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CANADIAN JUVENILE JUSTICE BEFORE AND AFTER THE YOUNG OFFENDERS ACT

BY

DIANE COSSINS

A thesis submitted to the Faculty of Graduate Studies and Research in partial fulfillment of the requirements for the degree of Master of Arts.

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DEDICATION

To my parents for their early interest in my education which has allowed me to come this far.

ABSTRACT

Canada introduced new juvenile justice legislation entitled the Young Offenders Act in 1984. Since its implementation, concern has developed over the legislation's seemingly harsh impact. This thesis argues that the juvenile justice system has *widened the net* of social control since 1984. *Net widening* means more young offenders are arrested by police, sent to court, found guilty of delinquency, and incarcerated.

A comparison of the ideological basis of the Young Offenders Act with the Juvenile Delinquents Act (1929), Canada's older legislation, reveals the new legislation's emphasis on the crime control ideology. Holding young offenders more responsible and accountable and expressing concern for the protection of society are two provisions of the Young Offenders Act which reflect a crime control ideology. The Juvenile Delinquents Act, by contrast, was based predominantly on a welfare model of justice whereby therapy and treatment programs were primarily provided.

Official statistics on police charges between 1979-1989 reveal an *increase* in arrests for minor theft offenders since the Young Offenders Act, but a *decrease* for break and enter offenders. Court data indicates *higher* volumes of minor theft and total Criminal Code offences sent to court and *lower* volumes of break and enter offences. The argument that the juvenile justice system is widening the net of social control is supported by the police and court data results for minor theft and total Criminal Code Violations, but not for break and entry. The main conclusion drawn points to the variability by nature of the offence in police and court operations. Future research may determine why police charges and court referrals for break and entry have declined since the Young Offenders Act was implemented.

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CHAPTER I. INTRODUCTION.

1. Research Topic.

Evaluating the effectiveness of the Canadian juvenile justice system in reducing and preventing delinquency is an important task for many criminologists. Given that adult criminality often begins as juvenile delinquency, successful delinquency prevention legislation will do much to reduce total crime rates for both youth and adults. Assessing the relative impact of delinquency legislation and programs will allow for amendments and hopeful improvements in the juvenile justice system.

Canada's juvenile justice system adopted new legislation entitled the Young Offenders Act in 1984. Much research has concentrated on the legislation's effects on the juvenile justice system. A mainstream body of literature criticizes the Young Offenders Act for its "punitive" approach (Markwart and Corrado 1989; Reid 1986; Caputo 1987; Mason 1988; Leschied and Jaffe 1987 and 1988; Leschied and Gendreau 1986; Havemann 1986 and 1989). This research points to the Young Offenders Act's "harsh" law and order philosophical orientation which emphasizes the protection of society and increased offender responsibility for juvenile crime. Not only is the legislation's ideological approach seen as more "punitive", but the research also points to "harsher" court proceedings for youth. More youths are brought to court for their misdemeanors, stricter formalities exist in the courtroom, more youths are declared guilty, and increasing numbers are being sent to custody.

This thesis will review the literature which shows that the ideological position the Young Offenders Act (YOA)

adopts is more "punitive" than Canada's older legislation entitled the Juvenile Delinquents Act (JDA). Moreover, a presentation of JDA and YOA juvenile crime statistics will assess what impact the Young Offenders Act has had on the juvenile justice system.

The author hypothesizes that the juvenile justice system is *widening the net of social control* since the YOA. Juvenile justice agencies would be *widening the net* by officially exercising more powers of social control over Canada's young offenders. Given the new legislation's emphasis on holding young offenders responsible for their actions and protecting society from juvenile crime, *net widening* could well be a result. An analysis of juvenile justice data may support the *net widening* argument.

The intention of this thesis is to contribute some new angles of analyzing data on the effects of the YOA. First, while other studies have made generalized claims that the YOA is more "punitive" by merely analyzing total Criminal Code offences, this thesis will analyze 2 specific property offences: minor theft and break and entry. Second, the majority of literature on the YOA concentrates on the youth court system (Markwart and Corrado 1989; Mason 1988; Leschied and Jaffe 1987 and 1988; Havemann 1989; Bala and Corrado 1985; Trepanier 1989). This thesis will examine both police and court systems before and after the YOA.

Much of this thesis will rely on Hackler's research (Hackler 1981; Hackler and Paranjape 1983a, 1983b, and 1984; Hackler and Cossins 1989; Hackler, Cossins, and Don 1990). Hackler has analyzed official crime statistics to describe the operation of the juvenile justice system across Canada. This thesis will elaborate on Hackler's research by analyzing a larger data set of 30 Canadian

cities and provinces and a longer time span from 1979-89. The Young Offenders Act will be compared with Canada's older legislation, the Juvenile Delinquents Act.

The discussion will now move to an examination of the daily operations of the juvenile justice system under the older Juvenile Delinquents Act (JDA) legislation, with emphasis on its link to the treatment perspective and the *parens patriae* doctrine.[1] Although general comments will be made which pertain to the juvenile justice system as a whole, the majority of the discussion will stress intricacies in the province of Alberta. Descriptions of Alberta's juvenile justice system are based extensively on the opinions of a former Alberta Juvenile Court Judge with much experience in the juvenile justice system who outlined the history of Alberta's system in an article appearing in the Alberta Law Review (Bowker 1986).

2. Rehabilitative Ideology Of The Juvenile Justice System Prior To The Young Offenders Act.

Under the JDA, a treatment or rehabilitative approach of juvenile justice was to be applied to youths *convicted* of juvenile delinquency[2] (Sutherland 1976; Bowker 1986; Bala and Corrado 1985). This chapter emphasizes that only once a juvenile was technically "adjudged" to be or convicted of delinquency was he/she to be treated in a

---

[1]The following discussion will pertain to the amended Juvenile Delinquents Act of 1929.

[2]The A.G.B.C. v. Smith (1968) Supreme Court of Canada decision differentiated the JDA from child welfare legislation. Substantively, the JDA was criminal law in nature, whereas child welfare legislation was rehabilitative. (A.G.B.C. v. Smith (1968) 65 Dominion Law Reports (2d) 82).

rehabilitative and helping manner (JDA S. 3(2) and S. 38). There may have been a misconception that the JDA was rehabilitative at all stages in the juvenile justice process.

Juvenile delinquents (i.e., those that were "adjudged to be a juvenile delinquent") were seen as misguided and misdirected, and in need of help, guidance, and proper supervision (JDA S.3(2). This *parens patriae* doctrine viewed the State as adopting the role of a parent who was to meet the child's "best interests" in a kindly and therapeutic manner. Delinquents were to receive help, not punishment, for their wayward behaviour. The rehabilitative philosophy of the juvenile justice system was expressed in many ways.

a. Diversion measures[3]*:*

Diversion is defined as referral to a community-based program or agency which is independent of the justice system (Moyer 1980:78). Many juveniles escaped the formal process of court action for their delinquency. The reliance on informal diversion practices was prevalent in some provinces, such as Quebec and Saskatchewan (Hackler 1984:58). The aim of diversion was to keep the youth in the community and to provide individualized treatment (Moyer 1980). Diversion programs would do much to reduce caseloads in court and thereby use community resources as alternatives. The youth was to benefit from individual counselling sessions, crisis intervention, therapy, and referral to community treatment agencies rather than being

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[3]The section on diversion relies much on the research findings of Sharon Moyer (1980) which provide an indepth account and evaluation of Canada's diversion programs.

subjected to the stigmatic experience of being formally processed through the courts and having a "delinquent" label attached to his/her identity. The "best interests" of the child were to be met in diversion programs.

Diversion was viewed as a viable alternative to probation for many reasons. Many courts had failed to provide individual attention to the youth due to lack of adequate resources, shortage of personnel and service facilities, and heavy workloads (Moyer 1980:62; Bowker 1986). The job of probation officers to give youth individualized attention to their special needs was made extremely difficult by the heavy caseloads probation officers had to cope with (Sutherland 1976:128; Kirby, Wyman, Bower, Lewis, and Gamache 1977:31). As a result, the typical court experience was criticized as being impersonal, with superficial hearings and inattention to due process rights (Moyer 1980). Diversion programs, on the other hand, were to more adequately pay attention to the individual youth and therefore provide treatment services tailored to the individual's needs.

Most youths sent to diversion were minor offenders who had committed the American equivalent of "status offences"; i.e., those actions that were criminal for minors, but not for adults. These youths were seen as the most likely candidates for successful intervention before they developed a criminal career. In particular, those juveniles whose offences were based more on emotional disturbance, such as incorrigibility, drug or alcohol abuse, running away, and truancy, were viewed as the most suitable recipients for diversion measures (Moyer 1980:89). They would benefit from informal treatment measures early on.

The use of diversion varied much in Canada under the JDA. Over 50% of cases in Montreal and Quebec ended up in diversion, and a very high 92% of cases in Hamilton were dealt with informally in 1978 (Hackler 1984:48). The majority of police officers in Edmonton chose to return juveniles to their homes and inform their parents rather than lay charges (Kirby, Wyman, Bower, Lewis, and Gamache 1977:46). One Edmonton Juvenile Court Judge commented that it was a rarity to see shoplifters and other minor offenders sent to court under the JDA. Informal non-judicial procedures were preferred in Edmonton. Calgary, however, relied on diversion infrequently. Using a formal screening body comprised of a Crown prosecutor, probation officer, and police officer, Calgary charged 80% of juvenile cases (Kirby, Wyman, Bower, Lewis, and Gamache 1977:47). It is obvious that the paramount ideology adopted by the majority of juvenile justice systems was welfare-oriented rather than legalistic. The main concern was to avoid stigmatizing the minor offender from being subjected to "punitive" court proceedings.

b. Court procedures:

Despite the concerns expressed by supporters of diversionary measures, many court proceedings and dispositions did indeed reflect the rehabilitative goal of the JDA (Cousineau and Veevers 1972). The court process was to be as informal and non-adversarial as possible so that the convicted youth was not to be treated as a criminal, but as a misguided person requiring help and guidance (JDA S. 17(1) and S. 17(2).[4] In an informal

[4]Concern was raised that due process rights were not being upheld in the pre-adjudication stage. The informality of the court process often resulted in the violation of a juvenile's legal rights.

manner, the judge would tend to ask the juvenile questions regarding his/her delinquent conduct; thus the juvenile was more involved in court proceedings than he/she is now under the Young Offenders Act (Bala and Corrado 1985:123; Smith-Gadacz 1983:352). Under a more legalistic system, such as the Young Offenders Act, a court clerk reads the charges and the juvenile is asked by the judge how he/she wishes to plead. The proceedings are thus more adversarial with the presence of lawyers speaking for the juvenile.

Of course, under the JDA there were regional differences in the degree of informality in the courtroom. It should be noted though that lawyers were not present for the majority of cases. It was not until 1977 that Edmonton, for instance, established duty counsel that would be available for youths to consult if they had legal problems (Bowker 1986:247). However, it was always the practice that judges would insist that juveniles charged with serious offences receive legal advice before entering a plea or proceeding to trial. A more adversarial process tended to exist for serious cases (Bowker 1986:247).

Winnipeg's court moved toward a "legalistic" model in 1981 when the presence of a prosecutor was introduced to juvenile court proceedings (Smith-Gadacz 1983:373). Formerly, a probation officer had assumed a quasi-prosecutorial role. With lawyers adopting an adversarial and legalistic approach in Winnipeg's courts since 1981, youths no longer actively participate in court hearings. There is concern that juveniles are not able to fully understand a more formal court process and the associated legal language that is used (Smith-Gadacz 1983:372).

