Gendreau, 1986).

Even assuming these young adults have the capacity to consent, there is a further question as to whether it can be informed consent. To date, there has been no evaluative research completed on the sex offender treatment program. This calls into question whether all its risks are known. The professionals disagree on the risk factors involved in drug treatment and the merits of penile tumescent devices (Abel, Mittleman & Becker, 1985; Earls & Marshall, 1982; Freund, 1967; Keltner, 1978; Zuckerman, 1971). In view of varying professional opinion it appears impossible for young offenders and/or guardians to fully understand the treatment procedures and the risks of the treatment program at Juvenile Services to the Court.

Rada (1978) suggests that consent must be given voluntarily. The extraneous variables in each case must be examined before considering consent to be voluntary. How many 12 year olds would

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R.S.B.C. 1979, C. 256.
go against their parents if the parents were adamantly supporting the treatment program? Youths between the ages of 12 and 14 years are in the transition period experiencing both cognitive and social development. They are influenced by adults and by peers and consequently it would be questionable if they could give voluntary consent to treatment (Landau, B. 1979).

There are legal arguments suggesting informed consent can not exist in a correctional setting. Treatment must be voluntary and it should not have any effect on a person's judicial status. In the United States, the courts ruled that informed consent could not exist when one is being involuntarily held in a mental hospital. In the case of Kaimowitz' a signed document acknowledging informed consent to undergo psychopathic surgery was not upheld.

Critics argue that treatment in a correctional setting is tantamount to having offenders serve two sentences: the legal sanction of imprisonment and the psychiatric sanction of treatment (Ericson, 1976). Treatment in jail becomes a sentence, not treatment (Monahan, 1981). Offenders are coerced into treatment by court recommendations and the 'carrot' of early release if treatment completed. Offenders in custodial settings are not being held voluntarily and consequently are not in a position to consent voluntarily to treatment (Verdun-Jones & Gordon, 1983).

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'Kaimowitz v Department of Mental Health, Cir. Ct. Wayne County, Michigan, 1973.
The Young Offenders Act requires the consent of the young offender prior to treatment, thus assuming a position that young persons are competent to determine what is in their best interests. The limited use of treatment orders indicate young offenders do not feel treatment is in their best interests. In B.C., between 1984 and 1986, there were only nine treatment orders in effect (The Canadian Centre for Justice Statistics, 1986). The difficulties in making and enforcing treatment orders limit the use of these provisions. Under the Mental Health Act the admittance and discharge procedures for young offenders are much more flexible and therefore committals under the Mental Health Act are preferred to treatment orders. Treatment orders have fixed terms where the committals and discharges under the Mental Health Act are administratively determined. In effect, the consent of the hospital (Maples Adolescent Psychiatric Unit) required under the Y.O.A. will only be given if the young offender satisfies the screening requirements under the Mental Health Act.16

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16The Maples Adolescent Psychiatric Hospital is the primary long term treatment facility for youths in conflict with the law. The young person is informally admitted under section 19 of the Mental Health Act (M.H.A.) initially for 30 days after which a treatment decision is made. If the young person is over 16 years of age and initially consented to treatment he/she can discharge themselves within 72 hours of being admitted. If the young person is less than 16 years of age he/she will be admitted to hospital under section 19 of the M.H.A. if parents and one doctor request admission. The consent of offenders under 16 years of age is not required. The parents of young offenders under 16 years of age can discharge the offender from the hospital. Under section 20 of the M.H.A. the signature of two doctors are required for an involuntary committal of a young person to the Maples Adolescent Psychiatric Hospital.
Youth Courts are not required to obtain the consent of either the young offender or the custody facility to make a containment order. According to Leishield and Hyatt (1986) Youth Courts are utilizing open and secure custody dispositions with recommendations for specified treatment as an alternative to treatment orders. In B.C., the limited resources, the long waiting lists for admittance, the cumbersome screening format and a general disenchantment with the Maples Unit have influenced the Courts' decisions to order containment with recommendations for treatment. This apparent use of custody to access treatment is an unintended consequence of the Y.O.A.

The intention of the Y.O.A. is to provide court-ordered treatment, subject to consent, and psychiatric assessments to assist the Court and the young offender. Federal funding for young offender services influenced the decision to expand psychological and psychiatric services.

In B.C. the Community Care Services Division of the Ministry of Health is responsible for the direct delivery of health services to young persons in conflict with the law. Three youth service components of the Community Care Services Division are Forensic Psychiatric Services, Mental Health Services and Alcohol and Drug Programs. The Forensic Psychiatric Services and the Mental Health Service have entered into an agreement to

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17In B.C. any young offender candidate for the Maples Adolescent Psychiatric Hospital must be referred, by either social worker or probation officer, to a screening committee. The Committee ranks the offenders in order of needs and available resources. The estimated time between referral and admittance may be six months.
provide psychological services to all youths in conflict with the law. The J.S.C., under the auspices of Forensic Psychiatric Services provide the majority of inpatient and outpatient psychiatric assessments for the Court, under section 13 of the Y.O.A. The purpose of the assessment is to assist the Youth Court judge in the judicial decision making process.

In addition to psychiatric assessments for Court, the Ministry of Health has also expanded its outpatient treatment programs for young persons in conflict with the law. The Alcohol and Drug clinics provide "awareness" programs and individual counselling for young offenders. The Mental Health Services and Juvenile Services to the Court have established several group and individual treatment programs as part of their services to young offenders. Juvenile Services to the Court have developed a comprehensive outpatient treatment program for adolescent sexual offenders.

Although the Services of the Community Care Services Division of the Ministry of Health were available to young persons prior to the enactment of the Y.O.A., the services were considerably enhanced when compared to the lower level of services available under the J.D.A. There was a 168% increase in service between 1984/85 and 1985/86. The J.S.C. reported a combined increase of 46% in both psychiatric assessments and treatment caseload (The Canadian Centre for Justice Statistics, 1986).
The assessment and subsequent treatment of adolescent sexual offenders at J.S.C. is a relatively new psychological service for young offenders. Although the origins of the treatment of sexual offenders by J.S.C. date back to 1980, the current sexual offender program has been developed in the post-Y.O.A. period. Several persons in the initial group of sexual offenders that attended the program were from the Maples Adolescent Psychiatric Unit in Burnaby, B.C. They were either voluntarily committed to the Maples under the Mental Health Act or placed there by the Youth Court by way of treatment orders or probation orders. Apparently the adolescent sexual offender was a difficult patient for the Maples. There were reports that offenders were sexually assaulting non-offenders in the Units. Two patients of the Maples were charged with sexual assaults, processed at Youth Court, sentenced to custody and eventually classified and sent to B.C.C.C.

Adolescent Sexual Offender

The increase of court ordered assessments and the infrequent use of treatment orders were paralleled by an increase in adolescent sexual offenders before the courts. Police reports indicate an increase of 40 crown counsel reports alleging sexual offences committed by young offenders between 1985 and 1986. The increase is continuing to be reported in 1987 (Table 3). Although not all crown counsel reports result in criminal charges and/or convictions, the Corrections Branch reports a
<table>
<thead>
<tr>
<th>Region</th>
<th>Adults 1985</th>
<th>Adults 1986</th>
<th>Adults 1987</th>
<th>Young Offenders 1985</th>
<th>Young Offenders 1986</th>
<th>Young Offenders 1987</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vancouver Is. (total)</td>
<td>673</td>
<td>828</td>
<td>744</td>
<td>27</td>
<td>-19</td>
<td>31</td>
</tr>
<tr>
<td>Nanaimo</td>
<td>104</td>
<td>78</td>
<td>80</td>
<td>6</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>Vancouver (total)</td>
<td>1046</td>
<td>1201</td>
<td>910</td>
<td>21</td>
<td>32</td>
<td>27</td>
</tr>
<tr>
<td>Vancouver City</td>
<td>426</td>
<td>473</td>
<td>36</td>
<td>3</td>
<td>6</td>
<td>8</td>
</tr>
<tr>
<td>Burnaby</td>
<td>139</td>
<td>163</td>
<td>152</td>
<td>1</td>
<td>2</td>
<td>7</td>
</tr>
<tr>
<td>Coquitlam</td>
<td>52</td>
<td>59</td>
<td>63</td>
<td>4</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Richmond</td>
<td>71</td>
<td>74</td>
<td>71</td>
<td>2</td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>Fraser (total)</td>
<td>652</td>
<td>835</td>
<td>657</td>
<td>33</td>
<td>32</td>
<td>30</td>
</tr>
<tr>
<td>Matsqui</td>
<td>43</td>
<td>72</td>
<td>41</td>
<td>3</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>Surrey</td>
<td>269</td>
<td>28</td>
<td>251</td>
<td>15</td>
<td>13</td>
<td>12</td>
</tr>
<tr>
<td>Interior (total)</td>
<td>581</td>
<td>744</td>
<td>573</td>
<td>17</td>
<td>31</td>
<td>35</td>
</tr>
<tr>
<td>Kamloops</td>
<td>83</td>
<td>93</td>
<td>75</td>
<td>1</td>
<td>3</td>
<td>6</td>
</tr>
<tr>
<td>North (total)</td>
<td>708</td>
<td>800</td>
<td>713</td>
<td>31</td>
<td>55</td>
<td>39</td>
</tr>
<tr>
<td>Fort St. John</td>
<td>44</td>
<td>40</td>
<td>31</td>
<td>1</td>
<td>3</td>
<td>5</td>
</tr>
<tr>
<td>Prince George</td>
<td>134</td>
<td>185</td>
<td>132</td>
<td>12</td>
<td>18</td>
<td>11</td>
</tr>
<tr>
<td>Fort St. James</td>
<td>26</td>
<td>48</td>
<td>40</td>
<td>1</td>
<td>4</td>
<td>2</td>
</tr>
</tbody>
</table>


The regions represent the five regions of the B.C. Corrections Branch. The cities with the most reports in each region have been documented. The offence data shown above have been recorded by the police on Uniform Crime Survey (UCR). If a single criminal incident contains a number of violations of the law, then only the most serious one is recorded for UCR purposes. Figures for 1987 only include the nine month period January 1 to September 1, 1987.
significant increase in adolescent sexual offenders on probation and in containment since 1984-1985 (Table 4). Both the B.C. Police Commission and the Correction Branch report an increase of adult sexual offenders during the same period (Table 3 and 4). It appears the criminal justice system, both adult and juvenile are simultaneously experiencing a similar trend, an increase in sexual offenders before the courts. Given the existence of crime's "dark figure", we cannot be sure whether there has been a real increase in deviant sexual behaviour or simply an increase in discovery/prosecution, etc.

The rise in reported cases of adolescent sexual offenders has been observed by other researchers. In 1986 there were 450,000 self-reported incidents of adolescent sex offences in the United States (Knapp, 1986). Data from Ontario indicates that adolescents are responsible for many sexual offences. In 1985, there were 151 adolescents charged with sexual offences in Toronto (Mathews, 1987). According to the Mathews study, between 1979 and 1984 in Ontario there were 1,388 convicted offenders aged 16-19 whose records contained at least one sexual offence. At a national level, 25% of sexual offences are committed by adolescents (Mathews, 1987). In British Columbia, the B.C. Police Commission and Corrections Branch report on increase in adolescent sexual offenders between 1985-1987 One explanation for this increase in "arrests and convictions" of sexual offenders is the high profile of sexual offenders in B.C. The Courts and police departments are working together to develop legal strategies to effectively arrest and convict the sexual
Table 4a

Young Offenders Convicted of Sexual Offences under B.C. Corrections Branch Supervision, 1984-1987

<table>
<thead>
<tr>
<th>Year</th>
<th>Custodial Admissions</th>
<th>Open Custody</th>
<th>Secure Custody</th>
<th>Community Prob.-Bail</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Remand</td>
<td>Remand</td>
<td>Remand</td>
<td>Remand</td>
</tr>
<tr>
<td>1984-85</td>
<td>6 (0.7)</td>
<td>2 (0.9)</td>
<td>7 (3.9)</td>
<td>30 (1.1)</td>
</tr>
<tr>
<td>1985-86</td>
<td>12 (1.1)</td>
<td>10 (2.5)</td>
<td>6 (1.3)</td>
<td>55 (1.3)</td>
</tr>
<tr>
<td>1986-87</td>
<td>30 (2.4)</td>
<td>23 (4.0)</td>
<td>9 (1.5)</td>
<td>146 (3.2)</td>
</tr>
</tbody>
</table>

Table 4b

Adult Offenders Convicted of Sexual Offences under B.C. Corrections Branch Supervision, 1984-1987

<table>
<thead>
<tr>
<th>Year</th>
<th>Custodial Admissions</th>
<th>Institutions</th>
<th>Community Supervision</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Remand</td>
<td>Remand</td>
<td>Remand</td>
</tr>
<tr>
<td>1984-85</td>
<td>200 (4.5)</td>
<td>266 (2.1)</td>
<td>414 (2.9)</td>
</tr>
<tr>
<td>1985-86</td>
<td>214 (4.8)</td>
<td>330 (3.1)</td>
<td>446 (3.7)</td>
</tr>
<tr>
<td>1986-87</td>
<td>266 (5.3)</td>
<td>410 (3.8)</td>
<td>730 (5.9)</td>
</tr>
</tbody>
</table>

Source: B.C. Correction Branch Headquarters, Research Division, 1988

If a single criminal incident contains a number of violations of the law, then only the most serious one is recorded for statistical purposes. The number in parenthesis represents the percentage of sexual offenders compared to the total offender population in that category. The years are recorded in fiscal years commencing in April.

Note: In B.C. prior to April 1985, a juvenile was defined as under 17 years and over six years of age.
offender.

Set alongside this apparent increase in adolescent sexual offences is the existence of a body of research which argues that not only is this a concern in itself but also bodes ill for the future. According to certain researchers there is a relationship between sexual offences committed by adolescents and subsequent sexual offences committed by the same adolescents during adulthood (Groth, Longo & McFadin, 1982). Longo and Groth indicate there is a progression from non-contact sexual crimes as juveniles to the more serious sex assaults of rape and child molestation as adults. The Groth, Longo and McFadin study (1982) suggests dangerous sexual offenders usually commit their first sexual offence during adolescence. The adolescent sexual offender has the potential to be a dangerous sexual offender, although the juvenile justice system seems to consider them mere 'nuisance offenders' (Longo, Groth & McFadin, 1982).

