

Youth and consequences

Canada once had the dubious distinction of jailing young offenders at the highest rate in the Western world. Now, innovative programs are taking youth out of the traditional justice system, where they never really had to come to terms with their behaviour, and making them think about what they have done.

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CREDIT: Julie Oliver, The Ottawa Citizen

Delaine Pawlowski of Edmonton's Youth Restorative Action Project -- a youth justice committee run by and for young people that uses restorative justice ideas -- has obtained funding from the federal government and hopes to launch similar committees in Ottawa and Toronto this fall. 'It's really, really important for youth to have an active part in the justice system,' says the 19-year-old criminology student. 'YRAP gives youth the power to do that.'



All three are young women. But almost everything else about them is different.

The first, Delaine Pawlowski, hails from the Edmonton bedroom community of St. Albert, "a perfect little town," she says, "where nothing goes wrong." The 19-year-old criminology student at the University of Alberta, whose stylish brown hair falls beyond shoulder length, aspires to be a law professor.

"I know it sounds dorky," she says, "but I want to be the teacher of the leaders of tomorrow."

The second, who asks to be called Liberty, is a 17-year-old government ward who has passed through 42 group homes since she was 12. She's a striking Iroquois girl with coltish charm and an unpolished manner that reflects a troubled upbringing. Her real name can't be used because in 2001, she was charged with two counts of assault with a weapon.

The third is Heather, a self-assured 21-year-old vegetarian. She also can't be named because she's spent the past four years as a psychiatric patient at Alberta Hospital Edmonton after being charged with assault with a weapon and

threatening to kill a police officer. Because of her psychosis, she was found not criminally responsible.

Three young women. Three different worlds. But something unique connects them. All are members of the Youth Restorative Action Project -- better known as YRAP -- a youth justice committee in Edmonton that devises innovative sentences for young offenders. And it's coming to Ottawa soon.

There is nothing like YRAP, anywhere. It's the world's only youth justice committee that deals with crimes motivated by racial or ethnic hatred. All of its 50 or so members are between 12 and 24. And about a third first encountered YRAP when they themselves were facing charges.

"That's what's important about YRAP," says Mark Cherrington, a youth court worker who advises the program.

"It breaks stereotypes. It deals with people involved in hate crimes, but it also breaks rigid ideas about who can help in the community and who can't help in the community."

Founded in 2001 by a teenage refugee fleeing violence in her native Serbia, YRAP was officially sanctioned by the Alberta government in May 2003, soon after the new Youth Criminal Justice Act, which encourages the creation of youth justice committees, came into force.

Youth justice committees perform many functions, ranging from supporting victims and dealing with community agencies to convening "conferences" that advise the courts on the disposition of youth justice cases.

But none do it like YRAP. Not only does it handle offences with broader social significance, such as child prostitution, but its sentences -- or "consequences," to use the term YRAP members prefer -- are wildly creative.

For instance, when three girls in their early teens swarmed and assaulted a woman they wrongly believed was a prostitute, YRAP decreed that they should research and produce a two-hour radio documentary on child prostitution, using studio facilities at iHuman, a non-profit, charitable society that is one of YRAP's sponsors.

CREDIT: Brian Gavriloff, CanWest News Service



Edmonton's Youth Restorative Action Project enabled Chris Purdy to meet the 15-year-old street kid, high on crystal meth, who decided to use her car as a bedroom one night and trashed her garage in the process. 'This wasn't like going to court, where you get a slap and you don't even think about it,' she says. 'He was actually talking about his life and thinking about what he did.'

The result was a harrowing series of interviews with pimps and prostitutes -- most of them young enough that puberty is still a vivid memory -- interspersed with original rap music. The documentary aired in May on CJSR, the University of Alberta radio station, which is also a YRAP sponsor.

Two of the girls originally charged are now YRAP members. "You could see their beliefs and value systems change as this progressed," says Mr. Cherrington.

Other young offenders have served "sentences" such as composing anti-racism rap songs, writing reports on sexual assault and filming videos explaining why shoplifting is wrong.

Though YRAP tailors its actions to fit each young offender, it doesn't shy away from punitive consequences if those are appropriate. It has recommended restitution, community service and even jail on occasion.