The majority of non-adversarial courtroom proceedings though protected youths from being stigmatized as criminals

(Bowker 1986). In fact, children under the JDA were not charged with a specific criminal offence, but with being in a state or "condition" of delinquency (JDA S.3(2). The definition of a juvenile delinquent referred to:

> *"any child who violates any provision of the Criminal Code or of any Dominion or provincial statute, or of any by-law or ordinance of any municipality, or who is guilty of sexual immorality or any similar form of vice, or who is liable by reason of any other act to be committed to an industrial school or juvenile reformatory under the provisions of any Dominion or provincial statute"* (JDA S. 2(1)(h).

> *"Where a child is adjudged to have committed a delinquency he shall be dealt with, not as an offender, but as one in a condition of delinquency and therefore requiring help and guidance and proper supervision"* (JDA S. 3(2).

This classification of young people as "juvenile delinquents" was to avoid the stigma attached to a criminal label if the youth had otherwise been charged with a specific offence (Cousineau and Veevers 1972).

Referring to the commission of a criminal offence as a "*condition* of delinquency" allowed the police and courts to intervene indefinitely and thereby treat the minor juvenile delinquent as one portraying "antisocial behaviour" which needed to be treated in a therapeutic fashion (McGrath 1976:239; Bala and Corrado 1985:14; Wyman 1977:85). The rationale behind the broad definition of "delinquency" was to help those minor offenders whose main problem was lack of proper care from their parents (McGrath 1976:240). Delinquency was often easier to prove in the courts than

neglect (McGrath 1976:240). Children in these circumstances may have benefited from this kindly or rehabilitative intervention by receiving the care they needed from probation staff. However, the involvement of the juvenile justice system in these matters rather than the child welfare system has been criticized as a "perversion of criminal legislation" (McGrath 1976:240). Max Wyman's Minority Report criticized the Alberta police policy of charging a juvenile victim of neglect with "delinquency" in order to remove the youth from a bad home environment (Wyman 1977:85).

c. Court dispositions:

1) Probation: The type of dispositions given to juvenile delinquents were designed to rehabilitate them. The most effective and frequently used disposition was probation (Bowker 1986:273). Between 1912-52, Toronto witnessed a 900% increase in the use of probation (Hagan and Leon 1980:18). Supervised probation was the cornerstone of rehabilitation. The main goal of probation officers was to keep the juvenile delinquent in the family setting or to place him in a suitable foster home. It was believed that further delinquency could best be prevented in a family environment which offered love, care, and supervision (Sutherland 1976). Often probation was combined with orders requiring restitution for damage or voluntary community service (McGrath 1976; Bala and Corrado 1985:132).

2) Family Court Clinics and Children's Aid Societies: Other forms of treatment included a judge's referral of a youth to a family court clinic for assessment. If the judge felt that the youth had some form of special need to take into account before sentencing, he would refer the

youth for assessment (Hackler 1984:55). Family court clinics were largely prevalent in Southwestern Ontario so this form of treatment was not widespread under Canada's JDA legislation. However, when family court clinics were used, about 75% of judges in London, Ontario used the youth's family problems as their reason for referral (Leschied and Jaffe 1987:425).

A more widespread method of treating juvenile delinquents in Canada was for a judge to order that the youth be placed under the care of a Children's Aid Society (CAS). Ontario, Manitoba, and Nova Scotia had well established CAS which handled mostly neglected children under child protection legislation (Bala and Clarke 1981:81). However, judges who were concerned with protecting a juvenile delinquent and ensuring rehabilitative care often made use of CAS. Once a child was ordered to a Children's Aid Society, he/she was under its complete jurisdiction. It was left to CAS staff to decide what sort of treatment a youth was to receive as a ward for his/her length of committal. The rehabilitative services offered by the CAS included placement in group and foster homes, as well as other assessment and treatment facilities. The main emphasis by the CAS was to provide therapy to all children under its protection (Bala and Clarke 1981:81).

3) *Custodial settings*: In line with the welfare-oriented philosophy of the JDA, correctional institutions were to provide treatment services and proper educational and vocational facilities for juvenile delinquents (Carter 1976:306). They were not to be regarded as places of confinement and punishment. In fact, most provinces placed corrections under the jurisdiction of welfare departments (Carter 1976:308).

The administration of correctional institutions is a provincial affair so there were great variations in the kinds of programs offered, the average length of stay, and review processes during the JDA period (Carter 1976:308; Bala and Clarke 1981:197). Some secure correctional facilities or training schools as they were often called, used restrictive devices such as high barbed wire fences and locked gates to incarcerate potentially dangerous juvenile delinquents (Hackler, Garapon, Frigon, and Knight 1987). Some provinces, like Alberta, did not technically have training schools. The situation regarding training schools in Alberta is a complex one and has been well documented by Judge Bowker (1986). Even though the province of Alberta had two correctional institutions that assumed the roles of training schools, the Royal Commission Report of 1967 pointed out that the Bowden Institute and the Alberta Institute for Girls were never officially declared as "training schools" (Bowker 1986:258). Instead they were "jails" that were unlawfully being used to incarcerate juveniles.[5] Despite the Commission's investigation into these illegal practices, no steps were taken for legislative change.

With the passage of time, custodial settings had less restrictions on a juvenile's freedom. For instance, Alberta's Youth Development Centre in 1970 removed its fence, but kept its doors locked. The degree of security in correctional institutions therefore varied provincially and across time. The majority of juveniles admitted to custody were property offenders or exhibited behaviour like running away, sexual promiscuity, or continual truancy (Carter 1976:307). Data from Alberta's Youth Development

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[5]Section 13(1) of the JDA strictly forbade judges to send juvenile delinquents to jails.

Centre for 1974 showed 71% of its property offenders were involved in break and entry, while 56% were for auto theft (Carter 1976:313). There were also neglected children who were wards of the child welfare system housed in juvenile corrections (Hackler, Garapon, Frigon, and Knight 1987; Carter 1976).

Even though the *intention* theoretically may have been to provide treatment services within custodial settings, in practice many were criticized for being places of punishment (Bowker 1986; Sutherland 1976). It was difficult for these institutions to provide a family-like environment conducive to care, love, and treatment (Sutherland 1976). Some were criticized for being punitive, showing little or no concern over helping juvenile delinquents.

In Alberta, the Royal Commission Report of 1967 and the 1968 McGrath Report (Alberta Penology Study) condemned the province's two juvenile correctional facilities for their punitive practices and physical deterioration (Bowker 1986:257-263). It was reported that boys at the Bowden Institute and girls at the Alberta Institute for Girls were not receiving treatment programs in any form (Bowker 1986:259). The emphasis was more on security and incarceration than on treatment, training, or education.

In 1970, the provincial government transferred jurisdiction of juvenile institutions from the Attorney General to the Social Development Department (Bowker 1986:263). Considerable financial savings were to be gained from this jurisdictional change. The Canada Assistance Plan Act of 1970 (S. 5(1)(a) provided 50% of federal funds to Social Services and therefore there was a

strong incentive for Alberta to shift its administration of juvenile corrections to the Department of Social Services.

The Bowden Institute for boys was closed and the Alberta Institute for Girls was transformed into the Youth Development Centre for boys and girls (Hackler 1984:60). The Director of this new facility was a reform-oriented social worker from Ontario. The tall fence that used to surround this former girl's institute was removed and an attached unit with maximum security was reserved for serious and chronic offenders (Kirby, Wyman, Bower, Lewis, and Gamache 1977:73). Under the jurisdiction of Alberta Social Services, juvenile institutions were thought to be better able to provide adequate treatment services and avoid invoking punitive measures for the majority of juvenile delinquents. Thus Alberta's juvenile reforms in 1970 upheld the rehabilitative orientation shown towards most young offenders.

3. Child Welfare And Canada's Older Juvenile Justice System.

The rehabilitative ideology of the JDA is also apparent in the frequent integration of the juvenile justice system with the child welfare system. The JDA legislation *per se* fell under federal jurisdiction, whereas the *administration* of juvenile justice was under provincial authority. Each province enacted its own juvenile court legislation with a resultant variability in the forms of juvenile courts that existed (McGrath 1976).

Provinces also had powers to enact and administer welfare legislation. The child welfare system was designed to protect children and promote their welfare (Bala and Corrado 1985:21). Strictly speaking, abused, neglected, and

deprived children were to be dealt with by child welfare agencies. Most temporary or permanent wards of the child welfare system were those from poor family surroundings with severe emotional and/or psychological disorders (Hackler 1984:63). However, given the similar *parens patriae* doctrine or "welfare-oriented" approach of the juvenile justice system and the child welfare system, juvenile delinquents often found themselves caught up in their province's child welfare system (Bala and Corrado 1985:21; Hackler 1984:63; McGrath 1976). In addition, legislative amendments often resulted in a province's juvenile justice system being merged with its child welfare system, as occurred in Alberta in 1970.

As usual, there were provincial variations on the reliance on the welfare system versus the juvenile justice system and vice versa. Quebec relied more heavily on the welfare system, whereas Ontario, Manitoba, and Alberta tended to prefer use of the juvenile justice system (Hackler 1984:51; Bala and Corrado 1985:135).

Within some provinces there was movement back and forth over the years on preferring either the welfare system or the juvenile justice system (Bowker 1986). Bowker (1986) describes Alberta's ambivalent administrative policies concerning juvenile delinquency. Between 1913-1952, juvenile delinquents came under the administrative authority of the welfare system; then from 1952-70, the Attorney General's Department assumed control; finally from 1970 to the passage of the Young Offenders Act in 1984, there was a return to the welfare system.

The constant changes in jurisdiction within Alberta were a reflection of the debate, inconsistency, and indecision that always seems to plague the juvenile justice

system. An opposing viewpoint could see constant structural change as a positive effect by lifting bureaucratic restraints. Whatever opinion one adopts, juvenile justice personnel tried different strategies in their attempt to reduce and prevent juvenile delinquency. The shifts in philosophy between treatment and more punitive measures were instigated to effectively handle the minority of delinquents who were serious chronic offenders (Bowker 1986:273). In other words, most delinquents received rehabilitative care under the JDA. It was only the serious recidivists who were subjected to shifting practices of punishment versus treatment (Bowker 1986:273).

4. Conclusion.

The juvenile justice system was designed to help and offer treatment services to delinquent children prior to the YOA. Viewed as misdirected and in need of proper guidance and supervision, juvenile delinquents tended to receive "help" from the State which acted as a surrogate parent under the *parens patriae* doctrine. The majority of delinquents' special needs were met in an informal and rehabilitative fashion: non-adversarial court proceedings, diversion measures, and probation are illustrations (Bowker 1986:273; Cousineau and Veevers 1972; Bala and Corrado 1985).

However, there were deficiencies in the system concerning more serious repeat offenders. Hypothetically, welfare-oriented juvenile justice personnel would stress the need to provide treatment to all delinquents regardless of the seriousness of their offences. Unfortunately, time was to prove that a treatment approach often failed to protect society from the increasing numbers of runaways from open custody who often recommitted offences. Bowker

(1986) believed the growing concern over the rise in more serious offences, recidivism, and younger ages of delinquency pointed out the need for a tougher system with emphasis on individual responsibility and accountability, deterrence, and the protection of society. Such criticism of the JDA was just one of many factors leading the way towards juvenile reform under the Young Offenders Act, as is discussed in Chapter two.

