

**THE IMPACT OF THE *YOUTH CRIMINAL JUSTICE ACT*  
ON CASE FLOW IN ALBERTA AND SYSTEM  
RESPONSE IN CALGARY**

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Prepared by:

Berenice DeGusti, M.A. Candidate

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The views expressed in this report are those of the author and do not necessarily represent the views of the Canadian Research Institute for Law and the Family, the Alberta Law Foundation, the City of Calgary or the Calgary Police Service.

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# EXECUTIVE SUMMARY

## Introduction

The purpose of this study is to examine how the implementation of the *YCJA* has affected the flow of cases through the youth justice system, and the impact of the new legislation on workload for frontline staff in the youth justice system (i.e., police officers, probation officers). To achieve this goal, two main research activities were undertaken. First, CRILF examined the flow of cases processed through the youth justice system in Alberta from 2001 through 2006. This examination provides information on whether the youth system is adhering to the principles of diversion, fair sentencing and the reduction of incarceration mandated in the *YCJA*.

Second, focus groups with police officers were conducted to identify the use of extrajudicial measures that would not be captured in the youth crime and correctional statistics and the effect of the new legislation on their work and workload. Focus groups were also conducted with probation officers to obtain information on changes in their workload patterns and their opinions on the success of rehabilitation and reintegration since the implementation of the *YCJA*. Participants of the focus groups were further asked to assess the current legislation's effectiveness in achieving its objectives and to provide suggestions for improvement to the current youth criminal justice system.

The objectives of this report are to:

- (1) Examine the flow of cases through the youth criminal justice system to understand the impact of the *YCJA*; and
- (2) Understand changes in the occupational practices and workload of police officers and probation officers working with offending youth as a result of the new legislation.

## Methodology

The primary purpose of this report is to examine whether the principles in the *YCJA* are being realized in youth charging practices and youth court outcomes in Alberta. In addition, this study also seeks to examine how the new legislation affected the work of police and probation officers in Calgary and if the officers feel that the principles of the *YCJA* are being achieved.

Two main strategies were undertaken to accomplish these objectives:

- (1) A case flow analysis of the youth cases processed in the Alberta youth criminal justice system from 2001 to 2006 using data from the Uniform Crime Reporting Survey, the Youth Court Survey and Correctional Services; and
- (2) Focus groups conducted with small groups of police and probation officers working with youth in Calgary.

The following research questions are addressed in this report:

- (1) How has the implementation of the *YCJA* affected the flow of cases through the Alberta youth criminal justice system:
  - a. Have the number and type of charges been affected?
  - b. Have court decisions changed and have they changed by offence type?
  - c. Have sentences changed and have they changed by offence type?
- (2) Has the *YCJA* affected the workload of police and probation officers in Calgary's youth justice system?
- (3) Has the use of extrajudicial measures (formerly alternative measures) been affected by the implementation of the *YCJA*?
- (4) How do police officers and probation officers working with youth view the changes to the legislation and what changes do they recommend in order for it to be more effective?

## **Discussion and Conclusions**

The objective of this report was to determine the impact of the *YCJA* by examining the flow of cases through the youth criminal justice system in Alberta and to understand changes in the occupational practices and workload of police and probation officers working with offending youth as a result of the new legislation.

To answer these questions a comparison of cases processed through the youth justice system in Alberta was examined from 2001 through 2006 using data from the Uniform Crime Reporting Survey, the Youth Court Survey, and Correctional Services. In addition, focus groups with police officers and probation officers working with youth in Calgary were conducted to understand how the application and interpretation of the *Act* impacts upon the youth criminal justice system.

### Case Flow Through Alberta's Youth Criminal Justice System

From the quantitative data examined, the *YCJA* appears to have greatly affected the flow of cases through the youth criminal justice system in Alberta. The year the legislation came into force marked a shift in the pattern of youth charges, court decisions, and sentence outcomes. The number of youth charges experienced a sharp decline in 2003, particularly with regard to property crime charges. This suggests that youth are increasingly being diverted away from criminal justice system, which was one of the main principles of the *Act*. The number of youth apprehended for other Criminal Code offences, but not charged, also increased after the *YCJA* came into force. This likely reflects an increase in administration of justice offences, as the focus group participants mentioned that there are now many more opportunities for youth to breach. The number of youth cases heard in court decreased, with subsequent decreases in court decisions. Of particular interest was the increase in cases that were stayed, which may reflect cases that are proceeding through extrajudicial measures or sanctions. This



is especially evident for property crimes, drugs, and other *Criminal Code* offences, including administration of justice offences and disturbing the peace offences, which showed decreases in guilty decisions and increases in the proportion of stay decisions. Again these findings suggest that the legislative goal of diversion is being accomplished.

The addition of new sentencing options in the *YCJA* was mainly introduced to reduce the high use of custody under the *YOA*. While the data showed that custodial sentences were on the decline even before the *YCJA* came into effect, the proportion of cases that were sentenced to custody showed a steep decline in 2003 for all offence types. The new sentences have been used since they were introduced, but are still not as common as probation and other sentences such as absolute discharges, restitution, essays, and apologies, for all offence types. Therefore, according to the case flow data, it appears as though the objectives of the new legislation are being realized. More youth are being diverted away from the formal youth justice system and are also less likely to be given a custodial sentence; however, there has not been a permanent decline in the use of remand custody.

#### Workload of Police and Probation Officers in Calgary

Police and probation officers reported that their workloads have changed since the implementation of the *YCJA*. Police officers in the Serious Habitual Offender Program (SHOP) unit reported an increase in workload due to increasing numbers of serious habitual offenders (SHOs) serving their sentences in the community. The case flow data confirmed that more youth are indeed serving much of their sentences in the community either on probation, deferred custody or as part of the transition out of custody.

Frontline police officers reported mixed responses with respect to changes in their workload due to the implementation of the *YCJA*. On the one hand, they commented on increases in their workload associated with extrajudicial measures paperwork, while on the other hand, they also reported less charge-related paperwork due to the decrease in charging. Even so, overall, they felt that their workload had increased since the implementation of the *YCJA*. This issue, however, may also be due to the increasing youth population in Calgary over recent years, as well as difficulties police have experienced in staffing. Statistics show a more than 10,000-person increase in youth aged 15-19 from 1999 to 2006 (City of Calgary, 2008), which may leave police officers short of resources to deal with youth crime.

Overall, School Resource Officers (SROs) did not report a significant change in their workload, given that their positions have always required them to work closely with youth. They did report, however, that the legislation required them to further research the background of youth they were dealing with and that the new caution and waiver form sometimes made their work more onerous. These officers also noted that there were not enough SRO officers to cover all schools in Calgary, in particular junior high schools. This again points to resource issues associated with the implementation of the *Act*, rather than problems with the legislation itself.

In general, probation officers reported an increase in their workload since the implementation of the *YCJA*. While their caseload has decreased, the intensity of the cases they now supervise calls for more time dedicated to dealing with mental health and drug issues as well as consulting with other members of the judicial system on youth who are involved in more serious offences. The new sentence orders have also increased reporting frequencies, which often leads to more case notes and timely procedures for suspended orders. In addition, probation officers noted that they are spending more time in conferencing, getting information from victims, and justifying recommendations for pre-sentence reports.

In spite of this, most probation officers were generally positive about the new legislation and praised the new orders for their measured levels of intervention. Like police officers, probation officers also pointed to a shortage in resources as an issue with the new legislation. They suggested the use of caseworkers who could ensure youth attend their appointments for counselling and treatment, with the intention that probation officers may continue to spend their time addressing the complex cases that require much more knowledge and experience.

### The Use of Extrajudicial Measures

The greatest change with the use of extrajudicial measures came for frontline police officers. While SROs reported that they have always used warnings, frontline officers reported that they used them to a greater extent with the introduction of the *YCJA*. Both SROs and frontline police officers reported greater use of referrals after the *YCJA* came into force. The existence of the Gateway program (a Calgary-based extrajudicial measures program) has been especially helpful in ensuring that youth who are committing minor offences are being diverted. However, police officers did express concern with the shortage of information they receive about the effectiveness of various programs as well as the non-mandatory completion option for measures. In addition, police officers also expressed a desire for better documentation of measures issued so that they can be certain whether or not the youth has received a warning or measure in the past. Many police officers agreed that the diversionary principles in the *Act* are positive and are being carried out.

### Suggestions for Change

Overall, police officers were less optimistic than probation officers about the effectiveness of the *YCJA*, in particular for reducing crime of persistent and serious youth offenders. On the other hand, many of the suggestions that they made spoke to the interpretation of the *Act* and the shortage of resources to support it. For example, both police and probation officers agreed that despite the *YCJA*'s intention to decrease inconsistencies between sentencing decisions across different jurisdictions, disparities still exist. Police officers felt that youth who violate the conditions of their probation should be more severely consequence and that repeat offenders should receive more punitive consequences in Calgary. On the other hand, probation officers praised Calgary judges for their "*rehabilitative social work approach*" to young offenders.

Both police and probation officers pointed to a shortage of resources in the Alberta youth criminal justice system. From community programs for drug and alcohol abuse, a deficiency of training opportunities on the *YCJA*, to staffing deficiencies at the police, court, and probation level, the shortage in resources makes it difficult to achieve all of the principles of the *Act*. Many police and probation officers pushed for mandatory drug and alcohol treatment, programs targeted to specific age groups, and resources to hasten the length of the court process.

Overall, it appeared as though both police and probation officers agreed with the principles and the philosophy of the *YCJA*. Even though police officers seemed more reluctant to find advantages to the new *Act*, their increasing use of bylaw infractions to consequence youth still fits with the philosophy of the legislation. While the bylaw infractions do not fall under the jurisdiction of the *YCJA* they still offer police officers the option to consequence youth in a timely fashion.

In closing, it is important to recognize that the *YCJA* has resulted in very significant decreases in the use of courts and custody for responding to youth offending in Alberta, without an increase in youth crime. Further, it should be recognized that the City of Calgary appears to be the only municipality in Canada that delivers youth probation services, which it has done under contract with the Alberta Solicitor General since 1922. The service is delivered within Community and Neighbourhood Services and being a registered social worker is a condition of employment. There are also a number of agencies and community programs that work collaboratively with members of the youth criminal justice system, including the Alberta Solicitor General's Calgary Youth Attendance Centre and the Calgary Young Offender Centre, to ensure that youth are given every opportunity to be diverted away from the criminal justice system and rehabilitated and reintegrated back into the community. Calgary seems to have a culture of collaboration in the family and youth sector that encourages creative, innovative and responsive approaches, as is evidenced by the partnerships referenced in this report. While respondents identified a shortage of community-based resources, Calgary appears to be positioned to successfully accomplish the objectives of the *YCJA*. It would be useful for future research to focus on comparative studies to examine the implementation of the *YCJA* in other cities and municipalities across the country.



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# 1.0 INTRODUCTION

## 1.1 Background

In 2002, Parliament enacted the *Youth Criminal Justice Act (YCJA)*, replacing the *Young Offenders Act (YOA)*; the YCJA came into force April 1, 2003. There were many reasons for enacting the YCJA; one of main reasons was that under the YOA, Canada had one of the highest youth incarceration rates in the western world, higher even than the adult incarceration rate. Other concerns under the YOA included over-use of youth courts for minor cases, inconsistent sentencing decisions across Canada, and insufficient recognition of the concerns and interests of victims, among others (see Department of Justice Canada, n.d.). Many researchers pointed to the broad use of and potentially conflicting principles that were included in the YOA as reasons for these troublesome outcomes (Bala, 1997; Carrington & Shulenberg, 2005; Doob & Beaulieu, 1992; Platt, 1991). The new Act sought to build on the strengths of the YOA and address its weaknesses. Specifically, the key objectives of the YCJA were to provide understandable and unambiguous principles to improve decision-making and facilitate fair sentencing, to restrict the use of the courts by diverting minor cases away from the courts, to facilitate reintegration and rehabilitation, to reduce the rate of incarceration, to provide a clear distinction between less serious offences and serious violent offences, and to provide more effective responses for serious violent young offenders (Department of Justice Canada, n.d.).

The key change in the YCJA was intended to encourage more use of diversion from the formal youth court process for less serious youth offenders. The YOA had provisions for the use of “alternative measures” rather than court. Under the YOA, however, there was great variation in the use of alternative measures, their mode of referral (i.e., pre-charge, post-charge, or both) and eligibility of youth for the alternative measure programs. For example, the rate of bringing cases to court in Quebec was 19 per 1,000 youths in the population, whereas the rate in other provinces was as high as 94 per 1,000 youth (Bala, 2005).

The YCJA dropped the term “alternate measures,” and uses the concepts of “extrajudicial sanctions” and “extrajudicial measures” for diversion. Extrajudicial sanctions are more formal proceedings that are used in circumstances where a warning or referral is not an adequate response to youth offending because of either the seriousness of the offence, the young person’s prior record, or any other aggravating circumstances; they are effectively the same as “alternative measures” under the YOA. Extrajudicial measures is a broader concept that includes the use of extrajudicial sanctions, but also more informal measures such as warnings, referrals or cautions. In contrast to extrajudicial measures, if conditions of the sanction are not met by the young person, a charge can be laid. An important objective of the YCJA was to encourage more diversion, especially for first time offenders and youth accused of minor offences. In fact, the YCJA explicitly states that “extrajudicial measures are often the most appropriate and effective way to address youth crime” (YCJA, s. 4(a)) and also encourages police officers to consider using extrajudicial measures before taking criminal action, even if the youth has a prior conviction or record of receiving measures.

Examples of extrajudicial measures include taking no further action, police warnings, cautions (not available in Alberta) and referrals to community agencies and programs that “may assist the young person not to commit offences” (YCJA, s. 6(1)).

The Preamble to the YCJA makes clear that the intent of the *Act* is to “reduce over-reliance” on incarceration. The YCJA includes a number of new community-based sentences for youth that provide youth court judges with more options for responding to youth offending, which are intended to reduce the use of custody. The legislation also includes a set of statements and principles for sentencing that make clear that the purpose of sentencing is to hold a young person accountable for their criminal actions through the imposition of meaningful consequences, which also promote his/her rehabilitation and reintegration back into society. The *Act* also specifically states that custody should be primarily reserved for youth who commit violent offences or are serious chronic offenders.

In order to identify if these key objectives have been met in Alberta, the Canadian Research Institute for Law and the Family (CRILF), with funding from the Alberta Law Foundation, conducted a study examining the flow of cases through the youth justice system in Alberta, pre- and post-implementation of the YCJA. This analysis was supplemented with information taken from focus groups conducted with police officers and probation officers working with youth in Calgary, Alberta. The information from the focus groups was used to understand the impact of the new legislation on the workload of frontline personnel working with youth offenders.

## **1.2 Purpose of the Report**

The purpose of this study is to examine how the implementation of the YCJA has affected the flow of cases through the youth justice system, and the impact of the new legislation on workload for frontline staff in the youth justice system (i.e., police officers, probation officers). To achieve this goal, two main research activities were undertaken. First, CRILF examined the flow of cases processed through the youth justice system in Alberta from 2001 through 2006. This examination provides information on whether the youth system is adhering to the principles of diversion, fair sentencing and the reduction of incarceration mandated in the YCJA.

Second, focus groups were undertaken with front-line professionals responsible for working with young offenders in Calgary. Focus groups with police officers were conducted to identify the use of extrajudicial measures that might not be captured in the youth crime and correctional statistics, and to assess the effect of the new legislation on their work and workload. Focus groups were also conducted with probation officers to obtain information on changes in their workload patterns and their opinions on the success of rehabilitation and reintegration since the implementation of the YCJA. Participants in the focus groups were also asked to assess the current legislation’s effectiveness in achieving its objectives and to provide suggestions for improvement to the current youth criminal justice system.



### **1.3 Objectives of the Report**

The objectives of this report are to:

- (1) Examine the flow of cases through the youth criminal justice system to understand the impact of the *YCJA*; and
- (2) Understand changes in the occupational practices and workload of police officers and probation officers working with offending youth as a result of the new legislation.

### **1.4 Organization of the Report**

Chapter 2.0 outlines the research questions addressed in this report and summarizes the methodology used for this project. Chapter 3.0 presents the results of the case flow analysis, while Chapter 4.0 presents the results of the focus groups conducted with police and probation officers working with youth offenders in Calgary. Chapter 5.0 concludes the report by discussing the findings of the study and the implications that they may have for the youth criminal justice system in Calgary and Alberta.



## 2.0 METHODOLOGY

### 2.1 Research Design

As indicated in Section 1.2, the primary purpose of this report is to examine whether the principles in the *YCJA* are being realized in youth charging practices and youth court outcomes in Alberta. In addition, this study also seeks to examine how the changes in legislation affected the work of police and probation officers in Calgary and if the officers feel that the principles of the *YCJA* are being achieved.

Two main strategies were undertaken to accomplish these objectives:

- (1) A case flow analysis of the youth cases processed in the Alberta youth criminal justice system from 2001 to 2006 using data from the Uniform Crime Reporting Survey, the Youth Court Survey and Correctional Services; and
- (2) Focus groups conducted with small groups of police and youth probation officers in Calgary.

#### 2.1.1 Research Questions

The following research questions will be addressed in this report:

- (1) How has the implementation of the *YCJA* affected the flow of cases through the Alberta youth criminal justice system:
  - a. Have the number and type of charges been affected?
  - b. Have court decisions changed and have they changed by offence type?
  - c. Have sentences changed and have they changed by offence type?
- (2) Has the *YCJA* affected the workload of police and probation officers in Calgary's youth justice system?
- (3) Has the use of extrajudicial measures (formerly alternative measures) been affected by the implementation of the *YCJA*?
- (4) How do police officers and probation officers working with youth view the changes to the legislation and what changes do they recommend in order for it to be more effective?

### 2.2 Case Flow Analysis

#### 2.2.1 Data Source

Data used in the case flow analysis were obtained from a number of government surveys, including the Uniform Crime Reporting (UCR) survey, Youth Court Survey and statistics from Youth Correctional Services. Data from the UCR and Youth Court Survey were obtained via CANSIM, a Statistics Canada database that contains socio-

economic time-series data. The youth corrections data were obtained from the Alberta Solicitor General.

The UCR contains information on police reported crime statistics collected through police record management systems for all police agencies in Canada. The unit of analysis is persons charged (not the number of charges laid). A youth who is charged with more than one offence is counted according to their most serious offence for each incident they are involved in. The Youth Court Survey instead measures the case, which combines all charges against the youth with overlapping court dates. In situations where a case represents more than one charge, the charge with the most serious decision (i.e., transferred to adult court/adult sentence, or guilty) will represent the case. Cases with two or more offences with the same decision (e.g., guilty) are represented by the most serious offence. Corrections statistics contain average monthly counts for youth in custody (i.e., remand, secure, and open) and average monthly counts of youth supervised in the community (i.e., supervised and unsupervised).

### 2.2.2 Data Analysis

Figures from each of the data sources were plotted in line graphs to identify changes in trends and patterns in the Alberta youth justice system with the transition from the YOA to the YCJA. In order to compute the rates per 100,000, Statistics Canada annual population estimates for youth aged 12 to 17 in the province of Alberta were used. The data were also listed in charts to identify changes in the proportion of different types of offences from 2001 to 2006.

### 2.2.3 Limitations

While the data obtained from the UCR, Youth Court Survey and Correctional Services provide the most accurate data available for an aggregate examination of the changes that have occurred in youth charges, cases heard in court, decisions and sentences from 2001 to 2006, the fact that the data were collected from different sources limits the validity of the conclusions generated. Comparisons between data reported by police for the UCR and data from other sectors of the criminal justice system (i.e., courts and corrections) are difficult because there is no single unit of count (i.e., incidents, offences, charges, cases or persons) that is defined consistently across the major sectors of the justice system. In addition, charges actually laid can be different from the most serious offence by which incidents are categorized (e.g., youth who are later charged with a lesser offence if evidence was insufficient for the prior offence). The number and type of charges laid by police may also change at the pre-court stage or during the court process. Time lags between the various stages of the justice process also make comparisons difficult, as well as the different data collection periods of each survey. Finally, the rates and counts used in the analysis do not take into account persistent or chronic offenders. Youth may appear more than once in the UCR, Youth Court Survey and corrections statistics. Therefore, comparisons across data sources and years may not accurately represent all of the trends that are taking place.

## 2.3 Focus Groups

Focus groups were conducted in March 2008 with members of the Calgary Police Service and City of Calgary Youth Probation who work with youth offenders in Calgary. Each focus group lasted approximately one and one-half hours to two hours and was conducted by a CRILF researcher, while another researcher recorded the participants' responses. Participants of the focus groups were asked a series of questions about their general perceptions of the *YCJA*, work experiences under the *YCJA* and suggestions for change to the *YCJA* (see Appendices A and B for focus group protocols). The protocols were developed in consultation with representatives from the Calgary Police Service and the City of Calgary Community and Neighbourhood Services.

