

ALBERTA REPORT

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A flap over fingerprinting youths

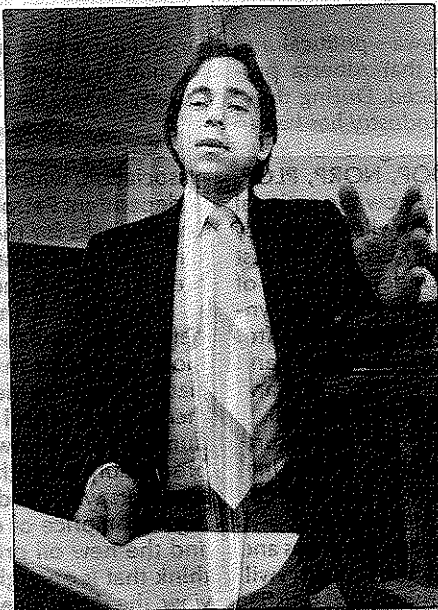
LAW

Fingering the youthful suspects

Ex-SG Kaplan accuses Alta. police of abusing the Young Offenders Act

As solicitor-general in the government of former prime minister Pierre Trudeau, Robert Kaplan was co-author of the Young Offenders Act which, since its institution on April 1, has resulted in major changes in the way police deal with young lawbreakers. But last week, Mr. Kaplan—now opposition justice critic—accused Alberta's police forces of instituting one change he did not foresee. Speaking at a meeting of provincial government child-care workers, he denounced the province's police for summarily photographing and fingerprinting youths charged under the act in order to build up a data bank of potential youth criminals. Police in Edmonton and Calgary quickly issued a series of angry denials claiming that it is Mr. Kaplan's own legislation, which for the first time brands 16- and 17-year-olds as adults, that forces them to fingerprint more youths than was the case under the Juvenile Delinquents Act, which it replaced. Declared Calgary Police Service Superintendent Ronald Tarrant: "Mr. Kaplan is obviously talking through his hat."

Since the Young Offenders Act came into force, the average number of youths fingerprinted by the Edmonton City Police has jumped from just 125 a month to 212 a month. Similarly in Calgary, an average of 150 youths are being fingerprinted each month compared with 94 a month last year. Police say that's because the new act changes the definition of a youth. While the Juvenile Delinquents Act classified lawbreakers as youths only up to the age of 15, the Young Offenders Act takes in 16- and 17-year-



Lawyer Midanik
The charter presumes innocence.

olds as well. Given the high crime rate in that age group, observes Inspector Samuel Hogg, head of the Edmonton City Police identification unit, it's no wonder more young people are being fingerprinted.

Mr. Kaplan, however, says there is no requirement for police to fingerprint anyone charged under the Young Offenders Act. True, section 44 of the act requires youths to be treated as adults for the purposes of the Identification of Criminals Act. But, he points out, that simply means they "may be subjected" to police

ID procedures (which, as well as fingerprints and photographs, include the recording of height, weight, scars and tattoos) when charged with an indictable offence. The act does not make it mandatory for police to fingerprint anyone. But Supt. Tarrant says his officers have always printed adults charged with an indictable offence, and will do the same with youths. "I'd be disappointed if we couldn't fingerprint them," he says. "With more and more phony ID around and more kids using various names, it helps a lot."

Edmonton lawyer David Midanik, however, believes that fingerprinting anyone—youth or adult—prior to conviction is counter to the presumption of innocence guaranteed by the justice system, and by the Charter of Rights and Freedoms. Mr. Midanik is seeking leave to appeal to the Supreme Court of Canada the case of a 13-year-old client who has defied a police order to appear for identification on a charge of theft under \$200. At a Court of Queen's Bench hearing in November, the lawyer offered, in losing, the evidence of Dr. Gordon King, chief of child psychiatry at the University of Alberta and head of child services at the University Hospital. He testified that being fingerprinted could confuse and upset the young. "For some particularly sensitive children, it might be devastating, at least temporarily." Edmonton's Insp. Hogg has little sympathy. "I just can't agree with this milquetoast approach to life. Kids must be made aware that certain actions are wrong."

Lori Cohen and Tom Philip