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**4TH SESSION, 37TH PARLIAMENT**

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Afternoon Sitting

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TUESDAY, NOVEMBER 4, 2003

The House met at 2:03 p.m.

### Introductions by Members

**L. Mayencourt:** A few months ago, when we were in the midst of the fires in the Okanagan, the fire chief there went on the news and was commenting on all the donations that the fire department had received, but he said that they would really appreciate some beer. Molson Brewery quickly stepped up to bat. We have two guests here today from Molson, Jeff Gaulin and Ferg Devins. They not only donated beer to the firefighters up there, but they also donated \$100,000 to the fire relief fund in the past couple of weeks. I'd ask the House to give them a hero's welcome, please.

[1405]

**Hon. S. Santori:** This afternoon it gives me great pleasure to introduce three constituents from the beautiful city of Grand Forks. With us today we have His Worship Mayor Jake Raven, Councillor Ann Gordon and the chief administrative officer, John Lambie.

At this time I want to take the opportunity — relating back to the fires this past August and the closeness of devastation in the city of Grand Forks — not only to ask the House to make these people feel welcome but also to congratulate the city of Grand Forks in their cooperation with the B.C. Forest Service, as well as the U.S. Forest Service. They worked together so diligently over some very difficult times this summer and actually kept that fire from getting into the city of Grand Forks and creating devastation. Please help me welcome my guests from Grand Forks and congratulate them on a commendable effort.

**J. Kwan:** I rise to share some unfortunate news with the House today. The Leader of the Opposition, while walking to work this morning, slipped on some black ice and hit her head against the sidewalk. She has visited a clinic and has received good medical advice. She is resting. She's had an X-ray done on her skull. Hopefully, there's no permanent damage and there will be speedy recovery and return for the member for Vancouver-Hastings. I know the House will join me in wishing her well and wishing that she will be with us as soon as possible.

**Hon. R. Thorpe:** I'm pleased to introduce Glen Ringdal, the president and chief executive officer of the New Car Dealers of British Columbia. Glen has been working with the government and meeting with a number of members of government today. Would the House please make him and his associates welcome in this House.

**D. Hayer:** It gives me great pleasure to introduce 72 grade 5 students visiting from Surrey Christian Middle School in my riding of Surrey-Tynehead, who are here to learn about the B.C. government and about this

House. Joining them are their teachers, Ms. Kim Bell and Jackie Hofstede, as well as 18 parents and teacher-volunteers who have taken time away from their busy schedules to accompany these students. Would the House please make them very welcome.

**Mr. Speaker:** Thank you, hon. members. If it is the wish of the assembly, we will send the Leader of the Opposition a get-well wish and hope she has a speedy recovery.

### Statements (Standing Order 25B)

#### VOLUNTEER B.C.

**V. Anderson:** Today I want to commend the members of Volunteer B.C. They're planning a volunteer forum in the year 2004. Such a summit, long overdue, is to highlight and support the thousands of volunteers in B.C. and to highlight the importance of the volunteers to the social core of our communities.

In September 2002 Volunteer B.C. initiated the Voluntary Organizations Consortium of B.C. as an ongoing network to enable volunteers to share in the facets of society in health, education, social services, sports, recreation, culture, arts, multiculturalism, aboriginal, disabilities, children and youth services, environment and many, many others. The founders of the network identified a number of strategic priorities, such as encouraging cooperation on shared projects and recognizing and supporting individuals of all ages and backgrounds to share their gifts with the community.

Volunteer B.C. is in cooperation with Volunteer Canada, by which the federal government had recognized the "third force." This is the volunteer force, the other two being the public and the private sector. This third force has long been recognized in international NGOs — that's non-government organizations — related to the United Nations and more recently on the national scene.

[1410]

Volunteer B.C. is now stressing the need to recognize, celebrate and support the third force in B.C. by supporting interaction between the government, private and volunteer sectors. The volunteer summit is a key initiative to bring together volunteers in B.C. to build excellence and excitement throughout the province. This summit is the precursor to a major dialogue with the government of B.C., and we wish them well in this undertaking.

#### CRIME PREVENTION WEEK

**E. Brenzinger:** I'm pleased to rise in the House today to speak about Crime Prevention Week. Crime Prevention Week provides communities with an opportunity to come together to recognize the things we can do to make our homes, streets and schools safer.

This year's theme, "Crime affects us all. Be part of the solution," reminds us of the role each of us can play

to ensure our children are safe and our neighbourhoods are protected. Crime prevention can be as easy as becoming a Block Watch parent, joining a Neighbourhood Watch group or taking part in community events.

The need for block parents is becoming more pronounced, as we don't often take the time to get to know our neighbours. A block parent provides a safe place to turn for a child who is bothered by a stranger or a bully, or who is sick, hurt or lost. A child knows that when they see the "Block parent" sign, a safe adult is there to offer help.

Neighbourhood Watch is a crime prevention program that works to reduce threats to your and your neighbourhood's property. Essentially, the Neighbourhood Watch program encourages neighbours to be aware of other neighbours during times when burglaries are likely to occur. A police officer patrolling your community might not recognize a stranger in your yard, but your neighbours will.

Finally, taking part in activities in your community is not only an excellent way to meet your neighbours and make meaningful relationships, but it also goes a long way in preventing crime by creating a network of citizens who watch out for each other and each other's property. The British Columbia Crime Prevention Association's website outlines a number of events and activities that we could all take part in to foster relationships that will act to prevent crime. Crime Prevention Week reminds us of the importance of getting involved and making a difference in our communities.

#### YOUTH SPORT

**B. Locke:** Today I rise to speak to a positive and extremely popular subject for the many children and families in my community: youth, parents and grandparents coming together to celebrate the accomplishments of talented young athletes and instilling a spirit of friendship, sportsmanship and hospitality in our diverse communities.

Organized sport for young people provides a forum where kids can build relationships in a safe environment that is both enriching and fun. Throughout B.C. community sport programs, young athletes are motivated to pursue a higher level of fitness and achievement — lessons that I am sure will remain with them forever.

Currently, in every constituency in our province there are excited kids trying out for the B.C. Winter Games, be it in hockey, skating, ringette, curling, gymnastics or judo. These games grant them an important gift. They deliver self-esteem, team-building strategies, good health and great attitudes. Sports teams teach children how to win, how to lose and how to keep striving for your dreams, no matter what the score.

Like my daughter Katie, a ringette player who this year was chosen to compete in the upcoming B.C. Winter Games, these young athletes will learn life lessons. I will stand proud with many other parents, cheering them on and watching our kids strive for greatness.

Corporate and small business sponsors also play a critical role in the development of youth sport. Providing financial assistance allows industries to give back to their communities. Most importantly, kids are trying hard and having fun, and the value of having fun is something that should never be underestimated in a child's development.

Thank you to the provincial government, the outstanding volunteers, the committed coaches and referees, and all the moms and dads who have supported and contributed to helping B.C.'s children and youth achieve their very best.

#### Oral Questions

##### SURGERY WAIT-LISTS AND IMPACT OF ST. MARY'S HOSPITAL CLOSING

**J. Kwan:** The latest statistics show there are some 85 patients waiting for orthopedic surgery at Eagle Ridge Hospital. Some of those patients have been waiting for as long as four months for surgery. As a result of the B.C. Liberals' decision to close St. Mary's, as many as 306 patients also waiting for orthopedic surgery will be transferred to Eagle Ridge — more than tripling the size of the waiting list.

Can the Minister of Health explain to patients waiting for orthopedic surgery at Eagle Ridge and St. Mary's why the government is forcing them to wait even longer?

[1415]

**Hon. C. Hansen:** There's some good news the member may not be aware of. Actually, in the last year we increased the number of hip replacements done in this province by 14 percent; we increased the number of knee replacements done in B.C. by 11.3 percent. Also, something the member may not be aware of is that just last week, Fraser health authority opened the fifth operating room at Eagle Ridge in order to build more capacity for that fast-growing part of the lower mainland. In addition to that, they're planning to open a sixth operating room at Eagle Ridge to make sure that the increased capacity can be developed to meet the needs of patients.

I was faced with information earlier, in the last month and a half, that indicated to me that the St. Mary's board was going to run out of working capital by January of next year. I had an obligation to make sure that the very patients the member is referring to can continue to get access to the care they need into the new year, and the decision was made that those services would be transferred to other facilities.

**J. Kwan:** You know, with all due respect to the Minister of Health, that answer just doesn't wash. The fact is Eagle Ridge's wait-list has actually gone up, and since this government took office, orthopedic wait-lists have exploded, rising by more than 53 percent. St. Mary's is an important centre for orthopedic surgery. Now, as a result of its closure, patients will have to wait even longer.

There are 1,433 British Columbians waiting now for cataract surgery at St. Mary's. Most of those patients will be transferred to Burnaby Hospital, where there are already 780 patients waiting for the same procedure. Some of those patients have been on the wait-list for six months. Can the minister tell patients how much longer they will have to be forced to wait for cataract surgery as a result of his decision to close St. Mary's?

**Hon. C. Hansen:** I have every confidence that the Fraser health authority is going to be able to build the capacity that is necessary to make sure patients continue to get access to the care they are counting on, whether that's at any of the facilities in the region. The decision as to what the future of St. Mary's is, is clearly up to the board at St. Mary's.

I was provided with information that showed that they were going into a financial crisis as of January. That very information called into question whether or not the patients who were counting on that ophthalmology care or the orthopedic care or the other services that would be provided.... Those patients would not necessarily be able to count on getting that care at St. Mary's, given the financial crunch that they were facing. We made the right decision to make sure that patients in the Fraser Valley and throughout the province can continue to get access to the care they need in a timely fashion.

**Mr. Speaker:** Member for Vancouver–Mount Pleasant has a further supplementary.

**J. Kwan:** You know what? This is the same minister who campaigned during the election to British Columbians that they'll get health care when they need it and where they need it. Wait-lists for eye surgery have already gone up by 11 percent since this government took power, and now patients have to wait even longer. There are 247 patients now waiting for general surgery at Eagle Ridge, but now 70 more patients will be added to that list because of the decision to close St. Mary's.

Again to the minister. He can spin all he likes and he can blame everybody else and not take responsibility for his own government's action, but the facts are simple. Under this government, wait-lists for general surgery have increased — up by more than 12 percent. Can he tell patients waiting for general surgery at Eagle Ridge Hospital and at St. Mary's why they're being made to wait even longer?

**Hon. C. Hansen:** Actually, the greatest increase in wait-lists happened in this province during the 1990s when her party was in office, in government. Last year we increased the number of major procedures that were done in this province, we increased the number of hip replacements, and we increased the number of knee replacements. Quite frankly, I think she should think carefully about the comments she has just made, because what she is asking is that we continue to make patients vulnerable to receiving their care in a facility

that had already indicated to us they were going to run out of working capital come January. That's not acceptable, from my perspective, and we had to take action to make sure that those very patients continue to get access to the care they are counting on.

[1420]

#### COLLECTIVE BARGAINING PROCESS IN EDUCATION SYSTEM

**R. Nijjar:** My question is to the Minister of Skills Development and Labour. In the past ten years, every collective agreement reached with teachers in the public education system has involved some form of government intervention. This is a frustrating experience for all parties involved, including parents and students, and reflects that the current bargaining structure is seriously flawed and in need of review. In light of these facts and the expiration of the current agreement in June 2004, can the minister tell us what he is doing to address this issue?

**Hon. G. Bruce:** The member is absolutely correct. We've seen a sad history of poor negotiations — in fact, none to speak of — in regard to getting collective settlement with respect to the teachers. I think it was Bill 26 back in the year 2002 that settled the most recent dispute. Under section 5, the minister was empowered to go ahead with the review process of the bargaining structure, and I gave that some time so the parties could heal, if you'd like.

At this point I have had Don Wright, a former deputy minister to this government and a former Deputy Minister of Education in the past administration, reviewing and meeting with different groups and organizations to bring forward to me some advice on how best to structure a process where we could bring the parties together and see if we could come up with a new process that would allow for collective negotiations to take place.

The member would be interested to know that prior to this, I met with the BCTF, the School Trustees Association and the Principals and Vice-principals Association as well as several other union organizations that work within the school districts. All agreed that the structure we are faced with today does not work, and all indicated to me that it was...

**Mr. Speaker:** Thank you, Mr. Minister.

**Hon. G. Bruce:** ...worth our attempt to get a new process in place.

#### INCIDENT AT VANCOUVER ISLAND REGIONAL CORRECTIONAL CENTRE

**S. Brice:** My question is to the Solicitor General. In the spring I asked the Solicitor General regarding a disturbance that had occurred at the Wilkinson Road jail on January 21 and was assured at the time that at no time was the neighbourhood at risk. I understand

there are some recommendations from the B.C. corrections branch that are currently under review. Could the Solicitor General please give my constituents an update on those recommendations?

**Hon. R. Coleman:** The disturbance ended peacefully, without injury, although there was a significant amount of damage to one of the living units at the time in January 2003. After every incident like this one, we actually do a review of our policies, procedures and risks. That report has been completed and has been reviewed by the ministry staff.

There were a number of recommendations around the correctional centre's contingency plans, actions with regard to a tactical unit and with regard to some of our emergency mechanical services. All of these recommendations have been acted upon. People in our corrections facilities actually have a pretty difficult and dangerous job, and I'm pleased we were able to avoid any serious injuries. I am confident that the corrections system will be better for this report, so we will implement some of the recommendations across the system.

#### SETTLEMENT OF POWER EXPORT CASE BETWEEN B.C. AND CALIFORNIA

**P. Nettleton:** The public has read contradictory statements this week on the announced out-of-court settlement between the state of California and B.C. Hydro. Some reports state that B.C. Hydro has forfeited up to \$450 million (Canadian) owed them for power exports. The Minister of Energy has stated — contrary to this — that with this settlement, in effect, B.C. has a much better chance to obtain the \$282 million that is owed to us by California.

I'm not as concerned with the dollar differences but with the fact that the minister is still of the view that California still feels obligated to pay B.C. for power delivered, in spite of continued opposition by the California Attorney General and others in the United States. Will the minister disclose comprehensively the details of the settlement, including all of the facts regarding its total cost to the taxpayers of British Columbia so that we may know whether we have won something here or not?

[1425]

**Hon. R. Neufeld:** Yes, British Columbians have won something. B.C. Hydro asked that there be a special hearing with FERC about their — Powerex, I should say — actions in sales of electricity to California during their difficult time in the year 2000-01. B.C. Hydro and Powerex had been put in the same box as Enron and all the other ones that were actually taking total advantage of the system. Powerex always said all they did was sell into a system that was set up by someone else.

We asked for a special hearing on that. We got that special hearing. Out of that special hearing came a number of good things. One of them is that B.C. Hydro and Powerex were not involved in any of those scan-

dals. That's good news for Powerex, and that's good news for the people of B.C., who own B.C. Hydro. We've not had any collusion of any kind with any other organization in the U.S. to try and make the prices higher than they should be. We have won that.