### 2.3.1 Participants

Police officers who had worked both under the *YOA* and the *YCJA* were recruited to participate in the focus groups internally. CRILF liaised with a key contact within the police service who requested the participation of officers from different units and arranged for a convenient time and meeting place. Focus groups were held in boardrooms and training classrooms at various police district offices. In total, four focus groups were conducted with police officers from different units within the Calgary Police Service. These units included the Serious Habitual Offender Program (SHOP), School Resource Officers (SROs), the Youth Education and Intervention Unit and frontline officers, for a total of 32 police participants. Police officers employed in the SHOP unit are primarily responsible for identifying and monitoring Serious Habitual Offenders (SHOs), youth who are recommended for the program by a multidisciplinary resource team according to specific criteria. SHOP officers also assist in the successful reintegration and rehabilitation of SHOs by facilitating access to all available resources in the community (Calgary Police Service, 2008). SROs work within Calgary high schools and are available to help students with issues they may encounter (e.g., peer pressure, drugs, bullying, youth gangs, and pressure to commit vandalism) (Calgary Police Service 2008b). Police officers in the Youth Education and Intervention Unit conduct classroom presentations in schools and respond to calls for service from junior high schools. Background information was collected from all police participants in the form of a brief one-page survey (see Appendix C), which asked for the participants' name, the district/office that they were employed in, their position, years of experience and qualifications, and any training they received on the *YCJA*.

Youth probation officers supervise and counsel youth bound by community-based court orders (i.e., recognizance, probation, community supervision, deferred custody), as well as preparing pre-sentence reports. Probation officers with experience working both under the *YOA* and *YCJA* were recruited internally to participate in the focus groups. Again, CRILF liaised with a key contact within Community and Neighbourhood Services who requested the participation of probation officers from different offices across Calgary. Three focus groups were conducted with youth probation officers in meeting rooms at different district offices, for a total of 14 participants. Background information was also collected from probation officer participants before the focus groups began using a brief survey (see Appendix D),

which asked for the participants' name, the district/office that they were employed in, their position, years of experience and qualifications, and their training experiences with the new legislation.

### 2.3.2 Data Analysis

Responses from the focus groups were grouped and organized according to their views on the impact the YCJA has had on their workload, their general perceptions of the legislation and the suggestions for change that they proposed over the course of the focus groups. Direct quotes from the participants were frequently cited in order to accurately reflect their responses.

### 2.3.3 Limitations

While every effort was made to ensure that participants of the focus groups served with the Calgary Police Service under both the YOA and YCJA, a small number of officers were either not employed in the same unit prior to 2003, or joined the Calgary Police Service after the YCJA had already come into force. Therefore, their ability to draw comparisons between the two pieces of legislation may be limited as they had little or no experience under the YOA. In addition, given the length of time that has passed since the YCJA came into force (five years), many police and probation officers had difficulty recalling the particulars of the YOA and the effect of the YOA on their work.

## **2.4 Ethics and Security Issues**

Police and probation officers who participated in the focus groups were assured anonymity and confidentiality of their responses. The results of the focus groups presented in Chapter 4.0 do not include any identifying information (e.g., name, gender, district/office) about the participants. In the case of police officers, units were only disclosed when the discussion was specific to the unit that officers were employed in.

## 3.0 CASE FLOW ANALYSIS

The data analyzed in this chapter present changes in youth charges, cases heard in court, decisions and sentences from 2001 to 2006. The sources for this analysis come from a variety of surveys conducted by government agencies, including the UCR and the Youth Court Survey. Correctional Services from the Alberta Solicitor General's office also provided some of the data analysed. While the UCR collects annual information based on the calendar year, the Youth Court Survey and data from Correctional Services collects annual data for the fiscal year; therefore caution must be used when comparing the data. It should also be noted that the UCR survey classifies person-based offences as "crimes of violence," while the Youth Court Survey classifies them under "crimes against the person." While the offences included in each of these categories are largely similar, there are differences between the two surveys in what is included in the "other *Criminal Code*" category. Furthermore, each survey uses its own unit of analysis, which further obscures comparisons between the tables and graphs presented.

### 3.1 Changes to the Youth Justice Legislation

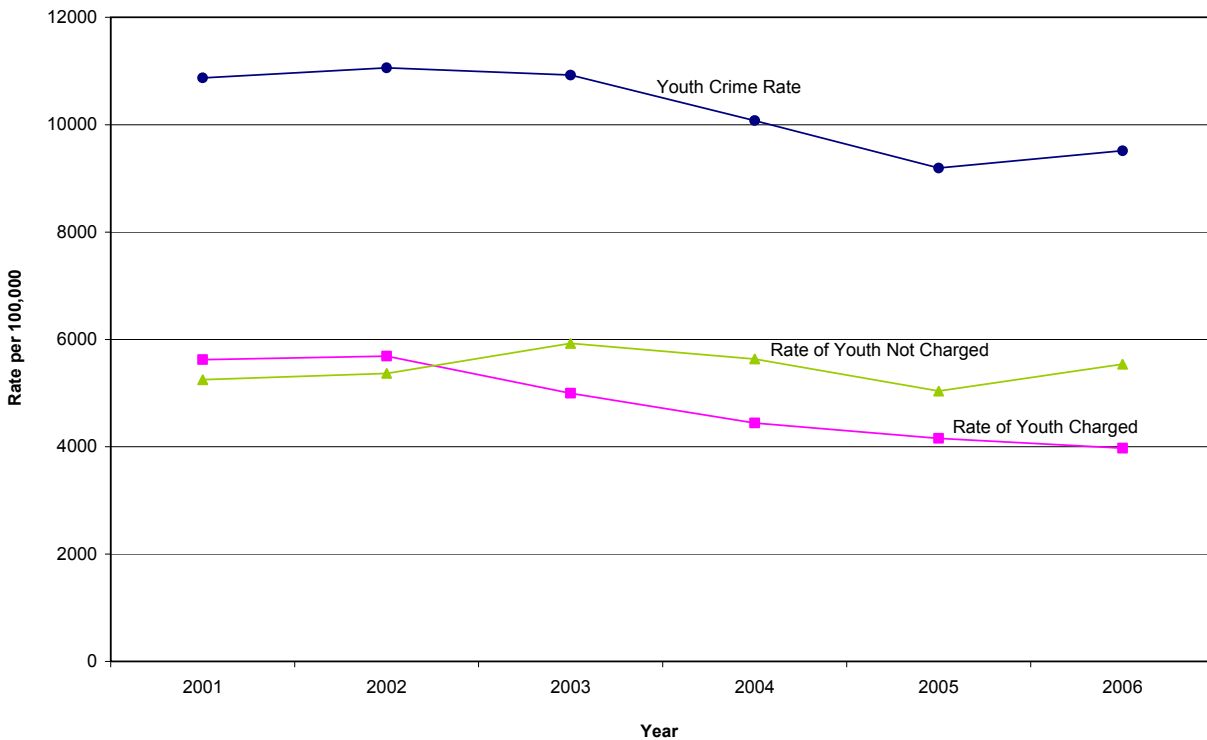
Many of the most significant differences between the YOA and the YCJA are reflected in the Preamble of the YCJA. Specifically, the Preamble addresses: the interest of victims; accountability through meaningful consequences; effective rehabilitation and reintegration; "the most serious interventions for the most serious crimes"; reducing the "over-reliance on incarceration for non-violent young persons", and finally, that communities, families and parents share responsibility for young people (YCJA, *Preamble*). While the statements in the Preamble are not directly legally enforceable, they are included to provide help in interpreting the legislation in order to support the values on which the legislation is based (Department of Justice Canada, n. d.). This new direction in the legislation suggests that more young offenders will be diverted away from the justice system, thereby decreasing the number of charges and youth appearing in court since 2003. The emphasis on reducing incarceration rates is also clear in the legislation, which should therefore also translate into a decrease in custodial sentences since 2003.

#### 3.1.1 Changes in Youth Charges

Figure 3.1 shows the youth crime rate for Alberta from 2001 to 2006, based on data collected from the UCR. This survey contains information on police reported crime statistics collected through police record management systems for all police agencies in Canada. The youth crime rate is comprised of youth formally charged or recommended to the Crown for charging by the police, as well as youth cleared by means other than laying a charge (i.e., youth not charged). The survey collects information only on crimes that come to the attention of the police, therefore unreported crime and crime that goes undetected is not included in the youth crime rate. The youth not charged rate may also underestimate the number of youth not charged because of the unreliability of some police services' reporting on youth not charged. However, as Carrington and Shulenberg (2005) argue, "the biases in reporting are sufficiently stable over time that it

can be used in time series analyses, especially when it is aggregated to the level of the province or territory” (page 11). The graph shows that in 2003, when the YCJA came into force, the youth not charged rate surpassed the youth charged rate and continued to do so through 2006. More specifically, in 2003, the proportion of youth charged made up 46% of the total youth who were chargeable, a decrease from 51% in 2002. The proportion of youth charged further decreased to 41% in 2006. This is likely an indication that more youth are being diverted to extrajudicial measures over time. It might also reflect a general decrease in the number of crimes being committed by youth.

**Figure 3.1**  
**Alberta Youth Crime Rate from 2001 to 2006<sup>1</sup>**



Source: Statistics Canada, Canadian Centre for Justice Statistics, Uniform Crime Reporting Survey.

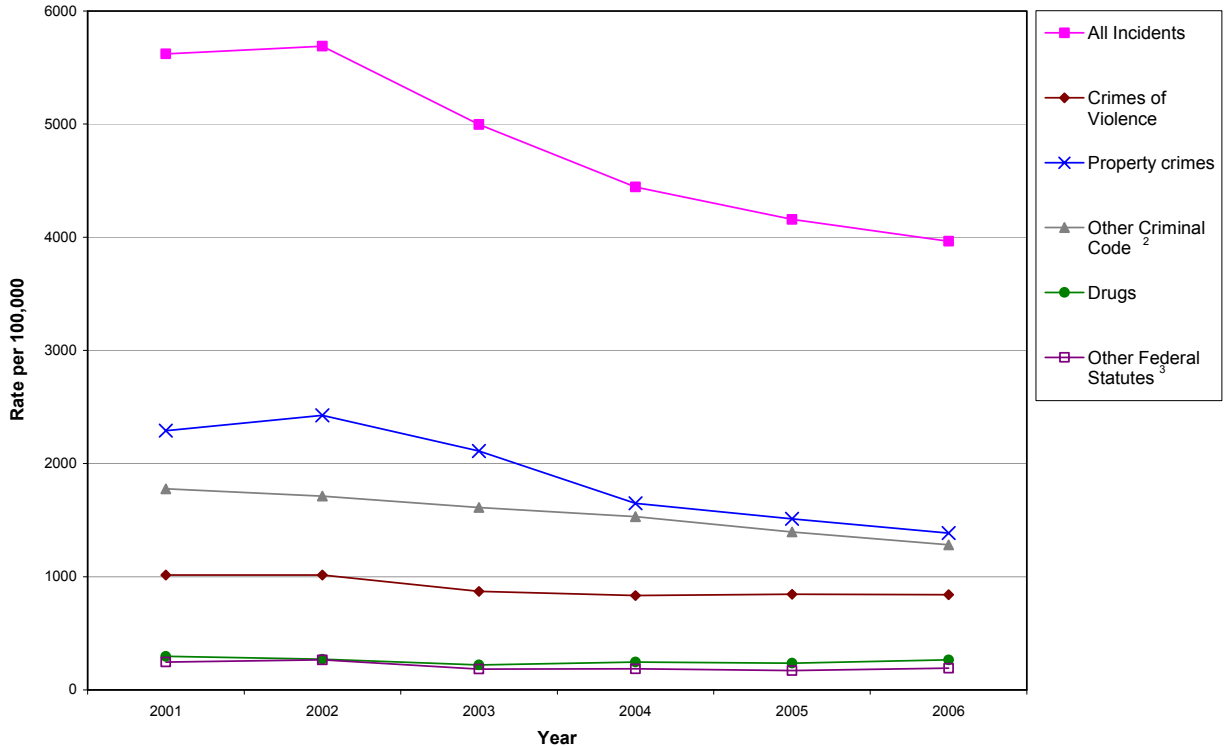
<sup>1</sup> Rates are based on based on Alberta youth population (ages 12-17).

Figure 3.2 further examines the rate of youth formally charged, by type of offence. Charges are classified according to the most serious offence in the incident and therefore may understate the rates of less serious offences. The rate also does not include charges that are laid by other professionals who work in the justice system (for example probation officers can lay administration of justice charges for violations of probation conditions, which would not be captured in the UCR). Overall, the graph shows that the rate of charges for total incidents began its decline in 2002, perhaps in anticipation of the YCJA, with the rate of youth charged with property crimes showing the steepest decline. Table 3.1 shows that youth charged with property crimes have in fact seen the biggest decline over the six-year period, dropping from 6,651 youth charged in 2002 to 4,525 in 2004, a 32% decrease. While the rate of charges for property crime has decreased overall for Alberta (both youth and adults), the youth rate has decreased twice as much as the adult rate since the implementation of the YCJA.



The proportion of charges represented by property crimes has also decreased in the years following the implementation of the YCJA. While property crimes represented 41% of youth charged in 2001, this proportion dropped to 35% in 2006. This may signal that youth committing property crimes are being diverted away from the formal criminal justice system through the use of extrajudicial measures, or that the actual rate is declining, or both.

**Figure 3.2**  
Rate of Youths Charged in Alberta from 2001-2006, by Type of Offence<sup>1</sup>



Source: Statistics Canada, Canadian Centre for Justice Statistics, Uniform Crime Reporting Survey.

<sup>1</sup> Rates are based on based on Alberta youth population (ages 12-17).

<sup>2</sup> Other *Criminal Code* offences include: prostitution, gaming and betting, offensive weapons, administration of justice offences and miscellaneous *Criminal Code* offences. *Criminal Code* traffic offences are omitted because these data are not available for youth.

<sup>3</sup> Other Federal Statutes refer to offences against Canadian federal statutes, such as the *Bankruptcy Act*, *Canada Shipping Act*, *Customs Act*, *Excise Act*, *Immigration Act*, *Firearms Act*, *Young Offenders Act*, *Youth Criminal Justice Act* and other residual statutes.

**Table 3.1  
Number of Youth Charged in Alberta from 2001-2006, by Type of Offence**

	2001		2002		2003		2004		2005		2006	
	n	%	n	%	n	%	n	%	n	%	n	%
Total Incidents	15,207	100.0	15,598	100.0	13,726	100.0	12,193	100.0	11,465	100.0	11,032	100.0
Crimes of Violence	2,744	18.0	2,784	17.8	2,389	17.4	2,284	18.7	2,330	20.3	2,339	21.2
Property Crimes	6,197	40.8	6,651	42.6	5,800	42.3	4,525	37.1	4,168	36.4	3,858	35.0
Other Criminal Code <sup>1</sup>	4,803	31.6	4,694	30.1	4,430	32.3	4,199	34.4	3,846	33.5	3,566	32.3
Drugs	800	5.3	743	4.8	605	4.4	676	5.5	650	5.7	736	6.7
Other Federal Statutes <sup>2</sup>	663	4.4	726	4.7	502	3.7	509	4.2	471	4.1	533	4.8

Source: Statistics Canada, Canadian Centre for Justice Statistics, Uniform Crime Reporting Survey.

<sup>1</sup> Other *Criminal Code* offences include: prostitution, gaming and betting, offensive weapons, administration of justice offences and miscellaneous *Criminal Code* offences. *Criminal Code* traffic offences are omitted because these data are not available for youth.

<sup>2</sup> Other Federal Statutes refer to offences against Canadian federal statutes, such as the *Bankruptcy Act*, *Canada Shipping Act*, *Customs Act*, *Excise Act*, *Immigration Act*, *Firearms Act*, *Young Offenders Act*, *Youth Criminal Justice Act* and other residual statutes.

On the other hand, as shown in Figure 3.3, the rate of youth not charged for property related offences has also declined since 2003; however, it has declined at a lesser rate than the rate of youth charged. This could reflect a general decrease for all property-related offences committed by youth. Alternatively, it may also be that greater police discretion to divert youth to extrajudicial measures resulted in some police officers not reporting on minor (property-related) offences when they are issuing warnings or taking “no further action.” This would mean that the actual number of offences eligible for extrajudicial measures is underestimated, which in turn pulls the reported youth crime rate down as well. While the use of police discretion was permissible and encouraged under the YOA, this is more explicitly addressed in the YCJA. Section 6 of the YCJA specifically addresses police officers and encourages them to consider whether using extrajudicial measures is sufficient to hold a young person accountable for their behaviour before initiating a judicial proceeding.

Other *Criminal Code* offences instead show a steady increase in the rate of youth not charged. Table 3.2 shows that while Other *Criminal Code* offences represented 40% of youth not charged in 2001, this proportion increased to 51% in 2006. Again, however, the number of *Criminal Code* offences reported to the police may under-represent the true number of these offences, especially in the case of administration of justice offences, which include violations of probation conditions that may not be reported to the police.

**Figure 3.3**  
**Rate of Youth Not Charged in Alberta from 2001-2006, by Type of Offence<sup>1</sup>**



Source: Statistics Canada, Canadian Centre for Justice Statistics, Uniform Crime Reporting Survey.

<sup>1</sup> Rates are based on based on Alberta youth population (ages 12-17).

<sup>2</sup> Other *Criminal Code* offences include: prostitution, gaming and betting, offensive weapons, administration of justice offences and miscellaneous *Criminal Code* offences. *Criminal Code* traffic offences are omitted because these data are not available for youth.

<sup>3</sup> Other Federal Statutes refer to offences against Canadian federal statutes, such as the *Bankruptcy Act*, *Canada Shipping Act*, *Customs Act*, *Excise Act*, *Immigration Act*, *Firearms Act*, *Young Offenders Act*, *Youth Criminal Justice Act* and other residual statutes.

**Table 3.2**  
**Number of Youth Not Charged in Alberta from 2001-2006, by Type of Offence**

	2001		2002		2003		2004		2005		2006	
	n	%	n	%	n	%	n	%	n	%	n	%
Total Incidents	14,201	100.0	14,717	100.0	16,278	100.0	15,468	100.0	13,897	100.0	15,376	100.0
Crimes of Violence	1,856	13.1	1,835	12.5	2,230	13.7	1,902	12.3	1,804	13.0	2,084	13.6
Property Crimes	5,851	41.2	6,099	41.4	6,910	42.4	6,478	41.9	5,124	36.9	4,647	30.2
Other Criminal Code <sup>1</sup>	5,712	40.2	5,993	40.7	6,349	39.0	6,251	40.4	6,279	45.2	7,781	50.6
Drugs	609	4.3	641	4.4	615	3.8	693	4.5	592	4.3	768	5.0
Other Federal Statutes <sup>2</sup>	173	1.2	149	1.0	174	1.1	144	0.9	98	0.7	96	0.6

Source: Statistics Canada, Canadian Centre for Justice Statistics, Uniform Crime Reporting Survey.

<sup>1</sup> Other *Criminal Code* offences include: prostitution, gaming and betting, offensive weapons, administration of justice offences and miscellaneous *Criminal Code* offences. *Criminal Code* traffic offences are omitted because these data are not available for youth.

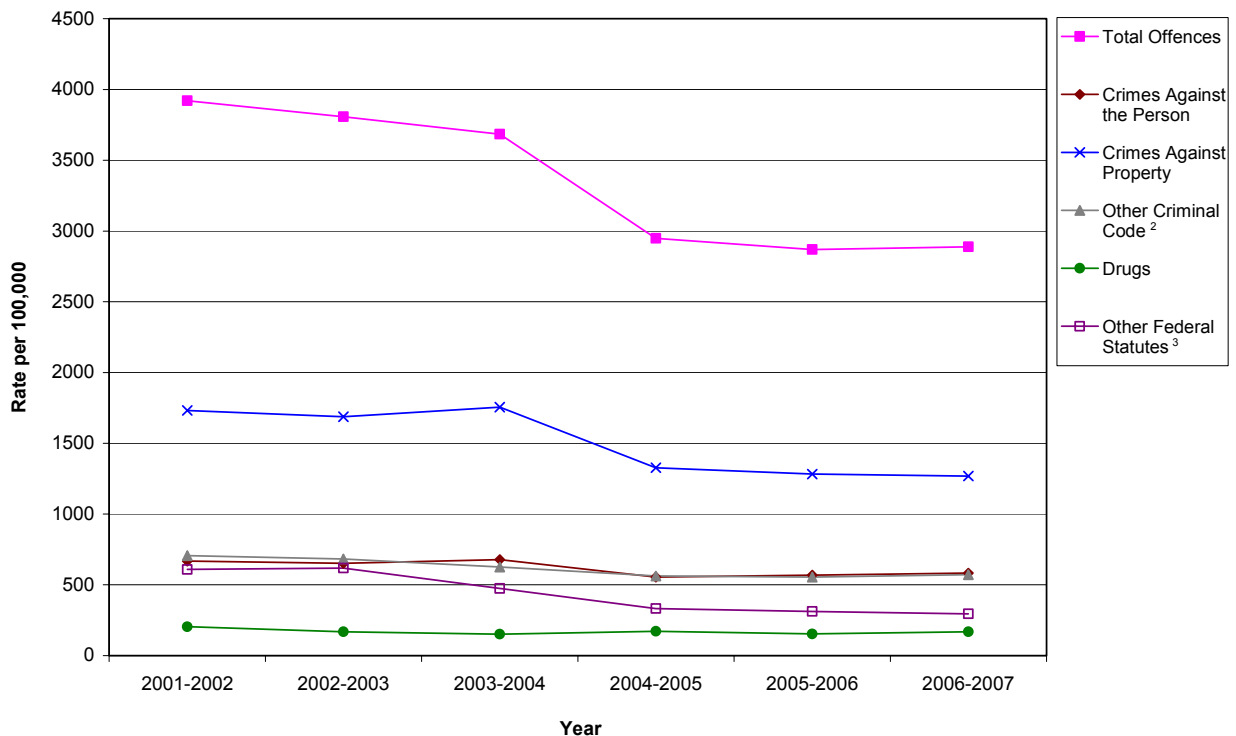
<sup>2</sup> Other Federal Statutes refer to offences against Canadian federal statutes, such as the *Bankruptcy Act*, *Canada Shipping Act*, *Customs Act*, *Excise Act*, *Immigration Act*, *Firearms Act*, *Young Offenders Act*, *Youth Criminal Justice Act* and other residual statutes.