CHAPTER II. JUVENILE JUSTICE REFORM AND THE YOUNG OFFENDERS ACT.

1. The Road To Juvenile Reform.

In 1961, the Department of Justice felt a need to amend the Juvenile Delinquents Act and consequently formed a 5-man advisory committee who drew up over 100 recommendations for reforming juvenile justice (Department of Justice Committee 1965). Bill C-129 was the result of the advisory committee's discussions and was first presented at a Federal-Provincial conference in 1968. The Bill had its first reading in the House of Commons in 1970 and was subjected to rigorous examination, analysis, debate, and criticism for over 20 years until the final draft (Bill C-61) was proclaimed on April 2, 1984 (Reid 1985:32).

The following discussion will outline the philosophy of the Young Offenders Act as contained in its Declaration of Principles (S.3) and then indicate how each ideological model was developed through 20 years of proposals for reform.

2. The Philosophy Of The Young Offenders Act.

The introduction of new legislation in 1984 has marked some changes in Canada's juvenile justice system. In contrast to the *parens patriae* philosophy of the Juvenile Delinquents Act, the Young Offenders Act is more concerned with holding the young offender responsible and accountable for his actions and with protecting society (Bala and Lilles 1982:15). This emphasis derives from a law and order model of juvenile justice.

The philosophy of the Young Offenders Act is contained in its 4 key principles which are:

1) Responsibility and accountability for criminal conduct.
2) The right to due process of law.
3) Protection of society.
4) Recognizing the special needs of the young offender.

(Bala and Lilles 1982; Solicitor General 1982).

Even though the YOA still contains provisions for meeting the "special needs" of young offenders and providing treatment or rehabilitative programs, the consensus among most researchers is that the rehabilitative approach is overshadowed by a law and order model of juvenile justice (Bala and Lilles 1982; Reid and Reitsma-Street 1984; Reid 1985; Leschied and Gendreau 1986; Havemann 1986; Caputo 1987; Leschied and Jaffe 1987; Havemann 1989). Future chapters in this thesis will analyze in detail police charging practices and court dispositions in different jurisdictions between 1979-89 in order to assess the proportionate decline in welfare-oriented measures in comparison to the increase in law and order measures.

3. Ideological Models Of Juvenile Justice.

From each YOA principle, an analysis of previous literature gives the following four distinct models of criminology in Table 1.[1]

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[1]The author believes all four models overlap in the daily operations of the juvenile justice system.

Table 1. Relationship Between YOA Principles And Ideological Models.

YOA Principles	Ideological Model
1. Responsibility and accountability	Crime Control Model
2. Due Process Rights	Justice Model
3. Protection of Society	Community Change Model or Crime Control Model
4. Special Needs of Young Offenders	Welfare Model

Sources: Reid and Reitsma-Street (1984:2-5); Reid (1985:16-23); Havemann (1986:233).

a. Crime control model:

Also known as the law and order model, this ideological position derives from the classical school of criminology (Archambault 1986; Caputo 1987:131). An early nineteenth century philosopher, Jeremy Bentham, saw crime as a form of hedonism; crime was a utilitarian and rational act in which the offender weighed the benefits versus the costs in favor of breaking the law (Bentham 1970). Society's present-day response to hedonistic crime is to favor punishment and deterrence hoping that the individual alone will become convinced that it no longer pays to commit crime. The individual must bear responsibility and be held accountable for his offences through punitive and deterrent measures. Agents of social control, such as the police, courts, and corrections, are given the power to enforce the law and to invoke sanctions to control crime. The YOA's principle of responsibility and accountability thus reflects the ideological perspective of crime control or the law and order lobby (Havemann 1989:4; Leschied and Jaffe 1987:421; Trepanier 1989:51).

By preventing crime through deterrence, the goal of protecting society will indirectly be reached. The belief held during the JDA era was that society would be protected from crime by protecting youth via the *parens patriae* doctrine; while the YOA believes public protection results from holding young offenders more responsible (Trepanier 1989:36). Crime control advocates strive to attach criminal sanctions to any behaviour which threatens the collective social order (Reid 1985:20). Deterrence and punishment are essential justifications for the use of criminal procedures favoring the protection of society.

b. Justice model:

The protection and safeguarding of legal rights for children is central to the justice model's philosophy. The justice model ensures there are strict guidelines clearly specified in law and followed in formal juvenile court proceedings. The informality and high degrees of discretion that existed prior to the YOA have been eliminated through adoption of the justice model. Under the Charter of Rights and Freedoms, children are entitled to receive the same legal rights and freedoms as adults and fair treatment under the law. These rights include the right of the juvenile to be informed of the charges laid against him/her, the right to legal representation, the right to be informed of his/her legal rights, the right to a plea of guilty or not guilty, and the right to a fair trial (Solicitor General 1982).

Above all, the YOA recognizes that young persons should have special guarantees of these rights and freedoms (Bala 1989:9). For instance, youths are entitled to have counsel provided by the state if they are unable to obtain or afford a lawyer (YOA S.11). Parliament felt it was essential to provide special protections of rights since youths may not fully comprehend or exercise their rights without special assistance (Bala 1989:10).

c. Community change model:

The community change model is rooted in a concern with altering the social structural dimensions of crime, such as providing better opportunities for youth in employment and schooling (Reid 1985:18). Society can best be protected from crime by taking a more active role in its prevention through improvements to educational, employment, familial,

and social service spheres (Caputo 1987:139). The juvenile justice system has typically concentrated on reforming the *individual* rather than the social circumstances that drive one to delinquent involvement (Caputo 1987:140). Current Alternative Measures provisions of the YOA stem from the community's active involvement in reforming youths who have transgressed from law-abiding behaviour (Archambault 1986:49; Caputo 1987:139). However, community-based alternatives are falling short of successfully reintegrating the offender into the community and are criticized for widening the net of social control (Caputo 1987:140). The ideal condition of adequately protecting society will only be achieved once the community-based system takes into account social, political, and economic factors which adversely affect communities and the level of crime.

d. Welfare model:

Derived from the positivist school of criminology, the welfare model views delinquency as a product of biological, psychological, and especially environmental factors beyond the control of the individual. In the case of juvenile justice, the youth's family background is the main focus of concern. Youths from poor family backgrounds were unduly influenced and steered towards deviant behavior, as many child-savers and present-day welfare advocates maintain (Sutherland 1976).

Because delinquency is caused by external variables, the individual cannot be blamed for his actions through receiving "crime control" sanctions, like punishment and deterrence, but should receive treatment to reform his behavior. Juveniles require guidance and assistance to deal with their life circumstances (Reid 1985:19).

Welfare-oriented agents of juvenile justice, such as social workers, psychologists, psychiatrists, and community-based groups, attend to the special needs of young offenders by recognizing that protection and treatment are essential for troubled youth.

While the concepts of responsibility, due process, and public protection are integral to both the juvenile and adult criminal justice systems, the emphasis on the special needs of the offender is unique to the juvenile justice system (Archambault 1986:46). The welfare model contained in the YOA acknowledges the special status of the adolescent regarding dependency, maturity, and level of development (Bala and Kirvan 1991). Thus young offenders are not to be held accountable in the same manner as adults: dispositions are less severe and records are to be destroyed after a qualifying period of crime-free behavior (Archambault 1986:46). Youths are protected from harsher adversarial processes that adults face.

4. Ideological Categorizations.

It should be emphasized that the classifications laid out in Table 1, which link the principles from the YOA with 4 different ideological models, are the author's. Previous researchers had created the particular ideological models shown (Reid and Reitsma-Street 1984:2-5; Reid 1985:16-23), but the author proposes to link these models to the 4 main YOA principles as indicated in Table 1.

The main divergence taken by the author relates to the responsibility and accountability clause (Principle 1). Table 1 shows the corresponding model of crime control, but the original researchers (Reid and Reitsma-Street 1984:7)

had classified this as the justice model as well as the YOA's concern with due process rights.

The justice model could be viewed instead as dealing with "justice" or "due process" concerns, which are more clearly seen as legal issues. The crime control model, on the other hand, deals with the perception of crime as an individual, rational act for which the offender is to accept responsibility and accountability. Thus it seems more compatible to group the responsibility and accountability principle with the crime control model, rather than the justice model.

In addition, Reid and Reitsma-Street (1984) had asked a group of undergraduate students to categorize each principle in the YOA with the four models of juvenile justice. They found that 45.8% of students referred the crime control model to the principles of responsibility and accountability, while 52.1% chose the justice model (Reid and Reitsma-Street 1984:9). In addition, academic researchers have categorized the crime control model as containing responsibility and accountability principles (Trepanier 1989:51; Leschied and Jaffe 1987). The source of ambivalence regarding the appropriate model which applies indicates the caution one must take in strictly following the categorization listed in Table 1. There is room for differing opinions. Nevertheless, it is the opinion of the author that the crime control model is preferred over the justice model for classifying the principle of responsibility and accountability.

The other source of ambivalence involves Principle 3, the protection of society. The original researchers used the crime control model (Reid and Reitsma-Street 1984:7). While the author agrees that a preoccupation with

protecting society necessarily involves adopting crime control measures, the community change model is equally applicable. The rationale adopted by the community change model emphasized the responsibility of the community to help prevent crime (Reid 1985:18). Society can be protected from crime by actively improving social structural dimensions that are invariably a leading cause of youth crime (Caputo 1987:140). Thus the principle of protecting society contains elements of both crime control and community change models.

5. Criticisms With Pre-existing Legislation.

As noted previously, the Juvenile Delinquents Act came under criticism in the early 1960's from federal and provincial governments, juvenile justice practitioners, and interest groups (Reid 1986:5). The discussion will now concentrate on the development of each of the four ideological models of juvenile justice (see Table 1) in relation to particular pitfalls of the JDA and reform proposals.

The YOA is an amalgamation of diverse and competing ideological orientations. After 20 years of debate amongst law and order, civil rights, and welfare advocates, the House of Commons conceded to a consensual position as reflected in the divergent philosophy of the YOA[2] (Reid 1986:5). It was hoped that all lobbying interests would be met in the new juvenile justice legislation.[3]

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[2]Many opinions were gathered from juvenile justice practitioners, such as Juvenile and Family Court Judges, training school staff, probation officers, police officers, and various private agencies (Department of Justice Committee 1965).

[3]An additional interest group argued for the adoption of all juvenile justice models in Canada's new legislation to

a. A "get tough" approach in juvenile justice:

What causes juvenile crime?: Members of the law and order lobby complained about the leniency and "kiddie court" image of juvenile court (Havemann 1986:230). Under the JDA and its *parens patriae* perspective, juvenile delinquents were protected and given help and guidance for their misdeeds. They were not blamed for their delinquency since it was perceived as being caused by factors beyond the individual's control. Crime control advocates blamed the courts for "pardoning" youth for their misbehaviour and argued that youth should have been accepting responsibility for their actions.

The main conflict in opinion between crime control and the *parens patriae* or welfare-oriented position of the JDA was centred on each perspective's beliefs on the causes of crime. It will be remembered that the welfare model followed the positivist school of thought which did not hold the individual accountable for his/her criminal involvement. On the other hand, crime control lobbyists saw crime as an act of free will for which the offender should accept responsibility and be punished. Thus the fight for instigating law and order in juvenile justice helped pave the way for adding the principle of responsibility and accountability in the YOA.