The young offender, who commits a sexual offence, a nuisance offence, is thought to be expressing sexual curiosity, part of the adolescent maturation and development stage (Groth, 1982; Longo, 1981; Mergolin, 1983). Young offenders who commit nuisance offences such as exhibitionism and/or voyeurism, are either diverted (formally or informally) from the justice system or placed on probation with a condition to 'attend counselling as directed'. The counselling involves one or two visits to the local mental health service delivery unit. According to Longo the adolescent sexual offenders are being dismissed by the Youth
Court as a 'nuisance' rather than a potentially dangerous offender displaying early development signs of deviant sexual behaviour.

It is not uncommon for an individual, especially a juvenile apprehended for a minor sexual offence or nuisance offence, to be placed on probation with little or no supervision/intervention...or be labelled an adolescent adjustment reaction or anxiety reaction and receive minimal mental health care. Nor is it uncommon for the juvenile to be unlabelled so as not to mar his record (Longo, 1982: 21).

Groth (1979) suggests the adolescent sexual offender should be identified as a dangerous offender and warrants:

...careful psychological assessment by the Courts and other related agencies. The all too frequent diagnosis of adolescent adjustment reaction often results in the defects and needs of the offender going unrecognized and in the perpetuation of the jeopardy he constitutes to the community. There is a need for security treatment facilities for such young offenders if the courts are to make meaningful dispositions for the intervention in such cases (Groth, 1979: 253).

Lengthy periods of secure custody are required to control and treat the adolescent sexual offender (Zamera and Lane, 1984).

The current literature suggest accurate psychiatric evaluations and diagnosis of adolescent sexual offenders can predict future dangerousness (Groth, Longo & McFadin, 1982). The thesis does not address the scientific validity of "predicting dangerousness" however, it is crucial to recognize that there is another body of research indicating psychologists and psychiatrists are unable to predict dangerousness (Dix, 1977, Monahan, 1981). Monahan states there is no practical significance for the assessment of childhood characteristics as indicators predicting future adult violence. Dix (1977)
question the validity of psychological decisions determining the
dangerousness of abnormal sexual offenders. Too often the
judicial system and the Courts uncritically accept the
observations and evaluations of the professionals. The judicial
system emphasizes the importance of deciding whether an offender
is dangerous and the possibility of treatment for such an
offender. Dix suggests it is equally important for the Court to
assess the progress of the treatment program as it is to
evaluate the suitability of treatment. In the case of adolescent
sexual offender treatment programs there is limited research
regarding the efficacy of the actual treatment programs. The
vast majority of research focuses on the diagnostic evaluation
of the adolescent sexual offender.

The diagnosis, treatment and prediction of of the sexual
offender assumes we have sufficient knowledge of the behaviour.
French and Vollman (1987) claim the main elements of the
offender are, strong sex drive, lack of socially approved
expression and in most cases a lack of remorse. Early indicators
of childhood stress focus on stuttering, bed wetting, truancy,
pyromania, as well as other 'impulse control disorders' and
idiosyncratic violent acts. French and Vollman acknowledge many
of the pubescent sexual expressions, such as voyeurism,
pornography, inappropriate masturbation, exhibitionism and theft
of undergarments, as signs of the potential sexual offender.
None of the signals, in isolation, are clear indicators of
future sexual dangerousness but a combination of several
expressions become a red warning sign. Those youths who fail to
transfer these early expressions into acceptable behaviour patterns become high risks for sexually offending (French & Vollman, 1987).

Berlin and Meinecke (1981) argue that sexually deviant disorders should be treated medically rather than punitively. Paraphilic syndromes (voyeurism, exhibitionism, sexual attraction to children) typically manifest themselves initially at puberty and follow a chronic course that may, however, be altered by treatment. Disease syndromes tend to follow a relatively predictable course and will often respond to treatment. The earlier the diagnosis and subsequent treatment the greater the chance of effective treatment occurring. Again, such arguments rest on an assumption of effective diagnosis, prediction and treatment.

Summary

Chapter I outlines several factors playing significant roles in the operationalization of B.C.C.C. The most significant factor was the proclamation of the Y.O.A. (1984) and several unintended consequences of the implementation of this legislation. One important consequence of the Y.O.A. was a dramatic increase in custodial dispositions in B.C. In May 1986 the Branch opened B.C.C.C. as a response to institutional overcrowding. At the same time that B.C.C.C. became operational the Corrections Branch experienced a significant increase in adolescent sexual offenders in containment and on probation. The
adolescent sexual offender met the classification criteria of the B.C.C.C. and the Centre soon became known as a 'sexual offender' unit.

Another consequence of the Y.O.A. that impacted on B.C.C.C. was the Ministry of Health's decision to expand J.S.C. in response to the court-ordered assessment and treatment provisions of the legislation and the expansion of mental health youth services. The increase of both psychiatric services and adolescence sexual offenders resulted in the frequency of Court ordered psychiatric assessments of young sexual offenders under section 13 of the Y.O.A. The research supports comprehensive assessments of adolescent sexual offenders and court-ordered treatment if required. The limited use of treatment orders and the increase of psychiatric assessments recommending treatment for adolescent sexual offenders at the J.S.C. clinic created the need for a B.C.C.C. type facility.

B.C.C.C. became identified as a containment facility for sexual offenders in need of treatment at J.S.C. The treatment of young offenders in containment is a controversial issue that spans 100 years of juvenile justice. The current legislation acknowledges rehabilitation and the special needs of young persons but emphasizes the offender should be dealt with on the basis of their offence, not their treatment needs. The operation of B.C.C.C. and its relationship with J.S.C. illustrates the difficulty of maintaining a treatment and control ideology in a juvenile justice system. Chapter II will describe B.C.C.C. and
its relationship to J.S.C.
Chapter II

Burnaby Community Containment Centre became operational on May 3, 1986 and was gazetted a permanent facility August 15, 1988. Burnaby Community Containment Centre is part of the Vancouver Region of the B.C. Corrections Branch. The Branch is divided into five regions: Vancouver, Fraser, Interior, North and Island. Each region is divided into districts, an organizational structure localizing budgets, operations and the decision-making process. The local director of Burnaby Community Containment Centre reports to the Vancouver East District Director who in turn reports to the Vancouver Regional Director. All Regional Directors report to the Commissioner of Corrections.

The Staff

The senior management team at Burnaby Community Containment Centre consists of the local director, two principal officers and the probation officer. The principal officers are primarily responsible for the security and the staffing of the Centre. The probation officer's responsibilities include programming, case management planning for the young offenders and liaison with the community. There are 14 full-time correctional officers and five auxiliary officers. Eight of the correctional officers were previously employed in an adult correctional facility. Only six
of the first 19 correctional officers at B.C.C.C. had previous experience working with young offenders.

**Staff Training**

B.C.C.C. was a short-term measure to resolve what was to be a long-term problem: overcrowding in open custody institutions in B.C. The three day change over time from an adult correctional centre to a juvenile open custody containment centre was not sufficient time for staff to adjust to new legislation (Y.O.A.), new policies (B.C. Corrections Branch Manual of Operations), new colleagues and a new clientele. The Corrections Branch did not provide adequate training for those correctional officers without young offender experience prior to May, 1986.

This lack of specialized training was compounded by the different attitudes and belief systems between adult and juvenile correctional officers at B.C.C.C. There were four officers hired from outside government. Conflict occurred between various groups. The uncertainty of the status of B.C.C.C. and being temporary officers in a temporary institution created an atmosphere of low morale. Similar conflicts and low morale were reported when adult correctional officers were transferred from the adult Haney Correctional Centre to Willingdon Youth Detention Centre in 1974 (Pershick, 1980). The youth correctional officers involved in the "programs" and individual casework did not coincide with the security conscious
adult correctional officers. In the adult correctional system there appears to be more emphasis on control by discipline as opposed to the youth containment system's control by effective programming.

The Program

The day-to-day program at B.C.C.C. consists of school, educational and recreational outings, and a work program. The Burnaby School Board provides two teachers and offers English, Mathematics, Science and Social Studies classes; grades one through twelve. The woodwork instructor is a correctional officer employed by the Corrections Branch. The token economy system (rewarding positive behaviour with privileges) and a case management strategy (assisting offenders in containment) are essential program components at B.C.C.C.

Case Management

The case management strategy is a dynamic process requiring ongoing review and consultation between correctional officer, probation officer, the young offender and others who are involved with the youth (i.e., parents, guardian, field probation officers and social workers). The rationale for case management is that young persons 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. A contracted psychologist assists in case management planning and is available for offender and staff consultations.

The objectives of the case management process include providing a range of activities to meet the needs of the youth, to encourage and enable them to demonstrate responsible behaviour and to release youth to programs of lesser control. Case management is not considered 'treatment'. Nonetheless, the case management strategies applied to adolescent sexual offenders take on a treatment perspective. Releasing offenders to programs of lesser control assumes there are after-care programs in the community for adolescent sexual offenders. To date there are two such community based programs. After-care is a critical issue that will be discussed in the next chapter, however, the planning for after-care release is a case management function. Case management strategy incorporates temporary absence and early release as long term goals and objectives.

The adolescent sexual offender in containment is an anomaly in the correctional system. The comprehensive psychiatric assessments indicate the young sexual offender is a very disturbed youth. Quite often the offender admits to violent sexual fantasies and discusses very openly and candidly their sexual orientations. Several of the young offenders refuse to accept any responsibility for their behaviour and show little or no remorse for their victims. In most cases the victims are
children several years younger than the offender. It is extremely difficult for the correctional officer to overcome his or her bias towards this category of offender who victimize young children. Several of the officers at B.C.C.C. admit they read the initial reports to identify security issues, such as violent outbursts or suicidal tendencies, but tend to ignore the details of the offence. The officer is placed in a very difficult position of being both supportive of the offender and repulsed by his deviant behaviour.

**Token Economy**

The token economy system is a modified operant conditioning system rewarding the young offenders for positive behaviour. The system affords the young offender the opportunity to earn privileges and rewards by behaving as expected and following the rules and regulations of B.C.C.C. The token economy system is a worthwhile management tool but as a rehabilitative tool it is unimpressive (Ross & McKay, 1978).

The token economy system is part of the Branch case management strategy to encourage behavioural change. The emphasis of a token economy system in containment creates unrealistic expectations and an atmosphere of distrust for the sexual offenders. For example, the ultimate reward in containment is early release. Initially all young offenders admitted to custody are advised of early release and temporary absence policies. In setting initial goals and objectives all
offenders are encouraged, and supported by case managers, to develop strategies towards early release. The most common strategy is to follow the rules and regulations of the Centre and obtain the necessary points to achieve the highest level on the token economy system as a pre-condition of early release set by B.C.C.C.

At B.C.C.C. there are three levels on the token economy system. Each hour the staff assess a resident's points based on acceptable and as expected behaviour. At the end of each week the points are totalled and a stage level determined. The residents are awarded monetary rewards plus privileges for points. The institution establishes guidelines for early release and temporary absence. A resident must be on level three for one month before the institution will support an early release or temporary absence application. Of course there are exceptions to the rules such as emergency medical temporary absences or court initiated early releases.

In addition to internal institutional policies regarding temporary absences and early releases the Corrections Branch have developed general policies (Manual of Operations, 1986). Branch policy states 'harm to others' must be addressed before any form of release is considered. Success in the token economy system reflects the offenders' behaviour in the institution but is not an indication of the potential risk or harm to the community involved in releasing the offender. Completing chores, attending school and participating in the programs are expected
by the correctional officers but they are not decisive factors in predicting the potential danger to the community. The psychiatrists have already made their diagnosis and it can be assumed that if the young offender is in custody he is considered a danger to the community. Predictions regarding risk to the community are left to the treatment professionals, the psychiatrists and psychologists. The case managers are put in a position of setting goals and objectives for early release and then motivating, supporting, and encouraging the young sexual offender to reach these unattainable goals and objectives.

Recreation

The physical site (two and one-half acres in the centre of Burnaby, British Columbia) and the open custody status (absence of a mechanical security system) influenced the direction of programming at the Burnaby Community Containment Centre. There is an undersized volleyball court, a weight room and a horseshoe pit available for recreation. All other physical exercise programming must be community-based. Each correctional facility must provide five hours of physical exercise a week (B.C. Corrections Branch Manual of Operation, 1987). Burnaby Parks and Recreation provide complimentary swim tickets and the Burnaby School Board has arranged two hours gymnasium time per week at an elementary school in Burnaby. The offenders play ice hockey at the Britannia Community Centre in neighbouring Vancouver, and floor hockey at the adult New Haven Correctional Institute's
gymnasium. The Centre depends on vacant community parks and the weather for baseball, football and soccer games.

The leisure program at B.C.C.C. emphasizes reintegration into the community. The Vancouver Canucks, Vancouver Canadians, B.C. Lions, Vancouver 86ers, New Westminster Bruins, Simon Fraser University and University of British Columbia sports programs, theatre groups (Vancouver Playhouse) and others have provided the Centre with complimentary tickets. There have been various educational outings to such places as the Chilliwack Salmon Hatchery, B.C. Institute of Science and Technology, museums, art galleries, Brittania Beach, Cultis Lake and other community amenities. B.C.C.C. staff have also contributed immensely to the reintegration programming aspect of the Centre.

One of the more popular community outings is swimming at a Burnaby public pool. It is impossible, however, for one staff member to closely monitor six residents in a swimming pool. Recently one of the youths at the B.C.C.C. was banned from swimming because he continually drifted towards young females under the age of ten years. This resident's offences were against young females under the age of 14 years. It is impossible to supervise the adolescent sexual offenders on a community outing without placing the community in some degree of risk. The Branch acknowledges reintegration and the provision of reasonable opportunity for positive and constructive activities within operational and resource limitations in its goals, beliefs and strategies but emphasizes consideration for the
protection of the public. Programming for adolescent sexual offenders at B.C.C.C., in light of Branch policies, is a difficult task.

Classification

Although the B.C.C.C. became operational in May 1986 it was not considered a permanent facility until August 1, 1986. The first ten residents of the Centre (in May 1986) were transferred from the honour unit (Southview) at the Holly Open Custody Centre, Burnaby.

The classification criteria of B.C.C.C. was not formalized until approximately August 1, 1986. The absence of locked fences, the close proximity of the plant to the Lower Mainland Regional Correctional Centre and the Burnaby community influenced the initial decision to transfer ten "manageable youths with low escape risks" from Holly Open Custody Centre Burnaby, B.C. to the B.C.C.C. in May 1986. Within two weeks B.C.C.C. was operating at its full capacity, 18 residents. The count has remained fairly constant at the maximum bed load capacity since May 1986.

