

Young Women and Violent Offences

BY KIM PATE

L'auteure nous fait part de données trompeuses et erronées sur l'augmentation de la violence chez les jeunes filles. Elle ajoute que les changements régressifs apportés à la Loi des jeunes contrevenants ont déçu les jeunes et en ont marginalisé certains qui avaient des besoins spécifiques, surtout les jeunes femmes.

Some time ago I received a call from a reporter asking me whether I would be prepared to do an interview with him about the increase in violent offending by young women. A "What increase?" was my response. He said his local police source had advised him that their community had seen a 200 per cent increase in robbery offences alone over the past decade. When I asked him how many actual cases those figures represented, he was not certain.

Further investigation revealed that two young women had been charged with robbery -- one about ten years earlier, the other had just occurred. Prior to that, there were apparently no charges or convictions of girls or young women on record. So, technically, the statistic was correct. The impression created by the 200 per cent figure and the accompanying media hype, however, created an incredibly skewed and inaccurate picture of young women suddenly erupting into violent behaviour. The reality was that the violent behaviour that was perceived to be erupting was pretty much nonexistent and the risk posed to the public by the two young women involved was incredibly low.

Recently, I have received other calls from reporters, students, and other members of the public requesting information about the increasing number of girls in gangs. A review of the media accounts leaves one to conclude that the most common causes of this apparent phenomenon are women's desire to be equal to men and the breakdown of the family, which has resulted in girls not having their fathers around to help socialize them. The facts do not support either hypothesis.

It is interesting to note that up until the 1970s, the occasional violent acts committed by women were generally ignored by law enforcement authorities worldwide. During the '70s, a new mythology emerged that linked the women's movement to a new wave of violent offending by women. White, adult women, as leaders of the women's emancipation movement, were identified as causing the surge in serious criminal offending by women. American author Meda Chesney-Lind calls this the "Aliberation" hypothesis. She further says that in the 1990s, we are in the midst of a second wave that causally links women's equality with girls -- especially poor, minority girls -- participation in gangs.

Throughout both waves there have been no significant changes in the levels and patterns of girls' violent and aggressive behaviour in Canada, the United States and the United Kingdom (Chesney-Lind). There are, however, marked differences in external responses to violent or aggressive actions, especially those perpetrated by youth. The development of so-called zero tolerance policies have resulted in increased policing and prosecuting of all forms of violence committed by boys and girls. Proportionately, because the overall number of young women charged with violent offences remains relatively low, the increased numbers create more substantial percentage increases in the statistics for girls than they do for boys.

In addition, there has been an increased criminalization of young women's survival skills. In the past, it was relatively easy to institutionalize or enforce social controls on young women if they ran away, missed curfew, engaged in sexual activity, or displayed behaviour that might be defined as "unfeminine" or, worse yet, unmanageable. Under the old *Juvenile Delinquents Act*, a young woman could be imprisoned in

a juvenile home for such activities. The introduction of the *Young Offenders Act (YOA)* in 1982 was supposed to end the arbitrary detention of young women for such activities. However, the way the *YOA* is being implemented by police and judges belies its legislative intent. We fear that the new *Youth Criminal Justice Act* will not rectify this situation if only the law, and not the practices, change.

What the *YOA* is supposed to be about

It is now more than 15 years since *the Young Offenders Act* was proclaimed into law and paraded internationally as one of the most innovative and progressive legislative responses to juvenile justice. Since its inception, however, the legislation has had its most progressive elements gradually chiselled away.

The *YOA* is based on youth-positive principles and it is distressing to observe continued attempts to erode its fundamental tenets and guiding principles. Regressive changes have failed youth and further marginalized many youth with special needs, particularly young women.

The *YOA* calls for the least restrictive interventions possible for young people. In fact, it calls for an examination of all other youth-serving systems (such as education, child welfare, and children's mental health) prior to invoking its provisions. Alternative or diversionary options are entrenched in the *Act*. Paradoxically, the past decade has seen just the opposite result. In many schools or group homes, for instance, matters that would previously have been dealt with by an internal administrative authority are increasingly likely to be referred to the juvenile justice system.

Rather than adopt a zero violence approach, zero tolerance policies are resulting in ever increasing numbers of disenfranchised youth being jettisoned out of schools and communities, and usually through, rather than into, a thinning social safety net. Rather than nurturing our youth, we are increasingly scapegoating and disposing of them as though they are expendable human refuse. Statistics reveal that there has been an overall reduction in youth crime generally, as well as a relatively low incidence of violent and repeat youth crime more specifically (Statistics Canada).

These figures notwithstanding, police, reporters, and communities continue to blame the *YOA* for crime, quickly criminalize the behaviour of young people, and throw them to the wide, expensive, and ineffective net of the juvenile justice system.