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best deal with the diverse causes of juvenile crime. Solicitor General Kaplan defended the YOA's multiple philosophy by saying juvenile crime "is a more complicated problem than to say it is totally the child's fault, totally the parent's fault, that the only interest to be served is that of society" (Justice and Legal Affairs Committee Minutes, Issue 61-29). The YOA therefore reflects the importance of adaptability to different sorts of problems with juvenile delinquency.

Scare tactics and juvenile crime rates: Apart from the difference in philosophical orientations towards the degree of tolerable leniency, the crime control model gained much support in the reform period: there was a rise in juvenile crime rates, a growing concern over public protection, and apparent inefficiency of treatment programs. Caputo (1987) has empirically shown the upsurge in juvenile crime between 1962-81. The rate of juveniles charged per 100,000 in Canada for selected crimes increased almost 5 times from a rate of 171.8 in 1962 to 770.1 charged in 1981 (Caputo 1987:132). The corresponding increase in adult charge rates was only doubled from 1935.4 in 1962 to 3563.4 in 1981 (Caputo 1987:132). The apparent dramatic rise in youth crime during the 1960's and 1970's created a "moral panic" and public fear over the rising rebellious youth culture that seemed to be emerging (Havemann 1989:14-18). Opposition members and other law and order lobbyists pressed the government for changes to the JDA.

The question as to whether juveniles were in reality becoming more criminogenic and dangerous to society is debatable. Even though statistics show a dramatic rise in juvenile crime, one must be aware of using *charge rates* as a measure of how much crime exists. Part of the reported increase in crimes committed by juveniles may have been attributed to more effective police surveillance and an upsurge in the prosecution of trivial infractions (Caputo 1987:131). The increase in charges of so-called "status offences", like truancy, "immorality", and incorrigibility, has been documented and led to an unjustified fear of "dangerous" and increasingly "violent" hooligans (Caputo 1987:131; Havemann 1989:14; Havemann 1986:225). The true scenario may have been that the 1960's and 1970's

represented a period of increased state intervention. The state may have been either deliberately or inadvertently exerting coercive force and control over the lives of Canada's youth (Platt 1977; Havemann 1986 and 1989). Researchers who adopt this persuasion have pointed to the problems of youth unemployment at the time and the state's need to marginalize youth and keep them in line (Havemann 1986:225; Caputo 1987:133). Thus youths who committed trivial offences often found themselves under the control of the juvenile justice system.

Despite the possible exaggeration of the amount of crime and the nature of its seriousness, there was enough fear to warrant the application of crime control measures into new legislation. There was a genuine belief among law and order lobbyists that the welfare approach fell short of protecting society from the harm done by young offenders (Havemann 1989:15). Instead of protecting youth, the proper role of the juvenile justice system should be to punish offenders and deter them from committing future criminal acts. Society could best be protected if juvenile crime could be prevented and reduced.

Repeat offenders and the lack of public protection: During the reform era, there were numerous committees established to analyze the problem of recidivism and serious offenders running away from correctional institutions. In Alberta, the 1967 Royal Commission on Juvenile Delinquency believed the prime purpose of the law was the protection of the public and the "near complete abandonment of the philosophy of responsibility" was deplorable (Bowker 1986:257). Max Wyman's Report to the Alberta Board of Review in 1977 estimated that there were between 100 to 150 juveniles in Alberta who were in need of

secure custody since these youth were dangerous and/or repeat offenders (Wyman 1977:62).

By 1977, Compulsory Care Legislation was implemented in Alberta to deal with the problem of chronic offenders running away from juvenile institutions. As discussed in Chapter one, because of legislative restrictions on the sentencing powers of judges (the maximum sentence judges could give were "committals to the Director of Child Welfare") as well as the removal of fences from the Youth Development Centre, Alberta witnessed a problem with juvenile delinquents running away from correctional facilities.[4] As a result, Compulsory Care Orders enabled judges to impose an additional order to youths committed to the Director of Child Welfare to be confined in an institution for up to 90 days (Hackler, Garapon, Frigon, and Knight 1987). The judge had to be convinced that compulsory care was essential for youths who posed a danger to themselves and society.

The need for confinement in Alberta was evident from the 299 Compulsory Care Orders issued from October 1977 to April 1978 (Bowker 1986:267). These juveniles were housed in maximum security wings of juvenile correctional facilities such as Westfield and the Youth Development Centre, and received more intensive programs of rehabilitation and education (Bowker 1986:268). Law and order ideologists felt justified in confining potentially dangerous youth who could threaten public safety. One police officer's speech to the House of Commons assessed that 15-20% of young offenders fell into the violent

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[4]The problem with increased numbers of escapes was not well documented for Alberta. The movement towards Compulsory Care Legislation in 1977 may have been instigated by an unwarranted fear spread by law and order supporters.

category (Havemann 1989:16). Statistics such as these were part of the law and order rhetoric that emphasized the need for a tougher justice system. However, a close examination of the dialogue cited above indicates the mere speculation of the police officer's estimate since he only *suggested* that 1 in 5 offenders were violent.

An indepth statistical analysis conducted by the 1965 Committee on Juvenile Delinquency, by contrast, indicated that "delinquency involving acts of violence were relatively infrequent" (Department of Justice Committee 1965:11). Only 4% of youth crime was violent (Solicitor General cited in Havemann 1986:229). It is plausible that advocates of crime control, such as law enforcement officers, may have exaggerated the gravity of juvenile crime so as to instigate public fear and increase their support (Caputo 1987:133; Havemann 1989:15).

A further study into the problem of repeat offenders was conducted by the Attorney General's Department under Project OMEGA in 1977. This study examined the repeat offender and found that 25% appearing before Edmonton Juvenile Court were repeat offenders (Mallon and Salzman [1977]:1). Almost 20% of males committed 2 or 3 counts of delinquency and averaged only 6 months between successive delinquencies (Mallon and Salzman [1977]:23 and 29). Of the 37.4% of repeat offenders on probation, a quarter of them recommitted while a third of offenders sent to the Director of Child Welfare reoffended (Mallon and Salzman [1977]:37). There was a slightly higher number of recidivists among those committed to the Director of Child Welfare than probationists since the former were the most serious offenders. Law and order activists used such data to demonstrate the "problem" of repeat offenders which Alberta was facing in the 1970s.

Needless to say, the most interesting finding from the study on Edmonton's repeat offenders centres on the seriousness of offences. Two-thirds of repeat offences were theft-related which hardly warranted the degree of public fear and panic that law and order lobbyists were able to instil (Mallon and Salzman [1977]:35). Thus the dangerousness of juvenile crime during the reform era was overestimated, but successfully led to punitive aspects in the YOA and the adoption of the crime control model.

Questioning the effectiveness of treatment services: Some research questioned the effectiveness of rehabilitation in reducing and preventing delinquency (Eysenck 1960:702-704; McCord 1978; Byles and Maurice 1979; Van Den Haag 1982). The Cambridge-Somerville Youth Study of the late 1930's failed to reveal any significant differences in recidivism between a group of delinquents who received intensive treatment and counselling and a control group of similar delinquents who did not receive treatment in any form (McCord 1978:689; Eysenck 1960:697).[5] The Juvenile Services Project (1979) in Hamilton, Ontario similarly failed to reduce delinquency by means of family-crisis intervention (Byles and Maurice 1979).[6] Negative treatment evaluations like these were used by crime control and civil rights movements in their fight against the

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[5]Participants from the Cambridge-Somerville Youth Study were traced after 30 years to assess what effects the program had made on crime prevention. 66% of men from the treatment group had recommitted an offence, as compared to 50% from the control group (McCord 1978:689).

[6]62% of Hamilton youth receiving treatment and 55% who did not, recommitted offences.

welfare oriented approach of the JDA.[7] Law and order groups felt it was detrimental to the protection of society to rely upon ineffective treatment programs. By being held responsible for delinquency and receiving punishment, it was believed the crime control perspective would be instrumental in solving the crime problem (Van Den Haag 1982).

b. The infringement of legal rights and the justice model:

Excessive discretion: The early 1960's witnessed a conflict between treatment and civil rights groups. At the time of writing their article in 1972, Cousineau and Veevers believed the proposed legislation would focus either on the legal rights of delinquents or on their social and psychological needs. Instead the YOA has resolved the debate by containing elements of <u>both</u> perspectives, but limits the discretion of treatment agencies to "act in the best interests of the child".

The argument advanced by the legal rights perspective was that discretion and informality in the juvenile justice system was violating a juvenile's rights to due process of law. The rationale behind the *parens patriae* philosophy of the JDA and welfare groups, however, was that there was no need for upholding due process standards since the state was acting for the "good of the child" through providing help and treatment (Archambault 1986:44). Nevertheless, several landmark cases in Canada and the United States during the 1950's and 1960's were to prove that the "best interests" of the juvenile were not always being met and

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[7]An extreme position was adopted by radical noninterventionists who felt the State should leave children alone wherever possible (Schur 1973).

hence basic legal rights should be guaranteed in juvenile courts (Kaliel 1974; Cousineau and Veevers 1972:250-254; Caputo 1987:128).

The famous Gault case in the U.S. Supreme Court in 1967 represents the growing trend towards legalism (Bowker 1986:244). Following the outcome of this case, juveniles in the United States gained a right to be notified of charges, a right to counsel, cross-examination of witnesses, and protection from self-incrimination (Bowker 1986:245). The Gault case indicated the abuses of power that existed in several American juvenile courts, but the applicability of this case to the Canadian scene is debatable. One Edmonton Juvenile Court Judge had stated that "the safeguards prescribed in the Gault case were regular practice [in Canada] with the one exception that legal counsel was not provided automatically in all cases" (Bowker 1986:247). However, others believe the Gault decision had important implications for juvenile justice in Canada (Caputo 1987:129; Kaliel 1974:356).

The research of Kaliel (1974) presents famous legal challenges in Canada that were supposed to safeguard a juvenile's civil rights. As to whether legal rights were in reality respected in juvenile courts after these cases were upheld in the Supreme Court of Canada is questionable (Kaliel 1974:358). Nevertheless, in R. v. T. (1947)[8] the juvenile was not clearly informed of the nature of the offence, was not offered the right to cross-examine, call witnesses, or give evidence, and was not tried by a legally trained judge. This early court case did not result in due process safeguards for the juvenile. The Supreme Court

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[8] R. v. T. (1947) 2 W.W.R. 232 (B.C.S.C.)

Judge felt that "the services of an untrained justice [were] considered adequate." (Kaliel 1974:357).

A more successful guarantee of legal rights for juveniles occurred in R. v. Nicholson (1950)[9]. In this case, the juvenile court judge took his discretionary powers to the limit since he believed court procedures could be as informal as he liked in accordance with S. 17 of the JDA (Kaliel 1974:356). The juvenile had been subjected to leading questions and unsworn witnesses. The decision made in B.C.'s Supreme Court was that "no person should be convicted except by due process of law" (Kaliel 1974:356). Similarly, in R. v. Gerald X (1958)[10], judges were not allowed to interrogate a youth in order to incriminate him (Kaliel 1974:344). Juveniles attained the right to have charges read to them, the right to plead guilty or not guilty, and the right to a trial with counsel.