The numbers of open custodial dispositions continued to escalate in June and July, 1986 in British Columbia (see Table 1). The criteria of classification to the Centre were broadened

'It is my view, as a probation officer at B.C.C.C., that the first three months of operation (May 3 - August 1, 1986) were primarily a training period for staff and a planning period for management.
as it appeared the B.C.C.C. would be operating longer than the	hree months originally intended. After two months, the informal
classification criteria included those youths who were either
physically or mentally, unable to be transferred to open custody
camps and the less sophisticated and immature youths who often
became victims in the larger custodial settings. Adolescent
sexual offenders met the classification criteria of B.C.C.C.
and, consequently, the majority of adolescent sexual offenders
sentenced to open custody were, and continue to be, classified
to the Centre.

The high concentration of adolescent sexual offenders in one
youth containment facility is unique to the Corrections Branch.
Selected literature claim the adolescent sexual offender is a
dangerous young offender and should be treated in a secure
facility (Zamore & Lane, 1984). An influx of adolescent sexual
offenders in containment over the past several years combined
with rising custodial counts resulted in the Corrections Branch
inadvertently establishing a youth unit for sexual offenders.
The majority of sexual offenders at B.C.C.C. are considered the
non-aggressive, manageable, less sophisticated and immature
youths. However, the literature suggests these offenders are
potentially dangerous offenders. There is a need for the Branch
classification system to understand the adolescent sexual
offender and the potential risks to the community if placed in
an open-custody setting such as B.C.C.C. This thesis will
present a character profile of the adolescent sexual offender at
B.C.C.C.
Data Collection

An adolescent sexual offender profile will be presented from a sample of 37 offenders classified to the B.C.C.C. between August 1, 1986 and February 1, 1988. An adolescent sex offender in this study is defined as a young offender sentenced to custody and classified to B.C.C.C. for a sexual offence. There were two young offenders contained at B.C.C.C. for breach of probation. Nonetheless, they were included in the sample based on their substantive offence, a sexual offence. One young offender was convicted of breaking and entering with the intent to commit a sexual assault and was also included in the sample. The two adolescent sexual offenders at the Centre who were transferred to a more secure facility due to their violent nature, or escape risk, were not included in the sample.

Data was collected from Correction Branch institutional files and interviews with probation officers, social workers, psychiatrists, psychologists and other social service persons. Interviews with young persons were not conducted specifically for this study, although information was obtained from interviews undertaken as part of the job function of the B.C.C.C. probation officer. The institutional files contain probation reports, social histories, psychiatric assessments, social service agency reports and other relevant documents. The

2Judge D. Campbell, Administrative Youth Court Judge, Vancouver, B.C. granted authority to review the institution files under section 44 of the Y.O.A. ensuring the confidentiality of the young person would be maintained.
data was coded according to operational and conceptual definitions (Appendix A). I have relied on my 12 years experience as a probation officer to code objectively subjective information from the institutional files. I am a trained officer of the court and have several years experience writing probation reports and reading psychiatric reports.

Character Profile of Adolescent Sexual Offenders at B.C.C.C.

A review of the literature indicates that the adolescent sexual offender is becoming an anomaly in Youth Court (Longo, Groth & McFadin, 1982). Most of the research focuses on the character profiles of the offender. Several studies base their adolescent sexual offender profiles on childhood characteristics of adult sexual offender samples (Groth, 1979; Groth, Longo & McFadin, 1982; Longo & Groth, 1982; Tingle, Barnard, Robbins, Newman & Nutchinson, 1986). Other studies have documented the character profile from samples of young offenders who have committed sexual offences (Fehrenback, Smith & Monastersky, 1986; Van Ness, 1984). A character profile of the adolescent sexual offender at B.C.C.C. will be compared to the general adolescent sexual offender profile in North America (Table 5). The purpose of the comparison is to attest to the representativeness of the B.C.C.C. sexual offender population.
Table 5
General Character Profile of Adolescent Sexual Offenders

<table>
<thead>
<tr>
<th>Studies</th>
<th>Age Yrs.</th>
<th>Family Background</th>
<th>Reported Learning Disability</th>
<th>Criminal Records</th>
<th>Victim of Sexual Abuse</th>
<th>Victims Male/female</th>
</tr>
</thead>
<tbody>
<tr>
<td>Longo (1982)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>47%</td>
<td>80% female</td>
</tr>
<tr>
<td>Groth (1979)</td>
<td>16</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Groth, Longo, McFadin (1982)</td>
<td>16</td>
<td></td>
<td></td>
<td></td>
<td>90%</td>
<td></td>
</tr>
<tr>
<td>Fehrenboch (1986)</td>
<td></td>
<td>disruptive/unstable</td>
<td></td>
<td></td>
<td>44%</td>
<td>20-22%</td>
</tr>
<tr>
<td>Van Ness (1984)</td>
<td></td>
<td>41% physically abused</td>
<td></td>
<td></td>
<td>86%</td>
<td>68% female</td>
</tr>
<tr>
<td>Gomes-Schwartz (1984)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>50%</td>
<td>38%</td>
</tr>
<tr>
<td>Tingle</td>
<td></td>
<td>violence in family home</td>
<td></td>
<td></td>
<td>38-51%</td>
<td></td>
</tr>
<tr>
<td>BCCC</td>
<td>16.4</td>
<td>67% disruptive</td>
<td>30%</td>
<td>62%</td>
<td>.50%</td>
<td>86.5%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>54.1% reported violence in home</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
The Y.O.A. declares any youth between the ages of 12 and 17, at the time of an offence, a young offender. The mean age of the adolescent sexual offender at B.C.C.C. was 16.4 years, the youngest offender was 14 years of age and the oldest offender was 20 years of age. The majority of offenders are between 15 and 17 years of age inclusive. In both the Groth (1979) and Groth, Longo and McFadin (1982) studies the average age was 16 years. Longo claims the majority of sexual offenders have a history of deviant behaviour beginning as early as seven years of age. In his 1981 study he reported that deviant behaviour of adult offenders occurred, on average, ten years before their first conviction.

Family Background

According to Fehrenbach et al. (1986) most adolescent sexual offenders come from unstable family backgrounds. They have a history of either witnessing family violence or being a recipient of physical abuse and/or neglect. In the Van Ness study (1984) 41% of the adolescent sexual offenders reported histories of physical abuse compared to 15% of a matched group. The Tingle (1986) study focused on childhood and adolescent characteristics of adult sexual offenders. Tingle et al. described a lack of fathering, emotional attachment to the mother, and violence in the family home as predominant childhood characteristics. The families of 17 B.C.C.C. offenders, from the 37 cases examined, were reported to exhibit violent behaviour
and alcohol and/or drug abuse. Seventeen offenders were victims of physical abuse in the family home. Sixty-seven percent of the sample's family background was described as disruptive. The term "disruptive family background" describes an environment not conducive to a normal upbringing.

Alcohol and Drugs

Davis and Leitenberg (1987) cite no data indicating whether adolescent sexual offenders are more likely to have a history of alcohol or drug abuse than other adolescents. In the Groth study (1979) alcohol and/or drugs were not mitigating factors in the commission of the offence. In the sample population there were seven reported cases of extreme offender alcohol abuse and four cases of extreme drug abuse. Five of the sample offenders committed their offence(s) under the influence of either drugs or alcohol.

School

In the Gomes-Schwartz (1984) study, 50% of the offenders were labelled learning disabled (cited in Davis & Leitenberg, 1987). Fehrenbach et al. (1986) reported 55% of the offenders were in the appropriate grade placement. In the B.C.C.C. sample 29.9% of the sample was reported learning disabled and most of the offenders (28) were attending school prior to disposition. All offenders at B.C.C.C. attend school.
Sexual Abuse

In the Gomes-Schwartz (1984) study 38% of the sample was sexually abused. Longo (1982) reported a finding of 47% offenders claiming they were sexually abused while Longo and Groth (1982) found 90% of the sexual offenders stated they were sexually abused. Fehrenbach et al. (1986) reported 20-22% victims of sexual abuse for offenders convicted of rape and indecent liberties respectively. According to Fehrenbach et al., the frequency of sexual abuse was lower in cases where the offence was non-contact (i.e., voyeurism, exhibitionism, etc.). In the sample study approximately half of the offenders were self-reported victims of sexual abuse. Ten offenders identified the perpetrator of the abuse as either a relative or a friend.

In several cases the offender first reported being a victim of sexual abuse during treatment. The Tingle et al. study (1986) reported 38% of the sample rapists and 51% of the child molesters were sexually abused. Tingle et al. (1986) stated that a common practice for the sexual offender was to deny having been sexually abused in childhood during the initial stages of treatment, the denial stage. Based on Tingle's comments the sample may have underreported sexual abuse as most of the information was coded prior to the commencement of treatment.
Criminal Record

In the Van Ness study (1984) 86% of the population had a previous conviction while the Fehrenbach study (1986) reported 44% of the sample had a previous record. In the B.C.C.C. sample 62.2% of the sample had a prior court history. The majority of sexual offenders at B.C.C.C. (83.8%) were serving their first custodial dispositions (Table 6). The average length of sentence for adolescent sexual offenders at B.C.C.C. was 8.8 months.

Victims

The Davis and Leitenberg (1987) literature reviewed the age, sex and relationship between the victim and the offender. In the Groth (1977) and Longo (1982) studies 80% of the victims were female while the Van Ness (1984) study reported 68% of the victims were female. At B.C.C.C. 86.5% of the victims of the offences committed by the sample were female. There was one multiple offender whose victims were both male and female.

Most of the victims of adolescent sexual offenders are known by the offender. In the Van Ness (1984) study 55% of the victims were known by the offender. Groth (1982) reported that 52% of the victims were known by the offender. In the Fehrenbach study (1986) 33% of the victims were relatives, 50% acquaintances and 17% were strangers. At B.C.C.C. 56.8% of the victims knew the offender.
Table 6

Young Sexual Offender Representation for the Province of British Columbia by Residence and Prior Convictions

<table>
<thead>
<tr>
<th>Regions</th>
<th>Number of Previous Convictions</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>0</td>
</tr>
<tr>
<td>Vancouver Island</td>
<td>3</td>
</tr>
<tr>
<td>Vancouver</td>
<td>3</td>
</tr>
<tr>
<td>Fraser</td>
<td>1</td>
</tr>
<tr>
<td>Interior</td>
<td>3</td>
</tr>
<tr>
<td>Northern</td>
<td>4</td>
</tr>
<tr>
<td>Total</td>
<td>14</td>
</tr>
</tbody>
</table>

Source: Burnaby Community Containment Centre, Corrections Branch, Ministry of the Attorney General, 1988

Place of Offence

The most common location for adolescent sexual offenders to commit their offence is indoors (Davis & Leitenberg, 1987). Davis and Leitenberg cite a study by Wasserman and Kappel (1985) where 75% of the offenders committed their offences in a residence.

Summary

The general character profile of the B.C.C.C. adolescent sexual offender is comparable with the findings of other studies. He is between 15 and 17 years of age. Most of the offender family backgrounds are described as unstable, marred by
physical abuse and substance abuse by either family or friends of the family. There are no significant problems in school nor does the data indicate severe substance abuse. The victims of the offences are primarily female. The majority of adolescent sexual offenders at B.C.C.C. were residing outside the Lower Mainland area prior to containment and are serving their first custodial sentence. Although it appears several characteristics are common amongst adolescent sexual offenders there is no evidence these characteristics are unique to adolescent sexual offenders. In most of the studies cited there were no control groups. The characteristics common amongst young sexual offenders may also be common characteristics of other young offenders or non-offender groups. It appears the research on adolescent sexual offenders is incomplete. The only conclusion to be made from the profile data on the 37 sexual offenders at B.C.C.C. is the sample appears representative of the general North American adolescent sexual offender profile.

The Juvenile Services to the Court Program

The majority of sexual offenders at B.C.C.C. attend the treatment program at the Juvenile Services to the Court, Burnaby clinic. The Juvenile Services to the Court (under the direction of the Ministry of Health) operates two adolescent outpatient mental health clinics; one in Victoria, B.C. and the other in Burnaby. The clinics are staffed by psychiatric nurses, support persons and clinical and operational administrators. The
majority of psychiatrists and psychologists work on a fee for service basis (contracts) while the administrators, social workers and nurses are salaried employees of the Ministry of Health. Juvenile Services to the Court clinics provide both assessments and treatment to young offenders before the courts. In areas outside Victoria and the Lower Mainland of British Columbia, J.S.C. provides service by travelling clinics or by contracting out to private qualified persons, and/or mental health agencies.

J.S.C. operates an inpatient assessment unit, located in close proximity to its Burnaby outpatient clinic. The inpatient unit is an eleven bed secure unit for young offenders referred by B.C. Youth Court for psychiatric assessment in accordance with section 13 of the Y.O.A. There is an eight-day minimum and 30 day maximum remand period for court ordered assessments at the inpatient assessment unit. The purpose of an assessment is either determining fitness to stand trial, making or reviewing a disposition, or considering an application to transfer a youth to adult court (Section 13(1), Young Offenders Act).

In addition to assessments, the Juvenile Services to the Court has incorporated several group programs, as well as individual counselling sessions, into the treatment component of its services. One of the programs is a comprehensive and sophisticated treatment program for sex offenders. Any offender who is admitted into the sex offender treatment program commences treatment at the Burnaby outpatient clinic. Although
the first adolescent sexual offender to be treated at J.S.C. was in 1980, the current adolescent sexual offender treatment program became operational in 1986. This program consists of three core components: intensive group therapy; social skills groups (Keltner, Scharf & Schell, 1978); and individualized counselling. There is an extensive and lengthy follow-up period. Progress in treatment is monitored by periodic testing on a penile plethsmograph. J.S.C. does not claim to provide a cure for inappropriate adolescent sexual behaviour. It does work with the offender and assists him in understanding the cause(s) for his behaviour. This assumes knowledge of the causes. Although there is no acknowledged cure, the J.S.C. treatment program focuses on various techniques offenders can use to manage and control their deviant behaviour. If it is considered necessary, drug therapy (cyproterone acetate) may be recommended.

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3 Individualized counselling may incorporate various treatment models: drug therapy, covert sensitization, masturbation satiation (Marshall, 1979).