"It's not an easy way out," says Mr. Cherrington. "The sentences are more onerous, more work-focused. They're not lesser in any punitive way than you would see in any courtroom."

If YRAP recommends jail, though, it aims to ensure offenders get help with their problems. "If they didn't have a permanent guardian, we'd get them set up with welfare or a social worker," says Ms. Pawlowski. "We'd put them on programs if they have a drug problem."

"It's not Warehousing 101 here," adds Mr. Cherrington.

Despite the unconventional nature of many YRAP sentences, judges have endorsed them with few variations. Referrals have risen steadily; YRAP now deals with about a dozen cases a month. In June, it won a gold medal from the Commonwealth Secretariat for youth development work.

Now, it's expanding. Ms. Pawlowski has obtained seed funding from the federal Justice Department and hopes to launch YRAP committees in Ottawa and Toronto this fall.

"Eventually," says Ms. Pawlowski, "we'd like YRAP to be in communities across the country."

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In its values and processes, YRAP embraces the philosophy of restorative justice, which eschews the traditional retributive justice model in favour of measures meant to hold criminals accountable and heal the harm caused by crime.

Though restorative ideas are bubbling up at all levels of the justice system, youth justice is where they have most firmly taken root. That's because governments have recognized that, for many young people in conflict with the law, jail is the worst possible outcome -- one that can transform a rebellious phase or youthful addiction into a lifetime of criminal behaviour.

"Adolescence is a period of experimentation," says Catherine Latimer, the Justice Department's director general of youth justice policy. "They're testing out what they want to be and what they want to try. They don't think about the consequences.

"I think the opportunities for rehabilitation and encouraging them to choose a different course are much higher when they are younger."

In Canada, youth justice underwent a major change with the introduction of the new Youth Criminal Justice Act in April 2003. Though the words "restorative justice" appear nowhere in the act, Ms. Latimer says she and the others who drafted it explicitly incorporated restorative justice concepts.

"We were keen to have meaningful consequences for young people who get into conflict," she says -- something the traditional justice system often failed to deliver because young offenders were passive participants. "So they never really had to come to terms with their behaviour."

Before the new act came into force, Canada had the dubious distinction of jailing young offenders at the highest rate in the western world, even though most youth crime is non-violent.

In fact, more than 40 per cent of all cases in youth court fall into four categories: theft under \$5,000; possession of stolen property; failure to appear in court; and failure to comply with a disposition, such as a condition of probation.

The new act seeks to alter the instinct to incarcerate by using what it calls "extrajudicial measures," rather than the courts, to resolve as many cases as possible.

These include police warnings, formal cautions and referrals to community programs, as well as "extrajudicial sanctions" -- repaying victims for their losses, making donations to charity, performing community work and taking part in counselling, among other things.

The new act also encourages the use of conferences -- informal meetings at which all parties affected by a particular crime come together to advise justice officials. They can give advice on a range of subjects, including appropriate extrajudicial measures, jail sentences and ways of reintegrating young offenders after their sentences.

Most of the ideas in the act are neither new nor novel. For example, police cautioning -- which falls midway between an informal warning and a charge on the scale of police response -- has been widely used in England, New Zealand and Australia, with positive results. About three-quarters of cautioned youth avoid further trouble with the law.

The Youth Criminal Justice Act has had an immediate impact. Far fewer young offenders are facing formal court charges. Earlier this year, says Ms. Latimer, one Ontario official estimated that provincial Crown attorneys are seeing 1,000 fewer charges per month.

Several provinces have already closed youth jails, with some reporting reductions in custody in the order of 25 per cent. A one-day snapshot done by the Justice Department last year found there were 30 per cent fewer aboriginal youth in custody than in 2000.

Initially, police were skeptical of the act's emphasis on non-court sanctions, Ms. Latimer admits. "They're often a tough audience," she says. "They have to see it to believe it."

Now that they have seen it, though, many approve, she says. "There's an element of remorse and accountability that is almost immediate, which they don't see in the formal justice system."

But not everyone thinks the Youth Criminal Justice Act is much of an advance for restorative justice.