The need for fixed sentences: Another object of criticism was the indeterminant sentences many juveniles received. The welfare-oriented approach rationalized the use of indeterminant sentences on the premise that treatment professionals needed adequate time to effectively rehabilitate an offender (Cousineau and Veevers 1972:256). Treatment personnel could thus extend or shorten a judge's original sentence period. Civil libertarians were outraged by the reliance on indeterminant sentencing since a juvenile could be held in custody for an undue length of time (Cousineau and Veevers 1972:256). The juvenile would be receiving punishment, not treatment. Research has

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[9] R. v. Nicholson (1950) 2 W.W.R. 309 (B.C.S.C.)

[10] R. v. Gerald X (1958) 25 W.W.R. 97 (Man. C.A.)

speculated that judges with a therapeutic outlook may act *more* severely by increasing their use of institutions (Wheeler, Bonacich, Cramer, and Zola 1968:60). Also treatment professionals seem to feel that a juvenile should be held under their care for at least 6 months before any success could be accomplished (Cousineau and Veevers 1972:258).

Successful due process reforms: The proposals made by due process supporters were adopted by the YOA. All sentences are fixed and determinant for a maximum penalty of 3 years in custody (YOA S. 20). Juveniles are guaranteed the same legal rights as adults enjoy. In addition, the principle of least interference with freedom (YOA S. 3(1)(f) consistent with the protection of society and the needs of the young persons and their families, was devised to protect juveniles from discretionary powers of state intervention (Bala 1989:10; Trepanier 1989:41). The Charter of Rights and Freedoms guarantees equality before the law for all Canadians, regardless of age (Solicitor General 1982; Archambault 1986:47; Trepanier 1989:39). Thus youth now enjoy due process rights under the juvenile justice system.

Juvenile courts operating under the YOA are marked by proceduralism and formalism that was largely absent under the JDA. Some have commented that juvenile courts are mini-adult systems of justice and contain elements of an adversarial process (Leschied and Jaffe 1987:422; Havemann 1986:236; Leschied and Gendreau 1986:316). Civil rights advocates, such as lawyers, applaud the highly formal nature of juvenile justice, while others (especially welfare supporters) are somewhat skeptical. Welfare advocates contend that courts with a high emphasis on legalism may represent a punitive crime control model

(Leschied and Gendreau 1986:315). Civil rights supporters, on the other hand, justify formalism for its "liberalism". The position one takes in assessing the desirability of legalism is therefore indicative of one's particular ideological orientation.

The problem of age jurisdiction and regional disparity: The JDA contained varying maximum ages of juvenile jurisdiction from province to province, ranging from 16 to 18. To eliminate the inequalities in varying age limits, the YOA established 18 as the upper age limit for delinquency. The maximum age clause came into effect on April 1, 1985 to allow provinces sufficient time to alter their existing arrangements (Solicitor General 1982). It is no longer the case that a 17 year old youth charged with an offence would be treated as a delinquent in one province, while being treated as an adult in another. This unfairness has been removed. The justice model ensures all juveniles are treated equally under the law.

A second source of contention which is rooted in the justice ideology was the regional disparity and inconsistency that existed under the JDA. Significant authority rested in the hands of provincial administrators and enormous disparities resulted in how juveniles were treated (Bala 1989:2). The elimination of "status offences" and the restriction of juvenile legislation to federal statutes only has helped reduce regional variability regarding the *definition* of delinquency. Under the JDA, the kinds of behaviours that constituted offences were vague and therefore subject to wide variation provincially (Cousineau and Veevers 1972:244).

c. Community response as an alternative to treatment programs.

As already discussed, rehabilitative programs seemed to be ineffective in reforming many youth. Recidivism remained a problem and juvenile crime rates appeared to be rising, a situation which spread public fear for its safety. However, the question as to whether juveniles were in fact behaving in a manner that posed a danger to the community cannot be accurately measured by juvenile crime rates. It is debatable whether the rise in crime rates in the 1970s was a reflection of increased juvenile criminality or more intensive charging practices by the police, or a combination of the two.

The community change model developed partially in response to the fear over rising crime rates and to the skepticism surrounding treatment policies. The findings that emerged from assessing treatment programs indicated that a focus merely on reforming the *individual* may have been the wrong approach. If the juvenile justice system were instead to focus on improving the *social structural* causes of crime, then crime rates may have been reduced (Caputo 1987:139; Archambault 1986:49). Increased community involvement in the reduction and prevention of crime is the key position advanced by the community change model (Reid 1985:20).[11]

Elements of the community change ideology are present in the YOA. The Declaration of Principle states "society

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[11]A more extreme offshoot of the community change ideology could push for political reform or even revolution. Such actions have not been witnessed in Canada.

... has the responsibility to take reasonable measures to prevent criminal conduct by young persons" (YOA S. 3(1)(b). Alternative Measures programs allow for community-based alternatives to formal processing through the courts (Havemann 1986:238). The hope is that alternative measures will minimize the stigma attached to appearing in youth court and involve the community in a more active role of crime prevention (Bala 1989:9). Thus the panic caused by seemingly high juvenile crime rates and repeat offenders led to increased community involvement in juvenile justice.

It is uncertain whether the earlier American focus on community-based alternatives had any impact on the Canadian scene. The President's Committee on Juvenile Delinquency and Youth Crime in the 1960's was worried about the community's failure to provide services that enabled a person to participate competently in daily life (Wheeler and Cottrell 1966:6). Programs were developed to improve employment opportunities, educational services, and community organization. Social factors were viewed as contributing to most juvenile delinquency.

d. The welfare lobby:

Although much research concentrates on the movement towards crime control and due process models in the YOA, the welfare ideology has been retained. During the early reform era, the treatment lobby was still predominant in the juvenile justice system, but met increasing opposition from civil rights groups (Havemann 1986; Cousineau and Veevers 1972). The basic argument put forth by welfare activists at the time was the need for more resources for treatment services (Caputo 1987:130). The majority of reforms were aimed at the courts which should have had more adequate treatment services available for troubled youth

(Gandy 1971:9). The 1961 5-man advisory committee of the Department of Justice saw the insufficient number of treatment services and correctional institutions as the main deficiency in the juvenile justice system (Bowker 1986:249).

Civil rights and law and order groups, however, attacked the claims advanced by welfare groups requesting more money for treatment because they believed rehabilitative programs were ineffective and violated the legal rights of children (Havemann 1986:229). On the other hand, rehabilitative advocates showed evidence of the success rates of various treatment programs in reducing recidivism (Ross and Gendreau 1980; Gendreau and Ross 1981).

This debate over the success rate of rehabilitation arose due to disagreement over what was considered a "reasonable" success rate. Martinson's "Nothing Works" perspective represented an extreme skepticism of treatment programs. Martinson expected to see virtually 100% success rates before treatment programs would be evaluated as successful (Martinson 1974).[12] Policy-makers favoring deterrence, due process, and a "get tough" approach may have supported Martinson's argument in order to lobby against welfare interests (Gendreau and Ross 1987). A growing revitalization of successful treatment programs in the 1980's, however, pointed to the need to retain a rehabilitative philosophy (Gendreau and Ross 1987:395; Ross and Gendreau 1980). Ross and Gendreau (1980:8) claim that the cynicism regarding "effective" rehabilitation was based

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[12]In time, Martinson eased up on his "nothing works" position and recognized that some probation orders provided positive outcomes and improvements in juveniles' lives.

on outdated literature of questionable scientific merit before 1967. Their review of 95 different intervention studies since 1973 indicated 86% with successful results (Ross and Gendreau 1980:23). Ross and Gendreau used the recent studies to advocate welfare policies within criminal justice.

Obviously, evaluations of treatment programs are subjective and influenced by one's ideological orientation to juvenile justice.[13] Needless to say, treatment personnel believed they were acting in the "best interests" of the child and therefore did not require due process safeguards. By 1970, however, welfare advocates eventually became aware of the need for children's civil rights, but wanted to retain treatment in juvenile justice (Caputo 1987:131).

Some of the efforts of welfare lobbyists paid off since the YOA retains provisions concerning the "special needs" of young offenders.[14] Current legislation takes into account the transition phase of the adolescent and his/her dependency and lesser degree of maturity (Archambault 1986:45; Bala and Kirvan 1991). The justice system acknowledges the "special needs" of adolescents in S. 3(1)(c) of the YOA. Although children are expected to be responsible for their illegal actions, they should not be held as accountable as adults. Thus dispositions are

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[13]Recipients and providers of treatment programs provided overwhelmingly positive subjective assessments (Byles and Maurice 1979:163).

[14]Recent youth court delays of up to 8 months and the increasing numbers of minor shoplifting charges appearing in court are illustrations of a highly legalistic and punitive system. It seems that the "special needs" of young offenders has assumed insignificant importance.

less severe. The least possible interference with freedom clause and the requirement of pre-disposition reports before custodial sentences are given also protect the "special needs" of youth (Archambault 1986).

6. Conclusion.

The purpose of this chapter was to describe the multi-faceted nature of the YOA which developed in response to needed reforms and concerns expressed by members from all four lobbying interests. It has been shown that the YOA reflects elements of crime control, due process, community change, and welfare models. Many studies contend that the YOA stresses a law and order approach above all other models (Markwart and Corrado 1989; Leschied and Jaffe 1987; Leschied and Gendreau 1986; Caputo 1987; Havemann 1989). By assessing the impact of the new law on the juvenile justice system in different regions of Canada, the author hopes to point out this emphasis on law and order policy in the analysis of data. Net widening practices are expected to exist (see Chapter one). Before analyzing the data though, a discussion of methodological issues is vital.

CHAPTER III. METHODOLOGY.

1. Introduction.

This chapter will outline the method of analysis and key methodological issues central to the comprehension of crime data analyzed in Chapters four and five. Problems with the data will be emphasized.

2. Research Question.

This thesis will attempt to assess the impact of the Young Offenders Act on police and court operations. The author argues that *net widening* will occur since the YOA, as measured by increased police arrests and court referrals. The YOA's emphasis on a crime control ideology in which youth are held more responsible and emphasis is laid on protecting society, may have led to an expansion of social control.

3. Data Sources Used.

Official police and court data compiled by the Canadian Centre for Justice Statistics, Statistics Canada are presented and analyzed in the thesis. Official statistics are generated at the police and court level and submitted to Statistics Canada for publication. The thesis will use these data sources to examine the effects of the YOA on police and courts. The data source illustrates trends and does not establish cause and effect (Corrado and Markwart 1988:115).

4. Expanding Cases Design.

To provide a reasonable time span in which to analyze the impact of the YOA, an examination of the period 1979-89 should reveal patterns or trends in how the juvenile justice system has adapted to new legislation.[1] The author believes it is important to include a long enough period before the 1984 introduction of the YOA to obtain an empirical picture of system characteristics under the JDA.[2] Comparisons between the JDA and YOA can then be made.

The criticism the thesis has of other researchers' studies of the YOA's impact is the inclusion of only 1983 to represent JDA system characteristics (Leschied and Jaffe 1987; Markwart and Corrado 1989; Reid 1986; Havemann 1989). The thesis does not support generalizations made for the JDA era through use of a single year. As a result, the thesis will analyze data in the following way:

1979-83 = JDA era
1984-86 = Introduction of the YOA
1987-89 = YOA era.

5. Sample.

A sample of official juvenile delinquents who are recorded in police and court statistics is analyzed.