The issue about the \$282 million is a totally separate issue that we continue to pursue. They are two separate things. But there is good news for British Columbians.

#### SURGERY WAIT-LISTS AND IMPACT OF ST. MARY'S HOSPITAL CLOSING

**J. Kwan:** Under this government, wait-lists have increased by more than 20 percent. In 12 of the 14 categories wait-lists have increased. Now the government is closing an important hospital where over 2,400 people are waiting for surgery. When the Liberals were in opposition, they went ballistic over wait-lists. Now the government is deliberately jacking the wait-lists up.

To the Minister of Health Services: after more than two years in power, why are wait-lists getting much longer, when he promised they would be getting shorter?

**Hon. C. Hansen:** The good news is that the health care system, as we have redesigned it, is actually able to do more procedures than it has in the past. We had an increase last year of 38,000 in terms of the number of major procedures that were billed through the Medical Services Plan. I mentioned earlier that we had an increase in the number of hip replacements that were done last year by 14 percent, an increase in the number of knee replacements by 11.3 percent, an increase in the number of cardiovascular listings by 4.4 percent, an increase in obstetrics by 3 percent, an increase in surgical procedures by 4 percent and an increase in procedural cardiology by 8.45 percent. The health care system is meeting the needs of British Columbians.

#### MOUNTAIN PINE BEETLE CONTROL

**T. Christensen:** My question is to the Minister of Water, Land and Air Protection.

Interjections.

**Mr. Speaker:** Order, please, hon. members. Let's hear the question.

**T. Christensen:** Thank you, Mr. Speaker.

As all members of this House know, the pine beetle infestation has had a devastating effect on forests all around British Columbia. In fact, I'm told it has attacked upwards of four million hectares of forest, which is significantly more than what was destroyed in the Okanagan fires this last summer. Unfortunately, my part of the province, North Okanagan, has not been immune to this outbreak, and these little pine beetles do not respect park boundaries. As a result, a number of my constituents have raised concerns about the im-

pect of pine beetles on the trees within Silver Star Provincial Park and the potential fire hazard that is creating in the park for the adjacent resort area.

Can the minister tell my constituents what strategy the ministry is adopting to attack the mountain pine beetle within Silver Star Provincial Park?

**Hon. J. Murray:** I know the issue of the pine beetle is one that's of concern to the member's constituents — and park staff, as well, actually. That's why I accepted the member's invitation last month to go visit the site and see for myself. Looking at the number of marked trees, it was clear that there's an extensive infestation which over time will lead to more and more standing dead timber and fuel hazards for fire.

[1430]

Normally, prescribed fire might be used as a fuel management tool. In this case, it's clear that would create safety concerns and property damage in the Silver Star area, which would be a completely unacceptable risk. That's exactly why my ministry has a tree removal policy to allow us to remove such hazards. In this case, tree removal using environmentally sensitive methods and full restoration is the prescription. We're in the planning stages for removing approximately 25,000 to 30,000 cubic metres of standing dead trees and beetle-infested wood to deal with this issue.

[End of question period.]

### Reports from Committees

**B. Locke:** I have the honour to present the second report of the Select Standing Committee on Finance and Government Services for the fourth session of the thirty-seventh parliament respecting a special funding request by the information and privacy commissioner.

I move that the report be taken as read and received.

Motion approved.

**B. Locke:** I ask leave of the House to permit the moving of a motion to adopt the report.

Leave granted.

**B. Locke:** In moving the adoption of the report, I would like to make some brief comments. The committee held three meetings to consider the subject of special funding for the information and privacy commissioner as he begins his statutory and oversight duties under the new Personal Information Protection Act. After careful consideration, the committee recommends that the information and privacy commissioner be granted a sum of \$292,000 to defray expenses in relation to duties regarding the act for the present fiscal year.

I move that the report be adopted.

Motion approved.

### Orders of the Day

**Hon. G. Collins:** Mr. Speaker, before I call the orders for this afternoon, I'm advised that Sean Leslie, a CKNW reporter here in the Legislature, lost his father rather suddenly over the weekend. I ask that you, on our behalf, send our condolences to him and his family.

**Mr. Speaker:** So ordered.

**Hon. G. Collins:** I call Committee of the Whole House for consideration of Bill 63.

### Committee of the Whole House

#### YOUTH JUSTICE ACT

*(continued)*

The House in Committee of the Whole (Section B) on Bill 63; J. Weisbeck in the chair.

The committee met at 2:34 p.m.

On section 1 *(continued)*.

**Hon. G. Hogg:** I wanted to add a couple of comments in response to the member's questions this morning. She made reference to those children in care over the age of 16 and suggested there had been.... I think the word was "decimated" in terms of the numbers.

[1435]

I just wanted to point out that there are almost 1,500 children in that age group in the care of the ministry, which is an 8 percent reduction over the past three years. There are 190 children in that age group who are on youth agreements, which is an increase. The numbers are, hopefully, reflective of need as it exists within the community.

**J. Kwan:** I just want to be clear. When the comment about the services being decimated.... It's not the opposition who raised that issue. It's the people on the ground in the community who are providing services to youth that are saying that. I quote from the newspaper of November 1, Amy O'Brian. This is a quote from a person on the ground: Michelle Fortin, the executive director of Watari, a youth and family community services executive director. She said: "The reality is that services to the kids between the ages of 16 and 19 have been decimated."

The further issue that had been raised by people on the ground is this: "There's an unwritten expectation out there on social workers to not take any young person over the age of 16 into care, and it doesn't matter how motivated the young person is." That's a quote, once again, from Michelle Fortin, in the newspaper.

It's not being made up, in terms of the reality of what people are being faced with out in the community. The government has reduced some \$500,000 from its programming. The minister is suggesting that the

reduction in the programming, and the reduction in the caseload, is a result of the children-in-care caseload dropping. If the feeling from the community is that those caseloads are dropping, not as a result of need but rather as a result of some unwritten expectation on social workers to not take a young person over the age of 16 into care, then we have a problem.

I would actually suggest that the numbers perhaps show that. If the minister says there are some 1,500 young people — the number who are now in care, which is a reduction of about 8 percent — yet the youth agreement category has an increase, then it actually jibes with what the community is saying — that there is an issue here. There is an issue in terms of what service is available and what is not.

I would assert that one of the important things this minister needs to be doing is ensure that the programs are available. I understand the need to try and reduce caseload numbers in the ministry, and I would be happy if the numbers were reducing because the demand was not there — not through some force outside of the real need but rather through the force of the minister trying to drive budget numbers to meet his targets. That's a concern. When you have community workers saying that services for children — youth between the ages of 16 and 19 — are decimated, then I would say we have a problem. I would suggest that the minister ought to be turning his attention and energies into addressing that issue.

The question I asked the minister earlier is about other expanded programs for the community in terms of the intensive support programs, which is a key intervention youth program, as one option to address this question we're debating and in dealing with the flexibility provisions that have been made available under the federal Youth Criminal Justice Act. The question to the minister is: did the government and did this minister consider any of these other measures to address the flexibility provisions that have been made available under the federal Youth Criminal Justice Act?

[1440]

**Hon. G. Hogg:** In response to the member's question and commentary, just with respect to the \$500,000 reduction which was referenced, it is in the community youth justice area. A budget of \$34 million is the amount for youth justice. This represents a 1.5 percent reduction in that budget at a time when there's been a caseload reduction of some 30 percent. So it seems quite equitable to say that that is referencing and is consistent with the expectations. When we reduce the caseloads by 30 percent, a 1.5 percent reduction is a reasonable response to that. As well, we're trying to diversify and ensure that our programs are adequate and appropriate across the full spectrum of services needed.

The member also referenced the issue of intensive supervision and support, and I think we dealt with that earlier this morning as well. We do have, by far, the best intensive support programs in Canada. There have been no reductions to that, and it is generally accepted and recognized as the most adequate in terms of the

range of supports available in youth justice services in Canada.

We did look at that; we are happy with that. We are quite satisfied that we continue to have the best support programs available for community support in the youth justice area.

**J. Kwan:** I understand the member from Vernon has some questions for the minister, and I have further questions for the minister under this section as well. I have, however, to step out of the House for a few moments. So I'm going to yield the floor to the member from Vernon, and I'll return to ask further questions of the minister on this section.

**T. Christensen:** I just have a few brief questions in respect of some of the definitions in section 1. Section 1 deals specifically with definitions that then apply through the rest of the act. Some of my questions are intended to get clarification as to exactly what the intent is. Certainly, this first question is. I find that in the definition of "contraband" — under subsection (f) there — it refers to "the person in charge of a youth custody centre." That term "the person in charge" is referred to on a few occasions through the act.

The question that comes to mind is: is there a single person in charge of each youth custody centre, or is it the person in charge at any particular time when somebody might find themselves? Obviously, the relevance in terms of contraband is that one of the aspects of what would constitute contraband under this act is any substance that, in the opinion of the person in charge of a youth custody centre, may threaten the management, etc., of the facility.

So my hope is that the person in charge is actually the person in charge at the time I or somebody else actually arrives there; it's not just a single person.

**Hon. G. Hogg:** The member is correct; it is the latter. It is the person who is in charge of the institution. Obviously, the director of the institution is not there 24 hours a day, seven days a week, so it is the officer or the staff member who is in charge at any given point in time at the facility who would make those determinations.

**T. Christensen:** Thank you to the minister for that clarification.

The second question is with respect to the definition of what is an offence, which is "the contravention of an enactment." I know there's often some confusion when we speak about justice issues generally, because of the shared jurisdiction between the federal government and the provincial government. Perhaps the minister could just expand briefly on what constitutes an enactment for the purposes of this legislation.

[1445]

**Hon. G. Hogg:** The enactment is limited only to provincial statutes. It doesn't apply to any of the federal legislation around that.

**T. Christensen:** With respect to the definition of parent, would that include a foster parent?

**Hon. G. Hogg:** It would not apply to a foster parent. However, if it was a child who was in the care of the state, there would be a social worker who would act as the guardian, and in fact the state may be the parent. Therefore, in that instance there would be delegated authority to act in that manner in that case.

**T. Christensen:** What's a consequence of being a parent for the purposes of the act? I know certainly there's a provision further on — I think it's section 5 — that deals with the requirement to provide notice to a parent where a youth has been arrested or is otherwise in trouble. But can the minister explain sort of the broader implications of being found to be a parent under this act?

**Hon. G. Hogg:** Well, the consequence of being a parent for the purposes of this act includes ensuring... The intent of the state is that young people have their parents, and their parents are informed, interested, involved and have every opportunity to attend the proceedings, to participate in the proceedings and to be a part of the decision-making process. So it's an intent, an expectation, that the role of parents becomes part of the court proceedings and process to ensure that they're engaged, involved in and can carry out the roles and expectations which are normally expected of parents with respect to young persons.

**T. Christensen:** Is there any legal obligation imposed on a parent to participate in the proceedings or to actually be involved in their child's justice problem?  
[1450]

**Hon. G. Hogg:** There's a requirement for notification, but the judge has discretionary ability to make a determination with respect to whether or not a parent must attend. Some of the criteria that would be used or the tests applied with respect to that would have to do with the maturity of the young person. Obviously, if it was a 12-year-old person, the judge would be more likely to compel the parents to be in attendance, rather than somebody who might have been independent and out on their own for some considerable length of time. Ultimately, the judge has the discretion with respect to making that determination.

**K. Stewart:** I have a question with regard to the definition of "sentence." Further along, it talks about if a person has been sentenced and they get an absolute discharge. When they get an absolute discharge, the court considers it to be in the best interests of the young person and not contrary to the public interest. Is it at that point considered a sentence, under the definition of "sentence," if they get an absolute discharge?

**Hon. G. Hogg:** Yes, an absolute discharge is deemed to be a sentence under the purposes of the act.

**J. Kwan:** The flexibility programs that the minister talked about earlier.... The specific question I had was in relation to intensive support. Perhaps the minister can enlighten me and tell me what's happening in that area, particularly with intensive support programs for youth.

**Hon. G. Hogg:** Just expanding on the notion of intensive supervision or support for youth, it is indeed a long-established program with the Vancouver metro intensive support and supervision program, the DARE program in Vancouver, the Fraser region intensive supervision program. These primarily provide one-to-one workers who have caseloads of from six to ten. They provide for the support and supervision of conditions, support and recreation, mentoring, assistance in all kinds of fashions.

This government, this ministry, has expanded that program. There was \$400,000 that has gone out to the north and interior to provide intensive supervision in some of the smaller communities rather than just the metro areas, so they have access to that. On top of that \$400,000, in terms of contracting for intensive supervision, there have been a further 18 full-time persons who have been allocated to work in it. So it is seen as a broad-based program — a program that provides an alternative to custody, a program that helps provide the comprehensive range of services which are in the best interests of being able to provide supports to youths who are in conflict with the law.

[1455]

**J. Kwan:** Would there be new moneys to this ministry to enhance the intensive programs that the minister talked about, new moneys that were being considered for this upcoming budget and new moneys that the minister will be injecting in addition to the bill we're debating today in dealing with youth justice issues?

**Hon. G. Hogg:** As I've stated, there have been a further 18 staff members and \$400,000 which have gone into these programs in the interior and the north. We will not be expanding it beyond that. We have the broadest range of intensive supervision programs in Canada with that expansion, and we have a declining caseload. We are meeting the need adequately at this time — in fact, more than adequately.

**J. Kwan:** With all due respect, I would suggest that we would need more funding and more support in these areas. The minister may think it's adequate, but the reality is that the people on the ground, in the community, are saying it is not — particularly for a youth between the ages of 16 and 19 — to the point where people are saying they feel resources and access to programs for this age group have been decimated. The crisis is in fact increasing as opposed to decreasing, as the minister would like to suggest.

I'd like to ask the minister this question. The federal legislation differentiates violent versus non-violent crimes and aims to reserve custody — or jail time, as

the Solicitor General likes to call it in the media — for violent crime. Was the new provincial youth act guided by this same philosophy?

**Hon. G. Hogg:** I think there may be some confusion in some of the questions or references the member has made with respect to the articles in the paper, which I think are referring to issues that may have to do with child welfare as opposed to the youth justice issues we're focusing on today. I don't think there was, to my recollection, any reference to youth justice within the context of those articles.

While we're looking at comprehensive service delivery models, it is clear that today we're talking about those matters as they apply to youth justice rather than to the issues of child welfare. While there is certainly some overlap, there is clarity with respect to the expansion that has taken place in youth justice and the reduction of some 30 percent in the caseloads or the demands there.

With respect to the specific question as to whether or not the same principles were being followed, the answer is yes. In this provincial legislation, custody has been maintained only for those most serious of the provincial statutes and is in fact not available for less serious crimes. There is a distinction and a line drawn between those to reflect the role of custody as a consequence.