### 3.1.2 Changes in Youth Cases Heard in Court

Following the introduction of the *YCJA*, the rate of youth cases heard in court dropped substantially. Using data obtained from the Youth Court Survey, Figure 3.4 shows that this decline was primarily due to the decrease in cases heard for property-

related offences, which experienced a 24% decrease from 2003-2004 to 2004-2005. This is consistent with the charge data previously presented. Given that fewer youth are being charged with property-related offences, it is expected that there would be fewer cases involving property crime heard in court. As shown in Table 3.3, decreases were also seen in the number of youth court cases related to crimes against the person, other *Criminal Code* offences and other federal statutes. Violations of other federal statutes, such as the *Immigration Act* and *Firearms Act*, as well as administration of justice charges under the *Youth Criminal Justice Act/Young Offenders Act*, also represent a smaller proportion of cases heard in court after 2003. In 2002-2003 cases involving other federal statute charges represented 16% of the total cases heard in court, with this proportion decreasing to 11% in 2004-2005, which follows the overall decrease in other federal statute offence cases heard in court. While one might expect a higher proportion of crimes against the person heard in youth court, due to the decline in charging of other less serious types of offences, the proportion of cases heard in youth court remained relatively stable for the remaining offence categories, with only a slight increase observed in crimes against the person (e.g., 17% in 2002-2003, to 20% in 2006-2007). The survey excludes cases heard regarding appeals, reviews, provincial statutes, and municipal bylaw infractions.

Figure 3.4  
Rate of Youth Cases Heard in Court in Alberta from 2001-2007, by Type of Offence<sup>1</sup>



Source: Statistics Canada, Canadian Centre for Justice Statistics, Youth Court Survey.

<sup>1</sup> Rates are based on based on Alberta youth population (ages 12-17).

<sup>2</sup> Other *Criminal Code* offences include administration of justice offences, prostitution, weapons, disturbing the peace, *Criminal Code* traffic and residual *Criminal Code* offences.

<sup>3</sup> Other Federal Statutes refer to offences against Canadian federal statutes, such as the *Bankruptcy Act*, *Canada Shipping Act*, *Customs Act*, *Excise Act*, *Immigration Act*, *Firearms Act*, *Young Offenders Act*, *Youth Criminal Justice Act* and other residual statutes.

**Table 3.3  
Number of Youth Cases Heard in Court in Alberta from 2001-2007, by Type of Offence**

	2001-2002		2002-2003		2003-2004		2004-2005		2005-2006		2006-2007	
	n	%	n	%	n	%	n	%	n	%	n	%
Total Offences	10,604	100.0	10,439	100.0	10,121	100.0	8,094	100.0	7,919	100.0	8,016	100.0
Crimes Against the Person	1,804	17.0	1,787	17.1	1,864	18.4	1,523	18.8	1,569	19.8	1,617	20.2
Crimes Against Property	4,687	44.2	4,625	44.3	4,820	47.6	3,645	45.0	3,537	44.7	3,521	43.9
Other Criminal Code <sup>1</sup>	1,912	18.0	1,871	17.9	1,719	17.0	1,546	19.1	1,532	19.3	1,589	19.8
Drugs	552	5.2	461	4.4	416	4.1	469	5.8	420	5.3	469	5.9
Other Federal Statutes <sup>2</sup>	1,649	15.6	1,695	16.2	1,302	12.9	911	11.3	861	10.9	820	10.2

Source: Statistics Canada, Canadian Centre for Justice Statistics, Youth Court Survey.

<sup>1</sup> Other *Criminal Code* offences include administration of justice offences, prostitution, weapons, disturbing the peace, *Criminal Code* traffic and residual *Criminal Code* offences.

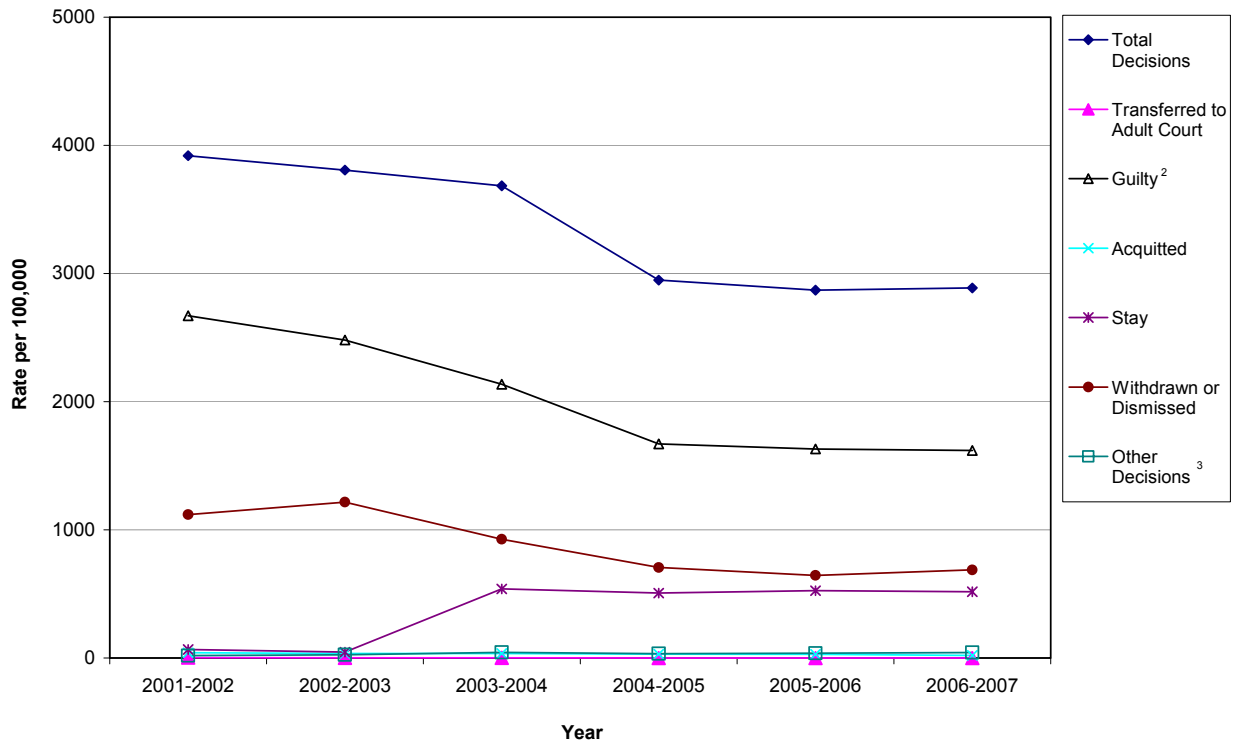
<sup>2</sup> Other Federal Statutes refer to offences against Canadian federal statutes, such as the *Bankruptcy Act*, *Canada Shipping Act*, *Customs Act*, *Excise Act*, *Immigration Act*, *Firearms Act*, *Young Offenders Act*, *Youth Criminal Justice Act* and other residual statutes.

### 3.1.3 Changes in Youth Case Outcomes

As a result of the fewer youth cases heard in court, there were fewer decisions made after the *YCJA* came into force (see Figure 3.5). Guilty decisions mirrored the overall drop in decisions, while the number of stays increased following the implementation of the *YCJA*. Cases are often stayed for youth referred to alternative measures/extrajudicial sanctions (Thomas, 2008). The increase in cases that were stayed likely reflects the change in legislation that called for increased use of diversion programs and fewer youth to be incarcerated.

Another change in the legislation that affected court decisions was the change in the legal approach to the imposition of adult sentences for very serious offences committed by a youth. Under the *YOA*, transfers to adult court were allowed for the most serious and violent cases (e.g., murder, manslaughter, attempted murder and aggravated sexual assault) for youth aged 16 and older. Under the *YCJA*, the decision to transfer a youth to adult court is no longer an option. Youth aged 14 and older who have been found guilty of the most serious offences are, however, eligible for adult sentencing, but the sentencing is imposed by a Youth Court Judge (Thomas, 2005). As shown in Table 3.4, while there were very few cases transferred to adult court in Alberta prior to the implementation of the *YCJA*, the number of cases dropped to zero in the years following the *YCJA* as cases can no longer be transferred to adult court; data on cases that receive an adult sentence is not available from Statistics Canada.

**Figure 3.5**  
**Rate of Total Youth Cases Heard in Court in Alberta from 2001-2007, by Type of Decisions<sup>1</sup>**



Source: Statistics Canada, Canadian Centre for Justice Statistics, Youth Court Survey.

<sup>1</sup> Rates are based on based on Alberta youth population (ages 12-17).

<sup>2</sup> Guilty includes guilty of the charged offence, of an included offence, of an attempt of the charged offence, or of an attempt of an included offence. It also includes cases where an absolute or conditional discharge has been imposed.

<sup>3</sup> Other Decisions include transferred to another province or territory, unfit to stand trial and residual decisions.

**Table 3.4**  
**Number of Youth Cases Heard in Court in Alberta from 2001-2007, by Type of Decision**

	2001-2002		2002-2003		2003-2004		2004-2005		2005-2006		2006-2007	
	n	%	n	%	n	%	n	%	n	%	n	%
Total Decisions	10,604	100.0	10,439	100.0	10,121	100.0	8,094	100.0	7,919	100.0	8,016	100.0
Transferred to Adult Court	10	0.1	3	0.0	4	0.0	0	0.0	0	0.0	0	0.0
Guilty <sup>1</sup>	7,225	68.1	6,803	65.2	5,869	58.0	4,587	56.7	4,502	56.9	4,496	56.1
Acquitted	109	1.0	98	0.9	100	1.0	86	1.1	79	1.0	58	0.7
Stay	179	1.7	126	1.2	1,479	14.6	1,391	17.2	1,451	18.3	1,434	17.9
Withdrawn or Dismissed	3,028	28.6	3,338	32.0	2,546	25.2	1,937	23.9	1,782	22.5	1,910	23.8
Other Decisions <sup>2</sup>	53	0.5	71	0.7	123	1.2	93	1.1	105	1.3	118	1.5

Source: Statistics Canada, Canadian Centre for Justice Statistics, Youth Court Survey.

<sup>1</sup> Guilty includes guilty of the charged offence, of an included offence, of an attempt of the charged offence, or of an attempt of an included offence. It also includes cases where an absolute or conditional discharge has been imposed.

<sup>2</sup> Other Decisions include transferred to another province or territory, unfit to stand trial and residual decisions.

When broken down by offence, further changes in youth case decisions are evident. Table 3.5 shows that while the proportion of guilty decisions remained stable for cases related to crimes against the person, administration of justice charges, and other federal statutes, guilty decisions showed a substantial decrease in cases of crimes against property, other *Criminal Code* and drugs. In 2002-2003, guilty decisions resulted in 65% of the cases in crimes against property. This proportion dropped more than 10% in the following year, then down to less than 50% of the total decisions in

2006-2007. Meanwhile, the proportion of stay decisions increased by more than 25% in 2006-2007. Other *Criminal Code* and drug offence cases show a similar pattern, where the proportion of guilty cases decreased, and the proportion of stay decisions increased.

Table 3.5  
Youth Cases Heard in Court in Alberta from 2001-2007, by Type of Decision and Offence

		2001-2002		2002-2003		2003-2004		2004-2005		2005-2006		2006-2007	
		n	%	n	%	n	%	n	%	n	%	n	%
Crimes Against the Person	Total Decisions	1,804	100.0	1,787	100.0	1,864	100.0	1,523	100.0	1,569	100.0	1,617	100.0
	Transferred to Adult Court	4	0.2	3	0.2	2	0.1	0	0.0	0	0.0	0	0.0
	Guilty <sup>1</sup>	1,150	63.7	1,105	61.8	1,067	57.2	873	57.3	907	57.8	972	60.1
	Acquitted	49	2.7	38	2.1	51	2.7	41	2.7	48	3.1	25	1.5
	Stay	71	3.9	44	2.5	276	14.8	269	17.7	279	17.8	255	15.8
	Withdrawn or Dismissed	520	28.8	587	32.8	425	22.8	318	20.9	318	20.3	342	21.2
	Other Decisions <sup>2</sup>	10	0.6	10	0.6	43	2.3	22	1.4	17	1.1	23	1.4
Crimes Against Property	Total Decisions	4,687	100.0	4,625	100.0	4,820	100.0	3,645	100.0	3,537	100.0	3,521	100.0
	Transferred to Adult Court	0	0.0	0	0.0	1	0.0	0	0.0	0	0.0	0	0.0
	Guilty <sup>1</sup>	3,248	69.3	3,025	65.4	2,630	54.6	1,903	52.2	1,827	51.7	1,725	49.0
	Acquitted	41	0.9	36	0.8	35	0.7	26	0.7	24	0.7	19	0.5
	Stay	65	1.4	60	1.3	964	20.0	865	23.7	901	25.5	919	26.1
	Withdrawn or Dismissed	1,306	27.9	1,462	31.6	1,135	23.5	805	22.1	753	21.3	816	23.2
	Other Decisions <sup>2</sup>	27	0.6	42	0.9	55	1.1	46	1.3	32	0.9	42	1.2
Administration of Justice	Total Decisions	1,037	100.0	1,077	100.0	830	100.0	795	100.0	877	100.0	846	100.0
	Transferred to Adult Court	2	0.2	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
	Guilty <sup>1</sup>	616	59.4	617	57.3	507	61.1	482	60.6	511	58.3	486	57.4
	Acquitted	3	0.3	5	0.5	1	0.1	1	0.1	1	0.1	1	0.1
	Stay	4	0.4	2	0.2	30	3.6	26	3.3	23	2.6	24	2.8
	Withdrawn or Dismissed	408	39.3	447	41.5	287	34.6	276	34.7	296	33.8	293	34.6
	Other Decisions <sup>2</sup>	4	0.4	6	0.6	5	0.6	10	1.3	46	5.2	42	5.0
Other Criminal Code	Total Decisions	875	100.0	794	100.0	889	100.0	751	100.0	655	100.0	743	100.0
	Transferred to Adult Court	1	0.1	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
	Guilty <sup>1</sup>	613	70.1	500	63.0	526	59.2	441	58.7	403	61.5	470	63.3
	Acquitted	10	1.1	14	1.8	11	1.2	12	1.6	5	0.8	8	1.1
	Stay	17	1.9	10	1.3	106	11.9	113	15.0	114	17.4	95	12.8
	Withdrawn or Dismissed	228	26.1	268	33.8	237	26.7	178	23.7	126	19.2	163	21.9
	Other Decisions <sup>2</sup>	6	0.7	2	0.3	9	1.0	7	0.9	7	1.1	7	0.9
Drugs	Total Decisions	552	100.0	461	100.0	416	100.0	469	100.0	420	100.0	469	100.0
	Transferred to Adult Court	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
	Guilty <sup>1</sup>	316	57.2	244	52.9	178	42.8	222	47.3	188	44.8	200	42.6
	Acquitted	4	0.7	1	0.2	0	0.0	2	0.4	1	0.2	4	0.9
	Stay	10	1.8	3	0.7	91	21.9	101	21.5	117	27.9	127	27.1
	Withdrawn or Dismissed	221	40.0	211	45.8	145	34.9	139	29.6	112	26.7	136	29.0
	Other Decisions <sup>2</sup>	1	0.2	2	0.4	2	0.5	5	1.1	2	0.5	2	0.4
Other Federal Statutes	Total Decisions	1,649	100.0	1,695	100.0	1,302	100.0	911	100.0	861	100.0	820	100.0
	Transferred to Adult Court	3	0.2	0	0.0	1	0.1	0	0.0	0	0.0	0	0.0
	Guilty <sup>1</sup>	1,282	77.7	1,312	77.4	961	73.8	666	73.1	666	77.4	643	78.4
	Acquitted	2	0.1	4	0.2	2	0.2	4	0.4	0	0.0	1	0.1
	Stay	12	0.7	7	0.4	12	0.9	17	1.9	17	2.0	14	1.7
	Withdrawn or Dismissed	345	20.9	363	21.4	317	24.3	221	24.3	177	20.6	160	19.5
	Other Decisions <sup>2</sup>	5	0.3	9	0.5	9	0.7	3	0.3	1	0.1	2	0.2

Source: Statistics Canada, Canadian Centre for Justice Statistics, Youth Court Survey.

<sup>1</sup> Guilty includes guilty of the charged offence, of an included offence, of an attempt of the charged offence, or of an attempt of an included offence. It also includes cases where an absolute or conditional discharge has been imposed.

<sup>2</sup> Other Decisions include transferred to another province or territory, unfit to stand trial and residual decisions.

In response to the high use of incarceration under the YOA, the YCJA includes statements of purpose, principles and factors that are intended to limit the use of custody (ss. 3, 38 & 39) (Thomas, 2008). Further a number of community-based sentencing options not available under the YOA were also created. The new sentences include reprimands from judges, intensive support and supervision, attendance orders, deferred custody and supervision (Bryant, 2003). Reprimands are the least punitive of the sentences and involve a stern lecture from the judge. Intensive support and supervision is similar to probation, but provides more support to the young person and closer monitoring. Attendance orders allow judges to order a young person to attend a non-residential program. The deferred custody and supervision order is a new

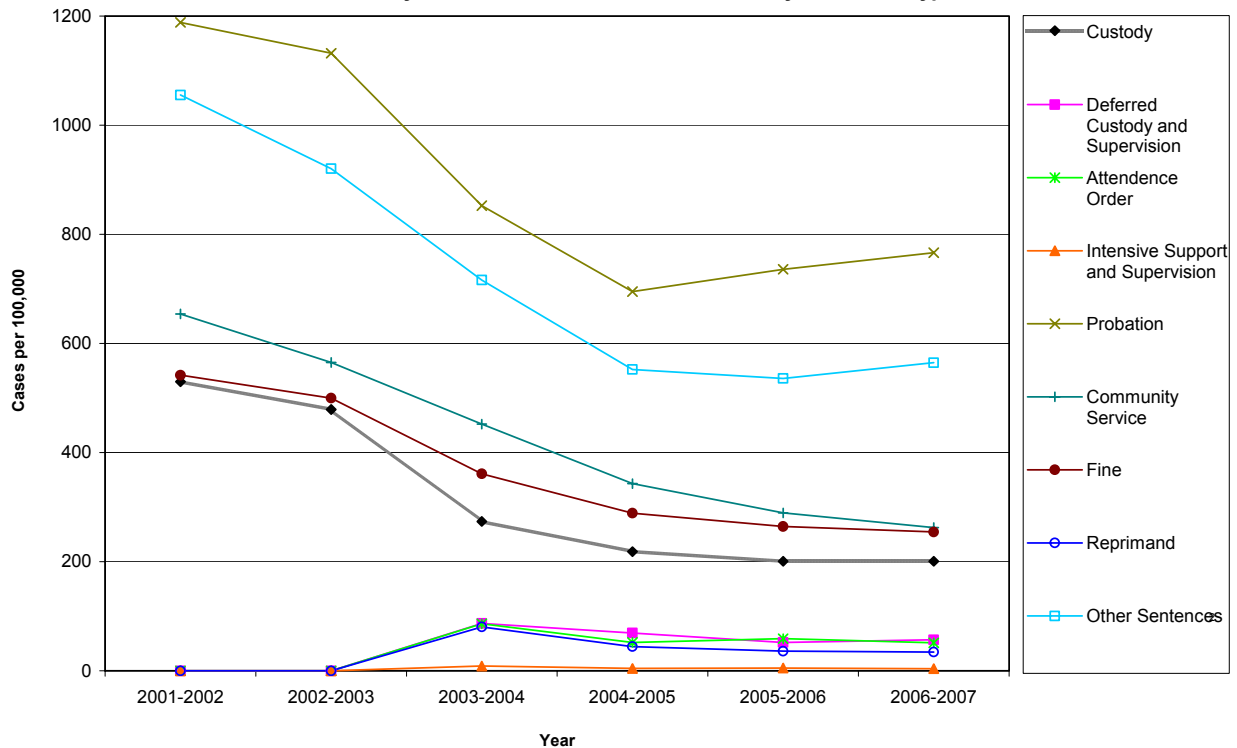
sentencing option for youth who have been found guilty of an offence that is not a serious violent offence. It allows a young person who would otherwise have been sentenced to custody to serve their sentence under community supervision with strict conditions. If the conditions are violated, the young person can be sent directly to custody without another court hearing. Another major transformation in the legislation was that reintegration became part of the custodial sentence. Under the YOA, the entire custodial term was to be served in a corrections facility. The YCJA instead stipulates that a second community supervision period follows the first custodial sentence period. This second period is generally one-half of the total length of time served in custody (Bryant, 2003). Another sentence in the YCJA that was not in the YOA is the intensive rehabilitative custody and supervision order (I.R.C.S.); this sentence is not community-based, but it allows for an individualized, rehabilitative response to youths guilty of murder, attempted murder, manslaughter, aggravated sexual assault or have a pattern of repeated, serious violent offences.