Young people are best served by supportive and proactive interventions, as opposed to the punitive and reactive approaches characterized by and endemic to criminal justice responses. Indeed, there is more than sufficient evidence that preventative approaches to crime are far more cost-effective than current criminal justice approaches. Accordingly, we should focus on developing and enhancing high quality supportive services for children, youth, and adults alike -- from universal and enriched health, child care, and educational opportunities to effective gender, anti-poverty, anti-racism, and conflict resolution programs. Recognizing the current stresses of fiscal restraint and downsizing, schools might re-direct efforts to consolidating creative energies and encouraging an empowered student body to provide peer and mentoring support, for example.

Professional training on the developmental, educational, as well as psycho-social attributes of young people should be a prerequisite for those working in the youth justice system. In addition, the high number of young offenders who have been abused must be recognized and reflected in professional training of those who come in contact with young offenders. It has been reported that at least 50 per cent of the young offenders serving time in British Columbia had previously been sexually abused. In addition, even higher percentages have been reported in Alberta and Manitoba studies (Standing Committee on Justice and Legal Affairs). Similarly, a 1994 Ontario study conducted by Margaret Shaw revealed that of the young women in custody, 63 per cent had been physically abused and 58 per cent had been sexually abused (Standing

Committee on Justice and Legal Affairs). Given these statistics, training for dealing with abuse victims is very important.

In order to ensure significant short- and long-term change, proactive education and training programs are required for judges, lawyers, probation officers, police officers, and all other youth justice personnel. The reorientation of those involved with young people is a prerequisite component to the development of positive and effective change within the youth justice and all other youth-serving systems. And young people themselves, as well as front line workers, should be involved in the development of professional training, as well as in services and programs designed to address the needs of youth.

Providing supportive and empowering services to young people at the time of their first contact with the youth justice system generally reduces the likelihood of future Acriminal@ involvement. Of course, these services should not exist only within the youth justice system because that would likely criminalize youth who are simply in need of some supportive services. Preventative and proactive approaches need to be emphasized within the child welfare, educational, medical, and mental health systems as well.

Custody as a last resort -- not

In terms of custodial sanctions, the *YOA* stipulates that such dispositions must only to be used as a last resort. Further, when custody is resorted to, open custody should be considered before secure or closed custody.

Secure custody was supposed to have been the absolute last resort in terms of sentencing under the *Young Offenders Act*. Moreover, it was envisioned that open custody would be easily distinguishable from secure custody, such as a group-home type of setting as opposed to an institution. In most provinces, however, the two forms of custody are virtually indistinguishable; most open custody settings are now institutional in nature.

Where existing programs and services do not address the needs of young people or the protection of society, the first priority must be to address these service or programming deficits. Rather than resorting to the Aadult@ criminal justice context at ever earlier ages, the federal and provincial authorities should be focussing on redistributing the \$170-million spent annually on federal transfers for youth justice to focus on the development and enhancement of youth-positive community-based dispositional options, improved educational and psycho-social programs, and services in community and institutional settings.

There is a paucity of community-based and therapeutic alternatives for young people in general and young women in particular. The federal Minister of Justice could address some of these issues through cost-sharing agreements with the provinces, rather than proposing legislative amendments. Such moves also unfortunately have the tendency to be simplistic and diminish the pressure to create more proactive and preventative means of addressing complex issues and concerns. The federal government could reduce justice transfers for custody beds with a corresponding increase for community resource development for young people. Furthermore, provinces could be encouraged to develop gender-specific and culturally appropriate services and programs for young people. Too frequently, the services and programs that do exist are ill-equipped to deal with issues as gender, race, class, and sexual orientation.

Young women -- still too few to count

All young people suffer as a result of the lack of adequate support services and other systems-based deficiencies. Those who work with young people will be all too familiar with the erosion of resources and support for our community-based support systems for youth. The relatively small numbers of young

women who are criminalized and enter the system, as compared to young men, result in even fewer services for young offenders in any community.

Young women are disproportionately disadvantaged as a result of a lack of gender-focused community and institutional programming and services, and extremely limited access to open custody settings. The majority of young women who receive open custody dispositions must serve their sentences in secure custody and/or coed correctional facilities. Girls and young women also tend to have more limited access to the services and programs, both in the community and in institutions. In many young offender centres across the country, incidences of sexual assault and/or pregnancies during custody have led to the further segregation of young women in correctional facilities (Canadian Association of Elizabeth Fry Societies). Young women are in real need of women-centred approaches in the youth justice system, their needs are often ignored or at best subsumed by those of young men.

Staff also cite a complete lack of resources for young women in terms of job training (in the community or institutions), education with day care for teenage mothers, or parenting programs. In addition, there are no provisions for pregnant teens within the institutions. Lack of medical staff also places limitations on the movement of pregnant youth to camps or open custody facilities.

The over representation of young women in custody for administrative breaches (such as the non-payment of fines) and child-welfare type concerns (such as child neglect) are further indicators of systemic bias (Canadian Association of Elizabeth Fry Societies). Canadian, American, British, and Australian studies of youth court charges and sentencing reveal that young women are disproportionately and overwhelmingly charged and imprisoned for administrative breaches, non-criminal behaviour, and non-status offences (such as traffic violations) (Howard League; Standing Committee on Justice and Legal Affairs; Chesney-Lind).