**J. Kwan:** No, there isn't any confusion in my mind. The issue here is this. We're debating this youth justice bill, which the Solicitor General and the Attorney General are on the record in the media saying they want to see in place because it is meant to be a deterrent for youth crime and particularly for serious crimes, as the Solicitor General has put it. The message that I think the Solicitor General is trying to put forward is, of course, the notion that we need to be tough on crime, particularly in dealing with youth — even though the statistics show that youth crime is actually on the decline and has been for at least ten years.

[1500]

The issue that I raise with the Minister of Children and Family Development deals with children at risk. We know that children at risk particularly are the sectors or groups of people that may well come into conflict with the law down the road. If the programs for dealing with children at risk, for youth at risk, are not adequate, then we run the risk of seeing more problems amongst the youth population. The best solution, by far — in dealing with children at risk, youth at risk, in preventing crime — is to do some preventative measures, which is why I raise these questions, Mr. Chair, in relation to this bill that we're debating today.

If we want to talk about decreasing youth crime, if we want to talk about some measure of deterrence, if you will, then if you ask the experts what are the best things that one could do, what are the best things that governments could do, government is saying, "Increase your preventative programs or your preventative measures," and that's how these items link. That's why

I ask about the intensive programming that has proven to be effective, which the community folks on the ground are saying is what we should be doing. This is why I ask, say and suggest that we should be increasing the funding in those areas instead of actually bringing forward a bill to deal with more jail time for youth — more custody time, if you will.

Jail time for youth, by the way, is the term the Solicitor General has used in the media. I'm suggesting perhaps the minister should be putting his attention to the area where you can actually prevent the crime from taking place in the first place, and that is preventative measures. They fall directly in the mandate of this minister, and that's how these two things link. You can't separate one from the other. The notion of where, in my view, in the philosophy of deterring youth crime by putting in tough measures would work in the context where youth crimes have actually gone down is a mystery to me. This is why I asked the minister the question: where did this philosophy come from? How was it guided, which brought this piece of legislation before us?

**Hon. G. Hogg:** I think the answer to the member's question is that, in fact, we do need both. We have increased our funding for early childhood development, for intensive supervision and for family development. That is an important part of the focus, but we also need deterrence. There are two kinds of deterrence: individual and general deterrence. Individual deterrence is based on the premise that the imposition of a consequence or a punishment will cause the individual offender to refrain from breaking the law again. Individual deterrence therefore occurs after the law is broken, and it prevents further or future offending.

General deterrence, on the other hand, is based on the premise that persons who might otherwise commit offences will refrain from doing so because of the fear of the consequences. Those fears include custody. Therefore, general deterrence prevents crime in the first place. While I will allow that as a general rule adolescents do not typically think about the consequences of their actions nor think they may be caught, there is no question that a young person who does experience a custody sentence for a very serious offence will think again before repeating that offence when he is returned to the community — again, individual deterrence.

However, while not all youth may think or learn from the example of what individual youth do, it is likely that at least those in his immediate circle will know what consequences were imposed on the individual, and they, too, will think twice about committing similar offences — which is, again, general deterrence. For example, a youth who breaks a principal's order to leave the school grounds because of gang-related activities will be individually deterred in a serious consequence if a serious consequence were imposed, while his gang colleagues will be generally deterred after learning about his sentence — therefore, the difference between individual and general deterrence.

[1505]

As the member will note, section 8 provides for the option of a custody sentence for a specified list of the most serious of provincial statute offences. The common theme in the selection of the listed offences is the need to maintain the integrity of the administration of justice, and of safety and order in key public services. These offences are all concerned with breaches of court orders or with serious intrusions into key public institutions, specifically failure to comply with a youth sentence; driving while prohibited; bringing contraband into or trespass of a youth custody centre or adult correctional centre, which are also part of the administration of justice; a breach of a protective intervention order under the Child, Family and Community Service Act; contravention of a school principal's order to refrain from being on school premises; assisting or counselling a patient to leave a mental health facility.

Mr. Chair, it is vital that firm consequences at least be available to the court to address the most egregious circumstances in these kinds of serious offences. If not, then there is a danger that the administration of justice and the maintenance of the integrity and order of these important public institutions could be undermined.

As a specific example for the member, section 28 and section 98 of the Child, Family and Community Service Act allow for the court to make a protective intervention order or a restraining order in circumstances where a child or a youth is being sexually exploited. Usually these orders are made against adults and, quite thankfully, rarely against youth.

Nonetheless, there are some youths who are involved in the pimping of young girls. If a protective intervention is made against a youth and that youth breaches that court order by contacting the sexually exploited girl again, the present law does not permit the court to impose a custody sentence. We would have a situation where a youth is being sexually exploited, and the court order that attempts to continue can only deal with that continued exploitation by placing yet another court order or probation.

I think that is simply wrong in this circumstance. We cannot have youth breaching court orders with impunity in serious circumstances and putting other children at risk. Such measures tend to undermine the integrity of the administration of our justice and, I believe, erode confidence in the justice system.

This type of legislation will help to restore some confidence in such instances. I think the specific example of a young male who is involved in sexual exploitation of a child, wherever that may be.... With a court order under the Child, Family and Community Service Act, this will give the courts the opportunity to impose at least a custody sentence — albeit short — in an effort to protect the young girl, as provided in this instance.

I believe that is the right way to go. We need to have deterrence. We need to have the ability to protect youth in those circumstances and to maintain the integrity of the court system rather than having the only access to the judges in those matters being that of placing it under further probation order. It is clear in that

circumstance that there is need for heightened sanctions in order to protect the public and maintain the integrity of the system, and this does precisely that.

**J. Kwan:** Thank you, hon. Chair, with the exception that there are some gaping holes in the minister's argument. Aside from the issue that the resources are inadequate in terms of preventative measures for youth, there are also issues raised by others with respect to the enforcement side of things.

Let me actually just put on the record a letter to the editor of the *Vancouver Sun* on November 3 by B.C. Crown Counsel Association president David Jardine. He writes:

"The recently published Vancouver Board of Trade study on property crime in Vancouver initiated much debate last week in the Legislature about crime. The introduction of the Youth Justice Act, Bill 63, and reports of increased organized crime have also contributed to the discussion. The Premier, Attorney General and Solicitor General have all assured the public of their commitment to safe streets.

"But none of this debate has touched upon the impact that budget cuts introduced by this government are having upon the ability of provincial Crown counsel to prosecute crimes. Without a concurrent commitment to increase the resources given to prosecute crimes, there is little public benefit in hiring new police officers or introducing new legislation.

[1510]

"The budget for prosecuting services was reduced this year by \$5.5 million, with more to come next year. Victim services offices have been eliminated. The work that used to be done by 35 victim services workers is now done by Crown counsel, who are already stretched far too thin.

"Senior Crown counsel are leaving and taking their years of experience and judgment with them. The remaining Crown counsel have been told there is not enough money in the budget to fund job reclassification to replace the lawyers who have left, even though they are prosecuting the most serious and high-profile cases in the province.

"The Crown counsel office is in trouble, and with due respect to the Premier, Attorney General and Solicitor General, it will take more than verbal assurances that the government is committed to safe streets and safe communities to fix it."

"David Jardine, President

B.C. Crown Counsel Association"

With all due respect to this minister, he can sort of stand up and say, "Hey, everything is fine. The programs are being funded. Do not worry. Things are fine, and we're putting these measures in place," but in reality there are gaping holes in dealing with the issue, and the minister knows this.

It appears to me that there isn't any differentiation between violent and non-violent crimes in the drafting of this piece of legislation. I think the philosophy that actually prompted this government to act is from the Solicitor General's notion that somehow the penalties, if you will, for youth are too soft. He wants to send a message, just a message, for political reasons that we need to be tough on crime for youth instead of actually

trying to deal with the problems — wanting to prevent the crimes from taking place to begin with.

The Solicitor General also made some noise last week about introducing legislation next spring to make strip searches of prisoners Charter-proof. Is there anything in Bill 63 that anticipates this legislation as far as youth custody centres are concerned?

**Hon. G. Hogg:** Just with respect to the comments on Crown and prosecution, the youth court cases in '91-92 were 13,224. The latest numbers we have are for 2000-01, in which there were 9,727, which represents a 25 percent reduction in the workload of Crown in the youth justice area — as the member made reference to Mr. Jardine.

[1515]

It should also be pointed out, as we did this morning, that this act does not change the sentencing. It just changes the consequences. There will be no change in terms of the increase of work that Crown would be involved in. The demands or the sanctions that could be provided are the only difference. It should have no impact on the workload of Crown. I'm sure Mr. Jardine, when he has a chance to look at it, would understand that.

The other question is with respect to strip searches that were made reference to. The Solicitor General, I think, made reference to that within the context of the Vancouver Jail, and that's contained under the Correction Act. He has suggested he will be reviewing the issue and addressing it in the future. If, in fact, there are amendments made or changes to the Correction Act that required there to be consequential amendments to this act, then that would be looked at and undertaken at that point in time.

**J. Kwan:** Yes, youth crime has been on the decline, as I had mentioned during this debate, but the reality, of course, is that other crimes — property crimes particularly — have been on the increase under this Liberal watch. The Crown counsel's office has had to deal with those kinds of increases as well. The \$5.5 million impacting the Crown counsel's office is not limited to just the youth services component but is for this entire operation. The reality is that the Crown counsel prosecutors are actually having a tough time as a result of the budget cuts from this government.

If this government is really serious about doing something about preventing crime and preventing repeat offenders from committing crimes, as the Minister of Children and Family Development was just claiming, then why is the Solicitor General cutting his public safety and policing budget by almost \$20 million this year? Why is he increasing the number of cases that each probation officer must now be responsible for? This will mean, for example, less supervision for people out on the streets or under house arrest, which is a population at considerable risk for re-offending. Why not put the money back into enforcing existing laws instead of just creating new ones for public window dressing?

**Hon. G. Hogg:** There has been an enormous reduction in the number of youth property crimes. In 1991 there were 13,504 and in 2002 some 4,700, so there's a dramatic shift with respect to that. With respect, it obviously has an impact on the workload that grows out of that. With respect to youth probation officers and the caseloads they carry, the caseloads in British Columbia average 23, which is the lowest in Canada for youth probation officers. In about 1997, I believe it was, the caseloads averaged closer to 53.

[1520]

There has been a dramatic improvement in terms of that and in the ability of the youth probation officer to provide more personalized, individualized attention to each individual on their caseload to ensure that they're able to provide for the range of services we have been talking about as we move forward. With the issue of probation and youth probation officers, we are amongst the very best or are certainly the best in Canada in terms of the caseload numbers.

**J. Kwan:** It doesn't change the reality that the Solicitor General's office has actually cut some \$20 million in public safety and policing services. The minister, I think, knows this very well. When I say that property crime had been on the increase, I'm not talking about property crime conducted by youth. I'm talking about property crime in the general population. I'm talking about crime generally speaking. All except for youth crime has actually been on the increase.

When we talk about the prosecution services and the budget being reduced by some \$5.5 million.... Their office has to deal with the entire spectrum of crimes that are being committed in British Columbia and prosecute them accordingly, not just the youth segment itself. So it's misleading, to say the least, to try and skew the numbers in the way in which I think the minister is trying to suggest.

Aside from the items that I have raised, there's another issue here. That is that we understand that Bill 63 anticipates further regionalization of youth justice services. Can the minister, first of all, indicate what sections of the bill are relevant in that regard, and will this regionalization occur after, before or concurrently with the fulfilment of the government's new-era promise to return 75 percent of the traffic fines collected to municipal governments?

**Hon. G. Hogg:** Continuing on the previous discussion with respect to the number of offences, there has been a dramatic decrease in the number of offences for both adults and youth. The member is focusing on youth and acknowledging the adults as part of it. But still, if we look at the number of property offences in 1991, there were 303,838, and in 2002 there were 268,866 property offences. So, again, there has been a dramatic reduction in those numbers, which is reflected in the workload.

The member asked questions with respect to regionalization being contemplated, anticipated and facilitated with respect to Bill 63. That is in fact the case.

With respect to the timing, that's contingent upon meeting the readiness criteria, and that will include ensuring that there is adequate service transformation and that our budget targets are under control and being met before the governance model is put into place.

[1525]

There is an active involvement of the community in that area, both aboriginal and non-aboriginal community. There are planning committees existing in each region of the province. There have been over 14,000 consultations that have taken place with respect to those. It is our expectation that they will meet those as well as the KPMG readiness criteria sometime within the next two years. That is the expectation. That is the focus they're working on. I think the outside date that the aboriginal community was seeking was 2006, with a recognition that they needed more time to develop capacity and an ability to respond to these matters.

With respect to the question regarding the 75 percent return of traffic fines to communities, the Premier responded to that in the recent past and said that it was a commitment that was made and would be completed prior to the end of the term of this government or prior to the next election. Consistent with that, the time frames that we're dealing with for regionalization are consistent with the numbers that we've laid out in our service plans and continue to work with.

**J. Kwan:** The minister knows very well that crime actually had been on the increase, save and except for youth crime, and particularly property crime. I have just sent a note to my office for them to send me the stats so I can put that on record. For the minister to suggest otherwise is simply untrue. It's simply untrue, and I'll put the stats on the record when I receive that, Mr. Chair.

[H. Long in the chair.]

It's interesting, as well, in terms of this minister trying to deny the fact that the government is not actually funding preventative measures in a way that I think is demanded for the community. The community have actually come forward and said that the programs for ages 16 to 19, for youth, have been decimated. In spite of what the people on the ground are saying, this minister is saying: "Don't worry. Everything is fine, and things will proceed accordingly."

It is interesting to note, as well, that a report conducted by this government came forward with summaries and conclusions calling on the government to put more resources into preventative measures as a way to deal with youth crimes. Just to take a quick quote from this document, the report paid for by the government, entitled *Profiling the Repeat Offender: Implications for Early Intervention* by Nicholson and Artz, 2003:

"Our child welfare, education and mental health systems must also have prominent roles in responding to the needs of these youth. We see that focusing on early prevention and intervention may provide the best chance for reducing recidivism by preventing children's

involvement in the youth justice system in the first place. The evidence points to the need for very early intervention for at-risk children, zero-to-five years, and their families...

"We need to offer parenting supports for families, develop and fund school-based identification and intervention programs and ensure that effective links are developed between prevention and intervention initiatives. Improved integration of funding and operation of all child-serving organizations is imperative.

"If we take seriously the proven relationship between poverty and youth delinquency, we would do more to ensure that parents of young children have access to employment opportunities. We would consider implementing graduation incentive programs to motivate youth to finish their high-school education."