4 Zuckerman (1971) found the best way of measuring deviant sexuality is by penile tumescence. According to Zuckerman, all sexual offenders have excessive deviant arousal. The phlebomograph tests deviant arousal and the therapist is able to compare deviant sexual arousal to what is considered normal arousal. Arousal, however, may be associated with several problem areas. The supporters of penile response as an indication of sexual behaviour claim the device measures the movement beyond the subject's control (Quinsey, 1983; Keltner, 1977). It appears that the amount of voluntary control a person can exert over his penile response to visual stimuli varies with conditions of testing, but it is unclear what the controlling variables are. Freund (1967) found non-deviant volunteers responded to adult females but they also responded to young girls and the buttocks of pubescent boys. Earls and Marshall (1972) found some men were able to control their responses during assessments.
to control inappropriate behaviour.5

The J.S.C. treatment program is individualized according to offender needs. The suggested length of treatment varies with individual offender. It appears, however, that psychiatric assessments generally recommend nine months to complete the three core components of the program, plus as lengthy a period of probation for follow-up as the court will allow. The maximum length of disposition for one offence is three years. The young offender attends two group sessions (intensive group therapy plus social skills) and one individual counselling session each week for a minimum of five hours of treatment per week. Due to limited resources, however, and staggered admittances, the two groups may operate at different times. The length of each group is approximately four to six months. Young offenders do repeat groups if it is felt they would benefit from further treatment.

Between January 1, 1986 and December 31, 1987, there have been 105 young offenders admitted to the adolescent sexual offender treatment program at J.S.C. Since the Service does not claim a 'cure' and recommends as lengthy a period of treatment as possible, there are few young offenders who have 'graduated'.

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G.G. Abel (1983) found medroxyprogesterone and cyproterone acetates reduce the male hormones and sex drive. It has been reported that the use of estrogen and estrodid implants reduce sexual arousal. Unfortunately, there are side effects to the hormone reducing drugs. It is cost-effective and has a rapid effect on the young offender, however the side effects of drug treatment are not fully known especially with respect to young males. According to Abel (1983), if the offender discontinues the medication the effectiveness is reversed.

5G.G. Abel (1983) found medroxyprogesterone and cyproterone acetates reduce the male hormones and sex drive. It has been reported that the use of estrogen and estrodid implants reduce sexual arousal. Unfortunately, there are side effects to the hormone reducing drugs. It is cost-effective and has a rapid effect on the young offender, however the side effects of drug treatment are not fully known especially with respect to young males. According to Abel (1983), if the offender discontinues the medication the effectiveness is reversed.
from the program. At present, January 31, 1988, there are 57 young offenders actively participating in the program, either in groups or follow-up sessions.

The B.C.C.C. offender attends two/three treatment sessions a week at the clinic. Indirectly the treatment program is a B.C.C.C. program, similar to the educational program. The educational program entails that the Centre provides the school facility and the Ministry of Education provides the teachers. With treatment the Centre provides the security and the Ministry of Health provides the psychologists and psychiatrists.

Referrals to Juvenile Services to the Court

The sexual offender program at J.S.C. is an integral part of the B.C.C.C. operation. The majority (32) of adolescent sexual offenders at B.C.C.C. attend the sexual offender treatment program at J.S.C. Thirty-six of the 37 adolescent sexual offender sample were assessed by either a psychologist or a psychiatrist, under section 13 of the Y.O.A., prior to disposition. Twenty-eight of the assessments recommended the offender participate in the sexual offender program of J.S.C. The psychiatric and psychological reports are submitted to the Court to assist the Youth Court Judge in the decision-making process regarding judicial disposition. In 83.3% of the assessments on the adolescent sexual offenders at the B.C.C.C. the psychiatrist or psychologist made specific recommendations regarding judicial disposition to the Youth Court. If the Youth
Court follows a psychiatric recommendation for treatment of a sexual offender at J.S.C. The Youth Court judge has three options. The first option is to make a treatment order under Section 20 of the Y.O.A. However, this is becoming extremely difficult in view of the consent provisions and lack of bed space at the adolescent treatment facility near J.S.C. The second option would be for the judge to make a community-based disposition (probation order) with a condition that the young offender attend J.S.C. A community based disposition assumes the young offender is not a danger to the community and has a residential placement in close proximity to the clinic. There is not an overabundance of residential placements for adolescent sexual offenders in the community, and if a placement can be found, the likelihood of it being available at the time of disposition is minimal. The final option is sentencing the young offender to custody with a specific recommendation for the offender to attend the treatment program at J.S.C. This appears to be the most expedient disposition to access J.S.C. treatment. Fourteen of the sample group's psychiatric assessments recommended the young offender be placed in containment and attend the sexual offender program.

The first J.S.C. psychiatric assessment recommending containment and treatment occurred prior to the opening of B.C.C.C. The first sexual offender, in open custody, to attend the treatment program at J.S.C. was contained at Holly Open Custody Centre.
The former probation officer of Holly Open Custody Centre recalls that the second sexual offender with a recommendation to attend J.S.C. was an inadequate young person who was unable to function in a custodial facility. Prior to the conviction for a sexual assault, the offender was assessed at the inpatient assessment unit to determine his fitness to stand trial. He was considered "fit to stand trial" and a further assessment was recommended if the offender was found guilty. Eventually the young offender was found guilty and a second assessment for the purpose of disposition was undertaken. There were concerns about the "evidence of long standing difficulties regarding aggressive sexual behaviour" and "violent sexual thought and fantasies". The offender was considered appropriate for the comprehensive treatment program at J.S.C. but placement of the offender was an issue. It was recommended he not be placed at the Youth Detention Centre as he is a "guileless individual with poor skills". The psychiatrist recommended a "group home" or "open custody" and "the placement should be reviewed at some point if he is unable to settle or if he becomes a risk to others in therapy". The Corrections Branch was not consulted prior to the Court ordering the young offender to nine months open custody with a recommendation to attend the J.S.C. treatment program. There was no probation officer assigned to the case in Youth Court. It appears the disposition followed the recommendation of the psychiatrist without any consultation with the Corrections Branch.
This young offender had an extremely difficult time in custody. He was a continual victim of his peers. The probation officer made attempts to find an "alternative placement". (The young offender was a permanent ward of the Ministry of Social Services and Housing.) The offender completed his nine month sentence at B.C.C.C.

The other offender to attend the J.S.C. treatment program from Holly Open Custody Centre was also recommended by the Court following a psychiatric assessment. The pre-dispositional psychiatric assessment concluded:

Essentially this boy at this point presents a danger to others and I would recommend that a containment sentence should be entertained. I do not believe that he needs to be in a closed setting and, in fact, open custody would be appropriate as he does not appear to be a risk to run from such an environment. I would further recommend, and subject agreed, that he should be treated in our Sex Offender Program.

The procedure to provide outpatient treatment to adolescent sexual offenders commenced at Holly Open Custody Centre. While contained at Holly Centre young offenders were granted temporary absence passes to attend the treatment program for adolescent sexual offenders at the Ministry of Health's Juvenile Services to the Court outpatient clinic in Burnaby, B.C. These offenders met the initial classification criteria and were transferred to B.C.C.C. The practice of granting them and other adolescent sexual offenders at B.C.C.C. temporary absence passes to attend the treatment program has continued. This was not the intended policy of the Corrections Branch. Youth containment centres are not treatment facilities. The Corrections Branch now operate a

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unit primarily for adolescent sexual offenders. There is a concern that sexual offenders are being sentenced to B.C.C.C. on the basis of their treatment needs and the court-ordered psychiatric assessments. The assessments influence the Court in the disposition decision-making process of the adolescent sexual offenders. The impact of the assessments on the judicial decision-making process will be examined in the following Chapter.
CHAPTER III
INFLUENCE OF PSYCHIATRIC ASSESSMENTS ON JUDICIAL DISPOSITIONS

In this chapter B.C.C.C. will be examined in a manner that illustrates several critical issues resulting from assessments and subsequent treatment of adolescent sexual offenders at J.S.C. Although B.C.C.C. is not considered a treatment facility, it does provide young offenders the opportunity to participate in a community based treatment program. The traditional dilemmas of having psychologists and psychiatrists in custodial settings exist. The problematic relationship between J.S.C. and B.C.C.C., a relationship between custody and treatment is similar to those experienced in correctional treatment facilities (Ericson, 1976). The psychiatrist controls the young offender through psychiatric assessments recommending containment and treatment. The psychiatric assessments influence the type of sentence, length of sentence, classification and after-care planning. J.S.C. are providing psychological services in containment and are subject to the criticisms that penal treatment programs are programs of social control (Cohen, 1985; Ericson, 1976).

The legal safeguards of the Y.O.A. do not protect the offender from the controls of psychiatric assessments and the consequences of recommendations for treatment.

The generation of a new treatment criteria and the prevasiveness of the social welfare and preventative rhetorics, often ensure an erosion of traditional rights and liberties. In a system of low visibility and accountability, where a high degree of discretion is given to administrative and professional bodies (in the name of flexibility), there is often less room for such
The adolescent sexual offender attracts little sympathy and minimum attention is paid to their legal rights (Gordon & Verdun-Jones, 1983). The Courts uncritically accept the professional opinion that adolescent sexual offenders are dangerous and treatable. The offender is sentenced according to predictions of dangerousness and possible amenability to treatment. Minimum judicial intervention is not a priority regarding adolescent sexual offenders.

The principles of the Act emphasize minimal judicial intervention and focus on "due process" and "legal safeguards" however the "special needs of the youth" must also be considered. The Act provides Court ordered psychiatric assessments to assist the Courts in recognizing the special needs of the youth. The assessments become a determining factor in the judicial decision-making process. The psychiatric assessment reports on the behaviour of the young offender and the treatment needs. The Y.O.A. implies judicial dispositions should reflect the offence, not the needs of the offender.

Thirty of the 36 court ordered assessments on the adolescent sexual offenders at B.C.C.C. included specific recommendations regarding dispositions. These were recommendations for treatment, jail, probation, probation including treatment and jail including treatment. The recommendations for treatment specified the sexual offender treatment program at the J.S.C. outpatient Burnaby clinic.
The Youth Court judges are not given many options in dispositions if they follow the recommendations for treatment. There is only one sexual offender clinic in B.C. and limited residential placements for sexual offenders in the lower mainland. However, in keeping with Corrections Branch standards and the philosophy of the Y.O.A., residential attendance programs should be considered prior to containment orders. The Y.O.A. and the Branch maintain young offenders should be sentenced according to offence, not treatment needs. Conversely, the psychiatric assessments are concerned with treatment needs.

The literature indicates the recommendations of court ordered assessment are powerful and determining influences on judicial dispositions (Jackson, 1986; Menzies, 1986; Menzies, Jackson & Glasberg, 1982; Webster, Menzies, Turner, Turner, 1982). Although these studies focused on the influence of psychiatric assessments on dispositions in adult criminal court, the same can be expected in Youth Court. Forensic assessments provide the information upon which judicial decisions are based. The contents of the psychiatric reports become a focal point in sentencing criteria as opposed to the offence. Psychiatrists and psychologists base their recommendations on observations of behaviour, past and present. According to the Y.O.A. the sanctions of Youth Court should reflect the seriousness of the offence. It appears the court's criteria for sentencing and the psychiatric assessments have two distinctive goals and objectives. The relationship between the courts and psychiatrists must be carefully scrutinized to ensure that the
different goals and objectives do not lead to any miscarriage of justice. The needs and the perspectives of the legal and mental health professional are in conflict and it is this conflict that may influence the direction of the judicial decision-making process (Menzies, Jackson & Glasberg, 1982).

The courts incorporate clinical psychiatric and psychological assessments into judicial dispositions. According to Menzies (1986) the questions asked by the court and the replies of psychiatric and psychological assessments become questions and answers responding to different issues. If a psychiatrist demonstrates that the recommendations of his/her assessment satisfies the mandate of the Court, the recommendations, based on medical judgements, will be incorporated into judicial dispositions. The containment of adolescent sexual offenders at B.C.C.C., with recommendations for treatment, satisfies the mandate of the Court if it is shown that the adolescent sexual offender is a dangerous offender and warrants a committal to custody. In a study conducted by Webster et al. (1982) psychiatric reports recommending incarcerations were supported by 73% of the dispositions. The data suggest the courts are transferring judicial responsibility for sentencing to the mental health agencies.

The literature regarding adolescent sexual offenders supports the Court's acceptance of psychiatric assessments and encourages judicial recommendations for the treatment of the young sexual offender. According to several therapists, such as
Groth and Longo, the Courts have minimized the seriousness of adolescent sexual offences. The research claims that adolescent sexual offenders are dangerous sexual offenders in need of treatment (Groth, Longo & McFadin, 1982; Margolia, 1983). The first step is for the Court to recognize the adolescent sexual offence, and offender, as a serious offence and dangerous offender.

The first step in addressing the juvenile sexual offender is recognizing that the problem exists and that the youngster himself is struggling with his problem in silence because it would appear it is too uncomfortable for others to listen and respond to. Instead, his behaviour is minimized or dismissed on the supposition that either it is not serious or, if it is, it will with time spontaneously self-correct. Unless intervention is forthcoming, the juvenile is in fact being professionally neglected or abandoned with the result that not only will there be more victims, but ultimately, when he reaches adulthood and faces the serious legal consequences of his behaviour, rehabilitation may no longer be possible (Groth & Laredo, 1981: 38).

Nature and Effect of Psychiatric Assessments

The literature emphasizes the need for Court-ordered assessments of adolescent sexual offenders and recommendations for treatment. It is imperative that the assessments of young offenders contain accurate information and valid recommendations (Groth, Longo & McFadin, 1982; Longo & McFadin, 1981). Laredo and Groth focused on eight issues central in assessing the adolescent sexual offender. The age relationship between offender and victim determined the degree of the inappropriateness of the sexual activity. The social
relationship between the parties involved and the type of sexual activity were key indicators. If the type of activity was either age inappropriate, socially inappropriate, or ritualistic, it may signify use of sex to express non-sexual needs and issues operating in the subject and the undermining of his psycho-sexual development. It was crucial to explore the subject's fantasies. How did the contact take place and how persistent was the sexual activity, were important questions to be answered during the assessment. Evidence of progression in regard to nature or frequency of sexual assault was imperative to determine the degree and severity of deviant sexual behaviour. The nature of fantasies preceding the behaviour must be examined. Also grave importance was placed on the features of the victims.

The Groth & Laredo assessment focused on the deviant behaviour and thoughts of the adolescent sexual offender. It could be argued by defence attorneys, assessments detailing deviant sexual fantasies and the frequency and severity of sexual behaviour, past and present places the young offender before the court in double jeopardy. If he admits his fantasies this information could be used against him and if he withholds information he will be accused of being uncooperative. The information can also be used in other judicial proceedings. For example, the offender who admits to violent sexual thoughts and aggressive fantasies at the predispositional stage of court proceedings may regret these admissions if he is convicted, sentenced to containment, and applies for a temporary absence
pass or early release. The institution must consider 'harm to others' as a criteria for release.

Currently the contents of psychiatric assessments and their influence in the judicial process are being questioned by defence counsel in Youth Court. The courts are requesting psychiatric assessment to determine whether the young offenders accused of serious criminal offences should be raised to adult court under section 16 of the Y.O.A. Counsel for the defence is arguing against the preparation of a psychiatric assessment based on the view that the contents of the report may be used against the offenders in future judicial proceedings.