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[1]The time period analyzed in this thesis was randomly chosen by the author.

[2]Chapter one provided a more theoretical overview of system operations during the JDA period.

a. Age:

The age of the sample varies under the JDA and YOA. Ages under the JDA are broken down as follows:

7-15 in New Brunswick, Nova Scotia, P.E.I., Ontario, Saskatchewan, and Alberta.
7-16 in Newfoundland and B.C.
7-17 in Quebec and Manitoba.

Only provinces within each age limit can be safely compared under the JDA era (Hackler and Paranjape 1983b:213).

The change in age under the YOA that applies to all provinces is 12-17. Each province adopted this age limit in 1985. The thesis will not be examining each single age separately, but will aggregate them together. Comparisons between all provinces after 1985 can be made.

Even though age compositions may differ somewhat between provinces, the errors are very minor when compared to methodological errors in the data (Hackler and Paranjape 1983b:214). The thesis will therefore not be concerned with this demographic issue.

b. Sex:

Most data will group boys and girls together to represent "number of juveniles". Only slight mention of sex differences will be made.

6. Units Of Analysis.

a. Provinces:

Court statistics presented in Chapter five will analyze provinces.[3] The court statistics tabulated by province may reveal a general pattern of changes in the juvenile court system. Police statistics will not be presented at a provincial level.

b. Cities:

Suspecting municipal variations will override provincial generalizations, the thesis will present police-level data for 30 major cities across Canada.

c. Offences:

Break and entry, minor theft, and total Criminal Code Violations will be studied. The thesis will assess whether B&E and minor theft offenders receive variable treatment by police and courts. The property crimes chosen make up more than two-thirds of juvenile crime.

The petty theft category was altered in 1986 from "theft under $200" to "theft under $1000". At one time bicycles were seen as "petty theft". With rising prices, bicycle theft no longer fits in the $200 category (Hackler and Cossins 1989:17).

Total Criminal Code Violations may conceal interesting variations by offence type, but must be presented for court

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[3]Only provincial court data was made available for use in this thesis.

decisions and dispositions data. Information on "guilty" and "not guilty" findings and sentences received is not compiled for B&E's and minor theft, but for total Criminal Code Offences.

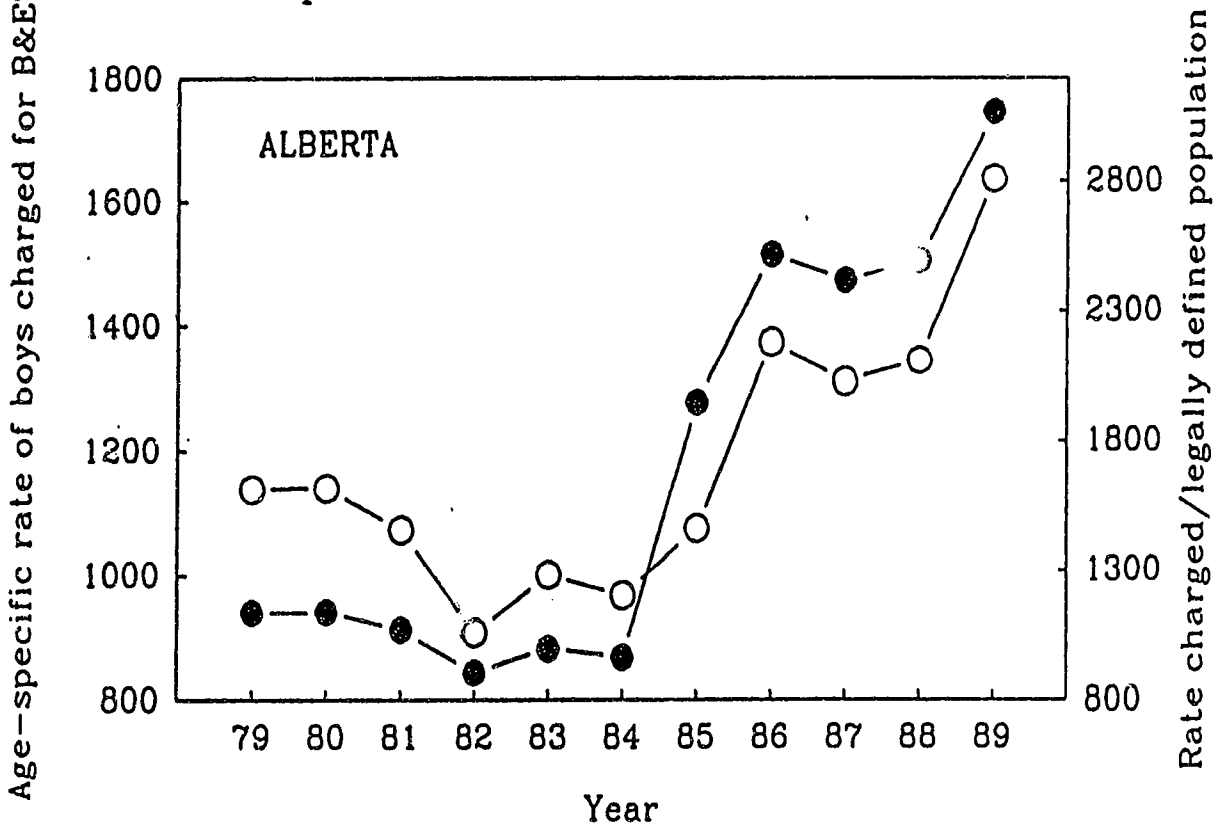
7. Calculation Of Rates.

The data will be presented as rates per 100,000 rather than raw numbers for comparative purposes. Municipal data must resort to crude rates; i.e., rates based on the total population of the city. Total population figures are available for the 30 cities analyzed, but population by age is unavailable for 1979 through to 1989 by city.

Age-specific rates based on the population of juveniles will be calculated for provincial data. Provincial age compositions are estimated annually by Statistics Canada using the components method of growth (Statistics Canada, Catalogue 91-210). In particular, the thesis defines age-specific rates as the JDA age limit until 1984 and the population of juveniles aged 7-17 under the YOA. Although the YOA has excluded the 7-11 year age group from its jurisdiction, the thesis has retained this age group for calculating age-specific rates to avoid extreme fluctuations in the data.

Figure 1 attempts to justify the inclusion of 7-11 year olds in age-specific rates for the YOA period. The graph for Alberta's rate of boys charged with B&E before and after the YOA shows the trend line for the thesis' definition of age-specific rates vs. the legally defined YOA population (12-17). As depicted, the legally defined rates increase dramatically after the age change occurred in 1985 (see also Appendix 1). The age-specific rate has a

Figure 1. Rate of Boys Charged For B&E's Based on the Age-specific Population Vs. the Legally Defined Population.

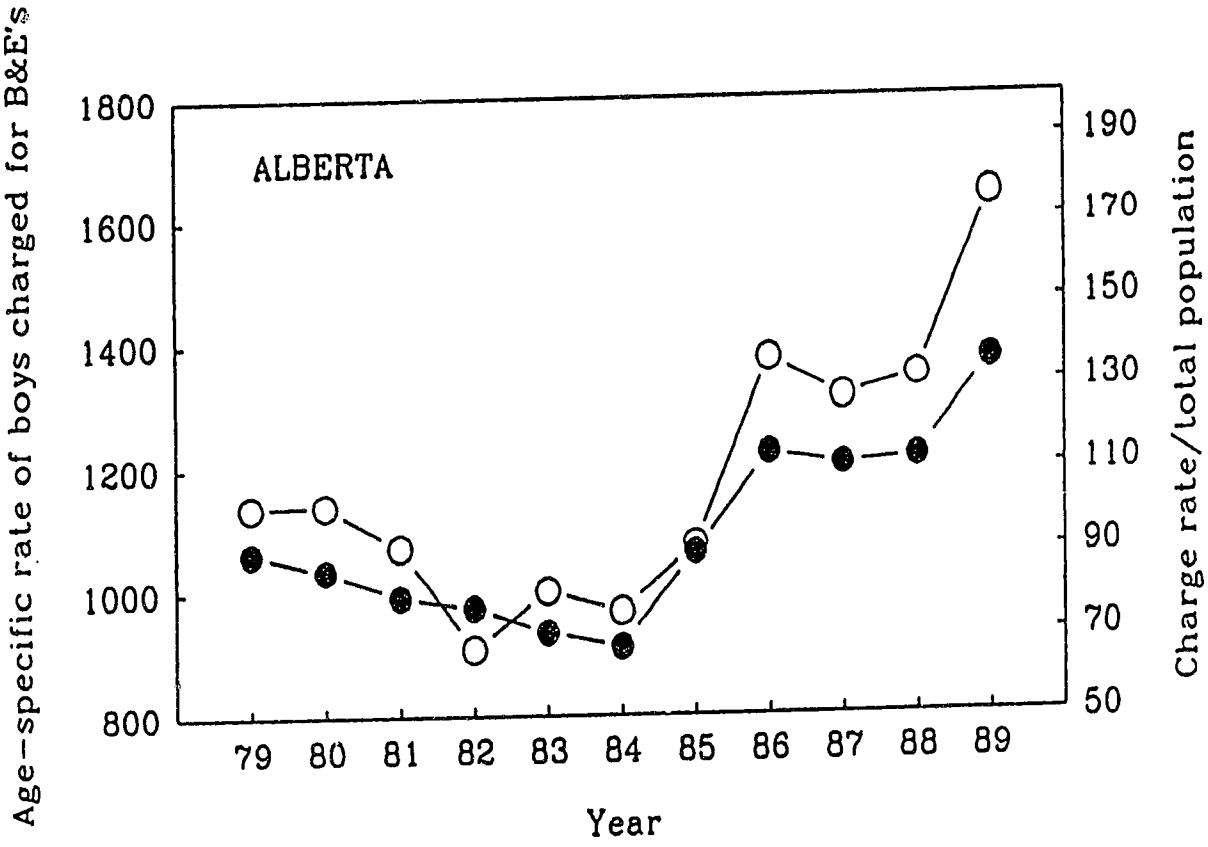


(O) = Age-specific Rate of Boys Charged for B&E's

(●) = Rate Charged / Legally Defined Population

Source: Canadian Centre for Justice Statistics, Statistics Canada, computer printouts, 1979-1989.

Figure 2. Rate of Boys Charged For B&E's Based on the Age-specific Population Vs. the Total Population.



(O) = Age-specific Rate of Boys Charged for B&E's

(●) = Charge Rate / Total Population

Source: Canadian Centre for Justice Statistics, Statistics Canada, computer printouts, 1979-1989.

more moderate increase. The thesis argues that rates based on 12-17 year olds after 1984 are inflated and exaggerate the patterns of juvenile crime.

As mentioned above, municipal data is based on crude rates, while provincial data is based on refined, age-specific rates. In comparing the two units of analysis for assessing proportionate degrees of regional variability, the thesis argues that crude and refined rates can be used interchangeably. Figure 2 shows very similar trend lines obtained from both total and age-specific population bases. Of course, the actual rates will vary numerically in that age-specific rates will tend to be higher than crude rates with a larger population base. Overall patterns or trends in the data, however, do not significantly vary. The thesis is more interested in analyzing trends for determining the impact of the YOA on police and court systems.