Figure 3.6 reflects how the changes in legislation have affected sentence outcomes. It shows that there was a decrease in the rate of custodial sentences ordered immediately following the implementation of the YCJA. Table 3.6 shows that in 2002-2003 custodial sentences were handed down in 1,313 of the guilty cases, representing almost 20% of all guilty cases. This proportion dropped to almost 13% of all guilty cases in 2003-2004. While the new sentences have received some use, they are still not as common as probation, community service, fines and custody. Table 3.6 shows that deferred custody and supervision, attendance orders and reprimands each represented about 4% of all guilty case sentences in 2003-2004. Probation is still the most common sentence, representing almost 46% of all guilty cases in 2002-2003 and 47% in 2006-2007.



Figure 3.6

Rate of Guilty Cases in Alberta from 2001-2007, by Sentence Type<sup>1</sup>



Source: Statistics Canada, Canadian Centre for Justice Statistics, Youth Court Survey.

<sup>1</sup> Rates are based on based on Alberta youth population (ages 12-17).

<sup>2</sup> Other Sentences include absolute discharge, restitution, prohibition, seizure, forfeiture, compensation, pay purchaser, essays, apologies, counselling programs, intensive rehabilitative custody and supervision, and conditional discharge.

Table 3.6  
Number of Guilty Cases in Alberta from 2001-2007, by Sentence Type

	2001-2002		2002-2003		2003-2004		2004-2005		2005-2006		2006-2007	
	n	%	n	%	n	%	n	%	n	%	n	%
Total Guilty Cases <sup>1</sup>	7,225	-	6,803	-	5,869	-	4,587	-	4,502	-	4,496	-
Custody	1,433	19.8	1,313	19.3	752	12.8	600	13.1	554	12.3	557	12.4
Deferred Custody and Supervision	0	0.0	0	0.0	239	4.1	190	4.1	144	3.2	158	3.5
Attendance Order	0	0.0	0	0.0	237	4.0	143	3.1	163	3.6	142	3.2
Intensive Support and Supervision	0	0.0	0	0.0	24	0.4	12	0.3	14	0.3	11	0.2
Probation	3,215	44.5	3,103	45.6	2,342	39.9	1,908	41.6	2,030	45.1	2,127	47.3
Community Service	1,769	24.5	1,549	22.8	1,242	21.2	942	20.5	798	17.7	704	15.7
Fine	1,466	20.3	1,370	20.1	992	16.9	793	17.3	730	16.2	707	15.7
Reprimand	0	0.0	0	0.0	221	3.8	122	2.7	100	2.2	96	2.1
Other Sentences <sup>2</sup>	2,855	39.5	2,523	37.1	1,967	33.5	1,516	33.0	1,478	32.8	1,568	34.9

Source: Statistics Canada, Canadian Centre for Justice Statistics, Youth Court Survey.

<sup>1</sup> Cases can have more than one sentence, therefore the number sentences will not add to the total number of guilty cases.

<sup>2</sup> Other Sentences include absolute discharge, restitution, prohibition, seizure, forfeiture, compensation, pay purchaser, essays, apologies, counselling programs, intensive rehabilitative custody and supervision, and conditional discharge.

The decrease in custodial sentences after the YCJA came into force is consistent across a number of different offence categories, as shown in Table 3.7. The proportion of crimes against the person sentenced to custody decreased from 21% of all guilty cases sentenced in 2002-2003 to 14% in 2003-2004. Administration of justice guilty cases also shows more than a 10% decline in the proportion sentenced to custody.

Throughout the six-year period examined, probation was the most common sentence in crimes against the person and crimes against property. Meanwhile, other sentences such as absolute discharges, restitution, essays and apologies were most common amongst administration of justice and other federal statute guilty cases after the YCJA came into force. Other *Criminal Code* and drug-related guilty cases were split between other sentences and probation as being most common.

The new sentences also showed some variation in use depending on their offence category. Deferred custody and supervision orders were made in crimes against the person, administration of justice, drugs and other federal statute guilty cases. The proportions, however, were never greater than 8% of the total guilty cases. Intensive support and supervision was rarely used, with a few sentences issued to cases guilty of crimes against the person and crimes against property. Attendance orders were issued in all of the offence categories examined, with higher proportions observed in cases guilty of charges relating to administration of justice, other Criminal Code and other federal statutes. Reprimands were mostly issued in administration of justice and other federal statute cases.

**Table 3.7  
Youth Cases Heard in Court in Alberta from 2001-2007, by Type of Decision and Offence**

		2001-2002		2002-2003		2003-2004		2004-2005		2005-2006		2006-2007	
		n	%	n	%	n	%	n	%	n	%	n	%
Crimes Against the Person	Total Guilty Cases <sup>1</sup>	1,150	-	1,105	-	1,067	-	873	-	907	-	972	-
	Custody	218	19.0	230	20.8	146	13.7	119	13.6	120	13.2	127	13.1
	Deferred Custody and Supervision	0	0.0	0	0.0	74	6.9	65	7.4	37	4.1	41	4.2
	Intensive Support and Supervision	0	0.0	0	0.0	9	0.8	1	0.1	3	0.3	5	0.5
	Probation	780	67.8	782	70.8	633	59.3	541	62.0	560	61.7	647	66.6
	Attendance Order	0	0.0	0	0.0	34	3.2	22	2.5	30	3.3	19	2.0
	Fine	104	9.0	84	7.6	79	7.4	49	5.6	60	6.6	44	4.5
	Community Service	304	26.4	264	23.9	204	19.1	127	14.5	109	12.0	125	12.9
	Reprimand	0	0.0	0	0.0	26	2.4	13	1.5	10	1.1	11	1.1
Other Sentences <sup>2</sup>	433	37.7	426	38.6	360	33.7	267	30.6	266	29.3	317	32.6	
Crimes Against Property	Total Guilty Cases <sup>1</sup>	3,248	-	3,025	-	2,630	-	1,903	-	1,827	-	1,725	-
	Custody	614	18.9	516	17.1	296	11.3	202	10.6	202	11.1	187	10.8
	Deferred Custody and Supervision	0	0.0	0	0.0	108	4.1	67	3.5	58	3.2	52	3.0
	Intensive Support and Supervision	0	0.0	0	0.0	13	0.5	9	0.5	8	0.4	4	0.2
	Probation	1,712	52.7	1,627	53.8	1,192	45.3	872	45.8	944	51.7	926	53.7
	Attendance Order	0	0.0	0	0.0	117	4.4	54	2.8	67	3.7	49	2.8
	Fine	510	15.7	489	16.2	349	13.3	241	12.7	222	12.2	209	12.1
	Community Service	845	26.0	735	24.3	620	23.6	489	25.7	388	21.2	320	18.6
	Reprimand	0	0.0	0	0.0	68	2.6	27	1.4	29	1.6	30	1.7
Other Sentences <sup>2</sup>	1,400	43.1	1,184	39.1	801	30.5	590	31.0	555	30.4	575	33.3	
Administration of Justice	Total Guilty Cases <sup>1</sup>	616	-	617	-	507	-	482	-	511	-	486	-
	Custody	183	29.7	182	29.5	103	20.3	98	20.3	78	15.3	83	17.1
	Deferred Custody and Supervision	0	0.0	0	0.0	6	1.2	10	2.1	8	1.6	10	2.1
	Intensive Support and Supervision	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	1	0.2
	Probation	93	15.1	119	19.3	80	15.8	114	23.7	110	21.5	102	21.0
	Attendance Order	0	0.0	0	0.0	21	4.1	14	2.9	10	2.0	17	3.5
	Fine	159	25.8	161	26.1	103	20.3	111	23.0	124	24.3	114	23.5
	Community Service	125	20.3	108	17.5	99	19.5	88	18.3	78	15.3	75	15.4
	Reprimand	0	0.0	0	0.0	46	9.1	24	5.0	28	5.5	21	4.3
Other Sentences <sup>2</sup>	210	34.1	200	32.4	125	24.7	136	28.2	194	38.0	153	31.5	
Other Criminal Code	Total Guilty Cases <sup>1</sup>	613	-	500	-	526	-	441	-	403	-	470	-
	Custody	110	17.9	90	18.0	74	14.1	60	13.6	51	12.7	53	11.3
	Deferred Custody and Supervision	0	0.0	0	0.0	14	2.7	21	4.8	20	5.0	22	4.7
	Intensive Support and Supervision	0	0.0	0	0.0	1	0.2	1	0.2	0	0.0	1	0.2
	Probation	294	48.0	249	49.8	233	44.3	181	41.0	192	47.6	229	48.7
	Attendance Order	0	0.0	0	0.0	16	3.0	13	2.9	20	5.0	12	2.6
	Fine	171	27.9	133	26.6	145	27.6	116	26.3	89	22.1	107	22.8
	Community Service	110	17.9	86	17.2	82	15.6	61	13.8	45	11.2	44	9.4
	Reprimand	0	0.0	0	0.0	7	1.3	10	2.3	4	1.0	8	1.7
Other Sentences <sup>2</sup>	308	50.2	259	51.8	275	52.3	196	44.4	179	44.4	220	46.8	
Drugs	Total Guilty Cases <sup>1</sup>	316	-	244	-	178	-	222	-	188	-	200	-
	Custody	48	15.2	35	14.3	15	8.4	22	9.9	11	5.9	7	3.5
	Deferred Custody and Supervision	0	0.0	0	0.0	14	7.9	9	4.1	9	4.8	8	4.0
	Intensive Support and Supervision	0	0.0	0	0.0	1	0.6	0	0.0	1	0.5	0	0.0
	Probation	145	45.9	107	43.9	71	39.9	105	47.3	92	48.9	112	56.0
	Attendance Order	0	0.0	0	0.0	4	2.2	5	2.3	1	0.5	7	3.5
	Fine	132	41.8	92	37.7	53	29.8	65	29.3	61	32.4	53	26.5
	Community Service	39	12.3	35	14.3	26	14.6	35	15.8	26	13.8	28	14.0
	Reprimand	0	0.0	0	0.0	2	1.1	4	1.8	3	1.6	1	0.5
Other Sentences <sup>2</sup>	92	29.1	76	31.1	86	48.3	102	45.9	96	51.1	106	53.0	
Other Federal Statutes	Total Guilty Cases <sup>1</sup>	1,282	-	1,312	-	961	-	666	-	666	-	643	-
	Custody	260	20.3	260	19.8	118	12.3	99	14.9	92	13.8	100	15.6
	Deferred Custody and Supervision	0	0.0	0	0.0	23	2.4	18	2.7	12	1.8	25	3.9
	Intensive Support and Supervision	0	0.0	0	0.0	0	0.0	1	0.2	2	0.3	0	0.0
	Probation	191	14.9	219	16.7	133	13.8	95	14.3	132	19.8	111	17.3
	Attendance Order	0	0.0	0	0.0	45	4.7	35	5.3	35	5.3	38	5.9
	Fine	390	30.4	411	31.3	263	27.4	211	31.7	174	26.1	180	28.0
	Community Service	346	27.0	321	24.5	211	22.0	142	21.3	152	22.8	112	17.4
	Reprimand	0	0.0	0	0.0	72	7.5	44	6.6	26	3.9	25	3.9
Other Sentences <sup>2</sup>	412	32.1	378	28.8	320	33.3	225	33.8	188	28.2	197	30.6	

Source: Statistics Canada, Canadian Centre for Justice Statistics, Youth Court Survey.

<sup>1</sup> Cases can have more than one sentence, therefore the number sentences will not add to the total number of guilty cases.

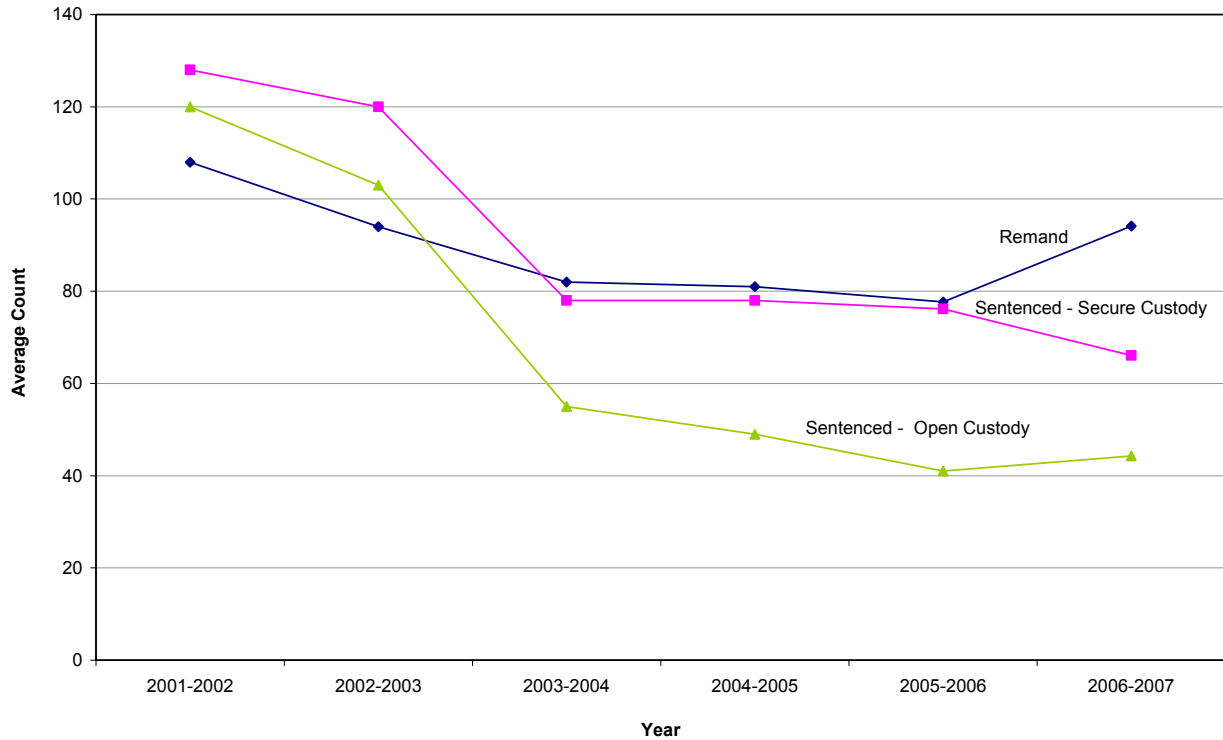
<sup>2</sup> Other Sentences include absolute discharge, restitution, prohibition, seizure, forfeiture, compensation, pay purchaser, essays, apologies, counselling programs, intensive rehabilitative custody and supervision, and conditional discharge.

Table 3.7 showed that the number of youth sentenced to custody has decreased for all types of offences since the implementation of the YCJA. This is true for both youth sentenced to secure custody and open custody. Figure 3.7 shows that the average number of youth in both secure and open custody experienced a dramatic decline after the YCJA came into force. The average number of youth in secure custody in 2002-2003 was 120, which declined to 78 in 2003-2004, and youth in open custody declined from 103 to 55 in the same years. Averages have remained consistently low for the years following the implementation of the YCJA for both secure and open custody.

Youth remanded to custody also experienced a decline in 2003-2004 to an average of 84 youth per month. However, in 2006-2007 the average number of youth on remand increased to 94, the same average as in 2002-2003. Custodial remand refers to youth who are ordered by the court to be held in custody while awaiting a further court appearance. Detention before sentencing is subject to the provisions of Part XVI of the *Criminal Code*; as modified by provisions of the YCJA that were intended to reduce the use of remand custody. The provisions in the YCJA state that a youth court judge should not remand a young person to custody as a substitute for a social measure (e.g., detention used for protection of the child) (s. 29 (1)) nor can a young person be remanded for the purpose of public safety, if the young person would not be committed to custody if found guilty (s. 29 (2)).

It is significant to consider that while the YCJA has resulted in a distinct and long lasting effect on the use of custodial sentences, it has not resulted in a permanent decline in the use of remand. The increase in remand use in 2006-2007 may reflect a number of factors. Youth on remand are more likely to have been charged with crimes against the person or violent offences and these cases usually require longer court processing times (Johnson, 2002). Figure 3.2 shows that the decrease in the total rate of youth charged was primarily due to a decrease in the rate of property crime charges. On the other hand, the charge rate of violent crimes actually showed a slight increase in 2006-2007, as well as the number of cases heard in court related to crimes against the person. This may partially explain the increase in youth remanded to custody.

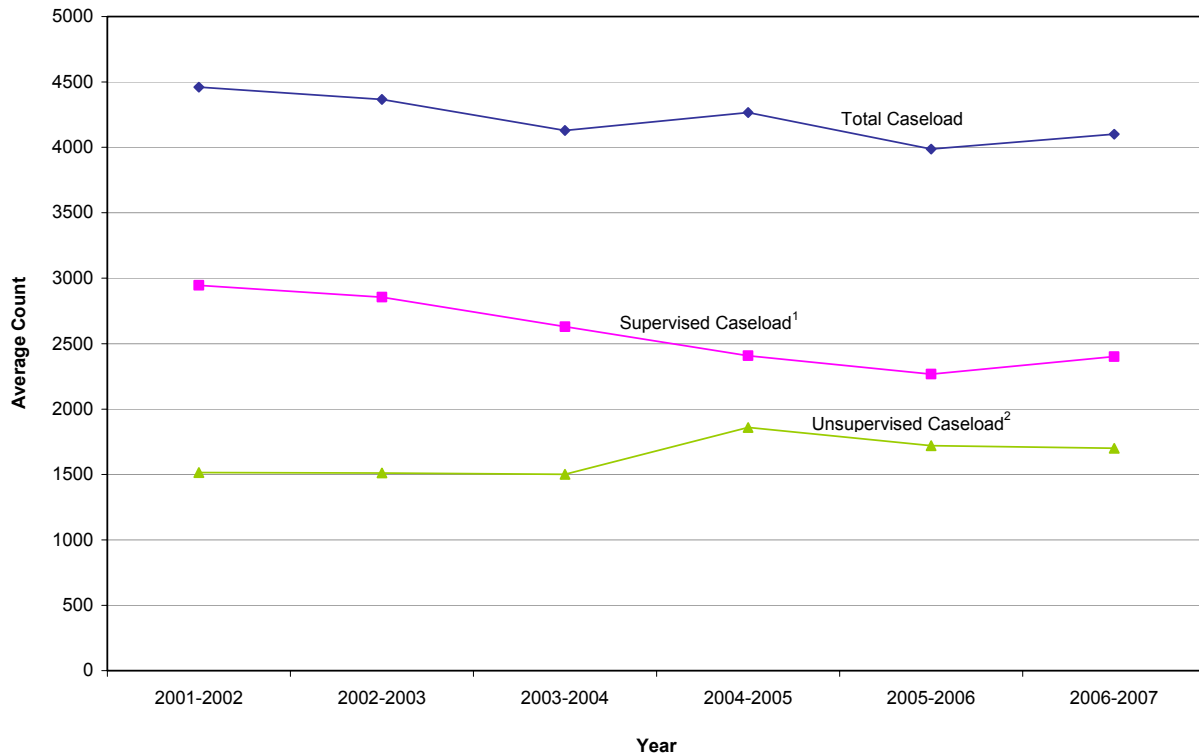
**Figure 3.7**  
**Average Monthly Custody Count of Youth Offenders in Alberta from 2001-2007**



Source: Alberta Solicitor General, Correctional Services.