Of the very few who are arrested for crimes of violence, most of the situations involve young women reacting to violence perpetrated against them, or offences which were previously labelled as status offences that have now been reclassified as serious offences as a result of zero tolerance@ (Canadian Association of Elizabeth Fry Societies; Chesney-Lind). Obviously, we all wish to see a decrease in the use of violence in our communities. Criminalizing youth does not diminish violence, it merely legitimizes it in the hands of the state.

Young women appearing before the courts tend to have fewer charges against them than males. Systemic bias and discriminatory practices undergo a multiplier effect where gender, race, class, ethnicity, and/or sexual orientation converge. The stereotype of girls becoming gun-toting gang robbers is simply not supported by statistics. That does not mean that there are not specific and egregious examples of young women committing violent offences. It does mean, however, that every time one such incident occurs, journalists and talk show hosts beat the bushes for other examples to support extreme interpretations of the event. Police officers, teachers, social workers, criminologists, and others asked to supply expert@ opinions have a responsibility to present an accurate picture when they choose to comment in such circumstances.

In a discussion of the current focus on girls as gang members and gang leaders, Meda Chesney-Lind succinctly frames the issues and our challenges:

As young women are demonized by the media, their genuine problems can be marginalized and ignored. Indeed, the girls have become the problem. The challenge to those concerned about girls is, then, twofold. First, responsible work on girls in gangs must make the dynamics of this victim blaming clear. Second, it must continue to develop an understanding of girls= gangs that is sensitive to the context in which they arise. In an era that is increasingly concerned about the intersections of class, race, and gender, such work seems long overdue. (57)

Much is already known about effective and empowering ways to meet the needs of young women. This information, combined with adequate funding for existing and innovative support services and networks, will result in more effective interventions, increased prevention and decreased recidivism.

And then there's the issue of abuse in custody...

The emerging picture of the extent of institutional abuse of young people is grotesque (Standing Committee on Justice and Legal Affairs; CAEFS). Young people who have already been labelled as behaviour or management problems are especially vulnerable to abuse at the hands of institutional staff. It is extremely important that victims of abuse can take action and be heard and responded to in supportive ways. Audits and investigations into abuse allegations in residential schools, group homes, orphanages, and custodial centres provide horrendous examples of how and why youth are inadequately protected from abusive conduct. Institutional mechanisms for dealing with internal and external abuse are overwhelmingly inadequate. Reports generally place specific emphasis on the particular needs of young women, who have often been victims of abuse prior to their institutionalization.

It is indeed frightening that children placed under the control of the Canadian government should be experiencing physical, sexual, verbal and emotional abuse. We know that such abuse can have an irreparable debilitating impact on the lives and psyches of youth. The fact that abuse is perpetrated by the very systems established to assist them only underscores the reasonableness of youth rejection of the values and authority that do harm to them.

So what? Now what?

There is sufficient evidence that preventative approaches to addressing crime within the context of socio-economic, gender, racial, and ethno-cultural realities are far more cost-effective than current criminal justice approaches.

Rather than see young people in either the adult or the juvenile justice system, the Canadian Association of Elizabeth Fry Societies (CAEFS) would prefer to see better services for youth in community settings. While popular in the short term, Aquick fix@ criminal justice responses cannot address what are fundamentally social justice and equality issues. It is far too simplistic and short-sighted to presume that the off-loading of scapegoated youth onto the criminal justice system will solve youth crime. Nor will youthful offending be eliminated by tinkering with the *Young Offenders Act* in isolation. Broader-based social reform is fundamental. Harsher sentences have not proved successful in protecting society or rehabilitating the individual.

The Department of Justice recently introduced Bill C-68, which proposes to repeal the *Young Offenders Act* and replace it with the new *Youth Criminal Justice Act*. Although this act aims to divert more youth from the youth justice system via extra-judicial means, it also proposes more stringent measures for youth convicted of serious and/or multiple offences. Unfortunately, so far the only new money available is earmarked for the more regressive amendments. Yet again, we are left to rely on the provinces to implement progressive elements of the Bill. Without new resources, there is faint hope that more provinces will do much to change the administration of juvenile justice in their respective jurisdictions. Hence, unless the government links its cost-sharing agreements with the provinces to the implementation of the progressive portions of the proposed new *Act*, the *Youth Criminal Justice Act* will result in a mere rhetorical refraining of vitally important and unresolved issues pertaining to criminalized youth in Canada.

The legal system reinforces sexist, racist, and classist stereotypes of women while simultaneously legitimizing patriarchal notions of the need to socially control women. We must all commit to transforming the social and economic position of girls and women and adamantly challenge attempts to further subjugate women if we are truly interested in addressing violence in our communities. We must also refuse to fuel panic with exaggerated and inaccurate claims about increased violent offending by women and girls. Refusing to address the issues raised by the involvement of women and girls in our criminal justice system will continue to cost us much more than money.

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