8. Limitations Of Official Crime Statistics.

Comparing regional statistics has potential benefits to policy-makers who could learn another region's strategy (Hackler and Paranjape 1983b:213). However, many methodological problems exist. It is uncertain whether the behaviour of *criminals* explains regional differences in crime rates or whether *system characteristics* do (Hackler and Paranjape 1983b:213). Official statistics are undoubtedly affected by organizations which process and interpret them (Skogan 1975:18). Police often have discretion on what to record and how to classify offences (Skogan 1975; Statistics Canada 1990; Hackler, Cossins, and Don 1990). Court clerks may also misclassify information recorded in court documents. Consequently, different regions could be diminishing or elevating their juvenile

crime rates. Chapters four and five will be attempting to analyze the *operation* of the juvenile justice system.

CHAPTER IV. POLICE RESPONSES TO THE YOUNG OFFENDERS ACT.

1. Research Question And Analysis Of Police Data.

The data analysis section of the thesis examines the following research question: what impact has the Young Offenders Act had on Canada's juvenile justice system? A mainstream line of thought contends the YOA has created a more punitive and coercive system than formerly existed under the JDA (Markwart and Corrado 1989; Havemann 1986 and 1989; Leschied and Gendreau 1986; Leschied and Jaffe 1987). Previous research has attempted to link the theoretical perspective of the YOA legislation with empirical analyses of its implementation. The studies found increased emphasis on "law and order" concerns as measured by court appearances, custodial dispositions, and lack of treatment services. More emphasis on the offender's responsibility for criminal activities and the protection of society clauses in the YOA seems to have created a punitive system.

It will be recalled that Chapter two discussed 4 ideological models contained in the YOA: crime control, due process, community change, and welfare models. When analyzing police statistics, do the police seem more concerned with the "law and order" provisions of the YOA? The YOA may have restricted some agencies like the police, courts, and juvenile corrections from invoking the welfare model to the full extent of the JDA period. With increased formality and concerns for offender responsibility and societal protection under the YOA, juvenile justice agencies may be more restricted in the use of informal measures. Practitioners may be influenced differently. Does the YOA *per se*, however, influence police practices? What other factors may affect police charges?

This chapter can only speculate that the YOA's crime control-oriented philosophy is directly related to police charging practices. No strong link has been established in research to date. It may be true that the police hold many of the views expressed in legislation, such as making youths more accountable for their criminal behaviour. This more "law and order" modelled perspective held by many police officers may be a product of the YOA *per se* or may be part of the police department's *internal* policy. In other words, the actions of the police may be shaped more by departmental regulations and policy than the YOA's Declaration of Principles.

Other factors which could affect police charge rates may be police screening procedures, multiple charging practices, and modifications to jurisdictional authority over young offenders. Local system dynamics may therefore play a large role in influencing a region's charge rates (Hackler and Paranjape 1983b)

a. Widening the net of social control:

Whatever factors influence police charging practices, this thesis argues that the police are widening the net of social control. With the YOA's apparent overemphasis on deterrent measures, the thesis expects to find increased police charges. The term "widening the net of social control" will be used instead of "punitiveness" to describe increased police charges. Net widening implies that more juvenile cases are absorbed into the formal system, rather than being diverted through informal channels.

To say the police are more "punitive", however, is questionable as it is unclear what police are doing to arrested youth. Are juveniles sent to court or screened by

police with no further action? Is something else happening to juveniles between complete police screening and the court processing stage? If police are screening cases with no further action, the police are not exactly treating youths punitively.

This chapter will examine police charges for minor theft and break and entry (B&E).[1] An attempt will be made to assess whether an expansion of social control has taken place at the police level. Before analyzing police data, a discussion of the change in age of delinquency with the YOA will be made. The age factor has an important affect on changes in police charges.

2. The Change In The Age Of Delinquency.

In 1985, the YOA required regions to alter their upper age limits of delinquency to 17. Cities within Quebec and Manitoba experienced no age change as 17 year olds were already under the juvenile justice system during the JDA era. Cities within B.C. and Newfoundland were required to add 17 year olds to the system, while cities within Nova Scotia, New Brunswick, P.E.I., Ontario, Saskatchewan, and Alberta added 16 and 17 year olds.

An indepth statistical analysis between 1979-1989 shows that 17 year olds account for approximately 25% of all juvenile charges, while 16 and 17 year olds comprise 50% of all charges (Statistics Canada, Youth Court Statistics, 1979-89).[2] Moreover, Doob and Chan (1982:32)

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[1]Rates are expressed as crude rates calculated from the total population.

[2]These figures were calculated from Statistics Canada Youth Court data which breaks down the number of juvenile charges appearing in court by age. The percentage of 16 and 17

found that 63% of police arrests were for 14-16 year olds in Southern Ontario. As a result, the data presented for cities in B.C. and Newfoundland is expected to show 25% increases in charge rates due to the age factor alone. Similarly, cities in Nova Scotia, Ontario, Saskatchewan, and Alberta are expected to show 50% increases due to the change in age. Do these cities show anticipated increases in charge rates? Or do police demonstrate net widening activities by charging juveniles over and above the expected increases?

The discussion will now analyze minor theft charges. If the data shows a significant increase in minor theft charges, then the argument of net widening may be supported. Official police handling of trivial offences translates into extended social control over the lives of Canada's young offenders.

3. Police Charges For Minor Theft.

Are more juveniles being held responsible for minor theft than under the JDA? Are police consequently arresting considerably more young thieves?

a. Ranking 30 cities on changes in theft charges since the YOA:

Table 2 shows official police reactions to the YOA for minor theft charges between 1979-89. For ease of presentation, the period 1979-89 has been collapsed into 3

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year olds charged (50%) does not vary significantly by region or by offence type. Police-level data on charges does not disaggregate by age.

Table 2. Changes in Police Charges of *Minor Theft* Offenders Between 1979-83 and 1987-89 Accounting For Anticipated Increases From Age. (Rates per 100,000 total population)

(1)	(2) JDA Theft Charge Rate (1979-83)	(3) YOA Theft Charge Rate (1984-86)	(4) Actual post-YOA Theft Charge Rate (1987-89)	(5) Anticipated YOA Theft Charge Rate (1987-89)	(6) % Changes in Theft Charge Rate (1979-83 vs. 1987-89)
No Anticipated Increase From Age					
Montreal	42.0	89.3	83.4	42.0	+99% (2)
Quebec	159.7	51.0	51.0	159.7	-68% (5)
Laval	70.6	96.4	122.8	70.6	+74% (3)
Longueuil	167.5	68.4	92.0	167.5	-45% (5)
Winnipeg	313.9	334.5	198.7	313.9	-37% (5)
Anticipated +25% Increase					
Vancouver	120.3	112.3	89.6	150.4	-51% (5)
Burnaby	86.5	131.2	213.1	108.1	+121% (2)
Surrey	171.1	233.9	227.7	213.9	+8% (4)
Richmond	147.2	80.2	98.0	184.0	-58% (5)
Victoria	323.7	464.7	442.4	404.6	+12% (4)
St. John's	50.8	2.9	47.0	63.5	-32% (5)

Table 2 (cont'd.) Changes in Police Charges of *Minor Theft* Offenders Between 1979-83 and 1987-89 Accounting For Anticipated Increases From Age. (Rates per 100,000 total population)

(1)	(2) JDA Theft Charge Rate (1979-83)	(3) YOA Theft Charge Rate (1984-86)	(4) Actual post-YOA Theft Charge Rate (1987-89)	(5) Anticipated YOA Theft Charge Rate (1987-89)	(6) % Changes in Theft Charge Rate (1979-83 vs. 1987-89)
Anticipated +50% Increase					
Toronto	82.0	97.3	113.1	123.0	-12% (4)
Peel R.	25.2	86.9	118.3	37.8	+319% (1)
York R.	73.9	57.6	102.0	110.9	-12% (4)
Durham R.	85.9	93.4	137.2	128.9	+10% (4)
Halton R.	44.3	68.3	114.4	66.5	+108% (2)
Ottawa	31.0	57.6	71.9	46.5	+82% (3)
Hamilton-Wentworth	44.3	91.2	97.6	66.5	+70% (3)
Niagara R	35.8	102.6	146.9	53.7	+260% (1)
Waterloo R.	83.6	119.7	192.8	125.4	+81% (3)
London	99.0	157.9	179.4	148.5	+31% (3)
Windsor	25.8	56.6	48.1	38.7	+36% (3)
Sudbury R.	71.3	77.9	134.3	107.0	+38% (3)
Thunderbay	125.5	219.0	258.7	188.3	+56% (3)

Table 2 (contd.) Changes in Police Charges of *Minor Theft* Offenders Between 1979-83 and 1987-89 Accounting For Anticipated Increases From Age. (Rates per 100,000 total population)

(1)	(2) JDA Theft Charge Rate (1979-83)	(3) YOA Theft Charge Rate (1984-86)	(4) Actual post-YOA Theft Charge Rate (1987-89)	(5) Anticipated YOA Theft Charge Rate (1987-89)	(6) % Changes in Theft Charge Rate (1979-83 vs. 1987-89)
Halifax	49.4	128.6	167.0	74.1	+188% (1)
Dartmouth	106.5	395.2	478.5	159.8	+299% (1)
Regina	57.3	152.8	194.7	86.0	+190% (1)
Saskatoon	42.0	155.0	204.0	63.0	+336% (1)
Calgary	176.1	172.0	267.0	264.2	+2% (4)
Edmonton	58.5	143.8	150.7	87.8	+108% (2)

Column 6 = $\frac{\text{Actual Rate - Anticipated Rate}}{\text{JDA Rate}} \times 100$

(1) Tremendous Increase in Police Charges for Minor Theft
(2) Large Increase
(3) Modest Increase
(4) No Change
(5) Modest Decrease

Source. Canadian Centre for Justice Statistics, Statistics Canada, 1979-89.

time intervals as shown.[3] Police charging practices between the JDA period (1979-83) and the YOA period (1987-89) are compared to assess how much change in theft charges has occurred. Before examining the results from Table 2, however, an explanation of the layout of the table and its measurements must be made.

First, it will be noticed that each city in Table 2 is grouped according to JDA age limits. The first group of cities had an upper age of delinquency of 17 in the JDA era. With no modifications of their upper age limits with the YOA, no anticipated increases from age are therefore expected. The second group were required to include 17 year olds and consequently +25% increases in charges are anticipated. The third group of cities added 16 and 17 year olds, with +50% increases expected.

Column 2 shows the actual rate of police charges for minor theft during the JDA period, 1979-83. The figure was calculated from the raw number of juveniles charged for minor theft in official police statistics and expressed as a rate based on the total population of the city. Likewise, Columns 3 and 4 indicate the actual rate of police charges for theft for the introduction of the YOA period (1984-86) and the post-YOA period (1987-89) respectively.

Column 5 shows the rate of juveniles that were *anticipated* to be charged by police given anticipated age increases of 0%, +25%, and +50%. Using Edmonton as an

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[3]The period 1984-86 represents the introduction of the YOA to allow the juvenile justice system sufficient time to adjust. Figures in this time interval should be interpreted with caution as the system may have been in a state of fluctuation and modification.

example, a +50% increase in its JDA rate is expected. Edmonton's JDA rate of 58.5 (see column 2) is anticipated to increase by 29.3 (50% of 58.5). 29.3 is therefore added to 58.5 to obtain the 87.8 anticipated rate shown in column 5 of Table 2 for Edmonton.