Finally, as indicated in Figure 3.8, the average number of youth supervised in the community has also declined since the *YCJA* came into force, while the unsupervised caseload has slightly increased. The total caseload, however, has only decreased by an average of 360 youth over the six-year time span analysed. This is perhaps reflective of youth being diverted away from the formal youth justice system and thus being dealt with through orders such as compensation, extrajudicial measures or sanctions, and community service.

**Figure 3.8**  
**Average Monthly Community Corrections Youth Offender Counts in Alberta from 2001-2007**



Source: Alberta Solicitor General, Correctional Services.

1 Supervised Caseload includes such orders as probation, conditional supervision, temporary release/re-integration leave, deferred custody and supervision, non-residential orders, conditional discharge and community supervision.

2 Unsupervised Caseload includes such orders as community service, prohibition, restitution, compensation, alternative measures/extrajudicial sanctions, fines and pre-trial supervision.

## 4.0 FOCUS GROUPS

This chapter presents the results obtained from discussions held in focus groups with Calgary police and City of Calgary youth probation officers. Police participants represented various units in the Calgary Police Service (CPS), including the SHOP unit, Youth Education and Intervention Unit, School Resource Unit and frontline police officers from different districts across Calgary. Probation officers also represented different youth probation offices across Calgary. Both police and probation officers were asked a series of questions regarding the impact of the YCJA legislation on the nature of their jobs and their workload. In addition, they were also asked to reflect on the strengths and limitations of the Act. Finally, participants were asked about changes they would recommend to increase the effectiveness of rehabilitation and reintegration of youth offenders under the YCJA. The police and probation officers responses are discussed below.

### 4.1 Impact of YCJA on Workload for Calgary Police Officers

Overall, CPS focus group participants reported that their workload increased after the YCJA came into force. Depending on the unit that they were employed in, CPS members reported various reasons for their increased workload. Officers in the SHOP unit reported that the decreasing use of custody since the YCJA came into force meant that they spent more time monitoring offending youth in the community. The addition of new sentences under the YCJA also meant that youth who were previously sentenced to custody under the YOA were now serving their time in community supervision under a deferred custody order, or as part of their transition out of custody. The officers in the SHOP unit often monitor the terms of these orders, which as they reported, *“all adds to our workload.”* The new orders have also increased the number of types of breaches that can occur. In turn, this leads to an increase in the time required to report the breaches that occur and their associated paperwork.

Frontline officers stated that they experienced an increase in their workload due to the paperwork associated with extrajudicial measures. These officers also commented that given more offences now qualify for warnings and sanctions, this also increases their workload.

SROs reported that the increased discretion that the YCJA gives to police officers means that they have to spend more time calling around, talking with parents about different options and following up with schools, before they make a decision about what to do with the offending youth. Officers commented that under the YOA, they would just lay a charge: *“We would charge more often than use alternative measures under the old Act. But now we’ll look at the background a little bit more.”*

SROs also commented on the length of the Caution and Waiver form used for taking statements. Officers remarked that the four-page form could add up to two hours to their investigations. Officers further commented that despite its length, youth still did not understand their rights and they found that it discouraged youth from taking responsibility for their actions.

On the other hand, a few officers noted that the decrease in charging practices lead to less charge-related paperwork, which decreases their workload. They also noted that the discretion given to officers under the YCJA also means that there are opportunities to decrease officers' workload. For instance, one officer explained:

*I think the YCJA gives you more of an excuse to do nothing with the kid. You give a warning and then tell them to get out of there. If there is something that warrants a warning, you just give a warning.... You want to minimize your paperwork so you give a[n extrajudicial] measure.*

Other officers commented that time is an important factor in their decision to use an extrajudicial measure: *"It [the YCJA legislation] gave you more tools that you could use if you were given the opportunity. Quite often working the street though, you don't have the opportunity to do that."* Another officer agreed, commenting: *"Yes more tools, more options for charges, discretion, more sanctions, measures, but you need the time to implement these different tools."*

Officers commented that they were also less likely to appear in court as a result of the new legislation. One officer commented: *"We're in court less, I can't remember the last time. When you lay the charge, the kids know that they were given lots of chances and they just plead guilty."*

#### 4.1.1 Extrajudicial Measures

Since the YCJA came into force, the use of warnings as an extrajudicial measure has changed for some police officers. While SROs reported that they have always used warnings, frontline officers reported that they use them to a greater extent than they used to.

There are a number of factors that officers consider before they use a warning. Many officers said that they consider whether or not the youth has previously been in trouble, the seriousness of the offence, if the youth is remorseful, and the youth's family circumstances. Another officer commented that he also considers the victims; however the criteria for warnings specified in the legislation also means that he can justify the use of warnings to victims and their families when they question his leniency.

All officers agreed that gender and aboriginal status were not important factors when they are considering using a warning. Instead the above-noted factors prevail. Officers were adamant that all youth should be treated equally, no matter their ethnicity or gender.

Other officers also considered the time it takes to give a warning versus processing a charge. For example, officers reported that their call loads may play a role in their decision to give warnings, saying: *"If you have 20 calls and five calls already on hold, are you going to call a sergeant to get that waived? Are you going to sit and spend two hours with the kid?"* and *"Especially if it's a big incident at a school – it takes too long to process several kids."* Another officer noted:



*There are lots of forms and paperwork when it comes to charges. When you give sanctions, you still have to fill out a form. What part of the legislation requires no paperwork? Doing nothing [warnings]. Every decision you make affects how much work you have to do.*

When asked if warnings are formally recorded in the Calgary Police Information Management System (PIMS), most officers acknowledged that they are supposed to be; however the extent to which they are actually recorded was unknown. One officer commented:

*You are supposed to make the PIMS report so that statistically they can see what the kid has been getting, but it creates a huge workload to report a warning. When you're calling in to make a report, you're waiting 25 minutes to file that report, and you usually don't have time to wait.*

Other officers commented that they use the checkup system to record a warning. Checkup slips are often used as alternative to the PIMS system and contain personal information about the person being checked, such as name, nickname, address, phone number, school and employment information, identifying tattoos, and any other information that an officer feels is necessary. The information tracked in the checkup system is available to all CPS members; however, it is not used uniformly across all police districts. One officer stated: *"The nice thing about the checkup sheets is that the kids freak out, and the parents do too. That tends to deter them a bit, if they're being recorded."*

On the other hand, officers who work almost exclusively with youth reported that they did not formally record all of their use of warnings, although many officers kept their own records. Some SROs commented: *"If you're dealing with a kid in the school, you're dealing with 50 in a day. I don't put a checkup in for all those kids,"* and *"I'll write it in my book the first time, but then if I have to deal with them again and again, then I'll put them on the system."* Another SRO remarked:

*The odd time I'll put a report in, if it's a kid who has gotten in trouble before and will get in trouble again, I'll call it in. But for a good kid, probably no. It all depends, depends on my attitude, depends on their attitude.*

Frontline officers also reported mixed responses with respect to recording warnings. If they receive a call about youth offending, they are required to close the file by recording what type of action was taken. However, if officers come across a youth who is committing a crime that qualifies for a warning, officers agreed that they would not record the warning: *"If you come across a kid smoking dope, you just flush it and you're on your way – it's too much work to file a report for that."* Again, some frontline officers also reported using checkup slips; however, officers also agreed that recording is not consistent department-wide. Some districts are encouraged to do so more than others, while a few districts keep their own records that are not available to officers in other districts. One officer suggested that the Calgary Police Service implement a department-wide recording system that is used specifically for measures:

*It takes too long to file a report, constables have to phone in a measure, but they don't want to be on hold forever. There should be a measures form, like a checkup slip, that the officer just fills out and faxes in later. That would be something within the CPS that we should look at. Who wants to wait on the phone forever to say that they gave a kid a warning as a measure?*

Police officers reported that the extent to which they make referrals to programs and services for youth has increased substantially, both because it is now legislated in the YCJA and also because of the Gateway program offered in Calgary. Initiated as a pilot in one police district in 2005 by City of Calgary Community and Neighbourhood Services and the Calgary Police Service, Gateway is a pre-charge extrajudicial measures program. Since expanding to all eight police districts in 2006, over 600 youth have been referred to Gateway. Youth are diverted by the police from the traditional youth justice system to over 35 community agencies that have agreed to offer services to youth and their families. Youth are referred to this program for offences ranging from theft under \$5,000 (over 75% of all referrals), to mischief, break and enter, and minor assault. City of Calgary Community and Neighbourhood Services assigns two youth probation officers and the Calgary Police Service provides one administrative assistant to Gateway.

Frontline officers commented that they were more likely to use the Gateway program, rather than make direct referrals to other community programs and agencies. Many of them felt that it encouraged youth to be accountable for their actions and was even more successful than criminally charging youth: *"Gateway has been a big boost in that respect, makes them a lot more accountable. I don't go to youth court anymore because it is frustrating, it's like milk and cookies time for the kids. Even under the YOA it was a joke among the kids."* Other officers made comments such as: *"Gateway as a single point diversion source is great; however, it isn't used consistently across the city. It's now city wide, but some districts don't use it as much."* Another officer remarked:

*Gateway meets the needs of the frontline, so they can refer the kid and someone else can deal with it....Giving the discretion to someone else would be beneficial (like they do in Gateway). Gateway also has the time to figure out what to do, which police officers don't have.*

SROs on the other hand, commented that they are quite knowledgeable about programs and services that are available for offending youth. They are encouraged to make use of these programs directly, rather than referring youth to Gateway.

Before making a referral, officers consider many of the same factors that they consider before giving a warning to a youth offender. In addition, officers commented that parental support was very important when considering a referral: *"If the parents are onboard, I'm more likely to use it. They have to be onboard. That's really the only way that I would use Gateway."*

The use of referrals to both Gateway and other agencies also depends on the individual officer's experience and knowledge of the programs. One officer commented:

*“Depends on how much knowledge the officer has about the program and if they haven’t had successful experiences with, say, Gateway, they won’t refer them anymore.”* An SRO also noted:

*I do use referrals as an SRO when they are positive. I used to refer to AADAC [Alberta Alcohol and Drug Abuse Commission], but I sent one kid there and I went with him and I realized that if the kid was a good kid, I’d never send them to AADAC. They’re around more drugs by going to the class than anywhere else.*

Police officers also spoke about the shortage of information they receive about the effectiveness of various programs, saying: *“Unless you actually remember the kid, you don’t get any feedback”* and *“if we knew some stats on how effective they are [referral programs], maybe we’d use them more.”* They also discussed the unavailability of space in some programs and the transitory nature of other programs: *“The About Face program is awesome, but the officer just got cut to half time. It’s an awesome program and it works, but its funding is getting cut.”*

Officers further commented that while they are happy with the Gateway program, they also expressed a desire to make program completion mandatory. Officers commented: *“Gateway works really well. One little glitch though, if they fail Gateway, there is no recourse”*; *“I think referrals should be sanctionable, not just a measure because the onus should be on them to comply with it”*; *“Gateway should be a sanction, there should be consequences for not attending. If they would have gone through sanctions and they didn’t go, then they could get charged”*; and, *“if I knew there was accountability I’d use Gateway more, but I know that there isn’t, so I hardly ever use it.”*

Officers reported mixed responses in regards to their use of extrajudicial sanctions since the implementation of the YCJA. While some officers reported that it stayed the same, others said that it decreased due to the increased use of warnings. A couple of officers also remarked on the inconsistency of criteria used for extrajudicial sanctions, saying:

*There’s a credibility issue. Years ago we used to be really diligent following the criteria for alternative measures, but now it doesn’t even really matter. They’re supposed to be remorseful, but we don’t really follow that, we still give a sanction. The whole thing lost a lot of its teeth with extrajudicial measures.*

*Remorse was a big thing under the YOA, but now it’s not as important. But it depends on the Crown as well, depends on if they’ll accept it. They are back and forth on what they deem is acceptable for the sanction.*

#### 4.1.2 Changes to Charging Practices

Police officers reported mixed responses when asked if the extent to which they lay charges has changed as a result of the new youth offending legislation. Officers in the Youth Education and Intervention Unit and SHOP responded that they have laid

more charges since the *Act* was implemented. These officers reported a variety of reasons for the increase. First, they reported that the change in legislation has produced many more sentencing options, which has resulted in more possibilities for breaches. One officer explained the increase with an example:

*The Act itself has created a lot more charges because there are more orders that a kid can be out on now. For example, I had this kid that breached his curfew, drug and alcohol conditions, but he was out on four different orders (community service order, deferred custody, probation and recognisance), so it ended up being like 30 breaches. If a kid has separate offences he should be accountable for each breach, but only get one sentence.*

Other officers also reported that they have increasingly laid more charges in order to increase the likelihood that the Crown will proceed with at least one charge. For instance one officer remarked:

*There's a lot more piling on, especially with the street guys. You know a couple of charges are going to be dropped, so you just charge them with everything. In theory, one charge should be sufficient, but if the penalties were what they should be, one charge should do, but they aren't, so you just lay as many charges as you can.*

In contrast, frontline officers said that they have laid fewer charges since the *YCJA* came into force. The increased discretion they have to divert youth away from the justice system has meant that they are more likely to consider extrajudicial measures before laying a charge, which has resulted in fewer charges. SROs instead reported that the extent to which they lay charges has not changed.

#### 4.1.3 Changes In the Use of Other Legal Tools

All of the groups of officers reported using other legal tools, such as municipal bylaw infractions, as an alternative to charging youth with a criminal offence. While officers have increasingly made use of these other legal tools, they reflected that this may not necessarily be due to the *YCJA* legislation, as many bylaws have been enacted at the same time as the *YCJA*. Officers reported that they liked to use bylaws because they are easier to process and also provide timely consequences for the youth involved. Officers commented:

*The nuisance bylaw [Public Behaviour Bylaw] is being used a lot by SROs because there's no paperwork. It goes through in six months, whereas with a criminal charge you're waiting a year. You get a ticket and there you go, you actually get paid.*

*Rather than charging them with a property crime for something like graffiti, and getting conditions, give them a \$1000 ticket and they have to work it off. It's meaningful.*

Another legal tool that officers sometimes make use of are *Acts* for the protection of children, for example the *Protection of Youth Tobacco Use*, *Protection of Sexually Exploited Children Act (PSECA)* and *Protection of Children Involved in Drugs*. While few officers reported making use of these *Acts*, those that have remarked: *“The one thing with [PSECA] is, ... at least this child is off the street”* and *“under the Public Health Act, you charge them for sniffing glue or whatever, they get an automatic 45 days dry out.”*

#### **4.2 Impact of YCJA on Workload for Calgary Youth Probation Officers**

After the YCJA came into force, probation officers reported that the biggest change they experienced was a decrease in the number of youth they supervise. Probation officers reported that youth who commit minor offences are rarely sentenced to probation: *“If they’ve gone on from minor offences, then we’ll see them yes. At one time, under the YOA, we were getting really minor things like C-train ticket violations, but not anymore.”* Despite this decrease, however, probation officers reported that their workload has increased since the YCJA came into force. Probation officers commented that while the volume of cases has decreased, the intensity of each case has increased. One probation officer remarked: *“We get the high-end kids, which is appropriate, but balancing the caseload is more difficult. So even though we have less kids, they’re more intensive.”* Officers asserted that there are more youth with mental health issues, drug problems, and youth involved in serious offences. For example, one officer commented: *“Before we might have a list of kids on probation. We checked in with their parents and then we were done. Now the amount of work you put into the core issues is a lot more time consuming.”* As a result, there has also been an increase in the time devoted to consulting with other team members and supervisors.

Probation officers also commented on the increase in pre-trial supervision (recognizance orders). One officer in particular stated that the length of pre-trial supervision has increased since the implementation of the new *Act*: *“I’ve had two to three pre-trial orders that have gone on for a year, where before they’d just be two months.”* Another officer responded to this comment by adding: *“Then they end up just getting probation after all that time because everyone has lost memory of it.”*

The new sentencing orders introduced in the legislation have also increased the workload for probation officers. Different orders require different reporting frequencies and officers reported that since the implementation of the YCJA, there are very few youth who report less than every two weeks. For example, the deferred custody order requires increased contact between the probation officer and the youth. This increased reporting leads to more case notes, which means, as one officer commented, that *“you could be writing all day.”* Deferred custody also requires more paperwork in cases where the order must be suspended. Probation officers commented: *“There’s more paperwork because of the work involved with [suspending] a deferred custody. It has to be done immediately and this is time that we can’t plan for because they’re unexpected”* and *“sometimes deferred custody takes three times the time of old probation, but it’s definitely worthwhile.”*

The new orders have also resulted in an increase in the communication and contact required with the Calgary Young Offender Centre (CYOC), where youth are held in custody. While many custody orders were followed by a probation order under the YOA, the community supervision requirement after custody means that probation officers are more likely to partner with staff at CYOC to ensure successful reintegration for the youth. One officer commented: *“There’s a lot of onus on the PO for responsibility to retain contact with CYOC. We’re accountable to a lot of different people with one case.”*

Probation officers also observed a change in some of the court-ordered conditions of supervision that have impacted on their workload. For example, officers commented on the removal of mandatory drug testing, conditions for curfew checks, and victims’ conditions: *“For a while we could send our kids for drug testing, but we can’t do that anymore. Now we also need to respond to conditions of curfew checks, which we didn’t use to.”* Other officers also commented on their dissatisfaction with the removal of drug testing due to a decision of the Supreme Court of Canada (*R. v. Shoker* [2006] 2SCP399): *“We can’t do mandatory drug testing anymore. That was one thing that we could actually prove and was sometimes a good deterrent”* and *“the breach also wouldn’t get thrown out because the test was there.”*

Similar to the police officers, capacity to attend court for non-subpoenaed appearances decreased. Many of the probation officers commented that because they are so busy, they often do not attend court sessions for the youth they supervise. One probation officer commented: *“I’m too busy. I only go for the special cases where the kid doesn’t have any support at all. It’s a real time waster to go, especially if the kid is at the docket court level. You could be waiting for two hours.”*

Finally, probation officers also commented on the increasing complexity of their jobs in recent years. Participants stated that today probation officers are required to be equipped with much more knowledge about the judicial system, mental health issues and different kinds of interventions and programs than they were before. Comments from probation officers included:

*With the numbers down, you have more opportunity to delve into the kids and recognize more of their problems, mental and other. However, greater knowledge brings a lot more responsibility, the more things that come at us. We have such multi-problem kids, so it’s a lot more time consuming. We need to know a lot more about a lot more.*

*Probation used to be an entry level position. Now if you start on the job as an entry level social worker, it is an extremely steep learning curve. People hired lately are definitely not entry level social workers. The complexity of the job has increased. It goes beyond the day-to-day caseload. We’re involved in a lot of projects, for example training with youth justice committees.*

#### 4.2.1 Changes to Participation in Conferences

A new addition to the youth criminal justice system, as introduced by the YCJA, is conferences (s.19). In Calgary, there are two different forms of court-referred conferences. *Case conferences* are meetings that take place with different representatives from the youth justice system that may involve, for example, probation officers, child welfare workers, Crown Prosecutors, youth court judges, parents of the young person, and community agencies. These meetings may be convened for a variety of purposes, including “to give advice on appropriate extrajudicial measures, conditions for judicial interim release, sentences, including the review of sentences, and reintegration plans” (YCJA, s. 19(2)). In practice, case conferences typically relate to case planning issues that arise when a youth is involved in multiple systems such as justice and child protection or there are outstanding issues relating to treatment and counselling. While case conferences took place informally before being legislated in the YCJA, the new legislation authorizes and encourages the use of conferences, which may have increased the participation of probation officers in them.

A second form of conference available to Calgary Youth Justice Court judges is a *community conference*. Calgary Community Conferencing (CCC) is a collaborative organization founded by City of Calgary Community and Neighbourhood Services and four community partners in 1999. Based on restorative justice principles, a referral is made by the youth court judge following a guilty plea but before sentencing. When the youth and the victim(s) and their respective supporters agree to participate, the community conference is convened and the results are reported back to the court for consideration at sentencing. CCC specifically addresses high impact and serious offences and also takes referrals from Calgary public schools and SROs as an alternative to both suspensions and/or criminal charges. City of Calgary Community and Neighbourhood Services provides one youth probation officer and one youth probation assistant to CCC.

In the focus groups, probation officers reported mixed responses to questions asked about their participation in conferences. While some officers reported that they did not experience a change in their participation in community conferences since the YCJA came into force, others commented that there have been more recommendations for community conferences in recent years. However, respondents also commented that Calgary is unique in its use of conferencing. Probation officers who have worked in rural settings in Alberta commented that they are a rare occurrence in small communities and even though it is currently legislated, they are still mostly an option in urban settings.