You know, instead of going in this direction, Mr. Chair, the government is actually going in the opposite direction. We know that in the Ministry of Education, there is tremendous pressure in terms of underfunding for programs in the education system. We know that anti-bullying programs have been taken out. We know that counselling programs have been taken out. Programs that encourage students to stay in the school system — some of those have been eliminated because of the funding pressures put on by this government.

To suggest that the government is doing everything it can and in fact is doing a great job is simply false. I would submit that the minister should know better than that — the minister ought to know better than that — and just touting the government line is quite frankly not good enough.

The question to the minister, though, relating to Bill 63 around what sections would be relevant with regard to regionalization of the youth justice services.... I don't believe the minister actually gave me an answer on that.

[1530]

**Hon. G. Hogg:** I'm sure we'll be able to deal with that when we get to section 24, which is the relevant section dealing with the appointments for regionalization.

**J. Kwan:** So section 24, then, deals with regionalization.

On the question around the 75 percent of the traffic fines collected to municipal governments, it is interesting because the minister refers to the Premier's comment that in 2005 moneys will be transferred to local governments. The question is actually raised now: why is it that during the campaign, in the *New Era* document, nowhere does it say that 2005 is the year to which the commitment will be made? Why is that idea a good idea in 2005 — that is to say, 75 percent of the traffic fines will be transferred to municipal governments for policing — and why is it not a good idea now?

**Hon. G. Hogg:** I'm sure the member knows that the new-era commitments were not designated with specific time frames. Certainly, as the government gets its budget in order — given the challenges we have inherited — we have to deal with those new-era commit-

ments across the course of our mandate, and we will do that.

**J. Kwan:** The economic woes that this government is dealing with are a creation of this government. Make no mistake about that.

Unemployment is at a nine-year high under this Liberal government. Unemployment is now over 200,000 in terms of people needing jobs, the highest in nine years — 9.1 percent under the Liberal watch. The government would like to blame everything on the NDP, but the reality is that the responsibility is theirs. The economic performance under this government is worse than it has ever been in the last decade.

The fact is this: the government chose to give tax breaks to the corporations and the highest income earners; and lo and behold, the tax breaks did not pay for themselves. Therefore, they have to cut programs, including the Ministry of Children and Family Development — \$500,000 of which are programs being cut from this ministry, impacting services across the board for many British Columbians and, I would venture to say, impacting children and youth services as well.

The minister knows very well what those impacts are and how the community is hurting as a result of that. There are many program cuts yet to come in the next budget year. So for the minister to try and blame it on the previous government.... Guess what. It's the new era; it's now two and a half years into the Liberal watch. The responsibility is this government's.

**The Chair:** Order for a moment, please, member. I remind the member that we're now on section 1. We're not in second reading debate, and therefore the House would prefer that you stick to the issues in section 1 of the bill.

**J. Kwan:** I was just responding to the minister, who tried to blame the previous NDP government for his problems. I'm simply responding to that, Mr. Chair.

The final piece that I would raise with the minister is this. When I receive that information, I will actually table it for the minister's information, and that is, of course, the crime statistics and how under the Liberal watch, the crime statistics — all except for youth crime — have actually been on the increase. Property crime particularly has actually been on the increase, contrary to what the minister had suggested.

Section 1 approved.

[1535]

On section 2.

**K. Stewart:** With regard to the persons under the age of 12, we all know that crime doesn't really hold off at any age. There's definitely a gravitation towards one's negative peer subculture, and crime is not an area that alleviates this. What do we do about the children under the age of 12 who are committing crimes and who aren't covered by this act? Can the minister comment on that?

**Hon. G. Hogg:** We are very consistent with the age 12 and the under age 12 with every province in Canada. With under age 12, we don't want to get into the prosecution. It is much more appropriate to respond with the parents. We expect parents to take care of their children, to be able to manage them under age 12, and by and large, they do that. In those exceptional instances when that does not occur, there is intervention that the state can provide through child welfare, through mental health — a number of support services that can be provided. The end game with respect to that is the apprehension of a child should the parents be unable to control or manage them. Then they would come into the care of the state, and services would be provided consistent with the practices under the Child, Family and Community Service Act.

**K. Stewart:** We talked about the demographic change of youth and the difference in the numbers of cases handled by the youth probation officers. I believe the comment was that in 1977 there were 53, and in 2001 there were 23. How does that reflect the demographic change of 13-to-16-year-olds, in the comparison between...? That seems like almost a 50 percent reduction in the amount of youth being under the direction of youth probation officers, as compared to the number of youth out there in those two periods of time.

**Hon. G. Hogg:** I think the member is asking, with respect to the demographics: what are the actual numbers that are reflected in that? We've seen the projections from StatsCan and B.C. Stats that suggest there will be a reduction, I believe, of some 40,000 children over the course of about a six-year period. We're partially into that, so we've seen a reduction of.... I don't know what the exact numbers are, but certainly in the demographics of children under the age of 18, there has been a dramatic reduction. We've seen reductions across the schools of this province and seen a number of schools closing as a result of there not being any higher numbers.

We don't have a specific number that we can correlate the actual numbers to the impact that it's having on caseloads, but we are satisfied that using the caseload management tools, we're able to look at and ensure that the caseloads being carried out by our staff are consistent with their ability to respond to it.

We have more intensive supervision, and we have a better quality of supervision than was in existence when caseloads were at 52 and 53. The youth probation officers are able to take on more responsibilities as a result of that and keep better track of the youths under their charge and, as a result, should be able to provide us with a safer, more consistent form of protection within communities.

[1540]

**T. Christensen:** On section 2, Mr. Chair, the minister a few moments ago talked about the situation of how the state can respond to the child under 12 who

commits what would otherwise be an offence if they were over 12. I certainly recognize that we're talking about a real delicate balance and that we're dealing with pretty young kids here, but at the end of the day the public has a right, I believe, to feel that they are being protected and that protection of the public plays a significant role regardless of the age of an offender.

I'd like the minister to expand on what his ministry's ability is to deal with children who can't be prosecuted but who may pose a danger to the public. How does the ministry ensure protection of the public from those children? Recognizing that this is a very, very rare circumstance, it is something that — when it does occur — certainly raises a lot of concern in communities it occurs in, and people do need that assurance.

**Hon. G. Hogg:** There was some media coverage in the not too distant past of a young person under the age of 12 who was involved in car thefts and who appeared to be continuing with those car thefts. I assume that's the type of example the member is making reference to. In those instances where there does not seem to be any way to manage the child within the range of services, then it is one-to-one programming that is put in place, which means there would be one staff member assigned — in those very rare and exceptional circumstances — to work with and to be with that individual 24 hours a day. They would work a shift, and then another one-to-one person would come with them. They manage to work and to control and to protect the public safety by having a correctional officer, it may well be, or certainly a child care worker working one to one with that person and remaining with them 24 hours a day to ensure that the public is kept safe and to ensure that the protection of that child is also guarded and maintained.

**T. Christensen:** Just to follow up on those comments, I take it that in that — again, it's a rare circumstance — one-to-one attention, that child is then getting some pretty intensive attention to any underlying difficulties. I recognize that perhaps the ministry doesn't have a whole pile of these types of cases it can refer to, but is the minister able to comment on whether we've seen any success in handling things that way?

**Hon. G. Hogg:** As you say, the cases are indeed very exceptional and rare. In the matter we have been referring to, there was a comprehensive mental health assessment done for the individual. There was eventually a placement in a family-based care home with continuing support from child care workers and from psychiatric experts in the field.

We are cautiously optimistic in this case that the interventions that have taken place are having some successes in helping this child cope more appropriately and adequately with the challenges he sees before him. So there are some examples of our being able to develop a case-specific program that meets the psychiatric, psychological and social needs of the individual and being able to continue to provide those services in

the hopes that the child will have a more normalized life in the future.

[1545]

**J. Kwan:** I now have the information with respect to the crime statistics I mentioned earlier. For the minister's information, in the second quarter of 2003 there were 130,268 Criminal Code offences reported in B.C. — 8 percent, or almost 100,000 offences, more than the second quarter of 2002. This number represents a 9 percent increase from the second quarter of 2001 and a 12 percent increase from the second quarter of 2002. Between 2000 and 2003 the number of Criminal Code offences reported has increased an average of 2 percent, or approximately 10,000 offences each year.

If you look at the chart that's provided in the *2nd Quarter 2003, Quarterly Crime Report*, highlights from 1993 to 2002, the Criminal Code offences and crime rate in B.C. have actually been on a steady decline from 1993 until 2000. Then it started to have a reverse trend, where the numbers started to go up again.

Starting in 1993 the number is 516,537; in 1994 it's 516,122; and in 1995 it's 523,317. Then in 1996 it's 535,859; in 1997 it's 504,442; in 1998 it's 487,384; in 1999 it's 467,384; in 2000 it's 459,609; in 2001 it's 470,126; and in 2002 it's 478,635. In fact, the numbers have actually been taking a reverse trend, if you will.

Property offences, including motor vehicle theft, break and enter, fraud, theft and possession of stolen property. In 2002 the police reported 268,866 property offences, an increase of slightly less than 2 percent compared with 264,587 offences reported in 2001. The property crime rate rose 1 percent from the 2001 rate, increasing from 64.5 offences per 1,000 persons to 64.9 per 1,000 persons.

**The Chair:** Would the member please give me the relevance to section 2.

**J. Kwan:** The relevance is that I'm trying to tie into the minister's earlier answer with respect to crime rate and how it has actually gone up under this government's watch, as opposed to under the previous government.

**The Chair:** Member, I think if you check section 2, it's to do with children under 12.

**J. Kwan:** Yes. Thank you. But in the context of overall crime trends in B.C., I think it is important to put it into perspective. It was established earlier that youth crime is actually on the decline as opposed to on the increase. All the other crime categories have actually been on the increase since 2003. I'm simply trying to establish that point with the minister.

Sections 2 to 5 inclusive approved.

On section 6.

**J. Kwan:** On section 6, is the change from the "pre-disposition report" in the Young Offenders Act to the

"pretrial examination and report" just one of language? The role of the probation officer, in that he or she can recommend not going to trial — is that the same as before?

**Hon. G. Hogg:** There is simply a change in the wording, but it also facilitates contracting out, as an example, for aboriginal agencies to be able to carry out some of those responsibilities. The expectation is that it remains the same, although providing for the provision of contracted aboriginal agencies and perhaps other agencies to carry out those responsibilities as well.

[1550]

**J. Kwan:** When the minister talks about contracting out agencies or services in the aboriginal sector and other sectors.... Could he expand on that, please?

**Hon. G. Hogg:** This simply reflects current practice. In fact, there are some services which have been brought in-house so that we're able to maintain the number of youth probation officers that we have — as an example, community service orders — so that we can continue to function within that. It reflects current practice.

**J. Kwan:** It always makes me worry when any minister in this House says it reflects current practice. Usually it means something else. Usually it means it's something brand-new. I don't know if that's the case in this instance, so I'm just going to probe a little bit deeper here with the minister around that issue.

The notion of contracting out their services — in the case of aboriginal community services, could the minister please outline the process in which the government embarks on with respect to that?

**Hon. G. Hogg:** The process would vary in some smaller communities where there would be one service provider. It may be a direct award in some instances where there are a number of agencies which could provide the services. It may well go to tender, and the types of services they would provide would be such things as community service orders, case aides, alternate measures program, intensive supervision programs. The types of programs we've been talking about would be the types of programs that would fall within that ambit.

**J. Kwan:** When the minister says they would be contracted out, is it non-profit sector community groups who will provide the services on the ground in the community, or would some other private agencies actually bid on these contracts?

**Hon. G. Hogg:** As far as I know or we know within the context of the aboriginal community, there are no for-profit agencies. They are all non-profit within the aboriginal communities.

**J. Kwan:** Does the ministry embark on consultation processes when the ministry decides to contract out a particular service related to this?

**Hon. G. Hogg:** Yes, we do engage in consultation.

**J. Kwan:** Could the minister please advise with whom?

**Hon. G. Hogg:** If the member is still referring to the continuity of the discussion around the aboriginal issues, then we have a memorandum of understanding which has been signed with the four elected aboriginal leaders in this province: the First Nations Summit, the Union of B.C. Indian Chiefs, the Métis Provincial Council of B.C. and the United Native Nations.

I meet regularly with them, and we continue to consult with them. We also have within each of the five regions aboriginal committees, which are working on the development and planning of programs and program and service delivery within their regions. I also meet with them on a regular basis, and they meet across the committees. In fact, the committee for the north was meeting in Prince Rupert, I believe, last week, and they had some 60 people from across the north who were involved in this consultation and who were providing information in support to the ministry.

[1555]

**J. Kwan:** What about for the non-aboriginal sector?

**Hon. G. Hogg:** We have a somewhat similar process with the non-aboriginal community. There are five planning committees in existence in five regions of the province. I meet with the chairs of those committees on a fairly regular basis, as well as with the aboriginal chairs, and they provide the input and information. I think, as we've stated many times, there have been those committee chairs, and the committees in each of the regions of the province have been very active in their participation and involvement in gathering input from the communities. They are the groups who actually involved some 14,000 people across this province in the consultation process.

**J. Kwan:** Could the minister provide the opposition with a list of the contracts and their amounts to organizations to which services have been contracted out related to this in the non-aboriginal as well as the aboriginal sectors?

**Hon. G. Hogg:** We can provide a comprehensive list of the community youth justice, both aboriginal and non-aboriginal programs, and I will ask the assistant deputy minister to compile that list. I assume that the member's not interested in the contracts, because they would probably require a truck to deliver those. However, we could list the contracts, what area they are in and the amounts of each contract.

**J. Kwan:** Yes, that would be much appreciated. The final question under this section that I have for the minister — and I'm not sure if I heard the answer earlier — is the role for the probation officer, in that the role used to be that the probation officer can recom-

mend whether or not to go to trial with a particular case. Is this still the same now, under this section of the act, as before?

**Hon. G. Hogg:** Yes, it remains the same and is captured under subsection (5).

**T. Christensen:** I did have a question on subsection (5). It certainly reflects that a prosecutor can request that the youth probation officer prepare a report, recommending whether or not to proceed with a prosecution, and then the prosecutor presumably makes that ultimate decision. Can the minister comment on the accountability in that scenario where...? Obviously, the prosecutor can choose whether or not to accept the recommendation of the youth probation officer. But is there any opportunity for review of that process for folks that are concerned about it, or is it simply within the prosecutor's discretion, and that's where it's left?

**Hon. G. Hogg:** No, it is the prosecutor's decision with respect to that. They have the final say in that, and there are examples where there might be alternate measures which would be proposed. The victim may be concerned about that and may go to the prosecutor, and the prosecutor would want to include it rather than going to alternate measures. The responsibility and accountability is vested with and remains with the prosecutor ultimately.

**T. Christensen:** That accountability rests ultimately with the prosecutor, regardless of whether it's a youth probation officer or perhaps an outside agency that is requested to prepare that report?