This point is well illustrated by the disposition of one offender at Burnaby Community Containment Centre. This offender was assessed by the Juvenile Services to the Court inpatient assessment unit to determine whether he was fit to stand trial. The charge was breaking and entering with the intent to commit sexual assault. The offender adamantly denied the offence before and after conviction. The psychiatric assessment to determine fitness to stand trial states:

If convicted we would suggest that he be placed in the LINKS program...[the] program associated with the sex offender clinic in Juvenile Services to the Court. Their programs prefer that the youth be sent there for approximately six months or until the program at Juvenile Services to the Court is completed. This should be followed by a long period of probation so that the youth can be available for follow-up studies by the sex offender clinic e.g., a three year probation order.

The crucial issue is the recommendation and the apparent inappropriateness of a specific treatment recommendation at a
fitness to stand trial hearing. The psychiatrist was not legally mandated to address the offence, sexual assault, or possible treatment for deviant sexual behaviour. At the time of the report the offender was not guilty of the offence and it appears the psychiatric assessment presumed guilt rather than innocence. In fact, the offender denied the offence. The courts, however, eventually found the offender guilty and sentenced him to eight months with a recommendation that he be "classified to the Burnaby Treatment Centre (B.C.C.C.) and if not he is to be released in six months". The courts followed the psychiatric assessment's diagnosis of the individual as a sex offender but ordered an eight month treatment program instead of the LINKS six month program suggested in the psychiatric assessment. The young offender continues to deny the offence and is considered not suitable for the Juvenile Services to the Court treatment program at this time. This offender will be returned to court for a review in six months and it appears he will be released at court. The offender would not have been sentenced to an 'eight month' custodial sentence if it was not recommended he attend the J.S.C. treatment program.

Although the Youth Court requests the assessment, the reasons for the assessment may not be due to the offence before the court. It is generally agreed among practitioners in Vancouver Family Court that Juvenile Services to the Court is able to provide quality assessments based on social and the psychological history. Assessments of this quality are not available to parents of offenders or the Ministry of Social
Services and Housing. It is not uncommon for the court to order an assessment, under section 13 of the Young Offenders Act, for first time offenders because of social psychological problems unrelated to the offence before the courts. For example, a youth before the court on his first theft under $1000 offence, may be assessed because parents or guardians are alleging inappropriate sexual behaviour. If the inappropriate sexual behaviour is confirmed by the assessment, the young offender may be recommended for the sexual offender program. What was initially a "first time shoplifter" becomes an adolescent sexual offender.

If the offender is fortunate enough to be residing in the lower mainland of Vancouver a referral initiated by a court order will be made to the Burnaby sex offender clinic and the young offender will attend as an outpatient. Conversely, if the young offender is from the interior of British Columbia and the court feels treatment is necessary he may be sentenced to containment in order to be afforded treatment at Juvenile Services to the Court. The courts balance the special needs of the young person with minimal judicial intervention and the protection of society.

Although this appears to be an extreme hypothetical case, there are several cases at Burnaby Community Containment Centre that illustrate the point. Recently, a young man was sentenced to three months open custody for a 'theft under' offence. The young offender was from the interior region of B.C. Prior to sentence, he was assessed by Juvenile Services to the Court and
a community-based disposition was recommended. The reason for the assessment was because the offender frequently dressed up in female clothes. The field probation officer indicated that the youth received a three months sentence because he liked to wear women's clothing and it was felt that treatment was necessary. This offender did not attend the J.S.C. treatment program.

In another case, a young offender was convicted of 'break and enter' and a section 13 assessment was requested. This offender had a history of sexual offences and had been previously hospitalized in an adolescent treatment facility because of sexual offences. At the time of the offence, the young offender was also charged with two sexual offences. The sexual offences were not proceeded with and a plea of guilty was entered in regard to the 'break and enter' offence. After the assessment, a six months custody sentence was made with specific recommendations to attend the treatment program for multiple paraphelia. The outcome may have been different if there was not a treatment program for sexual offenders, or, if the program was community-based rather than in one central location.

Length of Sentence

The J.S.C. psychiatric assessments, subsequent recommendations for treatment, and availability of treatment services have a considerable impact on the judicial decision-making process regarding adolescent sexual offenders. The Youth Courts uncritically accepts the expertise of J.S.C.
particularly in such a specialized area as adolescent sexual offenders. Youth Court judges are not experts in the area of adolescent sexual offenders. A recommendation for containment and treatment satisfies the mandate of the Court. The offender is contained on the basis of the seriousness of the offence and potential dangerousness of the offender. The availability of treatment in containment addresses the special needs of the young offender. The Courts are transferring their judicial responsibility to the J.S.C. The implications and consequences of this transferance of judicial responsibility to mental health professionals is illustrated by the psychiatric recommendations and the dispositions of 37 adolescent sexual offenders at B.C.C.C.

The 37 offenders are the sample population presented in the character profile of the adolescent sexual offender at B.C.C.C. in Chapter II. The data was collected from Corrections Branch institutional files and informal interviews with psychiatrists, psychologists and field probation officers.

The average length of sentence of adolescent sexual offenders at Burnaby Community Containment Centre is 8.86 months. The mean length of sentence for the sexual offenders (5) not attending the Juvenile Services to the Court treatment program is 5.4 months while the sexual offenders (32) attending Juvenile Services to the Court average 9.4 months. It should be noted that two of the offenders who did not attend Juvenile Services to the Court were coded for one month sentences when,
in fact, their sentences were seven and 21 days. These two offenders were convicted of sexual assault of children under the age of 10 years. The remaining three offenders who did not attend Juvenile Services to the Court were convicted of sexual assault and weapons were used in the commission of the offence. Four of the five were not considered suitable for treatment based on their unwillingness to accept responsibility for their behaviour. Although the contents of reports vary and the rationale for recommendations relate to individual offenders, the data suggests assessments recommending treatment influence the length of sentence.

The recommendations of the psychiatric assessments on the sample population were coded according to six categories: treatment, jail, jail and treatment, probation, probation and treatment, and other - other includes no recommendations (Table 7). The average sentence for young offenders (10) with psychiatric assessments recommending treatment is 8.3 months and six months for those offenders (1) with recommendations specifically for containment. The most common recommendation (14) is for containment and treatment. The mean sentence for offenders with assessments recommending jail plus treatment is 11.4 months. There is only one offender at Burnaby Community Containment Centre serving one month, with an assessment recommending probation. Four psychiatric assessments recommended probation plus treatment and the dispositions averaged eight months. The remaining category, including non-recommendations and other recommendations, covers four assessments and the
Table 7
Psychiatric and Psychological Assessment Recommendations

<table>
<thead>
<tr>
<th>Recommendations</th>
<th>Frequency</th>
<th>Length of Sentence (months)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Treatment</td>
<td>10</td>
<td>8.3</td>
</tr>
<tr>
<td>Containment</td>
<td>1</td>
<td>6.0</td>
</tr>
<tr>
<td>Containment plus</td>
<td>14</td>
<td>11.4</td>
</tr>
<tr>
<td>Treatment</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Probation</td>
<td>1</td>
<td>1.0</td>
</tr>
<tr>
<td>Probation plus</td>
<td>4</td>
<td>8.0</td>
</tr>
<tr>
<td>Treatment</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>7</td>
<td>6.6</td>
</tr>
</tbody>
</table>

Source: Burnaby Community Containment Centre, Corrections Branch, Ministry of the Attorney General, 1988

average length of sentence is 6.6 months. It appears from the data that psychiatric assessments recommending jail plus treatment results in a longer custodial sentence.

As stated previously (see Chapter II) the recommended length of the adolescent sexual offender treatment program at Juvenile Services to the Court is six to eight months with a lengthy follow-up period. Each young offender's program is planned on an individual needs basis and, consequently, the intensive part of the program could be 10 to 12 months with a two year follow-up period. Prior to the commencement of treatment a bonding or trust period exists. During the "trust" period a positive
relationship between offender and therapist develops. The "bonding" period is not considered part of the six to eight months active treatment component of the program.

Juvenile Services to the Court has limited resources and, therefore, there are no assurances, once a young offender is sentenced to containment with a court recommendation for treatment, he will commence treatment within a specified time period. There have been offenders at Burnaby Community Containment Centre who did not commence the active portion of their treatment until four months of the sentence had expired. One offender completed the active portion of the treatment program in 11 months; he was serving a 12 month sentence. At the time of disposition this offender was advised, by the court, he would be eligible for early release if he completed the sexual offender program. Thus, the delay of commencement of treatment has an impact on release procedures.

**Early Release**

Although a youth is not eligible for parole, as in the adult criminal justice system, the Y.O.A. affords the young person the opportunity to apply for early release under Sections 28 and 29. The young person can apply for early release at any stage of the sentence. If required, the young person will be provided legal representation. According to the Y.O.A. and B.C. Correction Branch Manual of Operations, the decision to sentence a youth to custody is a last judicial resort and consequently early release
from custody is recognized as a vital Corrections Branch institutional case management strategy. The Branch decision-making criteria for early release states "harm to others" must be addressed before any release is considered. In the cases of adolescent sexual offenders, or any other offender at B.C.C.C. attending treatment, J.S.C. will be asked to comment on the progress of treatment and the potential risk to the community.

The J.S.C. clearly state the treatment does not provide a "cure" but teaches the offender "techniques" to control his deviant behaviour. The offender may understand the "techniques" but J.S.C. cannot comment on whether the offender will use these "techniques" in the community to control his deviant behavior. The offender will always be a potential risk to the community and consequently his cooperation and participation at J.S.C. are not sufficient grounds to grant early release. As was pointed out in Chapter II, cooperating and participating at B.C.C.C. is also not sufficient grounds for early release.

It becomes clear that attending the J.S.C. program, cooperating with the treatment team and following the rules and regulations at B.C.C.C. does not guarantee early release for the sexual offender. Although the courts may recommend, on the warrents of committal, that the offender participate on the paraphilia program, there are no formal legal consequences for not attending the program. The offender, however, must consider the "hidden consequence" for not attending the sexual offender
program. The offender who refuses treatment and applies for early release appears before the judge who recommended the treatment. In several cases the young offenders were advised by the Court that if they completed the J.S.C. treatment program the Courts would consider early release. The adolescent sexual offenders continue to be considered a danger to the community even after they complete the core component of the treatment program. In fact the offender may be considered "more dangerous" in light of the additional information coming forth from the actual treatment sessions. The psychiatrist and psychologist become much more aware of the deviant past behaviour as the offender "confesses" during treatment. The open and honest therapeutic relationship is an invitation for the young offender to admit past deviant behaviour and possible undetected sexual offences. Information is shared between J.S.C. and B.C.C.C.

The offender has little chance for early release if he attends the program and less of a chance if he does not attend the program. The offenders at B.C.C.C. attend the treatment program at J.S.C. in the hopes of being granted early release. They are under the impression that the treatment program is part of their disposition.

Classification

Several of the psychiatric assessments recommending containment plus treatment specify not only the length of treatment but the specific containment facility where the
sentence should be served. One psychiatric assessment stated:

"We would recommend a sentence of at least nine months to ensure completion of the program and placement in an open custody situation such as BYCC, as consequences for his offence."

It appears the psychiatrist is confusing his role in the judicial process with both the role of the sentencing youth court judge and the Corrections Branch classification system. The Corrections Branch intake institutions must consider protection of the public, individual needs, and the bed load plan when classifying a young offender. Recommendations from psychiatric assessments and, consequently, court ordered recommendations on "warrants of committal" only consider the treatment needs of the young offender. The classification system must consider protection of the public a priority in accordance with the principles of the Young Offenders Act.

There are no security bars or fences at Burnaby Community Containment Centre and, consequently, it is extremely easy to escape. Classification of certain adolescent sexual offenders to B.C.C.C. may pose an undue risk to the community. Wenet's 1981 study (cited in Knapp, 1982) states that any adolescent sexual offenders who use force and have been in previous treatment, or any offenders who deny the offence after evaluation, are a threat to the community. If substance abuse was used during the commission of the offence the offender is considered a high risk offender. According to Wenet (1981) offenders with significant intellectual defects should not be considered for open custody.

'Burnaby Community Containment Centre is also known as Burnaby Youth Custody Centre.
settings. Several of the offenders at B.C.C.C. do not meet Wenet's criteria for an open custody setting.

Eight sex offenders at B.C.C.C. used a weapon in the commission of their sexual offence. Four of these offenders were under the influence of either drugs or alcohol at the time of the offence. Seven of the sample population abused alcohol while four offenders abused drugs. Sixteen of the offenders had been involved in psychological or psychiatric treatment prior to their custodial sentence at B.C.C.C. Several of the offenders denied their offence after conviction. It appears that the psychiatric assessments recommending B.C.C.C. as a custodial facility of choice do not take into consideration Wenet's (1981) classification criteria determining danger to the community.

The Correction Branch classification system does not formally classify all adolescent sexual offenders in open custody to B.C.C.C. B.C.C.C. has developed an informal classification system in conjunction with other open custody facilities. It has been determined sexual offenders with a history of running away from containment centres, attendance programs, group homes or family homes are not suitable for B.C.C.C. In addition, offenders with a history of violence will be carefully scrutinized. B.C.C.C. does not have a mechanical security system and is located in a residential neighbourhood. Consequently the protection of the community is of paramount importance in classifying an offender to B.C.C.C.
Aside from the protection of the community the Branch must also consider the protection of the young offender. B.C.C.C. is an institution for the less mature offenders, those young offenders who have difficulty adjusting to the larger facilities. To date there have been three 12 year old non-sexual offenders at B.C.C.C. and several 18, 19 and 20 year old sexual offenders with histories of offending against young males. The Y.O.A. states young offenders should not be housed in the same facility as adult offenders. However, all the 18, 19 and 20 year old sexual offenders were recommended by the psychiatrists to serve their sentence in a youth facility.