Other probation officers commented on the changing use of community conferences for more serious offences, as compared to minor offences under the YOA:

*I think in the last few years we have seen a move to more serious offences being referred. We didn't see a significant change at the time, it was a just a bonus for Calgary youth court – many other communities didn't have those resources. Calgary was unique in having them. In the last few years we have been seeing more serious offences. Has it been*

*because of the Act or being able to handle more serious offences? My guess is it's the reputation of the program driving it.*

Probation officers also said that they had participated in more case conferences since the YCJA came into force. Several of the officers felt that these conferences were beneficial for the youth offenders. Many of the plans that are made during these conferences include arrangements for residence, jobs, school, and treatment and counselling. Probation officers made the following comments about case conferences:

*I think it's a really positive development. More of a fluid motion from the centre [CYOC] to the community. More holistic.... This Act has been wonderful, it flows better for the workers at CYOC with much more holistic thinking. Before it was rare to have a case conference, now there's a big focus on transitioning youth and how it takes a team to do it. We make plans for the kids together.*

*Now by the time the youth is released they are able to track the youths' progress/programs, etc. It's more organic and less compartmentalized. Now there's an expectation that the PO will be contacted for a plan of reintegration and rehabilitation. The IRCS [Intensive Rehabilitative Custody and Supervision] sentence is excellent for this. By the time the youth is released the PO has been living his story for the last 3 years.*

#### 4.2.2 Changes to Pre-Sentence Reports

Overall, probation officers reported that they have not experienced a significant change in the number of Pre-Sentence Reports (PSRs) they prepare since the implementation of the YCJA. Rather, the major changes occurred in the content of the reports, specifically with respect to victims and recommendations for sentencing.

Probation officers spoke about the increased emphasis on information from victims in PSRs: *"There's more of an emphasis on making sure that you get a hold of the victim. We're expected to have a more detailed victim section than we've had before."* While the probation officers agreed that victims should have the opportunity to have a voice in the process, they also expressed some frustration with many of the outcomes for victims. For instance, probation officers recounted:

*We need to get victim input on the PSR and so often I have to call several times to get a hold of the victim. I feel it's intrusive to the victims, but we are required to have this information. Then, from the victims' perspective, why is it taking so long to contact them? If, for example, they're talking about it 16 months later.*

*Imagine the effect of those PSRs if they were being done two to three months after the offence? The victim would feel like they've had a voice in court. They don't feel that way when the process takes so long.*



*Probation officers ask the victim if they want compensation, but then the kid doesn't pay and they wonder why they were asked in the first place. If it's \$1,200 or something and the kid doesn't have a job and he's 14, then good luck. Somehow the victim should get the money, especially if they're asked in the first place.*

Probation officers agreed that they experienced the most change in their work on PSRs with respect to recommendations for sentencing. Officers commented that they were much more careful about justifying the recommendations they make according to the principles for sentencing outlined in the legislation (s. 42). They commented that they are spending more time doing research to make sure that they have made a good recommendation. Many officers stated that they are now more likely to recommend a community-based sentence or deferred custody as opposed to a custody and supervision order. One probation officer explained:

*The YCJA just spells it out; you can't ask for this if they don't meet this criteria. Now you know what's already off the table. Whereas under the YOA, we used to call it a short sharp shock, just throw them in jail. Now we don't have the ability to do this anymore, it has to flow through the filter.*

In determining what recommendations to make in the PSRs, probation officers stated that they considered many factors about the youth, including the youth's family and home life, previous offence history, addictions and mental health issues, and whether the youth expresses remorse for his/her actions. For example, one probation officer commented:

*If you understand the circumstances that brought him there, you're going to ask for a sentence that might help to support that person. Conditions are going to be to that particular kid's circumstances. If they have a supportive family then we won't ask for as many conditions because they won't need as many. Whereas for other kids they might need more conditions to really learn their lesson.*

Probation officers further commented that youth court judges often appreciate the research that probation officers put into their PSRs and that judges frequently follow their recommendations for sentencing.

#### 4.2.3 Changes to Breaching Practice

The new legislation has also brought about changes to the practice of breaching for probation officers. Officers commented that the new orientation toward rehabilitation and custody as a last resort in the YCJA has led to fewer charges for breaches. For example, probation officers stated:

*There is a different level of accountability now. The philosophy around the Act that says that punishment isn't the answer, we need to address the*

*underlying issues for the young person. There's more of a social work perspective.*

*The whole preface of the Act is to work more with the kids, get them to comply, get them to go to resources in the community (AADAC, counselling). So we try to refer them to service instead of breaching.*

At the same time, probation officers also expressed frustration with the inefficiency of charging youth with breach of probation orders. While the consequences of a breach for youth on a deferred custody or intensive support and supervision order are timely, other breaches do not have this same effect. Probation officers complained about the lengthy wait times for a court date and the lack of consequences often associated with breach charges. Comments from probation officers included: *"By the time the breach goes to court, the charge has been withdrawn, too much time passes. The kids know that this will happen so don't really care about the breaches because they know they won't go to jail,"* and *"it depends on the young person, some are impacted by a breach, mostly the ones that are new to the system, but this is a lesser number than those who don't care about breaches. For most, it's just ... 2 more months of probation."*

### **4.3 General Perceptions of the YCJA**

Police and probation officers expressed very different opinions about their overall perceptions of the new legislation. While both police and probation officers were satisfied with the provisions in the legislation for first time offenders (e.g., warnings and referrals, in contrast to police officers, probation officers were much more optimistic about the YCJA in achieving its objectives.

#### **4.3.1 Strengths of the Legislation**

Police officers were less likely than probation officers to recognize strengths in the legislation; however, a few did comment on the advantages of the YCJA over the YOA. Specifically, police officers praised the increased discretion that was mandated to them in the YCJA. For youth who had made a one time poor choice, officers liked that they could direct them to community resources, such as Gateway, to help them. One SRO in particular noted:

*I think it's a great legislation because we're dealing with youth, we give them opportunities to see the error in their judgement. The whole idea of the YCJA was to make kids accountable. If the kid is going to continue to be bad, we get them in the long run. For the kids that do something wrong one time only, they should get another opportunity.*

Other police officers commented on the benefit of having the different levels of intervention and also felt that the community resources were a great benefit for youth with little support at home.

Most of the probation officers agreed that overall they were pleased with the new legislation. In particular, they felt that the greater emphasis on diversion was especially effective for youth committing minor crimes:

*There will always be kids who will not learn from mistakes 1, 2, 3, etc., but a good majority will learn. You still need to offer other options so that the 97% of kids it does work for can benefit. A very small proportion are repeat offenders.*

*Before we'd have a 12 month order on a kid who stole shoelaces or chocolate bars for example and the response was so disproportionate to the offence. Now these kids are diverted and not because it's someone's opinion, but because they MUST consider diversion, they have to be able to look at the broader picture. It was a waste of resources in the past. Now we can change a pattern that's developing with as little interference as possible.*

Probation officers also praised the legislation for creating a system that parallels familial relationships, where offences are met with measured responses that encourage youth to trust that they would be treated fairly and with compassion. For example, one probation officer spoke of effective parenting as an analogy for the new legislation saying:

*You don't resort to the most extreme measure immediately; it has to be proportionate to what has happened. The justice system has to do the same thing. The old system did not invoke trust in the kids. A bad attitude might get you a bad sentence as a youth.... Before kids couldn't trust that they were going to walk out with a proportionate and fair punishment and this created resentment and distrust.*

Similarly, probation officers also spoke highly about the process of leaving custody under the YCJA, which helps to ensure a successful reintegration:

*The new Act does not allow kids to get custody and then be released with no tracking of them. Some of the deeper end kids under YOA would just say "give me custody" so that after they served their time they would be free to do whatever they wanted. Now that's not possible – there's lots of restrictions even after they're released. Even if you get custody you will always have to face conditions. It's like a ladder, when they commit offences they go from EJS to conditional discharge to deferred custody to probation to custody and so they should also go down the ladder one step at a time with community supervision after custody. That way we can work with them to find out what the problem is. The structure is good for kids. It should be more like a ladder and not a cliff.*

Probation officers also appreciated the increase in sentencing options for youth. Specifically, officers spoke about the deferred custody sentence saying:

*I think deferred custody is preventing re-offending. I had this one SHOP kid who was a headache on probation; he knew the system. He's now on deferred custody and doing so much better. It has really made a difference with him. He was suspended for 48 hours once and now he calls frantically if he's got to re-schedule his meeting with me due to his work schedule. It's not realistic to keep a kid on deferred custody forever, but for five months it can work to get a kid on track. Five months is enough to get them to make a lifestyle change. With kids some of these changes can stick.*

Other probation officers also spoke highly of the deferred custody sentence and further commented on the community-based options available in the legislation: *"I find the deferred custody so much better. It doesn't work for everybody, but for most it does. It gives the kids another opportunity to make a go of it and there is also an immediate consequence,"* and *"I like the new Act, the community-based options in the YCJA are the best part of the Act. They've made a huge difference."*

In addition, probation officers found the principles listed in the legislation very useful when making their recommendations. For instance, one probation officer expressed: *"I like that I can refer to the principles, that they're research-based and that deterrence means squat now."* Other probation officers were especially happy with the principles that refer to victims in the legislation. They commented that the focus on victims in the legislation has encouraged accountability for youths, while also prioritizing the needs of victims. *"Whether victims are actually getting what they should is still questionable,"* one probation officer commented; however, most probation officers still agreed that they appreciated the direction of the legislation.

Finally, probation officers felt that it was positive that the legislation provides guidance on recommending custodial sentences. For example, the Act emphasizes that sentences must take into account the individual circumstances of the young offender; however, any social welfare problems that exist for the youth must not influence the length or severity of the punishment that the youth receives. The sentences must always be fair and proportionate to the seriousness of the offence committed. One officer commented: *"The YCJA managed to put some parameters around the use of the justice system so that the social measures are separate."* For example, probation officers discussed the decrease in the use of remand and custody sentences *"to keep them safe."* At the same time, however, some probation officers were concerned that this development left some youth at risk saying: *"It kind of created a gap because we're not able to use the system to pick up the social measures, and we don't know if the slack is picked up by other services, like child services."* Moreover, some officers felt that despite the changes made to the legislation, some system actors still looked to probation to deal with social issues. One probation officer described her experience:

*Sometimes probation is used as a catchall and we have to diagnose mental issues and other issues such as FASD. When they're over 12 especially, they just wait for the criminal system. Schools are not being responsible to youths' needs. They all wait for probation, which is just a*

*set up for disappointment. The kid will have problems, he's mouthy and he skips, lets just put him in jail because the expectation is that probation will just make him do stuff.*

#### 4.3.2 Challenges for the Legislation

As discussed, most police and probation officers felt that the legislation was effective for managing one-time offenders. They agreed that one-time offenders and youth who commit minor crimes should be diverted; however, some police officers expressed a desire for better documentation of the measures used. For example one police officer commented: *"These guys are slowly picking up on the fact that we don't know what kind of contact they've had with measures in other places. If a kid is warned in Edmonton, we don't know about it."* Other police officers agreed that they would like measures to be documented in a Canada-wide system so that they could have a record of how many times the youth they encounter have been diverted. Police officers also felt that documentation was important in the court system, saying:

*If you give measures and they complete them and then they get charged for something else, the court can't look at the measures to establish a history. They can't take their warnings into account when sentencing. The judge has no idea that the kid has had eight warnings.*

Police officers also expressed concern about the effectiveness of the legislation for repeat offenders and the punishments that they receive. For instance, one police officer commented: *"The legislation does nothing to target recidivists; it's targeted at one-time offenders with diversionary tactics, but not at the long-term offenders."* Many police officers felt that if they took the time to build a case for the Crown, that the punishments that the youth receive should be more severe. For example, one officer stated: *"I won't send anything to court if I don't have a good case. If I don't have enough evidence I won't even lay the charge."* SROs expressed similar sentiments, saying:

*I'm dissatisfied [with the legislation]; I think that the punishments are way too easy. I don't have a problem giving kids a warning, but when it comes to charging them, the consequences aren't what they should be. By the time they get charged, they've had plenty of warnings.*

*It's designed for good kids who have support, not bad kids and chronic offenders and the issues they face. It teaches them that crime does pay in a way – what they do, they get away with it – they get money, clothes, etc. All of them get tonnes of warnings; some get three warnings and two measures, etc. I think by the time they get to the court, there needs to be some kind of deterrent punishment.*

*The chocolate bar kids aren't even an issue, that's not the kids who are even worth doing the work for. They get caught, end of story. That's the problem with this system, the chocolate bar kids aren't the problem, it's the drug dealers on the street corner.*

Some probation officers also expressed the same opinion, saying: *“The Act minimizes the number of kids going into custody, but some need to go because other methods just don’t work.”*

As a result, police officers felt that youth were using the system to their advantage and not taking accountability for their actions. Many of the police officers made comments about the talk among youth being *“play now until you’re 18.”* Police officers felt that many youth are not afraid or concerned with the consequences of their actions, especially when they’ve been through the system once before. For example, police officers made the following comments:

*You see a difference when you see a kid the first time, then bump into them a year later. After they’ve gone through it, they know what it’s like, they just get a warning and they think it’s easy. A year later, they have that attitude that they can get away with anything.... This new legislation was brought in with good intentions but is designed for the people who can exploit it.*

*These kids are getting quite law-savvy. These guys know their limitations because if they get charged with something minor, there are no consequences. They treat the police like shit, they know you can’t do anything about it, so they’re not scared and use the law to their advantage.*

As a result, SROs commented that if they can, they try to avoid charging youth. These officers insisted that the threat of a charge has greater influence than the actual charge: *“I threaten a charge sometimes, and then say maybe we can work something out and get them to pick up garbage or something. I think once they get to court, we’ve lost them because it’s easier for them to go to court.”*

On the other hand, some police officers argued that part of the reason that many youth are not afraid of the consequences of their criminal actions is because many officers avoid charging youth. Police officers agreed that they often avoid charging youth because the process is too lengthy and more complicated. For instance one officer explained:

*I think we create our own issues around that; like when 20 police cars get sent to a fight at school and there is no report filed because it’s youth and it’s too much work. Then kids think they can get away with it because there are no consequences. Everybody is too afraid to deal with it because it’s youth.*

Other police officers also argued that the legislation itself is effective; rather it is the interpretation of the legislation that needs to be modified. Some police officers commented:

*The ones that are unsuccessful are continually being released, which makes a mockery of the order. What kind of message are you giving to the youth when he doesn't have to abide by his curfew? The Act itself is not the problem; it's the interpretation of the Act that's the problem. There should be a message to the youth that they need to follow through with their conditions. People don't realize that when the youth is released, he may commit another offence, maybe a violent offence while out on deferred custody.*

*The theory is good, the concepts rehabilitation, reintegration, but the judges interpret the Act to its most lenient. They interpret it to YCJA standards no matter what age or level of involvement of the youth. There are Charter issues, the age discrepancy between offenders; older youth should be punished in adult court, they're almost adults anyway.*

Police and probation officers also noted that interpretation of the legislation varies by jurisdiction, constable, and judge. For instance, police officers pointed to the inconsistencies across provinces saying: *"I think there is no consistency across Canada. Sentences in Saskatchewan are harsher. In Banff they have Provincial Court judges and they interpret it differently than judges in Calgary,"* and *"consistency changes between the Constables too, the day, and the mood of the officer."* Probation officers were in agreement about the inconsistencies in sentencing across Canada. Probation officers had many examples of the inconsistencies they encountered through their experiences in the youth judicial system. For instance, one probation officer remarked: *"I think the judges in Calgary are a little different .... They go for a more rehabilitative social approach. I wonder if it's also because of local practice, just because we're social workers."* They also noted that some sentences were differentially implemented across the country as a result of a shortage of resources. For example one probation officer observed: *"Intensive support and supervision orders are not consistent across the country and the potential for that sentence hasn't been used to its full potential in some places."*

In addition, probation officers expressed some concern about the new sentences available in the YCJA. For example one probation officer commented: *"Intensive support and supervision is one of the biggest mysteries of the YCJA. I guess it's just like a 'super probation.'" Some probation officers also felt that the deferred custody sentence should not be limited to those who do not commit a "serious violent offence."* One probation officer offered the following example:

*I had a kid who went through community conferencing and appealed the sentencing because his situation wasn't appropriate for custody. However, he couldn't be considered for deferred custody because he committed a [serious] violent offence, even though deferred custody would have been the most appropriate sentence. There's lots of situations where there's a [serious] violent offence, but deferred custody won't be considered because it can't be used for [serious] violent offences, even though [serious] violent offences can mean so many different things.*

Both police and probation officers expressed dissatisfaction with the time it takes for cases to be processed through the youth criminal justice system. Many probation officers remarked that the process now takes much more time than under the YOA. Probation officers voiced their frustrations about completing pre-sentence reports 12-14 months after the crime takes place, thereby delaying sentences up to 18 months. As a result of this time lag, many probation officers felt that youth do not associate the sentences they receive as consequences of their actions. One probation officer commented: *“A year is a lifetime for a kid. The impact of a sentence is not there anymore. If it’s dealt within 60 days, maybe there might be an impact.”* Similarly, police officers said: *“The consequence is so far apart from the action that the kid, for instance, doesn’t even know what he’s on probation for.”*

Probation officers also felt that the formality of the court process fosters a disconnection between the youth and his/her actions because the youth is often silent throughout the whole process. Probation officers remarked that parents were even sometimes unaware of what was going on and would look to the probation officers for assistance understanding the process.

Police and probation officers further discussed issues with parents of young offenders. While some felt that the legislation did not do enough to make parents accountable for their children’s actions, others also commented that some parents actually look to the system for help with their children. For example, police officers who expressed concern with parents’ accountability stated:

*There is a lot of opinion about parent responsibility. With the JDA, parents were held accountable, with the YOA there was less accountability, and now it’s getting even less. We can’t mandate parents to be responsible under this legislation and that’s the biggest problem, that we can’t do anything about parenting, making parents responsible. We’re getting farther and farther away from that now.*

*The weakness with the legislation is that it should hold parents accountable. They’ll only be held accountable if they’re sued civilly. There is nothing in the legislation that holds parents accountable. I like the idea of parenting orders in Britain, things like restitution programs.*

At the same time, other police officers spoke about the frustration some parents experience with the system when they are incapable of controlling their children, saying:

*Some parents have kids who are out of control and we don’t have enough teeth to get them back under control. Some parents don’t even know how to deal with their kids, and they ask us what they should do, and we don’t know what to tell them. Is it our job to parent other people’s children?*

In addition, there were officers who expressed concern with making parents accountable, especially when parents are involved in drugs and alcohol, have their own legal problems and lack the skills to parent their children.



Finally, some police officers felt that there were not enough resources in place to support the principles of the *Act*. In particular, one police officer felt that there was too much onus on the community to develop programming for youth, rather than by those with training in the youth criminal justice system. Another police officer remarked: *“I don’t think these programs address the causes of crimes, like poverty and hunger, etc. How are character programs supposed to address hunger?”* Additional police officers agreed that the programming in place was ineffective at times, or was difficult to access because many programs are under-resourced. For instance, police officers commented: *“I have some 12-to 14-year olds with drug problems that I don’t know what to do with,”* and *“the infrastructure is kind of there, but they aren’t resourced with enough money or people. I sent a kid to one program and he waited four months before even getting a call back.”*

Many police officers also expressed concern over the provision for voluntary participation in drug and alcohol programs, saying: *“When they go to AADAC, they go to one session and then they’re done. How many times can we try to get kids into a drug treatment program? If we set that as a condition, they tell us that we’re setting them up to fail.”* Similarly, probation officers also said: *“Some issues, especially mental health, continue to be a social service problem and is left in the hands of the offender. It’s voluntary. If they don’t want to go, they don’t have to and there’s not much we can do about it.”*

#### 4.3.3 Principles of the YCJA

Police and probation officers were also asked if they felt that the justice system in Calgary adhered to the principles of the new *Act*. Specifically, they were asked if minor cases are being diverted away from youth courts, if those who enter the youth justice system are being rehabilitated in order to prevent re-offending, and if youth are being held accountable for their actions through the use of meaningful consequences.