**Hon. G. Hogg:** That is correct.

Section 6 approved.

On section 7.

[1600]

**K. Stewart:** On section 7(2), it says "Despite subsection (1) (b)..." I'm assuming that in subsection (2), the person is still found guilty, and it says they may "dispense with a pre-sentence report if the court is satisfied that the report is not necessary." Let me first clarify with the minister that this is subject to a person first being found guilty and, second, that they may dispense with the pre-sentence report. What would be the rationale behind that, and what are some examples where a pre-sentence report, after a person is found guilty, may not be necessary?

**Hon. G. Hogg:** Yes, you are correct, if a finding of guilt has already been determined. Two instances or examples where they may not require a pre-sentence report would be if one had been completed in the very recent past or if a youth was already in custody and there was a great deal of information known about

them, and they had been convicted of something or a proceeding occurred whilst they were in custody. There would be a great deal of information in place and therefore no further information required with respect to assistance in disposition.

**K. Stewart:** Just to clarify, the minister is indicating that the information would already be there — so not to duplicate the process. It's not that they would do it in the absence of that information.

**Hon. G. Hogg:** Yes, that's correct.

**J. Kwan:** Under the Young Offenders (British Columbia) Act, there were predisposition reports and dispositions, and in this new Youth Justice Act there are pretrial examinations and reports as well as a pre-sentence report in this section. Does this signal a change in terms of the process, in terms of how one goes about dealing with these issues, or is it just a language change?

**Hon. G. Hogg:** There is simply a change in terminology; no change in process. This is to ensure we remain consistent with the changes in terminology that have been as a result of the changes in terminology in the federal act.

**J. Kwan:** Is it the same probation officer who would provide the pre-sentence report? Are they the same individuals who would actually do that work — the probation officer who would write the pre-sentence report?

**Hon. G. Hogg:** Yes.

**J. Kwan:** Am I correct in reading section 7(2) that if the court gets the consent of the prosecutor and the young person, without necessarily involving the young person's counsel, they can dispense with this report? Why is it the case that the young person's counsel is not necessarily included? One would expect that legal counsel for the young person is pretty important and should be included. Why is it excluded, and how does this compare to the rules under the Young Offenders (British Columbia) Act?

**Hon. G. Hogg:** The wording is the same under the Youth Criminal Justice Act, and so it's again to be in concert with that. There may be some rare instances where a youth would not be represented by counsel, but that would be extremely rare, where that instance may occur.

**J. Kwan:** The language of 7(2): "Despite subsection (1) (b), the court may, with the consent of the prosecutor and the young person or his or her counsel, dispense with a pre-sentence report if the court is satisfied that the report is not necessary." So the minister is saying that one can proceed without counsel, although it's a rare instance. Am I right in understanding that?

[1605]

**Hon. G. Hogg:** You are correct that they require the consent of the prosecutor and the young person or the prosecutor and the young person's counsel. Obviously, the young person informs and gives direction to the counsel in these matters, and so the member is correct in that instance.

Section 7 approved.

On section 8.

**Hon. G. Hogg:** I'd like to move an amendment to section 8 that is on the order paper in the name of the Attorney General.

[SECTION 8, in the proposed subsection (2) (e)  
(a) by adding "or" at the end of subparagraph (iii), and  
(b) by deleting subparagraph (iv).]

On the amendment.

**J. Kwan:** I've just found the amendment being referred to by the minister. I wonder, before we pass it so very quickly, if the minister could just advise if there's anything substantive with respect to this amendment.

**Hon. G. Hogg:** No, there's nothing substantive. There is an inconsistency between two paragraphs, and it just corrects that inconsistency.

**J. Kwan:** I'm just reading through the amendment, which says that under section 8(2)(e), by adding the word "or" at the end of the subparagraph (iii)... Oh, I see. It just gives an option of sub (iii). I see. Okay, it is not substantive.

Amendment approved.

On section 8 as amended.

**T. Christensen:** In respect of the court's ability to impose a fine, which is in subsection (2)(b), does that include any...? My recollection is that the court typically has an ability to impose, essentially, an additional levy that can assist victims, or in some cases a court can impose a restitution order — in property matters, for example. Are those embodied by this act as a whole, or can you find them somewhere else? Are they in any way precluded by this \$1,000 limit that's in subsection (b)?

**Hon. G. Hogg:** This does not deal with victim fines or surcharges, because these are victimless crimes. These are crimes against neither property nor person. The restitution is contained in separate sections. Section 10 makes reference to restitution provisions. We will soon be getting to that portion.

[1610]

**J. Kwan:** Section 8 establishes tougher penalties, including custody, that the government has trumpeted

in presenting Bill 63 to the media and to the public. Can the minister tell this House how many youths were charged over the last three years with specific offences that the government is increasing the penalties for?

**Hon. G. Hogg:** We don't have for the past three years, but I can go to 2001-02 and the Motor Vehicle Act. Driving while prohibited or suspended, there were 146 charges. While driving prohibited, there were six. The School Act, failure to leave school premises after directed by an authorized person, 69. The Young Offenders (British Columbia) Act, refusing to comply with a disposition order, four — for a total of 225.

We have year-to-date in 2002-03, and the year-to-date total is 136. One of those is to contravene protective intervention order, 81 are driving while prohibited or suspended, two are driving while prohibited, one is committing an offence while licence under suspension, and 51 are instances of failure to leave school premises after being directed to do so by an authorized person. That's year-to-date 2002-03, and that goes to October 29 of this fiscal year.

**J. Kwan:** Does the minister have the stats on how many youths charged with crimes — or have been charged per the stats the minister provided — are in the care of the ministry?

**Hon. G. Hogg:** If the member's question is with respect to the intervention that was provided and the admissions to custody and probation, then in 2002-03 there were two admissions under the trespass of correctional centre who were placed on probation — one for four months and one for six months. Driving while prohibited, licence, there were 20 admissions. Eight of those were placed on probation, and 12 received custody — seven days each for the 12 in custody. The probation orders were in lengths from three to 12 months. The year-to-date for breaching a Child, Family and Community Service Act restraining order, there was one person who received a one-year sentence of probation. Trespassing on a school ground, there was one custody for one day. Driving while prohibited, licence suspended, there were two placed on probation — one for three months and one for six months. There were 13 custody sentences for driving while prohibited or licence suspended, each for seven days.

**J. Kwan:** I appreciate the information that the minister has provided. What I really meant, though, was in terms of youth charged or have been charged with crimes who are in the care of the Minister of Children and Family Development. That is to say, they're youth under the care of the ministry in that sense but not in a custodial, probation or sentencing sense.

**Hon. G. Hogg:** We do not have that data. That would have to be searched on an individual name basis to be able to break down these instances of charges to see how many of those were, in fact, children in care.

**J. Kwan:** Would the minister have a rough idea, Mr. Chair?

[1615]

**Hon. G. Hogg:** The most educated guess, which I have just received, suggests that they would be very minimal and that these are primarily driving offences — driving while prohibited or licence suspended. Because of the propensity of that to occupy these numbers, the expectation is that there would be very few children in care who would fall into that category.

**J. Kwan:** And that would include the School Act component in terms of suspension as well.

**Hon. G. Hogg:** That is unknown, but it's very likely that it's a very, very small proportion.

**J. Kwan:** Following section 8, the court must impose one or more of a list of sentences, including a fine of \$1,000, community service of 240 hours, probation of six months, sentence the youth to 30 days in jail, sentence the youth to 90 days in jail, prohibit the youth from driving for two years for a failure-to-stop offence under section 100 of the Motor Vehicle Act. How many of these sentences can be combined?

**Hon. G. Hogg:** In theory, all could be combined. In practice, that does not happen. In practice, they try to cater a response that appropriately meets the needs of the individual and the offence. If it was a driving prohibition, it might typically be some custody with some probation appended to that, rather than trying to look at combinations with respect to the custody orders.

**J. Kwan:** What rationale did the government use in choosing the offences it would apply these tougher penalties to? What research was done to form the basis for this policy decision?

**Hon. G. Hogg:** The consultation involved an internal review of all provincial statute offences, looking at and consulting with staff at the Solicitor General ministry, the Attorney General ministry, the Ministry of Education in looking at issues with respect to school trespass and of course, the motor vehicles branch with respect to those instances. The common theme within that was a breach of a sentence or failure to comply with some order that was made or some condition that was placed on behaviour. The sanctions provided and the list developed are being driven by that principle, by a direction being given and a failure to comply with that type of direction.

**J. Kwan:** What rationale did the government use, then, in choosing the offences that would require custody?

**Hon. G. Hogg:** The principles were protection of the public and integrity of the justice system. The of-

fences which were most serious under those criteria were the ones that received the strongest sanctions.

[1620]

**J. Kwan:** If you look at the cases the minister cited earlier in terms of those in violation of the Motor Vehicle Act and those in violation of the School Act particularly, those tend to be the higher numbers even though, relatively speaking, the numbers generally for youth crime are low. None of those cases actually deal with gang activities, it appears to me. If I'm wrong in understanding that, the minister should correct me, if he will, please. It appears that none of those offences actually deal with sexual exploitation, which is really the thrust behind this bill that I know the Solicitor General, the Premier and the Attorney General had touted in terms of the tougher penalties that would apply. It's mystifying in terms of that.

Well, let me just put that question to the minister first, so that I understand correctly in terms of the decision on the penalty and deciding to apply the tougher penalties and choosing the requirement of custody, relative to the actuality of how many of the stats the minister provided have to do with gang activities and sexual exploitation.

**Hon. G. Hogg:** The School Act may involve but not necessarily involve coming onto the school grounds and issues of gang recruitment, of sexual exploitation, of drug trafficking. All of those instances could be covered within the School Act and a principal making an order or giving direction with respect to that, and this is providing a sanction or support for that position taken by the official at the school.

**J. Kwan:** Well, does the minister know actually how many of the School Act violations have to do with gang activity concerns or sexual exploitation concerns? Those could also be a suspension — not to minimize the issue, but for other reasons. How many of those actually have to do with gang activities and sexual exploitation?

**Hon. G. Hogg:** No, we don't know the specific numbers. However, if there is, as a result of this legislation, one fewer young girl who is sexually exploited, then the legislation is worth it. If there is one fewer person who is recruited by a gang or intimidated for that purpose, then this legislation, I believe, serves a unique and appropriate purpose.

We don't know the actual numbers, but we do know it has taken place, and we do know the schools need this and want this as a support and a sanction for that. We believe this will provide the lever or the tool to assist in that matter.

**J. Kwan:** That's troubling, in understanding that the minister doesn't actually have the facts before this legislation and the penalty provisions which we're now debating in this House are established. One would have anticipated that the minister would know, par-

ticularly when it's being touted as a highlight in the press release from the government that deals with the issues around gang activity and sexual exploitation.

The highlight of the Youth Justice Act — I quote from the press release: "Youth who trespass on school property for the purposes of sexual exploitation or gang activity can now face custody instead of fines, community service or probation." We don't know how many youth in the past have been charged as a result of sexual exploitation issues and gang activities, yet the minister and this government deem it fit to actually bring in legislation to deal with that. It's perplexing to me.

The minister also advised earlier that he's consulted across government — the Solicitor General, the Ministry of Education and the Attorney General amongst other ministries — to get that information. Yet he actually doesn't know how many cases have happened in the past in relation to this.

[1625]

Then it brings the question: if we don't know how many cases are involved in these very serious matters related to gang activities and sexual exploitation, then how do we know the penalties that are being brought forward actually justify that call? Do we know that those penalties, going in the other direction, are actually tough enough?

One would expect, though, that in coming to that determination, one would have a sense of how many cases are actually occurring related to these matters and, therefore, would be able to more appropriately come up with the penalties that should apply. If the minister doesn't know that information, how is it decided which offences would involve a sentencing of 30 days versus 90 days? How did the minister come to that decision?

**Hon. G. Hogg:** I just want to reinforce that the numbers were provided, and I assume the member's asking for a breakdown within the School Act. We know the numbers of offences and charges under the School Act. I gave those numbers earlier: in 2001-02, 69, and under the School Act in the 2002-03 year to date, 51. We don't have the breakdown specifically of what each one of those constituted.

With respect to the specific question around how we differentiated between 30 and 90 days, the 90-day sanctions are for the two provisions that are deemed to be the most contentious or most egregious in the process — those being a breach of protective restraining orders under the Child, Family and Community Service Act and, under the Motor Vehicle Act, driving while prohibited or suspended. Those are the two offences for which there is a 90-day offence, and again, those were deemed to be the more serious in the regime of offences.

**J. Kwan:** Yes, the minister gave me the stats on the breakdown of how many were involved with MVA violations and how many were involved with School

Act violations and the YOA violations for the respective years 2001 and 2002 and the year-to-date number.

The issue I take with the minister when I asked the question is: particularly with the violation of the School Act, which is the trespass provision, how many of those 69 cases involved gang activities or sexual exploitation? The minister did not know the answer to that.

I raise the concern here in relation to the press release that was sent out by the government, which was dated October 28, 2003: "Stronger Measures for Youth Enhance Public Safety." In it: "'We're working with the police and the communities to keep kids out of gangs and make sure B.C.'s schools and communities are safe,' said the Solicitor General." Then he goes on to talk about how we need to be tough on crime. Then it highlights in the Youth Justice Act, "Youth who trespass on school property for the purposes of sexual exploitation or gang activity can now face custody instead of fines, community service or probation," as one of the highlights of the Youth Justice Act.

[1630]

One would expect that if the government is going to highlight a particular penalty for a particular crime, they would know how many incidents have taken place in the past related to that crime. The issue I take with this government and this minister is that they do not know that information. They don't have the facts before them, and they are just sort of riding along and going along and making it up as they go. That's troubling because we're debating a serious bill here on a serious issue.

The government highlights the notion that you need to be tough on crime, particularly related to these crimes, yet they don't even know how many cases have actually occurred. They don't even have that very basic information. Really, how can we have a proper debate when the government doesn't have these basic facts to form their decisions? It would appear to me that instead of informed decisions being made by government, they are just perhaps engaging in political pandering — with public anxiety, with a message of getting tough on crime when they don't even know how many cases actually involve youth in these very serious matters in terms of gang activity and sexual exploitation.

The minister says, on the question around 30 days versus 90 days, they make the determination on the basis of how serious they determine the offence to be. Can the minister outline for me, with offences such as failure to comply with a youth sentence or the possession of drugs or other contraband or trespass at a custody centre, what penalties were applied before for these offences?

**Hon. G. Hogg:** Firstly, with respect to the righteous indignation over not being able to break out specific cases, I would submit on behalf of this ministry and this government that the numbers are irrelevant. What is important is the fact that one person has been sexually exploited and there's an opportunity to respond to that. What's important is if there's been one person

who has been recruited at a school for a gang activity, we need to have a sanction to be able to respond to and look at that. We know the numbers in terms of gross numbers. We haven't broken them down into individual numbers with respect to that, but I contend that that is irrelevant.