"They've spent more money selling the act and going around telling people what's in it," says Barry Stuart, a former judge in the Yukon, "than they'll ever spend implementing the provisions in it."

And Marc Forget, a Calgary consultant on restorative justice, says the new act bolstered the punitive aspects of the old Young Offenders Act even as it added restorative provisions. "I wouldn't say that overall, the new act is any more restorative than the old one."

So far, public reaction has been muted, aside from protests from prison guard unions unhappy over lost jobs caused by the closing of youth jails. But Ms. Latimer knows that can change overnight if a high-profile crime galvanizes public opinion.

"There's such a strong, visceral reaction to youth crime," she says. "If you believe that tough penalties can reduce youth crime, you never see the penalties as tough enough."

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Chris Purdy hadn't slept well since a 15-year-old street kid, high on crystal meth, decided to use her car as a bedroom one night, trashing her garage in the process.

"It freaked me out," the 31-year-old Edmonton Journal reporter admits. "I'd wake up in the middle of the night. I was always worried about somebody breaking into my house. I had some nightmares."

When YRAP invited her to a conference with the young offender last year, she was initially apprehensive about facing someone who had frightened her.

"Then I saw this kid. He was shorter than me and scrawny, and couldn't even look me in the eye, he was so nervous."

She sat in a circle with the youth and YRAP members, all of whom were younger than she was. She asked questions about his life. "That kind of mattered to me," she says.

The youth saw her interest, and began to open up. "He actually started looking me in the eye," says Ms. Purdy.

"I wanted him to know that I was taking this seriously. This wasn't like going to court, where you get a slap and you don't even think about it. He was actually talking about his life and thinking about what he did."

She had been planning to donate her car, an old rust-bucket, to the Kidney Foundation because it kept breaking down. She told the youth that if he'd really wanted the car, she would have given it to him.

"His eyes bugged out," she says. "He couldn't believe that someone would do something nice."

Afterwards, they met in the hall. The youth apologized and shook her hand.

As part of his YRAP sentence, he wrote an essay that was published in Ms. Purdy's newspaper. In it, he describes how crystal meth helps him cope with his life on the street.

"Can you tell me, can anybody tell me, what's going to happen tonight?" he writes. "I want to stay clean. I want to stay out of jail. I am 16 years old and a child. Can somebody help me?"

Ms. Purdy feels that justice was done. "Meeting him was good for me," she says, "to get over the whole faceless person who broke into my garage, and to see where he came from. And for him, to meet a victim and know that some people really care."

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New Zealand leads the world in using restorative approaches to deal with youth crime. Since 1989, most serious youth offences have been referred to family group conferences, attended by offenders, victims, family members, police and community representatives. (Minor cases are usually dealt with through police warnings and diversions.)

Family group conferences consider the facts of the crime, its impact on victims, and what needs to be done to make things right. If the accused admit guilt, they and their families devise a plan to repair the harm they have caused. Conference participants then negotiate the terms until everyone is satisfied.

Police in the Australian city of Wagga Wagga introduced a modified version of conferences for young offenders in 1991, organized and run by police. The idea has since been adopted by other Australian jurisdictions.

There is evidence that these techniques have reduced youth crime, in part because conferences often provide information that points to crime's underlying causes.

In the New Zealand city of Wellington, information gleaned from conferences spawned programs that helped cut youth offending by two-thirds between 1996 and 2000.

In New South Wales in Australia, a study concluded that comprehensive youth justice conferencing can reduce re-offending by between 15 and 20 per cent.

In 1996, the RCMP embraced the Australian conferencing model, which it renamed community justice forums. The RCMP has since trained thousands of its officers and community members in a range of restorative justice processes.

"It's the way we do business now," says Gerry Baragar, the force's national restorative justice adviser.

The RCMP has used community justice forums most often to deal with minor offences involving youth. In a 2001 evaluation, 98 per cent of offenders said the forums had helped them take responsibility for

their crimes and better understand their effect on others. In almost every case, offenders complied with agreements reached during the forums.

Young people exposed to the process are much more willing to share information with the police, says Mr. Baragar. "It takes away that us-against-them philosophy."

