

## **APPENDIX "A"**

### **KIMBERLY'S LAW** **Proposals to Reform the Young Offender System** **in British Columbia and Canada**

#### **1. Threat Assessment Protocols**

Schools must be safe and healthy places for students to learn and grow. Schools should implement threat assessment protocols to identify students (or others) who have made threats or engaged in threatening behaviour as witnessed by family, peers or educators. The goal of the protocol is to ensure the safety, well-being, and security of all persons at schools and to prevent harm. Some local School Boards have already developed threat assessment protocols and work in coordination with counselling services, social workers and local law enforcement. This should be regulated by Provincial Statute.

#### **2. Mandatory Counseling and Treatment**

Isolated, aggressive or problematic students (or dropouts), are often known to their peers, family or educators. Some advertise their "issues" on social media; others, through word of mouth, reputation and action. Young persons are defined as 12-17 years of age in Provincial and Federal statutes. A goal should be to identify and assist troubled youth before they commit harm. If such young persons are identified in a Threat Assessment Protocol, then social workers or counselors should determine a risk of harm and a treatment plan if necessary. Involuntary treatment should be reviewed and ordered by the Provincial Court.

#### **3. Parental Responsibility**

The primary source of information, control and responsibility for young persons remains with parents. Parents need to be held civilly liable for the actions of their young persons subject to a "due-diligence" defence. The *Parental Responsibility Act*, S.B.C. 2001, Chapter 45 provides limited civil action relief for victims of property-related crimes. The Act should be amended to include civil relief for damages from injury to a person or loss of life. The compensation for such damages could be limited to a maximum amount of \$25,000 as per the *Small Claims Act*. Such financial penalty may compel otherwise uninvolved parents to take more control for the violent actions of their children or seek outside assistance.

#### **4. Transfers to Adult Court**

Transfers to adult court for violent young offenders who have been convicted of first or second degree murder are not automatic. A 16 year old possesses sufficient maturity to be held accountable for their actions. There should be automatic adult court transfers for young offenders aged 16 or older who are charged with first or second degree murder.

**5. Publication of Young Offender Names upon Guilty Plea**

The public is currently barred from knowing the names of young offenders until sentencing. Notwithstanding, the media is free to publicize the name of the victim including the details of the crime at any time in the process. "Innocent until proven guilty" only applies until guilt is determined or admitted. Once a young offender has pled guilty, his or her name should be made public.

**6. Truth in Sentencing**

Young persons sentenced as "adults" for first or second degree murder do not receive the same incarceration period as adults. The incarceration period or "life sentence" for an adult convicted of murder is 25 years but only 10 years for a young person. A life sentence for a young offender tried as an adult should be the same as an adult or the "adult sentencing" terminology needs to be abolished. The public should not be misled that a young person sentenced as an adult for murder will receive a 25 year adult sentence.

**7. Interim Custody**

Young persons who are charged with first or second degree murder under the *Criminal Code* should be detained in custody separate and apart from other young persons in the same facility. This will ensure that other young inmates are not exposed or traumatized by boastful details of crimes committed by those charged with first or second degree murder.