What is relevant is that this government is giving an opportunity to respond to and look at and deal with issues of sexual exploitation and gang recruitment. That's what's important. It's important that we're taking a stand and making some direction and giving some focus on that — not that we know exactly what those numbers are, because that's not relevant. The fact that one person is being offended or sexually exploited in a school and there's no sanction or that they're breaching an order and there is no sanction is what's relevant.

With respect to the specific question with respect to what the sanctions were previously, failure to comply remains the same at 30 days. There was no custody available for trespassing previous to this, and this is proposing that there be 30 days added to that. Our sanction changed from no custody to 30 days.

**J. Kwan:** What nonsense from this minister who tries to claim he's doing the right thing to protect children. In fact, it's this minister who's actually made a mess of his own regionalization plans, cutting budgets in his own ministry, hurting children. He knows very well that's exactly what's happening under the Liberal watch, under this minister's watch.

[1635]

Then further, to say it is not relevant for the government to draft laws they have brought in that we're now debating under Bill 63 — penalties that apply for youth that violate some of the most serious crimes, including gang activities and sexual exploitation of other youth. He says it doesn't matter whether or not we know that prosecution is actually taking place and whether or not there are successful prosecutions taking place and what is actually happening on the ground. He says that's not relevant for debate and that we shouldn't have that information. We should just simply go in with our eyes wide shut and somehow justify that it's the right way to make laws with this government.

I find that, quite frankly, shocking. It is absolutely astounding for any minister of the Crown to say, "I don't have the basic information and knowledge about what is happening out there on the ground, but that is not relevant. I'm just going to create laws anyway, and I'm just going to say penalties apply, and we're going to be tough on crime," when he doesn't even know whether or not these laws and these penalties are, in fact, effective and when people on the ground are saying the minister is better off putting forward preventative measures rather than penalties.

For the minister to suggest that not knowing the information is something he should be proud of and, therefore, justifies the government making laws on that basis is shameful. Nobody's suggesting that we shouldn't have these laws in place. I'm not suggesting that, but I am questioning: on what basis is the minister

coming to these conclusions? I'm questioning: on what basis and what factual information does the minister have to determine that this bill needs to be before us? How does he go about setting the penalties he has brought in place? It is unbelievable for this minister to suggest that not knowing the information is somehow a good thing and to try to suggest otherwise in seeking that information from the opposition is somehow not relevant to debate.

The offences in terms of sexual exploitation and gang activities.... In terms of how many people....

Interjections.

**The Chair:** Would the member address her comments through the Chair, please.

**J. Kwan:** Mr. Chair, I have not even directed the question yet. I have actually just been putting forward the background with respect to my question. You know what? When a person speaks, looking at other places in this chamber does not mean that the person is not directing the question through the Chair to all of the hon. members. For the members to be heckling me while I ask these questions, and they take offence.... When I look at them in response — with their incredibly insulting approach to debate in this House — that is somehow offensive to them.

[J. Weisbeck in the chair.]

Wow. An opposition of one in this House raising questions related to this bill, asking fundamental questions on how this minister and this government came with the decisions around the penalties they have brought forward under this section of the bill, based on experience and knowledge and facts.

The facts related to how many cases the minister has cited in the years 2000 and 2001 that relate to the gang activities and sexual exploitation, and the minister could not answer that question. He did not have the information. Yet the government deems it fit to bring forward a press release to say it is a highlight for this government to bring forward Bill 63, because they must get tough on youth crime, and they must get tough on gang activities and sexual exploitation with youth, when they don't even know how many of those cases they have actually prosecuted. They don't even know how many actually involve gang activities and sexual exploitation. That is a shameful display from a government, bringing forward a piece of legislation as we debate this matter in the House when they don't even have the fundamental, basic information.

I asked the minister the question about previous penalty. Let me ask the minister with respect to a previous penalty: in terms of possession of drugs and other contraband or trespasses at a correctional centre, what was the previous penalty for these offences?

[1640]

**The Chair:** Member for Chilliwack-Kent.

**B. Penner:** I can't resist the temptation to get into this discussion.

**The Chair:** Member, if you're following this debate, I'd like to have the minister respond to the question first of all before you stand up, please.

**B. Penner:** As you wish.

**Hon. G. Hogg:** As I said earlier, the sanction previously for trespassing was probation. This is proposing 30 days. I don't want the member's comments to be misleading this House. We do know exactly how many charges were laid. I read those into the record previously. The question that the member is asking with respect to specific contraventions within those — and the members will recall, as I read into that, the Child, Family and Community Service Act, contravention of the protective intervention order.... There was one charge or one charge so far this year. In compiling this data, we are using sheets which have been available and have been used by the previous government in terms of compiling this as well.

It is part of the position we've taken that even if there is one person who is sexually exploited, if there are no sanctions, we want to be able to respond to and answer that parent when they come forward with respect to those instances to say that we actually have taken action and are able to provide a sanction which is not consistent with probation but does provide a sanction with respect to some custody time. That's what is being referred to, I think, when the member makes reference to a report that she is reading. We have the exact numbers with respect to the acts and the description of those. We do not have the breakdown of the subset within those, but we do know that they have taken place.

**J. Kwan:** I asked the minister very specifically: of the violations under the School Act, of those 69 that the minister had reported, how many involved gang activities or sexual exploitation? The minister said he did not know. That's on record from this minister. The issue that I take with this minister and this government is that they do not have the fundamental information, the basic facts — something as basic as to say, under the violation of the School Act, how many of those involve gang activities and sexual exploitation.

It is this government who brought forward a press release highlighting the need to bring forward this law under the Youth Justice Act that youth who trespass on school property for the purposes of sexual exploitation or gang activity can now face custody instead of fines, community service or probation. It would make sense to me, even though it appears it makes no sense for any of the government members, to find out that basic information and then to assess how the government arrived at these tougher penalties — whether or not that makes sense.

Then, further than that, to try and determine if of those kinds of offences.... Perhaps there are other of-

fences. If the minister doesn't even have the breakdown of those offences, what other offences might be deemed by the public significant enough that would warrant tougher penalties?

We don't know. We don't know because we don't have the breakdown of this information. The minister can get up and sort of play this holier-than-thou act to say, well, if we can prevent one event from taking place on the school grounds, then it's worth it and this piece of law is therefore effective and important. He can play that holier-than-thou and play God if he wanted to with this piece of legislation, but that's not the issue. The issue is about getting the facts before us, being informed about decision-making and debating this bill and the questions that arise from them with knowledge. That's what it's about.

[1645]

Quite frankly, Mr. Chair, the minister has failed on that. All he can do is display a holier-than-thou attitude on this instead of answering the questions and not having the information, instead of actually seeking to get the information so that he, too, would be informed. Instead of doing that, he wants to engage in some showmanship that we have just witnessed earlier, and I think that's just shameful.

When I asked a question around trespass at a corrections centre relative to a previous penalty, it's different from the question I asked about trespass at a custody centre. The minister says the penalty previously is the same for the trespass at a custody centre. Then I take it that for both categories, the penalties are the same. Is that correct?

**Hon. G. Hogg:** That is correct.

**B. Penner:** I just want to respond to some of the things I'm hearing here. Maybe I can help add some context to these provisions that are before the Legislative Assembly.

It might interest the member for Vancouver–Mount Pleasant to know that her colleague actually voted in favour of this bill at second reading. Viewers might be surprised to know, after witnessing this holier-than-thou demonstration of mock indignation and gnashing of teeth, that their party actually supported this bill on second reading.

There's good reason to. In fact, I am not in the least persuaded by this member's argument that somehow inaction is the right course when it comes to protecting our young people. This....

Interjection.

**The Chair:** Would you please take your seat for a second.

Member for Vancouver–Mount Pleasant, I will not tolerate you correcting the Chair. The member for Chilliwack–Kent has the floor. He's entitled as much as you are to be part of this debate in this House. I've given him the floor, and he will proceed with his questioning.

**B. Penner:** If the member for Vancouver–Mount Pleasant had been paying attention during second reading debate, she would have heard the comments I made about my previous experience dealing with young offenders in the criminal justice system and where this lack of...

Interjections.

**The Chair:** Member for Vancouver–Mount Pleasant, would you come to order, please.

**B. Penner:** I am appalled that the member of the opposition is playing politics with the future of young people. I represented a young girl who in her early teens had been sexually exploited on a school ground — repeatedly. It was well known in the community among certain evil-doing people that this young girl had a mental disability, and she was being taken advantage of on a school ground. There was no provision in the School Act to put that kind of a person who was taking advantage of my client into a custodial setting.

I heard the member opposite saying that a custodial sentence is not appropriate. I disagree. For what was done to my client, that person should have gone to jail. I am proud to stand here today to say I'm going to vote in favour of this section and this bill so that what was done to my client isn't done to any more young teenage girls.

Shame on the member opposite. The time for dithering is over. The time for action is long past. Yes, it's true the previous government didn't do anything for ten years to help young clients like the one I had — young teenage girls. We're not going to take her excuses for inaction any longer. It's time to get behind this section and vote in favour, like your colleague did on second reading of this bill just a few days ago.

**J. Kwan:** I find it shocking in terms of what goes on in this Legislature. I actually don't mind the member for Chilliwack–Kent interrupting.

**The Chair:** Member, we're talking about section 8. Proceed with your questioning on section 8, please, or I'll pass the section.

**J. Kwan:** I will move on to section 8 in terms of questioning, Mr. Chair.

I also want to make this statement, Mr. Chair. The protocol in this House is such that you do not interrupt the flow of questions from members. I didn't mind yielding the floor to the member for Chilliwack–Kent when he interrupted my flow of questions with respect to section 8. I don't mind that. But on section 8, it is shocking where these members from the government bench would rise up and act as though they are the only people who care about justice, youth crime issues and safety in our communities when it is far from the truth.

[1650]

The opposition voted for this bill in second reading, and I'm not disputing that. What I'm questioning

through legitimate debate in this House is asking the minister for some factual information, which nobody in this House has. That is to say: how many cases that the minister cited last year, in 2001–02, relative to the School Act — the 69 cases that the minister quoted — involved gang activities or sexual exploitation matters?

The minister did not know the answer. None of the members in this House care to know either. You would think that's basic information one would want to know as we're talking about tougher penalties for those offences. You would think the Solicitor General, the Attorney General, the Premier and the minister would want to have those basic facts before they sent out the press release saying that they will now pass legislation to impose tougher penalties related to sexual exploitation and gang activities. They do not have that information, Mr. Chair, but somehow it is okay. It is okay for us to engage in debate about tougher penalties for these offences when nobody knows the background of how many offences that the minister cited actually involved these activities.

Maybe it's just me. Maybe it's just me who finds that shocking. Maybe it's just me who sits down and says, "As we're debating this bill, I want to be informed about it; I want to know some basic background information before we enter into this debate" — but not so. Not from the government bench, not from the member for Chilliwack–Kent, not even from the minister... That, to me, is unbelievable.

The previous penalties I asked the minister about with respect to possession of drugs and other contraband... The minister did not answer the question in terms of what the previous penalty was for this offence.

**Hon. G. Hogg:** Previously, there was no custody. Now, if this passes, it will be 30 days.

**J. Kwan:** What was the penalty? The minister says there was no custody, but what was the penalty? Was there no penalty at all?

**Hon. G. Hogg:** The options included probation, fine or community service.

**J. Kwan:** What about for offences related to unlawfully assisting or counselling a patient to leave a mental facility?

**Hon. G. Hogg:** The same previous sanctions and now 30 days.

**J. Kwan:** What about for someone who commits an offence under the Motor Vehicle Act for which an adult would be sentenced to a minimum period of imprisonment? What was the previously outlined penalty for that? What was previously outlined as an offence and the provision in terms of penalty for the MVA violations?

**Hon. G. Hogg:** The member will recall that paragraph 4 was deleted by way of the previously passed motion.

**J. Kwan:** Sorry, I didn't catch that answer from the minister.

**Hon. G. Hogg:** The member is going through these one by one. That section was the one that was deleted by way of the amendment motion.

**J. Kwan:** The question is: what was the previous penalty for this violation?

**Hon. G. Hogg:** The maximum was 30, and should this pass, the maximum will be 90.

**J. Kwan:** How about trespassing on school grounds contravening section 177 of the School Act?

[1655]

**Hon. G. Hogg:** The same sanctions as listed previously. Now it would be increased to have a 30-day custody as the maximum.

**J. Kwan:** What would constitute an offence under section 177?

**Hon. G. Hogg:** The breach of a principal's order to stay off school grounds.

**J. Kwan:** Is that the only provision?

**Hon. G. Hogg:** Yes.

**J. Kwan:** There are several distinctions made between different kinds of offences under the Motor Vehicle Act and different penalties. Could the minister outline these and the rationale behind the distinctions?

**Hon. G. Hogg:** Could I have the question again, please?

**J. Kwan:** The question is this. There are several distinctions made between different kinds of offences under the Motor Vehicle Act and different kinds of penalties that apply. Could the minister outline the rationale behind these distinctions?

**Hon. G. Hogg:** It's section 8(2)(f)(ii) of this. This is the action of driving while either prohibited or suspended, which is therefore in breach of an order and requires a more serious sanction than, for instance, driving with a broken tail light. The rationale was simply that in that instance, it's more serious because it is in breach of a previously established order.

**J. Kwan:** How has this changed from the Young Offenders Act?

**Hon. G. Hogg:** The only change is that the maximum sanction or penalty is increased from 30 to 90 days. That's the only change.

**J. Kwan:** Does the minister know how many youths have been charged with these offences?

**Hon. G. Hogg:** Yes, those were the stats we read into the record previously.

**J. Kwan:** On the YOA that the minister has stated, then, that's four? I think that's the number the minister gave earlier: four.

**Hon. G. Hogg:** I'm sorry. Did you want me to read them in again?

**The Chair:** Through the Chair, please.

**Hon. G. Hogg:** Yes. Under the Motor Vehicle Act, for failing or refusing to comply with a disposition order, there were four. Under the Motor Vehicle Act, for driving while prohibited or suspended, year to date, there were 81. Under the Motor Vehicle Act, driving while prohibited, there were two, and under the Motor Vehicle Act, committing an offence while licence under suspension, there is one, year to date.

[1700]

**J. Kwan:** In the numbers the minister read out, does the minister know if those apply more generally to youth at 16, or is it at the higher end in terms of the age group? I'm curious, particularly related to vehicle offences or the Motor Vehicle Act, because 16 is when young people can get their licence. I wonder whether or not there's any correlation in terms of violations.

**Hon. G. Hogg:** Once a youth is 18, they no longer fall under this. By definition, this would apply to 16- and 17-year-olds, and we don't have a breakdown between the 16- and 17-year-olds. But that's the only age group.