The 20 year old, who committed a sexual offence when he was 17 and is technically a young offender, can be judicially transferred to an adult correctional facility under Section 24.5 of the Y.O.A. The Stave Lake Correctional Centre, an adult facility with a high concentration of sexual offenders, provides a treatment program for the sexual offender. The Y.O.A. has provisions to protect the young offender in custody, however, J.S.C. recommendations to treat sexual offenders do not consider these provisions. Seven of the 37 sexual offenders at B.C.C.C. have been 18 years or over and all were recommended for treatment at J.S.C. The J.S.C. assessments recommend length of sentence and classification to specific correctional units, but avoid recommending the adolescent sexual offenders be judicially transferred and treated as an adult sexual offender.
In addition to the mixing of very young non-sexual offenders with the older sexual offender there is another classification concern. Offenders with various behaviour disorders (attention deficit disorders, conduct disorders, etc.) are recommended to serve their sentence at B.C.C.C. and attend J.S.C. for treatment. One of the programs at J.S.C. is the post-traumatic group for victims of sexual abuse. Several of the non-sexual offenders at B.C.C.C. were recommended by J.S.C. to be classified to B.C.C.C. in order to access their post-traumatic group. Classifying sexual offenders and victims of sexual offences to the same correctional facilities poses obvious risks to the safety of the young offenders. The victims of sexual assaults resent being in the same institution as their "attackers". Offenders are being classified to B.C.C.C. in accordance to their treatment needs; open-custody centres are not treatment facilities.

Although the sample population is adolescent sexual offenders admitted to B.C.C.C. during the August 1, 1986 to January 31, 1988 period, there have been 49 other young offenders admitted to the Centre during the same period. Young offenders admitted to B.C.C.C. are aware of the institution's reputation as a facility for sex offenders. Some offenders are transferred to other institutions and all offenders are eventually released from custody. Having served a sentence, or a portion of a sentence, at B.C.C.C. identifies the young offender as a sex offender. The consequences of being labelled a sexual offender can be devastating to a young person who is not a sex
offender. There are also repercussions for sexual offenders being labelled. Linda Tschirhart Sanford, cautions about permanently branding an adolescent who may sexually victimize a child as a child molester (cited in Knapp, 1985: 27).

The adolescent offender usually has not had enough varied sexual experience to choose child molesting as the preferred sexual expression. Rather the offenses are reflections of a disturbed state of his life at that time. Child molestation may be the adolescent offenders first sexual expression, and while the offender should be accountable and treated for the offence, it is clearly inaccurate and not at all productive to label him a child molester forever.

After-Care Planning

The dispositions of adolescent sexual offenders at B.C.C.C. are influenced by the availability of a J.S.C. treatment program and psychiatric assessments recommending offenders as suitable candidates for this program. The assessments focus on the special needs of the offender, the treatment needs. In sentencing the Courts consider the special needs of the offender in addition to seriousness of the offence and the protection of the public. Accordingly, the Courts balance the principles of the Y.O.A.: responsibility, accountability, special needs and protection of the community. However, the availability or lack of availability, of resources upset the balance and impact on judicial decisions. One Administrative Youth Court judge claims sentencing a young offender to containment, i.e., B.C.C.C., in order to access treatment does not contravene the sentencing principles of the Y.O.A. if there are no residential
alternatives available to secure treatment for the young offender. The lack of residential resources required to make treatment accessible to all youths in the province becomes a crucial issue if containment is considered a residential placement by the Court. The Y.O.A. does not support containment dispositions in lieu of treatment orders or as alternative residential attendance programs.

The lack of residential placements for adolescent sexual offenders is not only a concern prior to the dispositional stage of Youth Court proceedings but becomes critical in post-custodial release planning. The need for treatment and to control potential dangerousness does not necessarily diminish the day the offender is released from custody. On several occasions J.S.C. formally recommended the offender continue treatment upon release from custody. The need for continued treatment presupposes the offender should be considered dangerous, a risk to the community, and in need of controls in the community.

One offender was sentenced to nine months containment with a recommendation to attend the sexual offender program at Juvenile Services to the Court. The young offender was an extremely dangerous offender according to Juvenile Services to the Court reports. At the end of nine months he was still considered an extremely dangerous offender. The psychiatrists at Juvenile Services to the Court felt it was crucial to the treatment needs of this young offender that he remain in the Lower Mainland to
continue treatment at Juvenile Services to the Court. The offender was from the interior of British Columbia and under the care of the interior Ministry of Social Services and Housing. The interior region made arrangements for residential placement in the lower mainland; however, at the last minute (day of release), the Lower Mainland representatives refused to accept responsibility for the young offender. He was returned to the interior with no follow-up plans or support network in place.

It is Ministry of Social Services and Housing's policy to return the youth, after release from custody, to the area he/she was residing in prior to containment, regardless of the treatment plans. The rationale behind this policy appears to be the Ministry of Social Services and Housing's commitment to keep the lower mainland from becoming the mecca for adolescent sex offenders. Unfortunately, the possible impact of this hidden agenda is the return of a potentially explosive sexual offender to a community ill-equipped to monitor, control, or assist the offender. The potential for danger is increased.

There have been two adolescent sexual offenders released to family homes; family homes where the victims (siblings) of the offence reside. The Ministry of Social Services and Housing was contacted prior to release; however, the social worker responsible for the cases did not feel alternate placements were required. It is interesting to note that both offenders were residing in Ministry of Social Services and Housing placements prior to custody at B.C.C.C. The social workers were aware of
the concerns of the Juvenile Services to the Court regarding the high risk for re-offending.

Another offender, serving a 12 months sentence, was released back in to the rural community where he offended. His offence was well known in the town and his family was under considerable pressure from threats and acts of retribution. The offender's brother attempted suicide and had to transfer schools. Juvenile Services to the Court considered this offender dangerous and recommended that he continue treatment after his release date. The Ministry of Social Services and Housing was reluctant to put the offender in the care of the Ministry. Although the offender had no previous contact with the Ministry the family had a social worker assigned, in part, due to the brother's suicide attempt.

Several of these cases and the problems of after-care planning came to the attention of the Ombudsman's office. The Ombudsman's office brought the issue of after-care placements before the Ministry of Social Services and Housing and two of the offenders entered into a short-term care agreement with the Ministry. Both offenders are now residing in a lower mainland residential placement and attending the sexual offender treatment program at Juvenile Services to the Court.
Summary

The psychiatrists at J.S.C, play an integral role in judicial decision-making, Corrections Branch classification and after-care planning of the adolescent sexual offender. The psychiatric diagnosis of the offender as a dangerous offender in need of treatment and the availability of a treatment program influences the Court's decision to sentence the offender to containment with a recommendation to attend the treatment program. The psychiatric reports specifically identify B.C.C.C. as a correctional facility equipped to house sex offenders. The psychiatrists and/or psychologists do not consult with Corrections Branch prior to their recommendations. If treatment is required upon release the psychiatrist strongly suggest the offender remain in the Lower Mainland in order to attend the treatment program. The adolescent sexual offender before the Court, is under the control of the mental health professionals, the psychiatrists and the J.S.C. treatment program. This process of transferring responsibilities from the Courts to the mental health agencies has been described as a "blurring effect" on professional boundaries. It is already clear, however, that a probable outcome of this blurring is the creation of a hidden custodial system under welfare or psychiatric sponsorship (Cohen, 1985). The intent of the Y.O.A. is to protect the young offenders from the precarious situation of the adolescent sexual offenders, a situation evolving from the need to both treat and control the offender.
CONCLUSIONS

The Correction Branch maintains B.C.C.C. is not a 'treatment facility' however it does afford adolescent sexual offenders the opportunity to participate in treatment. In accordance with the principles of the Y.O.A. B.C.C.C. recognizes the special needs of adolescent sexual offender. The critics argue the fundamental principles of the Y.O.A. fail to establish ideological guidelines for the practical application of the legislation (Reid, 1986). Consequently, it is still possible to have custodial sentences based on welfare rather than egalistic criteria. This is not the intention of the Y.O.A. The Y.O.A. emphasizes young offenders should be dealt with on the basis of their offence not their treatment needs.

According to one prominent Youth Court judge¹ the treatment of young offenders remains an important facet of juvenile justice. The principles of the legislation are to be liberally construed by Youth Court judges (section 3(2) Y.O.A.). If a containment sentence at B.C.C.C. is the only judicial alternative to access treatment it is legally justifiable based on the special needs of the young offender. It is the responsibility of the Youth Court judge to balance the fundamental principles of the Y.O.A. in the practical application of the law. However, Hyatt and Leschfied (1986) argue containment with recommendations for treatment oversteps

¹Personal conversation with Vancouver Administrative Youth Court Judge D. Campbell, 1987.
the legislative intent of treatment orders. The philosophy underlying the Y.O.A. is strongly based on punishment not rehabilitation. The treatment of the adolescent sexual offenders at B.C.C.C. incorporates both a punishment and rehabilitation model of juvenile justice. This is not supported by the Y.O.A. The Act suggests that the goal of juvenile justice is the imposition of criminal sanctions not the promotion of the welfare of children (Leschied & Gendreau, 1986).

Declaration of Principles

The Y.O.A. focuses on the offence rather than the offender, representing a justice model emphasizing a 'punishment fitting the crime' approach to justice (Lillies and Bala, 1984). The treatment of the adolescent sexual offender reflects the welfare model of justice while containment of the offender is 'punishment fitting the crime'. Treatment is concerned with the welfare of the individual while custody responds to the offence. Treatment and control existing within one legal framework of juvenile justice represent conflicting ideologies.

The four fundamental principles of the Y.O.A. focus on two contrary models of juvenile justice, the welfare model and the justice model. The critics, such as Reid (1986), argue the principles of the Y.O.A. must be prioritized to form a general philosophy and ideology that can be followed by practitioners. Without a prioritization of principles, juvenile justice in Canada will be based on the values and mandates of individual Youth
Courts. Each individual Youth Court judge delicately balances the principles of the Y.O.A.; accountability, protection of the public, guarantees of rights and freedoms, minimum judicial interference with the treatment objectives of the J.D.A. The Y.O.A. is not reflective of a totally new juvenile justice system and philosophy but it is new legislation encompassing the treatment aspects of the J.D.A. There are significant changes in legal safeguards and designated custody facilities but the treatment philosophy remains entrenched in juvenile justice under the Y.O.A.

Impact of Psychiatric Assessments

The impact of the J.S.C. clinic on the judicial decision-making process, and Correction Branch programming illustrates the integral role of treatment in the B.C. juvenile justice system. The psychiatric assessments influence the disposition; containment or community supervision. In the cases of custodial dispositions the assessment recommend duration and the correctional classification of offender to a particular unit. The psychiatric assessment is responding to 'treatment' issues. The psychiatric recommendations are being supported by the Courts and, consequently, treatment becomes a vital part of the judicial dispositions of adolescent sexual offenders at B.C.C.C.
Landau (1983) argues the sentencing of young offenders on a criminal matter should not be dependent on the young offender's psychological condition. The criteria for assessments under the Y.O.A. are vague; psychological disorders and emotional disturbances are not clearly defined mental illness. There are no limits placed on the Court in their use of psychological assessments and therefore the tendency is to abuse the service. Section 13 of the Y.O.A. is to assist the Court in determining the special needs of the young persons. The Courts should not base the type and duration of sentence on the young offender's presumed treatment needs (Landau, 1983).

The psychiatric diagnosis of adolescent sexual offenders and subsequent recommendations for treatment assumes the assessments are accurate and the treatment programs beneficial. Dix (1977) cautions against the Court's uncritical acceptance of psychiatric diagnosis. Researcher's such as Groth, Longo and McFadin (1982) suggest accurate and comprehensive assessments of adolescent sexual offenders are vital tools identifying the potential dangerousness of the offender. Conversely, Monahan (1981), Dickens (1982), Ericson (1976) and Dix (1977) argue psychiatric assessments are not valid barometers in their predictions of dangerousness. Even if the assessments could predict future dangerousness there is limited evidence supporting the efficacy of treatment programs for adolescent sexual offenders. The psychiatrists are orchestrating criminal sanctions against adolescent sexual offenders in accordance with their treatment needs. There is limited evidence supporting the
efficacy of treating the adolescent sexual offender. There is no conclusive finding that "treatment works".

The Y.O.A. protects the individual rights of the young offenders and emphasizes minimal judicial intervention. The legal or due process safeguards of the Y.O.A. ensures young offenders will be protected from what has been seen as involuntary intervention and the declining confidence in rehabilitation programs for juvenile offenders (Leschied & Hyatt, 1986). The adolescent sexual offenders are not afforded the legal safeguards defined by the Y.O.A. The adolescent sexual offenders are targetted for court-ordered treatment based on psychiatric assessments.

Consent

The young offenders are asked to trust the psychiatrists but are not informed about all the consequences of this "trusting relationship". The offenders are advised the information contained in the psychiatric report will be presented in Youth Court. However, they are not aware the information will follow them during their custodial sentence. The offenders often consent to treatment without fully understanding all the complications of attending the treatment program. The offenders are under the impression that co-operating with the therapist will influence correctional decisions regarding early release and temporary absence. However, the treatment program does not claim a "cure" for the behaviour. There are no guarantees the
offender will utilize these techniques to control their sexual impulses in the community. The adolescent sexual offender may continue to pose a risk to the community after he has completed the core component of the treatment program.

The treatment of adolescent sexual offenders at B.C.C.C. illustrates the myth of the required consent of the young offender necessary for court-ordered treatment to occur. Offenders are in a coercive setting and it is questionable whether captive subjects can give consent (Gordon & Verdun-Jones, 1983). They are not informed of the consequences that will likely effect their willingness to participate in treatment. Several offenders at B.C.C.C. attend J.S.C. for the sole purpose of getting early release. This apparent involuntary treatment of young offenders in containment is being experienced in custody centres across Canada (Leschied & Hyatt, 1986).

It is a particular concern for the adolescent sexual offenders in custody at B.C.C.C. Several offenders at B.C.C.C. attend J.S.C. for the sole purpose of receiving an early release. They are advised by the Courts and field probation officers that early release will be considered after they complete the treatment program. The Corrections Branch general criteria for early release includes protection of the community as a key condition that must be satisfied. The J.S.C.'s approach to treatment, i.e., techniques to control as opposed to 'curing' the deviant behaviour, infers there is a degree of risk to the community if the offender is released. Success in treatment at
J.S.C. becomes parallel to learning control techniques in a laboratory setting. The containment centre controls the external variables. An early release becomes tantamount to testing the young offender in the community and seriously questions the protection of the public mandate of both the Corrections Branch and Y.O.A.