As previously discussed, most of the police and probation officers agreed that minor cases were effectively diverted away from youth courts. They felt that this was especially true in Calgary, given that the Gateway program was specifically developed in response to the YCJA. Probation officers reported that the only difficulty with the use of diversionary programs is the shortage of knowledge about the programs among frontline police officers. One probation officer explained:

*They [police officers] can’t be experts in everything; not all police officers are even aware of the resources internally. They don’t have the time to research this stuff with the kid right in front of them. They also need to have the belief and knowledge of other options. They need to know that options such as diversion and community conferencing [in schools] will do the same or even work better than charging youth.*

Police and probation officers expressed mixed feelings about rehabilitation under the YCJA. Probation officers believed that the YCJA is directed toward rehabilitation and spoke about the programs that were developed in anticipation of the YCJA or

shortly after its implementation (e.g., Gateway and Calgary Youth Attendance Centre<sup>1</sup>). On the other hand, they also felt that despite the existence of these programs, there was still a shortage of resources to facilitate the rehabilitation of youth offenders. Comments from probation officers included:

*The legislation definitely promotes it [rehabilitation], but we're limited with resources/funds available to do that. Usually we only have enough to pay for half of a psychological counselling session for example.<sup>2</sup> There's also the Forensic Adolescent Program, but there's not enough resources.*

*Trying not to have as many kids incarcerated, there's a better chance for them to be rehabilitated, but this is only effective if there are enough resources in the community.*

*I've written more PSRs under the new legislation. Everyone is getting more background information about the kids. Knowing this background is helpful, but if there are no resources available, it doesn't really do anything. We need services in place.*

Similarly, police officers also felt that some programs were effective (e.g., CPS's About Face and other character building programs operated by police officers); however, they also reported that resources are insufficient and that programs are slow to progress to the point where they are effective. One police officer voiced his frustrations by stating:

*There has to be more infrastructure to deal with lower end kids. There aren't sustainable resources and funding in the community to continue these programs.... It doesn't make sense to me that this legislation is passed and we've spent the last five years developing programs. They should have been there before the legislation was in place. It was such an afterthought.*

The push towards rehabilitation in the legislation has also affected the structure of programs that existed prior to the implementation of the YCJA. For example, the SHOP program previously used a point system to designate youth as serious habitual offenders. Under the new legislation, a multi-disciplinary team was formed, similar to case conferencing, which determined which youth were appropriate to recommend for the program.

Police officers also felt that the new legislation has facilitated rehabilitation for youth who want to change, but not for those who are deeply involved in crime. In addition, some police officers felt that conditions at CYOC did not encourage rehabilitation among youth. For example, one officer commented: *"Sometimes they're*

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<sup>1</sup> Calgary Youth Attendance Centre (CYAC) is a program designed to enhance supervision and support of young offenders currently serving community sentences and those making the transition from custody to the community.

<sup>2</sup> The subsidized rate for court ordered counselling is often lower than the average professional fee.

*[youth offenders] even worse when they get out because they're hanging out with their buddies."*

Police officers felt that the consequences should be tied to the youth's misconduct. Several officers felt that rehabilitation was best accomplished by imposing meaningful consequences on the youth. For example, one officer suggested: *"Make them pay for the paint to paint the fence, the glass for the window they broke. I don't think everyone belongs in jail, but there has to be repercussions."* Other officers made similar suggestions about working to repay victims for the items they have stolen, or ordering mandatory drug treatment for youth caught doing drugs.

On the other hand, it was difficult for police officers to come to a consensus about what a meaningful consequence entails, especially considering all of the individual circumstances of each youth offender. Some officers argued that meaningful consequences are anything that deter youth from committing the illegal act again, while others claimed that it is anything that makes the youth accountable for his/her actions. Both police and probation officers agreed that youth were more likely to be accountable for their actions if they received extrajudicial measures or sanctions, rather than going through a lengthy court process. One probation officer explained the effectiveness of extrajudicial measures and sanctions in this way:

*When kids are given the opportunity to participate in community conferencing there are huge opportunities to be accountable. They don't always agree or want to participate in the conferencing. Gateway, probation and conferencing, [they're] at a more personal level, not layers of film that separate them in the court process. In the old system kids know someone else would make the decisions for them. It very much gives the kids the power too. Makes them more connected to the community.*

#### **4.4 Suggestions for Change**

At the end of each focus group, participants were asked about the changes they would propose to the legislation in order to make it more effective for rehabilitation and reintegration of young offenders, as well as other changes they would like to see in the youth criminal justice system.

In terms of rehabilitation, police officers felt that consequences should be more punitive for youth who re-offend. It is interesting to note that police officers interpreted rehabilitation to mean greater consequences for young offenders, whereas probation officers felt that rehabilitation came from services and programs targeted at changing problem behaviours for youth. Police officers especially expressed concern about the consequences associated with breaches and felt that youth did not take their conditions seriously. One police officer suggested: *"Three strikes and then you get dealt with totally differently. The first time offenders go here, others go there. The kids who re-offend, we all know them. That many policemen shouldn't know one person."* Frontline police officers suggested that youth have minimum consequences, rather than maximum sentences to deter youth from committing crimes: *"If kids knew they'd get a*

*minimum sentence for that, then they would think twice about it. There's too many shades of grey in our law with respect to sentencing."*

Some SROs spoke about the discretion that Crown prosecutors have to drop charges, so that youth receive even fewer consequences: *"Prosecutors can do whatever they want, they can plead down and drop charges without even calling the constable or the victim, nothing. They have way too much free reign and half of them don't want to go to trial so they deal something down."* Police officers felt that youth who frequently re-offend should not have the opportunity to have charges dropped to ensure that judges are aware of the full extent of their offending.

Police officers were also apprehensive about the families of youth offenders, stating that rehabilitation may be elusive if families do not cooperate. Several police officers expressed their concerns by saying:

*One big change we need to make has to do with the parents and our ability to do something with the parents. In the Act it's implicit that that's the cause, but there are no mechanisms in place to deal with it. Section 35 allows a referral to [child welfare] but we don't know what happens, whether [child welfare] follows up or what?*

*[Children's] services are there, but they don't help. They aren't supporting what we need them to support. [Children's] services don't do anything unless the family agrees or it's court ordered. The families have to buy in, but the ones that do buy in are the ones that would probably be ok anyway, the ones that don't are the ones that say "screw the police." The ones that really need it are the ones that don't cooperate.*

Many officers agreed that problems for youth begin much earlier than the age of 12 and by the time these youth enter the youth justice system, their problems are already too extensive. Police officers remarked: *"We've all been to those houses where the parents are more messed up than the kid. To me we're already behind the eight ball."* Other officers suggested programs that police could refer youth to, targeted directly at youth under the age of 12:

*I think another thing is, and I don't know why we aren't doing this, but you always have that small margin between 9 and 12, yeah we can't give them a criminal record, but it would be nice to have a program to send them to. The younger we can help them the better...between 9 and 12, that's where we need to get in there, they need social support. Enforce something with them.*

Probation officers also agreed that there should be more services targeted at youth under the age of 12 to prevent them from entering the criminal justice system when they are older. While the New Roads Program is an early intervention program targeted at children aged 7 to 11 who have engaged in criminal behaviour, or are at risk of engaging in criminal behaviour, one probation officer still commented:

*There is a lag in some of these systems; they are underway to fix the lags, but the systems are needed now. There's still a big gap in Child Welfare. The police are always talking about the under 12s, but you can't extend a criminal response to under 12s, because they're not criminally responsible – there really should be a way to address the under 12s. There's a perceived need for the under 12s and there are some resources, but there's more that can be done with these services.*

Several probation officers felt that youth should have increased access to treatment centres for drug and alcohol addictions and that treatment should be mandatory. Many felt that this would be beneficial not only for the rehabilitation of the youth, but also for successful reintegration into mainstream society. For example one probation officer proposed:

*The best detox centre we have is CYOC, everything else is voluntary. We need to get kids in somewhere and provide them with enough support and stability and keep them there ... so that they can get back on the right track.*

Police officers agreed saying: *“There aren't a lot of residential drug and alcohol programs for youth in Calgary. There's AARC [Alberta Adolescent Recovery Centre],... but it costs a lot of money, so we send them to Edmonton and then it takes even longer.”* They also felt that mandatory drug testing would be beneficial for youth to ensure that youth comply with their conditions. In addition, probation officers noted that that these resources need to be available across Canada so that *“we don't get these lost souls from Nunavut because there's no resources up there.”*

At the same time, probation officers also felt that the criminal justice system in Calgary is under-resourced, saying: *“We have the same number of judges as 20 years ago”* and *“the Crown still has to process every single charge and there aren't enough lawyers to do this.”* Another probation officer remarked: *“The legislation is great, we just don't have the services to back it up.”* Probation officers also suggested employing youth workers who could help youth on probation meet the conditions of their probation (e.g., accompany youth to counselling appointments).

In addition to these recommendations, both police and probation officers also pointed to other sources of conflict where resources should be concentrated. For instance, police officers considered the view of police chiefs and deputies as an important factor in achieving success with the current legislation. If officers in superior positions make funding cuts to programs, training and various police units, it makes it difficult for other officers to accomplish the goals of the Act.

Police officers also spoke about the shortage in training opportunities on the YCJA. Many officers commented that there was no ongoing training on the legislation and very few officers remembered their training when the legislation was first implemented. SHOP officers in particular noted: *“On every single recognizance you have to file a separate report...and a lot of street policemen are not trained on how to do the paperwork on these orders. They don't know that part of the act at all.”*

SROs also pointed to the shortage of constables within the school system and the lack of resources devoted to junior high schools. For example, SROs spoke about increased police presence in high schools as well as other resources being concentrated in high schools.

*Studies say we should be in junior highs, but because of staffing, there are 15 people for 29 positions, we're mostly just going to junior highs to lay a charge. We need more resources in order to be more visible in junior highs, where we can have an early intervention. These kids are getting in to high school and having not had an early intervention, they're now our problem kids.*

*The school board focuses their resources on high schools too, not in junior highs. High schools are getting AADAC counsellors, but some of the high school kids have been smoking pot for 4-5 years already. If they got counsellors in junior highs, maybe some kids would be receptive to the three mandatory sessions.*

Probation officers also suggested programming for specific age groups of youth. While many officers emphasized programs for younger children, some probation officers also pointed to the drop off of services for older youth. In particular, one probation officer noted that *"there also needs to be acknowledgement that an 18 year-old isn't ready to be on their own and take care of themselves. They still need support and guidance."*

Both police officers and probation officers noted a shortage of resources directed toward culturally specific groups. Police and probation officers felt that many immigrant families are not knowledgeable about the Canadian justice system and that there are no programs in place to help families adjust to Canadian culture. Probation officers called for mentors and *"solid educating around the consequences of offending."*

In addition, police and probation officers stated that the transitory nature of some programming makes it difficult to carry out the principles of the *Act*. For instance, some programs receive funding for an allotted period of time and in this time they have to show that the program is effective. However, some programs have strict criteria for success, which many youth fail to fit into. As a result, youth stop attending the program, funding is pulled, and a new cycle of programs begin.

Finally, police officers expressed a desire to increase information sharing among all of the youth justice system stakeholders. They felt that a collaborative approach may be more conducive to decreasing youth crime and facilitate success for those already in the system. As previously discussed, probation officers also appreciated the increasing collaboration they have had with youth workers at CYOC since the *YCJA* came into force.

## 5.0 SUMMARY AND CONCLUSIONS

The primary purpose of this report was to examine the impact of the YCJA on the flow of cases through the Alberta criminal justice system. In addition, this study also examined how the changes in legislation affected the work of police and probation officers in Calgary.

The first part of this chapter presents a summary of the major findings of the study. Highlights of the findings from Chapters 3.0 and 4.0 are presented, while the second part of this chapter presents a discussion and conclusions from the findings of the study.

### 5.1 Summary

#### 5.1.1 Case Flow Analysis

- The reported youth crime rate has steadily declined since 2003, the year the YCJA came into force.
- In 2003, the youth not charged rate surpassed the youth charged rate and continued to do so through to 2006.
- The rate of youth charged with property crimes has shown the steepest decline out of all types of offences since 2003. The proportion of charges represented by property crimes has also decreased in the years following the implementation of the YCJA, dropping from 41% of youth charged in 2001 to 35% in 2006.
- Other *Criminal Code* offences showed a steady increase in the rate of youth not charged. The number of other *Criminal Code* offences reported to the police may under-represent the true number of these offences because some administration of justice charges may not be reported to police.
- Following the introduction of the YCJA, the rate of youth cases heard in court dropped substantially. This was primarily due to the decrease in cases heard for property-related offences; however, decreases were also observed in all other offence types.
- Violations against other federal statutes, which include administration of justice charges, represented a smaller proportion of cases heard in court after 2003. There was a small increase in the proportion of crimes against the person cases heard in court, while the proportion of cases heard in youth court remained relatively stable for the remaining offence categories.

- Guilty decisions mirrored the overall drop in youth court decisions following the implementation of the *YCJA*, while the number of stays increased. The increase in cases that were stayed may reflect the change in legislation that called for increased use of diversion programs and fewer youth to be incarcerated.
- After the *YCJA* came into force, guilty decisions showed a substantial decrease in cases of crimes against property, other *Criminal Code* cases and drug cases, while stay decisions increased for the same offence types.
- There was an immediate decrease in the rate of custodial sentences ordered following the implementation of the *YCJA* across a number of different offence categories.
- While the sentences introduced in the *YCJA* (deferred custody and supervision, intensive support and supervision, attendance orders and reprimands) have been used, they are still not as common as probation, community service, fines and custody. Probation is still the most common sentence, representing 47% of all guilty cases in 2006-2007.
- Youth remanded to custody experienced a decline in 2003-2004; however, the average number of youth remanded to custody in 2006-2007 returned to pre-*YCJA* averages. The charge rate of violent crimes showed a slight increase in 2006-2007, which may partially explain the increase in youth remanded to custody.
- The average number of youth supervised in the community has declined since the *YCJA* came into force, while the unsupervised caseload has increased.

### 5.1.2 Focus Groups

#### Impact of *YCJA* on Workload for Police and Probation Officers

- Most police officers reported that their workload increased following the implementation of the *YCJA*. They cited a number of reasons for this, including: increased monitoring of youth who were no longer getting sentenced to custody or were serving their sentences in the community; increased paperwork associated with extrajudicial measures; and, increased time collecting background information on youth and taking statements from them. However, due to a decrease in charges, police officers also spent less time doing charge-related paperwork and were also less likely to appear in court.
- SROs reported that they used warnings even before the *YCJA*, while frontline officers reported that they use them to a greater extent than they used to.



- The extent to which warnings are formally recorded in the Calgary Police Information Management system is not consistent department-wide. Some officers use checkup slips, which are not part of PIMS to record the information, while other officers such as SROs keep their own records.
- Police officers reported that the extent to which they make referrals to programs and services through the use of extrajudicial measures for youth has increased substantially, both because it is now legislated in the *YCJA* and also because of the Gateway program offered in Calgary.
- Some police officers expressed concern with the shortage of information that they receive about the effectiveness of various programs, as well as the unavailability of space and transitory nature of some programs.
- Police officers reported mixed responses with respect to their use of extrajudicial sanctions. While some officers reported that they recommend them to the same extent as before the *YCJA*, others said that it decreased due to the increased use of warnings.
- While police officers from the SHOP unit reported that they have laid more charges since the new *Act* came into force, frontline officers reported that they are more likely to consider extrajudicial measures before charging youth. SROs reported that the extent to which they lay charges has not changed.
- All of the groups of police officers reported using other legal tools, such as bylaw infractions and provincial legislation for the protection of children, as alternatives to charging youth with a criminal offence.
- Probation officers reported that despite the decrease in their caseload since the implementation of the *YCJA*, their workload has increased. Probation officers cited increases in the intensity of their work because the cases they supervise are more involved. They have also experienced increases in the length of pre-trial supervisions, greater contact with youth due to the new orders introduced in the *YCJA* and the growing complexity of their jobs as reasons for their increased workload.
- While some probation officers reported that they did not experience a change in their participation in conferences since the *YCJA* came into force, others commented that there have been more recommendations for community conferences and case conferences in recent years.
- Overall, probation officers reported that they have not experienced a significant change in the number of Pre-Sentence Reports they prepare since the *YCJA* came into force. Rather, the major changes have occurred in the content of the reports, specifically with more information on victims and more justification for recommendations for sentencing.

- Probation officers also stated that the new orientation toward rehabilitation and custody as a last resort in the *YCJA* has led to fewer charges being laid for breaches.

### General Perceptions of the *YCJA*

- Police and probation officers praised the new legislation for its increased emphasis on diversion and its multiple levels of intervention. Probation officers also spoke favourably about the process of reintegration under the *YCJA* and the increase in sentencing options. In particular, they appreciated the principles and guidance on ordering custody in the legislation.
- Police officers expressed concern about the documentation of measures and the effectiveness of consequences for repeat offenders.
- Other police officers contended that the legislation itself is effective; rather it is the interpretation of the legislation that needs to be modified. Police and probation officers noted that the interpretation of the legislation varies by jurisdiction, constable, and court judge.
- Some probation officers expressed concern with the shortage of resources in accommodating the new sentences available in the *YCJA*; namely the intensive support and supervision and deferred custody sentences.
- Some probation officers also felt that the deferred custody sentence should not be limited to those who do not commit a “serious violent offence.”
- Both police and probation officers expressed dissatisfaction with the time it takes for cases to be processed through the youth criminal justice system. Probation officers felt that the formality of the court process also fosters a disconnection between the youth and his/her actions.
- Police and probation officers felt that there were not enough resources in place to support the principles of the *Act*, in particular, that programs were voluntary, sometimes difficult to access, and under-resourced. Probation officers felt that despite the existence of many programs, there is still a shortage of resources to facilitate rehabilitation of young offenders.

### Suggestions for Change

- Police officers felt that consequences should be more punitive for youth who re-offend.
- Police and probation officers suggested increased programming and intervention for youth under the age of 12.

- Several police and probation officers felt that that youth should have increased access to treatment centres for drug and alcohol addictions and that treatment should be mandatory.
- Police officers spoke about the shortage in training opportunities on the *YCJA* and a shortage of constables within the school system, specifically in junior high schools.
- Both police and probation officers noted a shortage of resources directed toward culturally specific groups.
- Police officers further expressed a desire to increase information sharing among youth judicial system stakeholders. They felt that a collaborative approach may be more conducive to decreasing youth crime and facilitate success for those already in the system.

## 5.2 Discussion and Conclusions

The objective of this report was to determine the impact of the *YCJA* by examining the flow of cases through the youth criminal justice system in Alberta and to understand changes in the occupational practices and workload of police and probation officers working with offending youth as a result of the new legislation. Four research questions directed the analysis in this report:

- (1) How has the implementation of the *YCJA* affected the flow of cases through the Alberta youth criminal justice system:
  - d. Have the number and type of charges been affected?
  - e. Have court decisions changed and have they changed by offence type?
  - f. Have sentences changed and have they changed by offence type?
- (2) Has the *YCJA* affected the workload of police and probation officers in Calgary's youth justice system?
- (3) Has the use of extrajudicial measures (formerly alternative measures) been affected by the implementation of the *YCJA*?
- (4) How do police officers and probation officers working with youth view the changes to the legislation and what changes do they recommend in order for it to be more effective?

To answer these questions a comparison of cases processed through the youth justice system in Alberta was examined from 2001 through 2006 using data from the Uniform Crime Reporting Survey, the Youth Court Survey, and Correctional Services. In addition, focus groups with police officers and probation officers working with youth in Calgary were also conducted to understand how the application and interpretation of the *Act* impacts upon the youth criminal justice system.

### 5.2.1 Case Flow Through Alberta's Youth Criminal Justice System

From the quantitative data examined, the *YCJA* appears to have greatly affected the flow of cases through the youth criminal justice system in Alberta. The year the legislation came into force marked a shift in the pattern of youth charges, court decisions, and sentence outcomes. The number of youth charges experienced a sharp decline in 2003, particularly with regard to property crime charges. This suggests that youth are increasingly being diverted away from criminal justice system, which was one of the main principles of the *Act*. The number of youth apprehended for other Criminal Code offences, but not charged, also increased after the *YCJA* came into force. This likely reflects an increase in administration of justice offences, as the focus group participants mentioned that there are now many more opportunities for youth to breach. The number of youth cases heard in court decreased, with subsequent decreases in court decisions. Of particular interest was the increase in cases that were stayed, which may reflect cases that are proceeding through extrajudicial measures or sanctions. This is especially evident for property crimes, drugs, and other *Criminal Code* offences, including administration of justice offences and disturbing the peace offences, which showed decreases in guilty decisions and increases in the proportion of stay decisions. Again these findings suggest that the legislative goal of diversion is being accomplished.

The addition of new sentencing options in the *YCJA* was mainly introduced to reduce the high use of custody under the *YOA*. While the data showed that custodial sentences were on the decline even before the *YCJA* came into effect, the proportion of cases that were sentenced to custody showed a steep decline in 2003 for all offence types. The new sentences have been used since they were introduced, but are still not as common as probation and other sentences such as absolute discharges, restitution, essays, and apologies, for all offence types. Therefore, according to the case flow data, it appears as though the objectives of the new legislation are being realized. More youth are being diverted away from the formal youth justice system and are also less likely to be given a custodial sentence; however, there has not been a permanent decline in the use of remand custody.

### 5.2.2 Workload of Police and Probation Officers in Calgary

Police and probation officers reported that their workloads have changed since the implementation of the *YCJA*. Police officers in the SHOP unit reported an increase in workload due to increasing numbers of SHOs serving their sentences in the community. The case flow data confirmed that more youth are indeed serving much of their sentences in the community either on probation, deferred custody or as part of the transition out of custody.