**J. Kwan:** Just one more question for the minister: 18 and 19 don't apply?

**Hon. G. Hogg:** No. At age 18, the provisions of the Offence Act apply because they are adults for these purposes.

Section 8 as amended approved.

Section 9 approved.

On section 10.

**J. Kwan:** Section 10 deals with conditional discharge or probation order. Under this section the court may require the youth to meet one or more of nine conditions. Can the minister advise how these differ from disposition probation orders under the Young Offenders Act?

**Hon. G. Hogg:** These are very minor changes in wording from the act that the member references, and that is the only change to it.

Sections 10 to 12 inclusive approved.

On section 13.

**J. Kwan:** Section 13 deals with custody under the Young Offenders Act. There was also a provision for custody. Could the minister outline how this has changed under Bill 63?

**Hon. G. Hogg:** It's actually the same as the Young Offenders (British Columbia) Act, section 12 — no substantive change to it.

**J. Kwan:** Sorry. Did the minister say section 12, or did I just not hear him correctly?

**Hon. G. Hogg:** Section 12 of the old act. Pardon me.

**J. Kwan:** Under the Young Offenders Act, there was a provision stating that a youth cannot be committed to custody unless there is a place available for the young person to serve the disposition. There doesn't appear to be a similar provision under section 13. Am I reading that correctly, first of all?

**Hon. G. Hogg:** The member is correct with respect to the Young Offenders Act, but it was only applied to intermittent custody. The condition with respect to a space being available required the provincial director to designate a place for intermittent custody, and that was the only portion of it that required that.

**J. Kwan:** Is that under the old act or the new act — the intermittent custody?

**Hon. G. Hogg:** Under the old act.

**J. Kwan:** That is not the case now in Bill 63. Why the difference?

**Hon. G. Hogg:** This does not provide for intermittent custody at all for youth.

Sections 13 and 14 approved.

On section 15.

**J. Kwan:** Section 15 deals with a review of sentence by the court. Does this court review process differ from that under the Young Offenders Act?

**Hon. G. Hogg:** They are substantially the same. The minor amendments allow a review of custody sentences after 15 days or a third of the sentence, whichever is greater, and previously leave of the court was required to review a sentence sooner than three months from the date of the order.

[1705]

**T. Christensen:** I'm not sure to what extent the Attorney General's office has used this provision to seek a review of a sentence. Can the minister comment on that

and, if it has been initiated by the Attorney General, the type of circumstances in which the Crown would be going back to ask for a review of a sentence?

**Hon. G. Hogg:** The instance would, again, be very rare but could be occasioned by, as an example, a youth probation officer thinking that there had been some changes in circumstances and wanting to go back and request that the matter be reviewed at that point.

Sections 15 to 17 inclusive approved.

On section 18.

**J. Kwan:** Section 18 deals with the appeal provision. Bill 63, section 18 reads: "The appeal provisions of the Offence Act apply to this Part." Could the minister please advise: does the appeal process remain the same for the youth as established for adult offences under the Offence Act?

**Hon. G. Hogg:** Yes, it simply gives youth the same rights of appeal as an adult — just some changes in terminology, but that is the intent.

Section 18 approved.

On section 19.

**T. Christensen:** On section 19, Mr. Chair, can the minister comment: given this is a violation ticket, what's the implication if the person writing the ticket thought the person was a youth but in fact was an adult? Does this suggest that a violation ticket would prove that they are a youth? It may be that because it's a violation ticket, there is no consequence of that. Can you provide some clarification on that?

**Hon. G. Hogg:** Well, the simple answer to the question is that the sanction provided to an adult, as well as a youth, is exactly the same in terms of the sanctions and the fine that would come out of that. There's a complex answer as well, but I think that, hopefully, satisfies it.

Sections 19 and 20 approved.

On section 21.

**T. Christensen:** Could the minister just confirm that the destruction-of-documents provisions here are consistent with similar provisions for adults?

**Hon. G. Hogg:** Yes.

Sections 21 to 23 inclusive approved.

On section 24.

[1710]

**T. Christensen:** Section 24 deals with the minister's ability to appoint probation officers. I think it's clear from

some of the earlier discussion around the act that in youth justice as a whole we vest a considerable amount of responsibility in youth probation officers. Certainly, my own experience, although limited, has been that youth probation officers do an incredible service for prosecutors and for the courts in trying to deal with youth who find themselves in trouble with the justice system. Could the minister comment just generally on what qualifications we require for youth probation officers?

**Hon. G. Hogg:** Briefly, a youth probation officer requires a degree in a relevant social sciences or social services field, some relevant experience and successful completion of a training course at the Justice Institute. Then they're qualified to apply and go through a further screening process.

Section 24 approved.

On section 25.

**J. Kwan:** Section 25 deals with youth probation officers and youth justice staff. Does the job of a youth probation officer change at all under this act?

**Hon. G. Hogg:** No, it doesn't.

**J. Kwan:** Will regionalization affect the job of youth justice services?

**Hon. G. Hogg:** It won't affect the specific on-line responsibilities and tasks a youth probation officer would complete. It would affect the organizational structure and the reporting relationships.

Sections 25 and 26 approved.

On section 27.

**T. Christensen:** Can the minister confirm whether this provision is anything new?

**Hon. G. Hogg:** No, it remains the same.

Section 27 approved.

On section 28.

**J. Kwan:** Section 28 deals with the youth justice programs. These are the programs administered by the Ministry of Children and Family Development. The existence of these programs was not referenced in the Young Offenders Act but in the Correction Act. Section 28 refers to the programs for young persons. Is this an expanded definition of youth programs? Let me just ask that question first.

**Hon. G. Hogg:** It simply updates the list — pretrial bail supervision being an example, and alternative measures and extrajudicial sanctions being two examples of the updated list.

**J. Kwan:** The list the minister refers to would be the list of programs. Are they based on existing, already operational programs?

**Hon. G. Hogg:** Yes, they are.

**J. Kwan:** How many of these programs existed under the previous government?

**Hon. G. Hogg:** The 12 that are listed there all existed in one degree or another previously. There have been expansions in some of those areas which are consistent with the focus of the new legislation.

[1715]

**J. Kwan:** Will there be other changes as a result of this new act in terms of these programs?

**Hon. G. Hogg:** There will be some further expansions in some of those — as an example, the victim and offender mediation and reconciliation program. There are pilot projects and more emphasis and information and funding going into that type of programming to try and find reconciliation that is community-based. Those will be focuses which we'll continue to follow, which are themes of the new act and themes that are reflected in this direction.

**J. Kwan:** Are there different kinds of programs anticipated in this section that were not possible under the previous legislation?

**Hon. G. Hogg:** No, there aren't, but the previous act had a section in it that talked about "without limiting," so that gave the provisions and ability under the previous legislation to do the same.

**J. Kwan:** What benefit to these programs accrues from the new Youth Justice Act?

**Hon. G. Hogg:** The benefits that accrue are primarily the change in focus, which looks at the federal legislation, which places its focus on establishing community-based services and programs. This legislation facilitates that and continues that direction and that focus, which has long been a theme in British Columbia, which is why British Columbia is deemed to be leading Canada in terms of youth justice programming. It is a continued focus on that. In many ways, the federal legislation, which was passed last April, was updating or getting caught up with some of the programs of British Columbia. We're now harmonizing with the federal legislation and continuing that focus.

**J. Kwan:** Would regionalization of the youth justice services affect the availability of these programs?

**Hon. G. Hogg:** No. It should not. The resources will flow to the regionalized process and to the communities who were carrying them out.

**J. Kwan:** In section 28(2) the bill refers to the Labour Relations Code, the Public Service Labour Relations Act and the Employment Standards Act. Would they apply to youth under the YOA or the Correction Act?

**Hon. G. Hogg:** Yes, the provisions are exactly the same.

**J. Kwan:** Could the minister please advise: what are the standards used to prevent the possible exploitation of youth in this context?

**Hon. G. Hogg:** These matters would apply to work programs within youth custody facilities and community service orders. There are sanctions available to a young person in those instances, either through the ombudsman, the program directors, their advocates or whoever may be the person who has responsibility of the child — so the parent or guardian in those matters. These are matters and provisions which make those types of programs possible and have been in existence for a long period of time so that the responsibility in a youth custody centre would fall to the operation of the centre to ensure that the young persons had access to appropriate advocacy within those programs.

**J. Kwan:** So this is not a new provision; it's an existing provision.

**Hon. G. Hogg:** Yes, that's correct.

[1720]

**L. Mayencourt:** I find section 28 one of the more interesting parts of it. I think it's a very important part of the legislation that we are talking about here today. Not having worked in corrections, I'm not really familiar with a lot of the programs that are listed here. I wonder if the minister could — if it's not too onerous a task — give some sort of a description of what these programs actually mean so that I can have a better sense of what's available to youth that come in contact with the law.

**Hon. G. Hogg:** I can give a very quick thumbnail on each of them, but we do have brochures on those programs which can be made available to the member. I know that the Vancouver region has a specific set of brochures, which I have seen recently, that lay out all of these programs. To do that may be the most appropriate way for you to get as much information as you wish.

Quickly, alternate measures or extrajudicial sanctions are alternates to court processes that may take place. Providing that, the community service program is a program working within the community. It may be by way of a probation order. It may be by way of a judge's sanction order that they participate in some type of sanction, some type of community service in order to compensate or repair the issues with the community. Restitution and compensation programs

could be the same, or it could be the payment by way of restitution, by way of funding.

Is this the type of answers the member is looking for? We can certainly thumbnail through the rest of them or provide you with the detailed brochures if that's of greater use and assistance.

**L. Mayencourt:** I will certainly take advantage of your suggestion of being able to pick these up — the brochures that are made available through the Ministry of Attorney General. Actually, I was kind of hoping for more of a... I'm trying to get a sense of this not just for myself but also for my community. I think this is a very key part of this piece of legislation and one that all of us need to have a fairly good handle on. I know these are sort of alternative types of justice, but I think those are really important that we articulate, so I would ask that the minister maybe go just a little more in depth. I think it would be of benefit to me and to my riding.

**Hon. G. Hogg:** Thank you for that clarification. If you look down at (a) through (l), they go in increasing sanctions from community-based alternatives — alternatives to custody — right through to maximum sanctions at the end of it. That's in accelerating order.

Picking up, I think, at (e), the day or residential attendance program. This is a person who may need more support than somebody simply on probation. They may be required as an order of probation or a condition of probation to attend an attendance centre, which may be a place that provides programming during the day — day programming — that allows them to participate in active life skills learning. It may be alcohol and drug programming but at a day centre that will provide them with that type of option.

A community supervision program. We talked earlier about intensive supervision, so they might be required to attend an intensive supervision program which would have probably one-to-one staffing or two-to-one staffing and have them involved in more intensive programming as a condition of probation to ensure there are further sanctions but supports provided within the context of the community. So they get more options, more supports and more learning opportunities within the context of the community.

A prebail supervision or hostel program would be prior to being sentenced, or rather than being placed in custody on remand, they may be placed on a bail order which will provide them with the same type of intensive support as a community supervision order but will provide that prior to a sentencing as a condition. This program may be somewhat similar, but it would be prior to being sentenced. It's an alternative to being on remand as opposed to being sentenced subsequent to disposition.

[1725]

A pretrial detention program would be somewhat similar to the pretrial bail program. Again, it would be a program without a bail order. It would be a program that would provide more intensive supervision and support within a community, if the judge had some concern that

there wasn't a positive alternative or that the youth may run rather than returning under a court order.

Open and secure custody programs are programs which are under the federal legislation, and "open" and "secure" are just phrases of different degrees of security. We provide an open custody program at High Valley, which is a wilderness program. The sense of custody is developed through the openness, but the isolation is created out of the wilderness, and it is secure. It would be the custody primarily supported and provided by way of walls and bars and locked doors.

A youth custody incentive or monetary program is usually an incentive program based on the principles of behaviour modification. It would say that in exchange for youths in custody meeting a set of conditions with respect to rules and regulations — expectations with respect to programs and following through with those for doing extra work, perhaps in the institution — funded through an incentive program, they would be able to earn a weekly allowance in response to behaviours consistent with the expectations of the institution and the programs they might participate in.

The other one is simply any other program or service that provides for the administration and supervision that are subject to their sentences. There are other types of programs which will be needed to respond to the needs of youth in custody or in the community, but certainly while in custody, that will provide a range of programs that meet the psychological, emotional and spiritual needs of an individual — so provide programs that will be able to effectively respond to those types of needs.

The member is quite correct. There are a wide range of programs that exist. The alternate measures at the top of that list provide an alternative to going to court. If somebody has committed an offence, they may be involved in some type of program that will be an alternative to going to court, so we get this dispute resolution based on a community response. In some instances, there are community panels that assist and work that through. It may be community work service, or it may be a program that allows there to be reconciliation with the offender. The offender and the person who has been offended may have a chance to meet and come to some type of resolution.

These are all community-based alternatives and alternate dispute mechanisms that recognize that often the somewhat esoteric approach of a court proceeding loses the youth within that. There are other alternatives that allow the youth to be more connected with the offence and more connected with the community. These, obviously, would apply at the top end of that for lesser offences and give more opportunity for them to be learning about themselves, learning about the offence, learning about the impact it's had on another individual, family or community and for them to be able to work through processes for managing and working forward with respect to that.

Hopefully, that gives a brief overview to the member of some of the sanctions outlined in that menu of sanctions.

**L. Mayencourt:** You've said they sort of rank in order of severity and what have you, so is this the order that a judge or someone — that is, a court worker — would go through? I mean, would you start at the top here with an alternative measures program and then move on to community service and so on? Is that the order you want to go in?

**Hon. G. Hogg:** It would, of course, depend on the severity of the offence and the protection of the public as well as the best interests of the young offender. With a very serious offence, you may come in further down the sanctioning system than at the top of it.

The ultimate sanction would be remand. The individual is picked up by the police and taken and held in police cells, appears before a justice of the peace and is held in custody in one of the detention centres over the course of their sentencing and court proceedings, and is then sentenced. That's at one end, and that would be for very serious offences that required an immediate response or sanction. Certainly, if it is an offence that is not at that end of the spectrum, then these measures are probably the logical processes that would be followed.

[1730]

**L. Mayencourt:** I thank him for that bit of a clarification. That's very helpful to me.

In his earlier answer, the answer to the first question, he said something that kind of caught my ear, and I wanted to just go back to it for a second. I think the words that you used were that behind this process, you were kind of looking for emotional, psychological and spiritual support for the young offender. I'd like to get a sense of what you mean by that. It's not that I find any of those words offensive, but I'm just trying to get a sense of what they mean to you in terms of.... The minister has worked in the youth justice system. I wonder if he could just tell me what he means by those words.