**Community Placements**

J.S.C. psychiatric assessments make recommendations regarding the treatment of the offender and the place where treatment should take place. Several sexual offenders are considered extremely dangerous based on their offence and warrant committals to secure custody facilities in order to protect the community. On the other end of the continuum there may be adolescent sexual offenders who pose minimum risk to the community and may even be considered "nuisance offenders". The Y.O.A. affords the "nuisance" offender the opportunity to be dealt with outside the criminal justice system by way of alternative measures or what is generally termed "diversion". The Corrections Branch has established a framework of youth programs consistent with the guidelines of the Y.O.A. governing minimal judicial intervention, the needs of the young person and the protection of the community (Figure 1). B.C.C.C. is considered an alternative to secure custody as a last resort to meet the needs of the young person and provide the necessary controls to protect the community.
FIGURE 1
FRAMEWORK OF YOUTH PROGRAMS
B.C. CORRECTIONS BRANCH

It is interesting to note the change in the general custodial status of adolescent sexual offenders in B.C. (see Table 4(a)). In 1984-85 the majority of young offenders convicted of adolescent sexual offences were sentenced to secure custody. In 1985-86 and 1986-87 the majority of offenders were placed in open custody settings. Young offenders in secure custody are not afforded the opportunity to attend the treatment program at J.S.C. Adolescent sexual offenders in secure custody are considered too dangerous to grant temporary absence passes to attend the J.S.C. clinic. It appears the Courts are following recommendations to sentence to open custody in order to access the treatment program. This change of custodial status ignores Wenet's (1981) classification criteria and the literature suggesting secure custodial facilities for sexual offenders.

Corrections Branch residential attendance programs are viable alternatives to both open and secure custody facilities. The Branch maintains open custody dispositions should be recommended only after referrals to all residential attendance programs have been exhausted. Several of the offenders at B.C.C.C. are first-time offenders who were not referred to attendance programs prior to the custodial disposition (see Table 6). There are two attendance programs funded as residential placements for adolescent sexual offenders attending the J.S.C. treatment program. The LINKS program is located on the property of the House of Concord, a contract correctional attendance program in Langley, B.C. The LINKS program is based on a therapeutic milieu encompassing a peer culture treatment
module and social skills programming. Although the LINKS program operates under the auspices of the House of Concord it is funded by the Ministry of Health. Referrals to the LINKS program come from the House of Concord, community probation officers and containment centres. The LINKS contract is for sexual offenders from outside the Vancouver and Fraser regions.

The northern region of the Ministry of Social Service and Housing has entered into a contract with Fraser Valley group home (four beds) which specifically houses adolescent sexual offenders attending the J.S.C. treatment program. This home is only for temporary or permanent wards of the northern region of the Ministry of Social Service and Housing. Both the group home and the LINKS program admittance criteria exclude Lower Mainland young sexual offenders.

The residential placements of young offenders attending the J.S.C. sex offender treatment program change on a continual basis. One young offender has moved from the family home to the House of Concord (October, 1987) and then to a custodial setting, B.C.C.C. (January, 1988) while attending the treatment program. Each offender may reside at several different residences during their attendance at the treatment program. Ideally the residential placement would be consistent with minimum judicial intervention. However, based on the comments from probation officers, it appears placement is related to availability of bed space. For example, one of the sexual offenders at B.C.C.C. was residing at the House of Concord prior
to sentencing. He was remanded to an attendance program until a community placement could be found. There were no available, or suitable, community placements and the young offender was sentenced to custody with a recommendation to continue treatment at J.S.C.

The use of custody as a substitute for residential placements was illustrated in the 1970's when the number of community placements did not meet the residential demands of the young person. This overcrowding of residential attendance programs was a response to the government policies encouraging deinstitutionalization, a movement from correctional programming to child welfare placements. The lack of residential resources continue to impact on containment independent of legislative intent. Although the Y.O.A. has built in safeguards to protect the young offender from unwarrented judicial intervention, lack of community resources result in containment, contrary to the philosophy of the Y.O.A.

The frequent use of containment in lieu of residential attendance programs has been well documented by the northern region of the Corrections Branch. Although the northern region has the highest numbers of police reports recommending criminal charges be laid against young sexual offenders, they also have the highest concentration of adolescent sexual offenders at B.C.C.C. Twenty-five percent of the sexual offenders in B.C.C.C. are from the northern region followed by Vancouver (22%), Fraser Valley and Vancouver Island (19%) and the Interior region
The breakdown of sex offenders at B.C.C.C. by regions compared to a general breakdown of young offender population in containment indicates the Northern region is over-represented at B.C.C.C. (Table 8). Fourteen percent of all youth cases in B.C. are from the northern region. One explanation of custody use by regions is the physical location of attendance programs and custody centres. The most frequently used attendance programs are in the Fraser Valley and the Interior region while the two largest containment centres are on the Island and in the Vancouver region.

One possible explanation for the disparity in the geographic location of young sexual offenders is the informality of court proceedings in areas outside the lower mainland. The police, lawyers, prosecutors, probation officers, social workers and Youth Court judges work as a team with a common goal, the administration of justice. It would be extremely difficult for a defence attorney to ruthlessly cross-examine a ten year old girl, the victim and only witness of the sexual assault, and continue to reside in the community. The role of lawyer and community member are not as easily separated in a small community as they are in a larger urban area.

Prior to January 1988, in order to convict a young person of sexually assaulting a child there had to be corroborating evidence. The Court did not consider a young child to be capable of understanding the meaning of an oath. The sexual assault
## Table 8

### Containment by Correction Branch Regions

<table>
<thead>
<tr>
<th>Regions</th>
<th>B.C.C.C. (sample population)</th>
<th>Total Containment Population Fiscal Year 1986-87</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vancouver Island</td>
<td>18.9%</td>
<td>22%</td>
</tr>
<tr>
<td>Vancouver</td>
<td>21.6%</td>
<td>25%</td>
</tr>
<tr>
<td>Fraser</td>
<td>18.9%</td>
<td>18%</td>
</tr>
<tr>
<td>Interior</td>
<td>16.2%</td>
<td>15%</td>
</tr>
<tr>
<td>Northern</td>
<td>24.3%</td>
<td>21%</td>
</tr>
</tbody>
</table>

Source: Burnaby Community Containment Centre, Corrections Branch, Ministry of the Attorney General, 1988

Provisions of the **Criminal Code**\(^2\) have now changed and it will be possible to convict on the basis of a child victim's testimony, without corroborating evidence. This will undoubtably effect the arrest and conviction rate of adolescent sexual offenders.

Another explanation for the overload of offenders outside the lower mainland is the varied use of alternative measures under the Y.O.A. In Vancouver, for example, there are several treatment services for young persons that may be referred to prior to judicial proceedings. There are professionals (police, social workers, probation officers, prosecutors) who continue to view the adolescent sexual offender as a nuisance offender and consequently would be inclined to use alternative measures.

\(^2\)1987, c. 24, s. 14(1), now s. 442(2.1) **Code**.
instead of proceeding to court. Areas outside the Lower Mainland may not have access to these treatment services and therefore the judicial proceedings are avenues to access treatment. The intention of the Y.O.A. is not to use judicial proceedings in order to access treatment.

There are now 16 young offenders residing in both Ministry of Health and Ministry of Social Services community resources and attending the treatment program at J.S.C. Unfortunately these resources can only be accessed by young offenders from outside the lower mainland area. The group home is only for youth under the care of the northern region Ministry of Social Service and Housing. Youths from the lower mainland do not have access to LINKS, the treatment based residential treatment program for sexual offenders. The Youth Court judges from outside the lower mainland area have more sentencing options for adolescent sexual offenders in need of treatment at the J.S.C. clinic than their counterparts on the lower mainland. However, the options may only be academic as the need for resources are greater than the limited bed space. There is a waiting list for the LINKS program and a continuing need to provide more community beds for sexual offenders outside the lower mainland.

Twenty-two of the sample population are from outside the Lower Mainland. The B.C. Police Commission Reports indicate approximately 66% of the reports recommending charges for adolescent sexual offenders in 1986 were from outside the lower mainland and half of these reports were from the northern
region. The reports from 1987 indicate the trend of overrepresentation from outside the lower mainland, the northern region in particular, is continuing. The increase of sexual offenders recommended for treatment at J.S.C. places a burden on all residential resources. Appropriate referrals to residential attendance program or group home become custodial dispositions because of a lack of bed space and/or demographic technicalities. This is not the intention of treatment under the Y.O.A.

Social Service Entrepreneurship

The efficacy of the treatment of the adolescent sexual offender is not a topic of discussion for this thesis, however, it is clear a decision has been made to treat the adolescent sexual offender in B.C. Youth Courts accept the expertise of J.S.C. and judicially support their recommendations for the control and treatment of the adolescent sexual offender. There are limited evaluative studies of adolescent sexual offender treatment programs. J.S.C. is in a position to mark out its own territory. There are experts in a field of limited information:

Each set of experts produces its own 'scientific' knowledge, screening devices, diagnostic test, treatment modalities, evaluation scales. . . . Words such as treatable, amenable, dangerous, pre-delinquent, at-risk, deserving or pathological become authoritative scientific definitions. They call for intervention, expansion, separate agencies and services (Cohen, 1985).

It is in the best interest of the professionals at J.S.C. to expand their services. The psychiatrists and psychologists are
contracted employees and expansion means employment. A new target group, adolescent sexual offenders, will increase government funding and further expansion into other areas of research and treatment. To put it simply it is in the best interest of professionals to enlarge the system and attract more clients. Although Cohen cautions against the expansion of social control agencies, which he terms social control entrepreneurship, he sees no alternative but to try and 'treat the treatable' (Cohen, 1985). There is a need to evaluate the treatment program at J.S.C. and assess the effects it is having on "controlling" deviant behaviour.

Policy Implications

It appears the Ministries of Health, Attorney General and Social Services and Housing are unequivocally supportive of the J.S.C. adolescent sexual offender treatment program. All three ministries are, directly or indirectly, providing a network of residential and treatment resources. Treatment of adolescent sexual offenders in custody infers a change in the direction of Corrections Branch policy. The current Branch containment policy is modeled after the Youth Containment Program (1977) philosophy which stated that any treatment, which might be required, would be provided under arrangement with the Ministries of Health, Education and Human Resources (Social Services and Housing). The change in the federal legislation, however, altered the respective Ministerial responsibilities for young offenders.
Under the Y.O.A. the provincial Ministry of Education coordinates school programs in containment centres and is involved in jointly funded community educational facilities for young offenders. The Ministry of Health provides assessments and treatment for all young offenders in the community and, if required, for young offenders in containment. The Attorney General, through the Corrections Branch, is responsible for the resources required for containment and community supervision dispositions. Community dispositions include young offender attendance programs accessed through Youth Court probation orders. The role of the Ministry of Social Services and Housing has not been clearly defined regarding young offenders. Whereas in the 1970's the emphasis of the Ministry was on the welfare of the offender and child care resources, with the enactment of the Y.O.A. this is no longer their responsibility. Due to the focus on the offence, rather than the offender, this responsibility has fallen to the Correction Branch. However, 10 of the sex offenders studied at B.C.C.C. were either temporary or permanent wards of the Ministry of Social Services and 17 of the sample had prior contact with this Ministry. The Ministry of Social Services and Housing are abdicating their responsibility for young offenders before the Courts in their policy guidelines. Young offenders require correctional services not child welfare resources. The adolescent sexual offender requires a combination of correctional and child welfare services. There is a need for a co-ordinated ministerial approach to respond to the "gaps" in the judicial system regarding adolescent sexual offenders. The
Berger Commission (1974) recognized a general gap in services for young persons before the Courts.

It is assumed that where a gap exists between the official goals of an organization and the actual consequences of the operation, this is for the worst. The intentions may be good and well-meaning but the remaining elements are counterproductive to the original intentions (Cohen, 1985). The gap between intended goals and actual consequences is illustrated by the B.C.C.C. operation. The Branch maintains open custody centres do not provide treatment yet the sexual offenders at B.C.C.C. attend a comprehensive and sophisticated treatment program. Although the treatment program is community based it is considered a vital part of the containment program. Probation officers, psychiatrists and Youth Court judges recommend young offenders be sentenced to containment, classified to B.C.C.C. and attend the J.S.C. treatment program. It is difficult to separate the containment component from treatment and, conversely, the treatment program becomes part of the containment order.

The treatment of the adolescent sexual offender illuminates the historical controversy of the treatment ideology inherent in juvenile justice. The legislation focuses on matching the severity of the sanctions to that of the seriousness of the offence. The treatment needs are to be considered by the Courts but a balance must be stricken between the needs of the young person, minimum judicial intervention and the protection of the public. The Courts rely on the diagnosis and the expertise of
the psychiatrist to assess the past, present and future behaviour of the adolescent sexual offender and determine the degree of dangerousness the offender represents to the community. The research cautions against accepting the diagnosis of adolescent sexual offenders as future dangerous offenders in need of containment and treatment. To date it appears the Courts have generally adopted the position of J.S.C. Adolescent sexual offenders are potentially dangerous offenders in need of treatment. This belief is employed by the Courts in judicial decisions regarding adolescent sexual offenders. The dispositions of adolescent sexual offenders reflect the welfare model of juvenile justice. The offender's deviant sexual behaviour, his amenability to treatment and the availability of a treatment program become a focal point in judicial dispositions. While the data and observations contained in this thesis are based in B.C., I expect the findings to be consistent if applied Canada-wide. This is not the intention of the Y.O.A. Adolescent sexual offenders should be sentenced to containment on the basis of their offence, not their treatment needs.