Frontline police officers reported mixed responses with respect to changes in their workload due to the implementation of the *YCJA*. On the one hand, they commented on increases in their workload associated with extrajudicial measures paperwork, while on the other hand, they also reported less charge-related paperwork due to the decrease in charging. Overall, they felt that their workload had increased since the implementation of the *YCJA*. This issue, however, may also be due to the

increasing youth population in Calgary over recent years, as well as difficulties police have experienced in staffing. Statistics show a more than 10,000-person increase in youth aged 15-19 from 1999 to 2006 (City of Calgary, 2008), which may leave police officers short of resources to deal with youth crime.

Overall, SROs did not report a significant change in their workload, given that their positions have always required them to work closely with youth. They did report, however, that the legislation required them to further research the background of youth they were dealing with and that the new caution and waiver form sometimes made their work more onerous. These officers also noted that there were not enough SRO officers to cover all schools in Calgary, in particular junior high schools. This again points to resource issues associated with the implementation of the *Act*, rather than problems with the legislation itself.

In general, probation officers reported an increase in their workload since the implementation of the *YCJA*. While their caseload has decreased, the intensity of the cases they now supervise calls for more time dedicated to dealing with mental health and drug issues as well as consulting with other members of the judicial system on youth who are involved in more serious offences. The new sentences have also increased reporting frequencies, which often leads to more case notes and timely procedures for suspended orders. In addition, probation officers noted that they are spending more time in conferencing, getting information from victims, and justifying recommendations for pre-sentence reports.

In spite of this, most probation officers were generally positive about the new legislation and praised the new orders for their measured levels of intervention. Like police officers, probation officers also pointed to a shortage in resources as an issue with the new legislation. They suggested the use of caseworkers who could ensure youth attend their appointments for counselling and treatment, with the intention that probation officers may continue to spend their time addressing the complex cases that require much more knowledge and experience.

### 5.2.3 The Use of Extrajudicial Measures

The greatest change with the use of extrajudicial measures came for frontline police officers. While SROs reported that they have always used warnings, frontline officers reported that they used them to a greater extent with the introduction of the *YCJA*. Both SROs and frontline police officers reported greater use of referrals after the *YCJA* came into force. The existence of the Gateway program has been especially helpful in ensuring that youth who are committing minor offences are being diverted. However, police officers did express concern with the shortage of information they receive about the effectiveness of various programs as well as the non-mandatory completion option for measures. In addition, police officers also expressed a desire for better documentation of measures issued so that they can be certain whether or not the youth has received a warning or measure in the past. Many police officers agreed that the diversionary principles in the *Act* are positive and are being carried out.

#### 5.2.4 Suggestions for Change

Overall, police officers were less optimistic than probation officers about the effectiveness of the *YCJA*, in particular for reducing crime of persistent and serious youth offenders. On the other hand, many of the suggestions that they made spoke to the interpretation of the *Act* and the shortage of resources to support it. For example, both police and probation officers agreed that despite the *YCJA*'s intention to decrease inconsistencies between sentencing decisions across different jurisdictions, disparities still exist. Police officers felt that youth who violate the conditions of their probation should be more severely consequence and that repeat offenders should receive more punitive consequences in Calgary. On the other hand, probation officers praised Calgary judges for their "*rehabilitative social work approach*" to young offenders.

Both police and probation officers pointed to a shortage of resources in the Alberta youth criminal justice system. From community programs for drug and alcohol abuse, a deficiency of training opportunities on the *YCJA*, to staffing deficiencies at the police, court, and probation level, the shortage in resources makes it difficult to achieve all of the principles of the *Act*. Many police and probation officers pushed for mandatory drug and alcohol treatment, programs targeted to specific age groups, and resources to hasten the length of the court process.

Overall, it appeared as though both police and probation officers agreed with the principles and the philosophy of the *YCJA*. Even though police officers seemed more reluctant to find advantages to the new *Act*, their increasing use of bylaw infractions to consequence youth still fits with the philosophy of the legislation. While the bylaw infractions do not fall under the jurisdiction of the *YCJA* they still offer police officers the option to consequence youth in a timely fashion.

In closing, it is important to recognize that the *YCJA* has resulted in very significant decreases in the use of courts and custody for responding to youth offending in Alberta, without an increase in youth crime. Further, it should be recognized that the City of Calgary appears to be the only municipality in Canada that delivers youth probation services, which it has done under contract with the Alberta Solicitor General since 1922. The service is delivered within Community and Neighbourhood Services and being a registered social worker is a condition of employment. There are also a number of agencies and community programs that work collaboratively with members of the youth criminal justice system, including the Alberta Solicitor General's Calgary Youth Attendance Centre and the Calgary Young Offender Centre, to ensure that youth are given every opportunity to be diverted away from the criminal justice system and rehabilitated and reintegrated back into the community. Calgary seems to have a culture of collaboration in the family and youth sector that encourages creative, innovative and responsive approaches, as is evidenced by the partnerships referenced in this report. While respondents identified a shortage of community-based resources, Calgary appears to be positioned to successfully accomplish the objectives of the *YCJA*. It would be useful for future research to focus on comparative studies to examine the implementation of the *YCJA* in other cities and municipalities across the country.



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## **APPENDIX A**

### **FOCUS GROUP PROTOCOL FOR POLICE OFFICERS**



# **YOUTH OFFENDING PATTERNS AND SYSTEM RESPONSE IN CALGARY: FOCUS GROUP PROTOCOL FOR POLICE OFFICERS**

## **1.0 Introduction**

### 1.1 Introduce Yourself/Ourselves

### 1.2 Project Overview

The Canadian Research Institute for Law and the Family (CRILF) in partnership with City of Calgary Community and Neighbourhood Services and the Calgary Police Service, has undertaken a project to better understand youth offending patterns and system response in Alberta. One of the aims of the project is to identify how the implementation of the *Youth Criminal Justice Act (YCJA)* has affected the flow of cases through the youth criminal justice system and the workload for frontline police officers in Calgary.

### 1.3 Consent

Your participation in this focus group is totally voluntary. You may refuse to respond to any of our questions and of course may withdraw from the focus group at any point in time.

### 1.4 Introduction of Attendees

- who they are;
- position.

## **2.0 Experience and Qualifications**

Information on experience and qualifications will be collected for all individuals in the focus group through a brief survey administered before the focus group begins.

## **3.0 YCJA Legislation**

### 3.1 General Perceptions of the YCJA

- How do you feel about the changes that have been made to the youth criminal justice system with the implementation of the YCJA?
- What are the strengths and weaknesses of the legislation?

### 3.2 Effects of YCJA on Youth Crime

- Do you feel that the new legislation lends itself to addressing the circumstances underlying a young person's offending behaviour?
- Do you feel that the legislation promotes rehabilitation of young persons who commit criminal offences?
- Does the legislation promote meaningful consequences for young offenders?
- Do you feel that the new legislation is effective for diverting minor cases away from youth courts to community-based responses?
- Do you feel that the legislation allows for youth to be held accountable for their offences in an appropriate way?
- Do you feel that the YCJA has had any impact on rates of youth offending or re-offending?

### 3.3 YCJA in Practice

- Do you feel that the youth criminal justice system as implemented in Calgary adheres to the principles of the YCJA?

## **4.0 Impact of YCJA Legislation**

### 4.1 Impact of the YCJA

- Has your workload changed as a result of the YCJA?
- Are there any other aspects of your work that have been affected as a result of the YCJA?
- Has the new legislation affected the way that the police service responds to youth crime?
- Has your response to situations where there is more than one youth involved in a criminal incident changed since the implementation of the YCJA?

## 4.2 Extrajudicial Measures – Warnings

- Has the extent to which you use warnings changed as a result of the *YCJA*?
- What factors about the youth and/or the incident do you consider before issuing a warning to a youth?
  - e.g., youth's age, aboriginal status, demeanour/attitude, gender, history
  - e.g., seriousness of offence, legislation
- When warnings are issued to youth, are they always formally recorded in the Police Service's Record Management System?
  - e.g., a check up or report
- In what cases are they not recorded?
- Have recording procedures changed with respect to issuing warnings since the implementation of the *YCJA*?
- What are your perceptions about the use of warnings among the police service?

## 4.3 Extrajudicial Measures – Referrals

- Has the extent to which you use referrals changed as a result of the *YCJA*?
- What factors about the youth and/or the incident do you consider before issuing a referral to a youth?
  - e.g., youth's age, aboriginal status, demeanour/attitude, gender, history
  - e.g., seriousness of offence, legislation
- Do you find the process for issuing referrals straightforward?
- Which programs do you refer youth to when exercising extrajudicial measures? (e.g., Gateway, AADAC, About Face)
- Does your knowledge about the *availability* of referral programs make a difference as to whether or not to issue a referral?

- Does your knowledge about the *effectiveness* of referral programs make a difference as to whether or not to issue a referral?
- When referrals are issued to youth, are they always formally recorded in the Police Service's Record Management System?
- In what cases are they not recorded?
  - e.g., youth's family is supportive and will ensure that they attend the program
- Have recording procedures changed with respect to issuing referrals since the implementation of the *YCJA*?
- What are your perceptions about the use of referrals among the police service?

#### 4.4 Extrajudicial Sanctions

- Has the extent to which you recommend the use of Extrajudicial Sanctions changed as a result of the *YCJA*?

#### 4.5 Charges

- Has the extent to which you lay charges changed as a result of the *YCJA*?
- If so, has this resulted in a change in your workload?
  - e.g., the demands on your time for the paperwork associated with charging and the subsequent court-related work such as appearing in court?

#### 4.6 Other Legal Tools

- Do you use bylaw infractions as an alternative to charging youth with a criminal offence?
- If so, has this changed with the implementation of the *YCJA*?
- Do you use other legal tools, such as the *Protection of Children Acts* as an alternative to charging youth criminally?
- If so, has this changed with the implementation of the *YCJA*?

#### 4.7 Breaches (of conditions of bail and of probation)

- Under the new legislation, when you discover breaches yourself, are you approaching them differently?
  - e.g., taking no further action or a warning or referral instead of laying a charge
- Under the new legislation, are you approaching breaches differently when they are reported by another system actor such as a probation officer or person in charge of a facility?
  - e.g., taking no further action or a warning or referral instead of laying a charge
- How are failures to appear, by young offenders, handled by the police?
  - If the youth fails to appear, is a charge of Fail to Appear automatically laid by police? Or is an Extrajudicial Measure (e.g., Take No Further Action or a Warning or Referral) used sometimes?
  - When a charge of Fail to Appear is laid, who does it? (e.g., Court liaison officer? The officer who is in court in connection with the case on which the youth failed to appear?)
  - Has anything about these procedures changed as a result of the new legislation?

### **5.0 Suggestions for Change**

#### 5.1 Changes to Legislation

- Has the *YCJA* had an impact on youth crime in general? If so, in what way?
- What changes, if any, would you make to the legislation in order for it to be more effective for rehabilitation of young offenders?
- What changes, if any, would you make to the legislation in order for it to be more effective in providing meaningful consequences for young offenders?
- What changes, if any, would you make to the legislation in order for it to be more effective for reintegration of young offenders back into society?
- What do you think the long-term effect of the *YCJA* will be?



## 5.2 Changes in Resources

- Do you feel that the police service infrastructure is adequate in supporting the principles of the *YCJA*?
- Do you feel that there is enough initial training and on-going training available on *YCJA* legislation?
- Are there sufficient resources in the community to sustain extrajudicial measures?
  - e.g., what specific programs are you aware of?
- Are there sufficient resources in the community to sustain extrajudicial sanctions?
  - e.g., what specific programs are you aware of?

## **6.0 Additional Information**

6.1 Do you have any other comments that you would like to make?

**APPENDIX B**

**FOCUS GROUP PROTOCOL FOR  
PROBATION OFFICERS**



# **YOUTH OFFENDING PATTERNS AND SYSTEM RESPONSE IN CALGARY: FOCUS GROUP PROTOCOL FOR PROBATION OFFICERS**

## **1.0 Introduction**

### 1.1 Introduce Yourself/Ourselves

### 1.2 Project Overview

The Canadian Research Institute for Law and the Family (CRILF) in partnership with City of Calgary Community and Neighbourhood Services and the Calgary Police Service has undertaken a project to better understand youth offending patterns and system response in Alberta. One of the aims of the project is to identify how the implementation of the *Youth Criminal Justice Act (YCJA)* has affected the flow of cases through the youth criminal justice system and the workload for probation officers in Calgary.

### 1.3 Consent

Your participation in this focus group is totally voluntary. You may refuse to respond to any of our questions and of course may withdraw from the focus group at any point in time.

### 1.4 Introduction of Attendees

- who they are;
- position.

## **2.0 Experience and Qualifications**

Information on experience and qualifications will be collected for all individuals in the focus group through a brief survey administered before the focus group begins.

## **3.0 YCJA Legislation**

### 3.1 General Perceptions of the YCJA

- How do you feel about the changes that have been made to the youth criminal justice legislation with the implementation of the YCJA?
- What are the strengths and weaknesses of the legislation?

### 3.2 Effects of *YCJA* on Youth Crime

- Do you feel that the new legislation lends itself to addressing the circumstances underlying a young person's offending behaviour?
- Do you feel that the legislation promotes rehabilitation of young persons who commit criminal offences?
- Do you feel that the new legislation is effective for diverting minor cases away from youth courts to community-based responses?
- Do you feel that the legislation allows for youth to be held accountable for their offences in an appropriate way?
- Do you feel that the *YCJA* has had any impact on rates of youth offending or re-offending?

### 3.3 *YCJA* in Practice

- Do you feel that the youth criminal justice system as implemented in Calgary adheres to the principles of the *YCJA*?

## **4.0 *YCJA* Legislation Impact on Caseload**

### 4.1 Has your caseload changed as a result of the *YCJA*?

- e.g., proportion and number of youth supervised on pre-trial /recognizance;
- e.g., proportion and number of youth with probation orders;
- e.g., proportion and number of youth completing the community portion of a custody supervision order;
- e.g., proportion and number of youth on a deferred custody order.

### 4.2 Have the profiles of the youth that you are assigned to changed as a result of the *YCJA*?

- e.g., proportion and number of youth with specific charges (types of property offences, types of person offences)

- e.g., proportion and number of youth who have had extrajudicial measures or sanctions in the past
  - e.g., proportion and number of youth who have committed minor offences
- 4.3 In general, have court-ordered conditions of supervision changed for the youth you supervise since the implementation of the new legislation?
- 4.4 Are there any other aspects of your caseload that have been affected as a result of the change in legislation?

## **5.0 YCJA Legislation Impact on Workload**

5.1 Has your workload changed as a result of the YCJA?

5.2 Pre-Sentence Reports

- Have the number and/or content of your pre-sentence reports changed since the implementation of the YCJA?
- Are you spending more time on the reports?
- Has there been any change with respect to the information you include on victims in the reports since the implementation of the YCJA?
- Has there been any change with respect to the information you include on the youth's mental health in the reports since the implementation of the YCJA?
- Have there been any changes with respect to the recommendations you make for extrajudicial sanctions or (conditional) discharges since the implementation of the YCJA?
- Under which circumstances do you make these recommendations?
- Have there been any changes with respect to the recommendations you make for community conferencing since the implementation of the YCJA?
- Under which circumstances do you make these recommendations?
- Have there been any changes with respect to the recommendations you make for sentencing since the implementation of the YCJA?

- Under which circumstances do you make these recommendations?
- What factors about the youth and/or incident do you consider before making your recommendations?
  - e.g., youth's age, aboriginal status, demeanour/attitude, history
  - e.g., seriousness of offence, legislation
  - e.g., information on family and community support
- Are you asked to include recommendations for sentencing in your pre-sentence reports by youth defence lawyers and/or the Crown prosecutor's office? Has this changed since the implementation of the YCJA?
- How often do you think your recommendations are followed by the court? Has this changed since the implementation of the YCJA?

### 5.3 Community Conferences

- Has your participation in community conferences changed as a result of the new legislation?
- Has the availability of community conferences changed your practice?
- Has community conferencing changed your approach toward PSR sentencing recommendations?

### 5.4 Case Conferences

- Has your participation in case conferences changed as a result of the new legislation?
  - e.g., participation in reintegration intent conferences
  - e.g., participation in judge convened conferences
  - e.g., participation in wrap-around conferences
- What sorts of plans are made during case conferences and do you think they are effective?

## 5.5 Court Attendance

- Have you found yourself to be required in court more often since the implementation of the new legislation?
- Have you found that you make the choice to be in court more often since the implementation of the *YCJA*?

## 5.6 Youth Reporting

- Has the frequency of reporting for youth on probation changed as a result of the change in the legislation?

## 5.7 Breaches

- Under the new legislation are you approaching breaches differently?
  - e.g., are there more breaches?
  - Does the *YCJA* allow for youths to be held accountable for breaches in an appropriate way?

## 5.8 Record Keeping and Administration

- Have the administrative aspects of your job changed as a result of the new legislation? If so, in what way?
  - Are there any other aspects of your workload that have been affected as a result of the change in legislation?

# 6.0 Suggestions for Change

## 6.1 Changes to Legislation

- Has the *YCJA* had an impact on youth crime in general? If so, in what way?
- What changes, if any, would you make to the legislation in order for it to be more effective for rehabilitation of young offenders?
- What changes, if any, would you make to the legislation in order for it to be more effective for reintegration of young offenders back into society?



- What do you think the long-term effect of the *YCJA* will be?

## 6.2 Changes to Resources

- Do you feel that there is enough initial training and on-going training available on *YCJA* legislation?
- Do you feel that there are enough community resources in the justice system?
  - e.g., job training, family support, housing, schools, counselling, welfare;
  - e.g., enough resources available for specific age-groups of youth.

## **7.0 Additional Information**

7.1 Do you have any other comments that you would like to make?

**APPENDIX C**

**EXPERIENCE AND QUALIFICATIONS SURVEY  
FOR POLICE OFFICERS**





## CANADIAN RESEARCH INSTITUTE FOR LAW AND THE FAMILY

c/o Faculty of Law, University of Calgary, 2500 University Drive N.W., Calgary, Alberta, Canada T2N 1N4  
Telephone: (403) 220-6653 Fax: (403) 289-4887 e-mail: [crilf@ucalgary.ca](mailto:crilf@ucalgary.ca) [www.ucalgary.ca/~crilf](http://www.ucalgary.ca/~crilf)

### YOUTH OFFENDING PATTERNS AND SYSTEM RESPONSE IN CALGARY: EXPERIENCE AND QUALIFICATIONS SURVEY FOR POLICE OFFICERS

**Name:**

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**District/Office:**

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**Position:**

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**Years of Experience (Youth Justice / Justice):**

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**Qualifications (i.e., education, training):**

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**Training Specific to YCJA:**

Did you receive any additional training with the advent of the Youth Criminal Justice Act (YCJA)?

No  Yes

If yes, state the type of training.

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Was this training received prior to the implementation of the YCJA (April 1<sup>st</sup>, 2003)?

No  Yes

Approximately when did you receive this training?

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Did the Calgary Police Service develop particular supports/procedures to encourage changes in practice after the implementation of the new legislation?  No  Yes

If yes, what specifically?

---

All of the information from the focus group will be collected and dealt with in accordance with the Freedom of Information and Protection of Privacy Act (FOIP). While all information will remain anonymous, we do request that you consent to the possible use of direct quotes without attributing them to specific individuals. Would you agree to being named in a list of persons who participated in the focus groups for this project?  No  Yes



**APPENDIX D**

**EXPERIENCE AND QUALIFICATIONS SURVEY  
FOR PROBATION OFFICERS**





## CANADIAN RESEARCH INSTITUTE FOR LAW AND THE FAMILY

c/o Faculty of Law, University of Calgary, 2500 University Drive N.W., Calgary, Alberta, Canada T2N 1N4  
Telephone: (403) 220-6653 Fax: (403) 289-4887 e-mail: [crilf@ucalgary.ca](mailto:crilf@ucalgary.ca) [www.ucalgary.ca/~crilf](http://www.ucalgary.ca/~crilf)

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### YOUTH OFFENDING PATTERNS AND SYSTEM RESPONSE IN CALGARY: EXPERIENCE AND QUALIFICATIONS SURVEY FOR PROBATION OFFICERS

**Name:**

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**District/Office:**

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**Position:**

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**Years of Experience (Youth Justice / Justice):**

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**Qualifications (i.e., education, training):**

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**Training Specific to YCJA:**

Did you receive any additional training with the advent of the Youth Criminal Justice Act (YCJA)?

No  Yes

If yes, state the type of training.

---

Was this training received prior to the implementation of the YCJA (April 1<sup>st</sup>, 2003)?

No  Yes

Approximately when did you receive this training?

---

All of the information from the focus group will be collected and dealt with in accordance with the Freedom of Information and Protection of Privacy Act (FOIP). While all information will remain anonymous, we do request that you consent to the possible use of direct quotes without attributing them to specific individuals. Would you agree to being named in a list of persons who participated in focus groups for this project?  No  Yes