**Hon. G. Hogg:** Certainly in the spectrum of sanctions that are provided, there are some people who have a belief system that a young offender who commits whatever offence it may be is somehow lazy or has a character defect or a problem. At the other end of the continuum, there are those who would believe these are products of a family circumstance or situation or an ailing society in some way.

My belief is that it's somewhere in the middle of that, somewhere between that, and we need to be able to support.... Often these youths come in, and they are very confused. The world seems to be short-circuiting for them. They need a chance to have some ability to stabilize, to get a sense of who they are and to get the supports that come through psychological and psychiatric support to start connecting again with their communities.

They tend to get fairly isolated in the normalized behaviours which we expect for young persons. They can get their sense of identity in some instances

through gangs, in some instances through some types of bizarre behaviours, through alcohol or drug use. So it's being able to get that sense of stability and then being able to respond to their physical needs.

Often these youths come into custody, and they have not been eating well. In many cases, they've lost a lot of weight and they have many medical health problems. Responding to their physical needs is responding to their medical health needs in ways that allow them to get into good physical shape so they can actually start dealing with some of the other issues that are evident and prevalent in their life.

Second is the issue of the emotional: how do we then start being able to respond to them with the psychological, psychiatric and social support that they may need? In many instances, there are those who do need that type of support. The percentages have continually been growing in terms of those who are evidencing psychiatric ailments who are coming into custody. There has to be the type of support through psychologists, psychiatrists and mental health professionals within the facilities to allow them to work at, support and manage that.

In terms of their spiritual well-being, there is access to a number of spiritual options that would exist depending upon the belief systems the individual might have or might want to respond to. So there are all those that exist within that. At the same time, there are group activities, physical activities, that allow them to look at and manage that.

I mean a holistic approach to being able to respond to the needs of a young offender. How do we look at their needs, recognizing that all young offenders are going to be out of that facility at some point in time, if we're dealing with those who are in custody? We have to be able to prepare them for that and be able to integrate them in some positive ways.

The history of youth corrections around the world is not a very positive one in terms of being able to do that in ways that facilitate a fairly easy transition into community programming. We want to be able to identify what the issues are with our social work and probation staff, be able to put programs in place to start to respond to and work with the individuals around those, and try as best we can to assist them in preparing to go back into the community, in many cases to their families and in some cases back into independent living and whatever programs or whatever their life ambitions and goals may be. It's about that preparation, and it's about being sensitive to their needs on a broad base and being able to assist them in doing that.

[1735]

**L. Mayencourt:** The minister, it would appear, is speaking about a fairly holistic approach to these youth that are coming forward to the justice system, and I support that. I agree that taking a look at their physical needs, their emotional needs and their spiritual needs is very important.

Part of the reason I feel that is that I've met some kids in my neighbourhood. We have a fair number of

eastern European students in our community. Some of them have witnessed some pretty brutal things in their home country and have come to British Columbia, and some of them have been quite damaged by their experience. I think that's part of what some of the acting out that turns into an offence under this act is about, so I'm glad we are taking a look at it in a fairly holistic manner.

What about first nations youth? Travelling with the safe schools task force and select standing committees, I ran into people from first nations who talked to me about the system not really working for them simply because there wasn't a recognition of some of the cultural values they bring to this type of problem. How are first nations needs being addressed under these sections?

**Hon. G. Hogg:** The member made reference to some people in his community who may have come from different cultural backgrounds, and the initiatives and the issue that they feel hurt or damaged in terms of this context. I can recall working with a youth who came from South America, and he told me that at age 12 he was given a machine gun and was out defending his country in respect to that — in communities, shooting and killing. He came into custody here at age 17 with no sense of what this community and culture is about. Clearly, there are some instances where we must look at and manage that.

With respect to aboriginal people, we are meeting with the aboriginal leaders and trying to develop a more sensitive and appropriate response to aboriginal youth. They have been overrepresented as children in care, and they've been overrepresented as children in custody as well. A number of the centres have aboriginal staff and aboriginal people on contract. In a number of our centres, we have developed sweat lodges where aboriginal youth are actually teaching others about the aboriginal culture and taking them through sweat lodges so that they can have those types of experiences and grasp onto it.

We're connecting them with their communities in ways so that the communities can look at reconciling the issues with them and allow them to come back and live in their communities, so there has been a fairly profound influence on all our services by the aboriginal communities. I certainly welcome the aboriginal communities' interest in and support for their youth in ways that are more traditional and ways that, hopefully, will have better outcomes for aboriginal children.

As I say, we have not in our traditional western youth justice models had great successes with aboriginal children. It probably could be argued that we haven't had great successes with any children, but certainly we want to do everything we possibly can to provide those opportunities that can be made available to all of those who come into contact with the youth justice system.

**L. Mayencourt:** I guess what I'm hearing is that there are first nations youth workers, and they might

be able to provide some alternative program — perhaps a healing circle, perhaps a sweat lodge or what have you — as a method of addressing young offenders. I think that's terrific. We can only improve if we allow.... Well, we can only improve, actually — just simply that.

Do you foresee first nations being involved in the trial phase of something? So you've got a young first nations child from, say, Kitkatla who's got into trouble in some way. Do you foresee that band — I forget the name of the band — having a form of youth justice that is tied to this? Or something else?

[1740]

**Hon. G. Hogg:** Certainly with alternative measures that are outside of the traditional court system, those alternatives are there and are being used in some parts of the province already. Once you get into the sanctioned court system in which a judge has authority over the proceedings, judges are often asking for sentencing circles, healing circles and the involvement of our aboriginal communities in doing that type of resolution as well. I think we will only see an expansion of those types of alternate dispute mechanisms, particularly the non-traditional ones, prior to going to court as we look at examples of doing that.

We have an example in one of the northern communities. In the not too distant past, there were some allegations of sexual assault in which the ministry went in and worked with the community. There were two people who were alleged to have sexually assaulted some younger people. The ministry worked with the elders, worked with the community and were able to come to a resolution which was supported and sanctioned by the police, the prosecutor and the judge. It was a way, with a fairly serious offence, of being respectful of the aboriginal community and being respectful of the elders and providing sanctions and ways to do that. The ministry set these two people up in a cottage a little further off the reserve area and worked with them to do that.

I think that's an example of the type of thing you may be referencing. I think that more and more, we're becoming aware of those types of alternatives and of the successes some of those can have. We must continue to explore those as we look for more constructive, respectful and positive options.

**L. Mayencourt:** I just have two more questions or maybe just one more comment and one more question, Mr. Chair.

The downtown east side area that's known as Vancouver-Mount Pleasant also has a very high concentration of first nations, of Métis. I've heard it described as perhaps the largest urban reservation in western Canada, so it seems to me there's a lot of opportunity to do this kind of stuff not just in Kitkatla or Prince Rupert or what have you but also in those neighbourhoods. I don't know exactly how we do that.

We may well be doing it already, and I'm just not aware of it. I've talked to youth in that neighbourhood

who haven't really felt that the regular justice system has worked very well for them and to parents who feel there's been some kind of bias or something that confuses the issue and doesn't allow them to receive the normal justice that they would be entitled to. Maybe you can comment on that.

I do have one other question, and it has to do with section 28(2), which exempts the government from the Labour Relations Code, Public Service Labour Relations Act and the Employment Standards Act with respect to youth that are participating in one of these programs in section 28(1)(a) through (l). Can you just tell me why we're doing that?

**Hon. G. Hogg:** We dealt a little bit with this previously. If a youth is in a custody centre or if they're on a community service order, then they're exempted from this. While it may, in fact, be pay that may be an issue in one of the instances, the rights of the individual.... We want them to participate. Part of what they're doing is a restitution to society — part of the process is within that — so we need to protect their rights and their rights to advocacy.

Those are protected through the ombudsman and through other processes that are set up within the context of those programs, but we don't want to limit the program's ability to provide those services by limiting, through the legislation that is made reference to there in terms of the Employment Standards Act, as an example.... We still have to protect the health and safety. That's pre-eminent in terms of all of those programs but not pre-eminent in terms of the hours that they work and what you'd have to pay them overtime if they worked X number of hours or participated in those programs.

Their work programs there are virtually all volunteer programs that they participate in because they choose to, if they're in custody, rather than having them imposed. So it's to give some flexibility to the programs to ensure that they do focus on the best interests of delivering some programmatic response to the best interests of the child rather than a work response. It has a different intent, a different theme and a different goal than is reflected under these acts, but they are still protected in terms of their health and safety and their rights to advocacy.

[1745]

With respect to the types of programs in the urban area for aboriginal people, we delegated to VACFASS, which is the first delegation of a large urban provider of services to aboriginal people. Their office is out of the aboriginal friendship centre on Hastings. They are working actively in terms of youth protection issues and advocacy issues, and are wanting to move more and more into youth justice issues. That is our plan as we move forward with regionalization.

We have a very active aboriginal planning committee for Vancouver coastal currently chaired by, I believe, Scott Clark, who is the former president of the United Native Nations. Scott is working at developing that with a planning committee, and they're looking at

all of the initiatives to provide those types of services across the Vancouver coastal area. He's extremely aware of those issues and initiatives and needs.

We've already started, by the delegation to VACFASS, into some of the other provisions and services that are alternative measures. We hope to expand those as we look forward to being able to develop and pass legislation that will enable aboriginal authorities to come into existence and actually have full control over and operation of those types of services within the legislative constraints and time frames.

**L. Mayencourt:** I'm grateful to the minister for mentioning Scott and the work that's happening there. That's very important work he has undertaken — and all of the people that are working with him. I think I probably ran into him initially.... He's the person who did tell me this was the largest urban reserve in western Canada, so it's appropriate that he is doing this kind of work. Also for reminding us that there's a very strong tie-in to the regionalization project the minister has with respect to Children and Family Development....

That concludes my questions on this section. I thank you very much.

Section 28 approved.

On section 29.

**J. Kwan:** On section 29, it appears that this section mirrors the provisions in section 12 of the Correction Act. Am I correct in understanding that?

**Hon. G. Hogg:** Yes, you're correct.

**J. Kwan:** What happens to a youth under a warrant of committal who has a contagious or infectious disease?

**Hon. G. Hogg:** As an example, someone who came in with tuberculosis and went to a custody centre would be moved to an isolation ward in a hospital, with staff there to supervise and manage them in that instance. That's how we create the isolation and are able to proceed with maintaining custody in those instances.

**J. Kwan:** How would the individual's length of sentence be calculated? Would the period in which the individual stays in the hospital for treatment be calculated as part of the sentencing?

**Hon. G. Hogg:** Yes. Because a peace officer would be with them, they would be deemed to be in custody. You don't have to be in a facility to be in custody; you just have to be accompanied by a peace officer. That would be part of the sentence.

**J. Kwan:** How is drug addiction treated under this section?

**Hon. G. Hogg:** This section provides for those instances in which the director would not be required to accept the young person. Under the example the member gives of drug addiction, those people would be admitted and would be immediately seen as part of the intake process by the nurse and programs developed for them within the custody centre.

[1750]

**J. Kwan:** When the minister says those individuals would be admitted immediately, admitted to where — to a hospital, a treatment centre?

**Hon. G. Hogg:** To the youth custody centre.

**J. Kwan:** If the youth is drug-addicted, would the youth be treated, then, in custody? How would that be dealt with?

**Hon. G. Hogg:** Yes, they would be. There are nurses, doctors, alcohol and drug counsellors and all of the services appropriate to respond to those needs in the facility.

**J. Kwan:** So the youth who's addicted and in custody would get treatment in the facility and not necessarily in a treatment centre. Am I understanding that correctly? If you are addicted, if you can't get into a treatment centre, you'll get treatment in whatever facility you've been put in?

**Hon. G. Hogg:** Yes, with a warrant of committal, the judge would have made a decision, a determination, that this individual should be going to a custody centre, and those services and treatment would be provided for them at the centre.

**J. Kwan:** Would the first option be for the youth to go to a treatment centre first, or would it not even be considered, and it would simply just be dealt with through the normal course of the youth being in custody and being remanded to whatever facility was deemed appropriate?

**Hon. G. Hogg:** Those are determinations made by the judge. If a community-based alternative for alcohol and drug treatment was available and appropriate and the judge with the information before him or her was able to make the determination that that was the best and most appropriate response to the needs of the individual, then that's the placement. If there were some issues with respect to custody and running and the health and safety of the individual or the community, then it's more likely there would be a warrant of committal issued. The expectation is that those services would be provided within the centre.

**J. Kwan:** If the judge deems that the youth should go into treatment and the detox services for the youth and the beds are not available because they are full, then in that instance, no matter where the youth goes,

that individual will get treatment in terms of detox services?

**Hon. G. Hogg:** Certainly, if the member is referring to those going into custody, which I think she was — that there are services available if all of those coming into custody had alcohol and drug needs — then there are resources available to provide those within the context of the centres today.

Sections 29 and 30 approved.

On section 31.

**J. Kwan:** Section 31 applies the Correction Act, section 11, to young people. Could the minister advise: do parents or guardians get any say in the moving of a youth in custody?

**Hon. G. Hogg:** Certainly, there is consultation. There is notification, but at the end of the day the provincial director has the responsibility for ensuring that if there's overcrowding in one facility, there is some balance of those people who are in custody. The first preference is to keep people as close to their community or their family as possible, but there are provisions at different points in time which do not allow that to be the case.

[1755]

**J. Kwan:** Has that been a problem historically?

**Hon. G. Hogg:** No. There has not been any overcrowding for over five years now, so it is not a problem today.

**J. Kwan:** I take it that the minister tracks the number of cases that are being referred. Then he would actually know and have that information. Well, crime amongst youth is going down. Therefore, it would make sense that there wouldn't be an overcrowding problem, but the trend may reverse. I take it the minister actually tracks, then, that information so that we know the status.

**Hon. G. Hogg:** Yes. There is daily tracking of the counts in each of the youth custody facilities.

Section 31 approved.

On section 32.

**J. Kwan:** Section 32 deals with the detention agreements with municipalities. Is this new to the Youth Justice Act, or did this possibility exist under the Young Offenders Act or the Correction Act?

**Hon. G. Hogg:** It is the same as section 13 in the old act.

**J. Kwan:** Does this refer to centres such as Burnaby and Victoria custody centres, or does it anticipate new municipal centres?

**Hon. G. Hogg:** It does not anticipate new centres, and it refers to current ones such as the ones that the member recognized.

Noting the time, I will move that the committee rise, report progress and seek leave to sit again.

Motion approved.

The committee rose at 5:57 p.m.

The House resumed; Mr. Speaker in the chair.

Committee of the Whole House (Section B), having reported progress, was granted leave to sit again.

Hon. S. Hawkins moved adjournment of the House.

Motion approved.

**Mr. Speaker:** The House is adjourned until 2 p.m. tomorrow.

The House adjourned at 5:59 p.m.