The Young Offenders Act has not resolved the historical and controversial treatment issue which has been at the forefront of juvenile justice for over 100 years. The operation of B.C.C.C.C. and the treatment of adolescent offenders in containment illustrates the incompatibility of the ideological principles of the legislation. The Act emphasizes minimum judicial intervention but recognizes the special needs of the young offender. The Y.O.A. has integrated the welfare philosophy of
the J.D.A. into a "due process" model of justice.
APPENDIX A

Coding Sheet

1. Age
   1) 14 2) 15 3) 16 4) 17 5) 18 6) 19 7) 20

2. Residence Prior to Custody
   A) 1) Vancouver 2) Fraser 3) Interior 4) North 5) Island
   B) 1) City 2) Provincial 3) Country

3. Ethnicity
   1) Caucasian 2) Native 3) East Indian 4) Black 5) Oriental

4. School Prior to Custody
   1) attended 2) Not attending

5. Learning Disability
   1) Reported 2) Not reported

6. Family Background
   1) Disruptive 2) Stable

7. Childhood Residence
   1) Both parents 2) Mother 3) Mother/Step Father 4) Father
   5) Father/Step Mother 6) Foster parents 7) Relatives
   8) Combination of 1 to 7

8. Family Support
   1) Employed 2) Social Assistance 3) Both 4) Other

9. Alcohol/Drug Abuse Exhibited by Parents/Guardians
   1) None reported 2) Reported

10. Violent Behaviour Exhibited by Parents/Guardians
    1) None reported 2) Reported

11. Victim of Physical Abuse in Family Home
    1) None reported 2) Reported

12. Psychiatric/Psychological Experiences
    1) None 2) Outpatient 3) Inpatient 4) 2 and 3

13. Suicide Risk
    1) Yes 2) No

14. Alcohol Abuse
    1) None reported 2) Reported 3) Extreme

15. Drug Abuse
    1) None reported 2) Reported 3) Extreme
16. **Victim of Sexual Abuse**  
   1) Not reported 2) Reported

17. **Reported Victim of Sexual Assault (Aggressor)**  
   1) Mother 2) Step Mother 3) Father 4) Step Father  
   5) Relative/Friend 6) Stranger 7) Unknown

18. **Offence**  
   1) Sexual Assault 2) Exposure 3) Indecent Assault  
   4) Gross Indecency 5) Buggery

19. **Custodial Sentence**

20. **Victim of Offence**  
   1) Female 2) Male

21. **Age of Victim of Offence**  
   1) <2 2) <5 3) <10 4) <14 5) >14

22. **Age of Male Victims**  
   1) <2 2) <5 3) <10 4) <14 5) >14

23. **Number of Previous Convictions**  
   1) None 2) 1 3) 2-4 4) 5-14 5) >14

24. **Number of Previous Sexual Convictions**  
   1) None 2) 1 3) 2-4 4) 5-14 5) >14

25. **Previous Allegations of Inappropriate Sexual Behaviour**  
   1) Yes 2) No

26. **Previous Sentences of Incarceration**  
   1) None 2) 1-3 3) 2-4 4) 5-7 5) >7

27. **Ward of the Ministry of Social Service and Housing (previous)**  
   1) Non Ward 2) Temporary Ward 3) Permanent Ward  
   **Ward of the Ministry of Social Service and Housing (current)**  
   1) Non Ward 2) Temporary Ward 3) Permanent Ward

28. **Previous Residential Placements**  
   1) None 2) 1-3 3) 2-5 4) >5

29. **Release Plan**  
   1) Independent Living 2) Group/Foster Home 3) Family Home

30. **Post Disposition Report Prepared**  
   1) Yes 2) No

31. **Psychiatric Assessment Prepared**  
   1) Yes 2) No

32. **Recommendations of Psychiatric Assessments**  
   1) Treatment 2) Jail 3) Jail and Treatment 4) Probation
5) Probation and Treatment 6) Other

33. Arson
   1) Reported 2) Non Reported

34. Bedwetting
   1) Reported 2) Non Reported

35. Place of Offence
   1) home 2) outside residence

36. Weapon Used in Commission of Offence
   1) Yes 2) No
APPENDIX B

Variables

Conceptual/Operational Definitions

1. Variable
   Conceptional Definition - Age
   Operational Definition - Chronological age
   - All youths at BCCC have been between 14 years of age and 20 years of age. The age of the resident upon admission to BCCC will be the documented age.

2. Variable
   Conceptional Definition - Residence Prior to Custody
   Operational Definition - a. Area of British Columbia
   - b. Urban/Rural
   - a. The areas of British Columbia have been divided into five areas according to the regions of the Corrections Branch (Vancouver, Fraser, Interior, North, Island).
   - b. City is defined Vancouver and its suburbs, Provincial is Victoria, Nanaimo, Abbotsford, Kamloops, Chilliwack and Prince George. Country encompasses all other areas.

3. Variable
   Conceptional Definition - Ethnicity
   Operational Definition - Race
   - In BCCC all residents have either been Caucasian, Native Indian, East Indian or Oriental

4. Variable
   Conceptional Definition - School
   Operational Definition - Education
   - In view of the different ages of the residents, the completed grade of education would only be significant according to age. All residents of BCCC have attended school while in custody. Several of the offenders did not attend school in the community. Offenders will be coded according to whether they were enrolled in a school prior to disposition.
5. Variable
Conceptional Definition - Learning Disability
Operational Definition - A mental and invisible disability affecting learning and comprehension.

6. Variable
Conceptional Definition - Family Background
Operational Definition - There have been various studies indicating a significant relationship between deviant behaviour and learning disability. The psychiatric assessments address and report any findings of learning disabilities.

- Family upbringing

- Many of the residents have lived in a variety of different living situations, ranging from foster parents to group homes. It is my understanding the reports use the term "disruptive" family background to describe an environment not conducive to a normal upbringing. A disruptive family background will be used to describe a youth who lived in three or more different family homes prior to his 16th birthday. Youths who have been apprehended by the Ministry of Social Service and Housing due to their being at risk, will be considered children from a disruptive family background. Any family environment marred by violence and/or alcohol/drug abuse will be considered a disruptive family background. A stable family background will be those family environments which have not been reported as disruptive.

7. Variable
Conceptional Definition - Childhood Residence
Operational Definition - The youth’s residence during his childhood.

- The average age of the resident of BCCC is 16 years of age. The childhood residence will be defined as with whom the offender lived with most between his fifth and fifteenth birthday. Apparently a high percent of pedophiles identify more with mother figures than father figures.
8. Variable
Conceptional Definition - Family Support
Operational Definition - Financial Support
- The financial support, employment, social assistance or other reported income of family during childhood

9. Variable
Conceptional Definition - Alcohol and Drug Abuse in Family
Operational Definition - The alcohol and drug consumption by parents and/or guardians
- Alcohol and drug abuse in family home will be recorded as reported and non-reported indicated by reports. The reports indicate further alcohol and drug abuse was exhibited by parents during the youth’s formative years as defined by childhood residence

10. Variable
Conceptional Definition - Violent Behaviour in Family Home
Operational Definition - Physical aggression exhibited by parents/guardians
- The violent behaviour will be defined as physical assault between parents or parents and children. An extreme case of violent behaviour will be a physical assault that results in the victim being hospitalized.

11. Variable
Conceptional Definition - Victim of Physical Abuse
Operational Definition - The offender is a victim of a physical assault in the family home.
- The case files either report or do not report the offender as a victim of physical assault by parent/guardian. A physical assault will be defined as unnecessary force exhibited by parents towards the offender

12. Variable
Conceptional Definition - Psychiatric/Psychological Experiences
Operational Definition - Previous psychological or psychiatric treatment
- Any psychiatric and/or psychological treatment (in-patient or outpatient) prior to arrest for sexual offence. Assessments are considered treatment.
<table>
<thead>
<tr>
<th>Variable Number</th>
<th>Conceptional Definition</th>
<th>Operational Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>13. Variable</td>
<td>- Suicide Risk</td>
<td>- Serious attempt to kill self</td>
</tr>
<tr>
<td></td>
<td>- All psychiatric/psychological assessments comment on suicide indicating suicidal tendencies. Serious consideration to commit suicide as recorded by assessment is a suicide attempt where a physical attempt was made. The psychiatric reports distinguish between self mutilation and suicide attempt.</td>
<td></td>
</tr>
<tr>
<td>14- Variable</td>
<td>- Alcohol and Drug Abuse</td>
<td>- The offender's involvement with drugs and/or alcohol</td>
</tr>
<tr>
<td>15. Conceptional Definition</td>
<td>- The reports do not assess the level of substance abuse; however, they rely on self-reported information. On occasion there is sufficient information on file from Drug and Alcohol Counselor to record an &quot;extreme&quot; case of an offender abusing alcohol and/or drugs. It appears there have been two cases of offenders at BCCC who are considered &quot;extreme&quot; when assessing alcohol and/or drug abuse. BCCC offers an alcohol and drug awareness program. None of the sample were reportedly under the influence of either drugs or alcohol at the time of the offence.</td>
<td></td>
</tr>
<tr>
<td>16. Variable</td>
<td>- Victim of Sexual Assault</td>
<td>- The offender has, or has not been, a victim of a sexual assault</td>
</tr>
</tbody>
</table>
Operational Definition: The literature suggests most adolescent sexual offenders are themselves victims of sexual assault. The assaults are usually not reported until well after the offence occurred. The sexual offender program recognized the negative impact of being sexually abused during childhood and the issue is addressed in all psychological/psychiatric assessments of adolescent sexual offenders. The assessments do not define the sexual assault in the context of the legal nature of the offence. Sexual assault will be reported or not reported as indicated by files.

17. Variable
Conceptional Definition: Reported victim of Sexual Assault, Aggressor
Operational Definition: The stated perpetrator in the reported cases of sexual assault of the offender

18. Variable
Conceptional Definition: The deviant sexual behaviour of the young offender
Operational Definition: The criminal offence, as defined by the Criminal Code, for which the young offender is being held in custody. The criminal offence on the young offender’s warrant of committal. In the case where a young offender is committed for two or three sexual offences, it shall be coded: Offence 1, Offence 2, Offence 3
19. Variable
Conceptional Definition - Sentence
Operational Definition - The length of time a young offender is committed to custody for the sexual offence

- The length of offence shall be recorded by the number of months on the warrant of committal. In the case where there are two sentences to be served consecutively, the total time to be served will be recorded. In cases where an offender is serving time for both sexual and non-sexual offences, the total time to be served will be recorded if the dispositions were on the same day. If the dispositions are on separate days, only the sentence for the sexual assault will be reported. Any sentence less than one month will be coded as one month.

20. Variable
Conceptional Definition - Victim of the Offence
Operational Definition - The gender of the victim of the offence

- The gender, male or female, of the victim of the sexual offence for which the offender was sentenced. In the case of three offences the victim for each offence will be coded.

21. Variable
Conceptional Definition - Age of the Victim of Offence
Operational Definition - The chronological age of the victim of the offence

- The age of the victim of the sexual offence for which the offender was sentenced. In the case of multiple offences the victim for each offence will be coded.

22. Variable
Conceptional Definition - Age of Male Victims
Operational Definition - The chronological age of the male victims

- The chronological age of the male victims of the offence for which the offender was committed. In the case of multiple offences the victim for each offence will be coded.
<table>
<thead>
<tr>
<th>Variable</th>
<th>Conceptional Definition</th>
<th>Operational Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>23. Previous Convictions</td>
<td>The number of previous convictions for criminal offences</td>
<td>It is difficult to establish a juvenile record for a young offender due to the variety of methods for recording youth offences in various police departments. The probation officer is able to obtain a juvenile court history from the Correction Branch computer. A court history will be obtained on all sexual offenders at BCCC. A conviction will be defined as any case where a correction disposition is the consequence. Cases which have been diverted will not be counted as a previous conviction.</td>
</tr>
<tr>
<td>24. Previous Sexual Convictions</td>
<td>Number of previous sexual convictions</td>
<td>The number of previous sexual convictions using the definition for conviction as previously established.</td>
</tr>
<tr>
<td>25. Allegations of Inappropriate Sexual Behaviour</td>
<td>Any reported sexual behaviour that is considered inappropriate</td>
<td>Inappropriate sexual behaviour will be defined as any reported sexual behaviour that if true, could result in prosecution. The age of the offender at the time of the allegation will not prohibit the behaviour from being labelled inappropriate. Any case that has been diverted will be considered inappropriate if it is sexual in nature.</td>
</tr>
<tr>
<td>26. Previous Sentences of Incarceration</td>
<td>Previous custodial sentences</td>
<td>Any time the young offender has been in custody prior to the present sentences. A period of remand in custody will not be recorded as a previous custodial sentence.</td>
</tr>
</tbody>
</table>
27. Variable
Conceptional Definition - Ward of the State
Operational Definition - A permanent or temporary ward of the Ministry of Social Service and Housing

28. Variable
Conceptional Definition - Residential Placements
Operational Definition - The living situation of the young offender prior to the custodial sentence

29. Variable
Conceptional Definition - Release Plan
Operational Definition - The plan of residence after release from custody

- The young offender has been taken to court and been apprehended by the Ministry of Social Service and Housing or its counterpart in any other province. This will be broken down into two sections; previous and current. The current period will report if the young offender is a ward at the present time. The previous period will report if the young offender has ever been a ward of the state prior to his custodial sentence.

- The number of residential placements the young offender was placed in prior to his custodial sentence. The home of the youth's parents are not considered residential placements. Corrections Branch residential attendance programs, treatment facilities, foster homes, group homes, receiving centers and children's foundations are considered residential placements.

- Each resident develops an initial case management plan within 30 days of being admitted to a B.C. Custodial Facility. Each plan contains a release plan and probable residence. If the plan changes during the sentence it will be documented on the monthly case reports. For those offenders who have not been released, the case reports will be used to code the residential release plan.
30. Variable
Conceptional Definition
Operational Definition

31. Variable
Conceptional Definition
Operational Definition

32. Variable
Conceptional Definition
Operational Definition

- Post Disposition Report
  - A report on Corrections file
  - Under Section 20 of the Young Offenders Act, a Probation Officer shall prepare a pre-disposition report for any offender being considered for a custody disposition. Most of the adolescent sexual offenders have been assessed. Special provisions have been made for the reports to be sent to youth institutions.

Psychiatric Assessment Prepared
- A psychological or psychiatric report prepared by a psychologist or psychiatrist.
- All of the adolescent sexual offenders at BCCC were assessed prior to their custodial dispositions. Any report prepared by either psychologist or psychiatrist prior to Court was considered an assessment.

Recommendations
- Each psychiatric assessment contains a recommendation to the Court for the purpose of assisting in sentencing.
- The recommendations to the Court vary according to the individual client. In the case of the adolescent sexual offender, most of the assessments address the issue of whether the offender would benefit from the sexual offender treatment program. Some assessments do not limit themselves to clinical observations and recommendations. Clinicians make specific recommendations on the appropriateness of custodial and no-custodial dispositions.
33. Variable
Conceptual Definition
- Arson

Operational Definition
- Setting fires for malicious purposes
- It has been reported that a high percent of sex offenders set fires during their adolescent years. Apparently this form of excitement is common among sexual offenders. Many of the psychiatric reports address such issues as firesetting behaviour.

34. Variable
Conceptual Definition
- Bedwetting

Operational Definition
- The social history of psychiatric reports address the milestones of childhood. Toilet training is documented. If the age is not considered appropriate it is reported in the report

35. Variable
Conceptual Definition
- Place of the Offence

Operational Definition
- The physical location of the sexual offender
- All offences occur either indoors or outdoors. In the case of sexual offenders the location of offence gives clues to the personality of the offender. Most pedophiles commit their offences indoors in the comfortable surroundings of their home. On the other hand, exhibitionists commit their offences outside the home. The place of offence will be defined by either home or outdoors.

36. Variable
Conceptual Definition
- Weapon used in commission of offence

Operational Definition
- A weapon is an instrument used in the commission of the offence
- Classification of sexual offenders relies on the sexual offence. Offenders who use weapons are psychologically different from sexual offenders who do not use weapons. The level of coercion is of paramount importance. Any instrument used to force an individual to become a victim of a sexual offence will be considered a weapon.
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