The RCMP isn't the only organization in Canada to embrace restorative justice to deal with youth crime. In Nova Scotia, a government-run program has dealt with thousands of referrals from police, Crown prosecutors, courts and correctional services since it was launched in 1999.

In Alberta, Calgary Community Conferencing, a unique partnership between several organizations that supply resources as needed, has brokered agreements to resolve youth crime or conflict since 1998.

In British Columbia, two small agencies -- North Vancouver Restorative Justice and the Langley Community Justice Initiatives Association -- have undertaken ambitious restorative justice initiatives affecting youth.

While both agencies work with adults as well, the North Vancouver group got its start working with the RCMP, arranging conferences with young offenders.

The Langley group, which has operated since the early '80s, recently lost its provincial funding for a court diversion program that helps young offenders reconcile with their victims. But it's still involved in a partnership with the Langley School District that aims to do nothing less than change the way students think about justice.

The agency has trained teachers, administrators, students and their parents in restorative justice values, principles and techniques, which they use to deal with conflict in the board's schools.

"The whole purpose of it is to try to create the culture that looks at restorative approaches as a first response, rather than more punitive options," says Dave Gustafson, who founded and co-directs the Langley agency.

"It's been very positive," says Sandi Bergen, Mr. Gustafson's co-director, "even just in terms of the empowerment of the kids." One young woman who learned the skills gained so much self-confidence, she says, "even her mother reported that she was just a different person."

Next door, at the Burnaby District School Board, Terry Waterhouse is rolling out a similar initiative, called the Peacemakers' Program, in secondary schools.

This spring, Mr. Waterhouse, the board's manager of youth services, trained 120 students and staff in restorative ideas and techniques. For example, as part of the strategy, students are trained to mentor junior students and peers at risk of getting into trouble with the law. A couple of schools are also experimenting with "dialogue circles" -- forums where students and staff can talk frankly about issues within the school community.

"I don't want to give the impression that we're trying to create some utopian society where crap doesn't hit the fan," Mr. Waterhouse says. "It absolutely does. Students still get suspended, all those traditional forms happen."

But, he says, "we've now broadened the menu." Students learn how their behaviour affects others, and see in concrete ways what it means to take responsibility. "That's essentially what our goal is."

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Liberty readily acknowledges the impact that YRAP -- and its adult adviser, Mark Cherrington -- have had on her troubled young life. "If I hadn't met Mark," she says flatly, "I'd probably be in jail right now."

Before, when she had a problem, "I would deal with it with my fists," she says. "That was the only way."

Her involvement with YRAP has helped her understand her rights and given her the self-confidence to defend her interests and resolve conflict constructively. "If some social worker wants to close her file, or transfer her ass around, or cut her short on her bus pass or clothing voucher," says Mr. Cherrington, "she knows how to fight back now."

Liberty especially likes the fact that YRAP draws on the life experience of a diverse group of young people. "There's people coming from all different walks of life. We don't judge each other by our past. Everybody's equal."

Her fellow YRAP member, Heather, says the experience youths bring to the group helps them relate to the young offenders they meet.

"I know what it's like to be locked up in the Edmonton Young Offenders Centre because they think you're dangerous, when you're just looking for somebody to talk to," she says, calm and composed despite the painful memories. "It's a horrible feeling, and I know that from personal experience."

"I can say to those kids, 'Look, I've been there, I've done that. I'm a friend. I can talk to you.' "

Four years ago, when she was sent to Alberta Hospital Edmonton, the staff there "knew me as a little shit who would never get her act together," she says. And until she got involved with YRAP last year, she says, they were right.

"It really saved me," she says, "because I had a goal. I wanted to be part of it, and I wanted to help people. And I couldn't help from behind the walls of Alberta Hospital."

As her involvement with YRAP grew, the hospital started granting her day and overnight passes. Now, she's preparing the leave for good to live in a group home -- all thanks, she says, to YRAP.

Delaine Pawlowski, the criminology student, hasn't had to deal with the problems that Liberty and Heather have faced. But her belief in YRAP is just as fervent.

"It's really, really important for youth to have an active part in the justice system," she says, perhaps thinking of the future leaders she hopes someday to mould. "YRAP gives youth the power to do that."

Justice for All

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