Comparing columns 4 and 5 should reveal whether actual 1987-89 rates charged (column 4) surpass or fall short of anticipated rates (column 5). If police are charging more than anticipated (column 4 > column 5), then net widening may be occurring.

Column 6 indicates the percentage change in minor theft charges between the actual 1987-89 rate charged and the anticipated rate charged accounting for the age change. Column 6 was calculated using the following formula:

$$\text{Column 6} = \frac{\text{Actual Rate} - \text{Anticipated Rate}}{\text{JDA Rate}} \times 100$$

To clarify how the figures in column 6 were calculated, Vancouver will serve as an illustration. Vancouver's anticipated rate of theft charges given the 25% age change is 150.4 (column 5). This figure is subtracted from the actual YOA rate of 89.6 (column 4) to give -60.8. -60.8 is then divided by the JDA rate of 120.3 to give a -51% decrease in Vancouver's theft charge rates.

Beside each entry in column 6 appears a rating from 1 to 5. Cities are rated from "tremendous increases in police charges for minor theft" (1) to "modest decreases" (5). The assignment of categories to each city was arbitrary. The author's personal judgment on

differentiations in municipal charge rate changes resulted in the ratings shown in column 6.

It was obvious, for example, that Saskatoon (+336%) would be classified as one with a "tremendous increase" (1). Ottawa's (+82%) rating as a "modest increase" (3) was less obvious, as it could be regarded as a city with a "large increase" (2), close to Montreal (+99%). The ratings in Table 2 therefore rely on the author's classification scheme.

An analysis of data in Table 2 shows that the majority of cities have experienced *higher* police charges than anticipated with the age change. Column 6 illustrates higher percentage increases in 18 of 30 cities which subsequently show ratings of "tremendous increases" (1), "large increases" (2), and "modest increases" (3). Only 6 cities demonstrate "slight decreases" (5) in theft charges and 6 showed "no change" (4). It seems that most police forces have adopted a crime control ideology for less serious minor theft offenders. The net of social control seems to be widening in most cities across Canada.

A close examination of regional differences from Table 2 points to some consistent patterns in police response. Beginning with police departments which show "tremendous increases" (1) in theft charges, cities within Saskatchewan and Nova Scotia have responded most strongly. Saskatoon's anticipated YOA theft charge rate is only 63.0 (column 5), but its actual rate is 204.0. Its +336% increase is the largest increase in Table 2. In addition, the majority of cities in Ontario show "modest increases" (3). Hamilton-Wentworth, for example, was expected to show a YOA rate of 66.5 (column 5), but actually showed 97.6 (column 4). This increase is, at best, modest.

The greatest increases in minor theft charges occurred in those cities which added 16 and 17 year olds to the juvenile justice system. Prior to the YOA, this older age group was processed through the adult system. Sixteen and 17 year old offenders are quite often recidivists and may therefore be treated more harshly in the juvenile justice system under the YOA than they were treated in the adult system (Corrado and Markwart 1988:110). Net widening policies seem to be applied in those areas with the largest change in age jurisdiction. Not all cities' police departments, however, are extending social control over young thieves. Regional variability for minor theft charges exist. What is occurring in different regions?

b. Minor theft charges in Quebec cities and Winnipeg:

The first grouping of cities in Table 2 shows the police response to juvenile minor theft in Montreal, Quebec, Laval, Longueuil, and Winnipeg.[4] It will be recalled that the age of delinquency was not altered in these regions. Within Quebec, Quebec City's YOA rate of thefts charged (51.0) decreased from its JDA rate (159.7) by -68%. Longueuil likewise lowered its high JDA theft rate of 167.5 to 92.0 (-45%). These 2 cities illustrate police departments which are <u>not</u> inclined to widen the net of social control.

Montreal and Laval police, on the other hand, are charging <u>more</u> with minor theft. Table 2 indicates a 99% increase in Montreal's charge rate for theft and a 74% rise

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[4]Minor theft was recorded as theft under $200 until 1986 when it was replaced by theft under $1000. At one time bicycles were thought of as "petty theft". With rising prices, bicycle theft no longer fits in the $200 category (Hackler and Cossins 1989:17).

in Laval. Police may be holding minor theft offenders more responsible under the YOA in Montreal and Laval. Quebec (-68%) and Longueuil (-45%), by contrast, may be diverting more minor offenders from the system.

For Winnipeg, 37% *fewer* youths were charged for minor theft during the YOA (313.9 to 198.7). With the same age population since the YOA, a decline in rates could very well demonstrate a deliberate shift in charging practices. Perhaps more young offenders in Winnipeg are being screened from the juvenile justice system to Alternative Measures Programs. Research indicates that Manitoba worked out juvenile programs with the YOA that would use Alternative Measures, community education and awareness, and citizen-bodied youth justice committees to encourage community alternatives (Ryant and Heinrich 1988:95).

The lack of reliance on Alternative Measures during the JDA and the high use of custody compared to other provinces provided sufficient rationale among Manitoba practitioners to make use of Alternative Measures (Ryant and Heinrich 1988:95). Most referrals from probation officers into Alternative Measures comprised first-time and minor offenders who had committed theft under $1000 and B&E's. Many theft offenders could be given a second chance by police.

Winnipeg, Quebec City, and Longueuil's lower theft charge rates may suggest that youth are frequently handled under Alternative Measures or simply warned by police and released. It appears that net widening is not taking place in these regions although Winnipeg has traditionally cast a wide net, and still does. Because Montreal (+99%) and Laval's (+74%) police are charging more minor thieves than

anticipated than Quebec City and Longueuil, regional variability exists within Quebec.

Multiple charges: Multiple charging practices may also influence the data on theft.[5] Often a link can be established between police recording and multiple charges. If a city charges a youth with several counts of an offence in a given incident, the recorded charge rate could be inflated relative to police forces pressing single charges.[6] In theft cases, police often lay several charges for a single theft incident (Bala and Corrado 1985:36). Charge rates could therefore be higher in cities using multiple charges.

Information on the use of multiple charges is highlighted in a 1979 national study of the juvenile justice system conducted by the Solicitor General (Bala and Corrado 1985). 20% of Montreal's juveniles before court faced 3 or 4 charges and 15% faced 5-9 charges for all Criminal Code Offences (Bala and Corrado 1985:35). Montreal showed the greatest use of multiple charges of all cities studied. Only 25% of Montreal youth received a single charge compared to a more normal 50% average in

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[5]It must be stressed that this discussion cannot provide clear evidence regarding the many factors affecting official statistics. Speculations are raised in the hopes of drawing attention to intricacies in the data and to promote future research into uncovering the mystery behind why such regional variation exists.

[6]Police may sometimes choose to lay multiple charges because 1) police efficiency is measured by the percentage of cases cleared by charge, 2) police are more likely to obtain a guilty plea in exchange for dropping some of the charges against the defendant, and 3) police could therefore avoid extra work and being questioned on their decision if a case otherwise went to trial, instead of being resolved by a guilty plea (Ericson 1982:178-179).

other major cities (Edmonton - 60%; Toronto - 54%; Vancouver - 45%) (Bala and Corrado 1985:35).

Yet Montreal did not show particularly high arrest rates during the JDA (42.0) given its high use of multiple charges which would tend to inflate charge rates. Are multiple charges therefore not reflected in Montreal's official statistics? Is Montreal's higher YOA theft rate a reflection of police policy to hold young thieves more responsible for their behaviour?

By contrast, Winnipeg, Quebec, and Longueuil showed *higher* JDA rates. Bala and Corrado (1985) reported Winnipeg's use of multiple charges to be average. Winnipeg's high charge rates may not be due to multiple charging practices. With Winnipeg's twice as high JDA rate of 313.9 than Longueuil and Quebec, the city may have been resorting to crime control measures during the JDA.

c. Minor theft charges in B.C. cities and St. John's, Newfoundland:

The second group of cities in B.C. and St. John's show a wider variation in response to the YOA for minor theft charges than Quebec cities did (see Table 2). Only Surrey (+8%) and Victoria (+12%) showed no change in theft charges when the 25% age change is taken into account. Victoria had a surprisingly high theft rate during the JDA (323.7) and retains the highest rate in all of the larger cities in Canada between 1987-89 at 442.4. Why would the small quaint city of Victoria charge so many young offenders with petty theft? Hackler and Don (1989) argue that Victoria may serve as a central target for young thieves living in Victoria's surrounding areas. This *central city phenomenon* suggests that a central city like Victoria is a more

attractive area for crime than outlying areas (Hackler and Don 1989:5). Victoria's theft rate would consequently tend to rise.

Victoria police may also be recording more multiple charges than other cities and/or diverting very few young offenders charged with theft. Maybe strict law enforcement measures for young thieves in Victoria are enforced. Since the YOA, Victoria has maintained its fairly stable high charge rate for thefts. Police have not altered their policy.

Vancouver and Richmond are the only cities showing slightly lower charges than expected for theft. Vancouver's -51% and Richmond's -58% decreases in theft charges may reflect screening policies. Burnaby stands alone with the greatest increase in theft charges at 121%. Its increase in theft charges from 86.5 to 213.1 in the YOA may indicate that Burnaby police are extending social control over the lives of petty thieves.

d. Minor theft charges in Ontario, Nova Scotia, Saskatchewan, and Alberta cities:

Ontario Cities: With the addition of 16 and 17 year olds under the YOA in Ontario, a 50% increase in police charges is expected from the change in age. From column 6 in Table 2, the majority of Ontario cities have charged *more* youth with minor theft since the YOA. Only Toronto (-12%), York R. (-12%), and Durham R. (+10%) arrested fairly stable rates of minor theft offenders with the 50% age increase taken into account. No cities in Ontario are arresting *fewer* young offenders for theft than anticipated with the age change.

Peel R. shows the greatest rise in charges at +319%. Its minor theft charges rose from a very low 25.2 during the JDA to 118.3. Peel R., however, does not arrest a comparatively high number of young thieves. Its YOA rate (118.3) is average when compared to other Ontario cities like Toronto (113.1), Halton R. (114.4), and York R. (102.0). Peel Regional's extremely low JDA theft rate (25.2) is noteworthy as is Windsor's (25.8) and Ottawa's (31.0). Possibly these police forces were screening thefts from the recording process. Previous research discovered that Peel R. and Toronto have high clearance rates by charge plus high rates for "cleared otherwise" (Hackler, Cossins, and Don 1990:18).[7] This gives them the highest overall clearance rates for theft (33.1% and 30%) as well as for B&E's (Hackler, Cossins, and Don 1990:19). Is this high clearance rate a result of selective recording?

Like Peel R., Niagara indicates a tremendous rise in theft charges (+260%). Niagara R. police charged 35.8 youths per 100,000 in the JDA era compared to 146.9 in 1987-89. Niagara R., like Peel R., does not show a particularly harsh policy of charging many youths under the YOA, but the increase over the JDA period is large. Thunderbay (258.7 between 1987-89), however, is the harshest in Ontario. Police in Thunderbay may hold a law and order philosophy.

Cities in Nova Scotia and the Prairies: Both Halifax (+188%) and Dartmouth (+299%) police are arresting dramatically more theft offenders under the YOA than

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[7]High clearance rates mean the police are able to achieve a conviction of a suspect and close the case. If Peel R. and Toronto are initially charging low numbers of suspects, the thefts that are charged may have a greater likelihood of being solved because the police have substantial evidence.

expected with the age change. Of the Prairie cities, Regina (+190%), Saskatoon (+336%), and Edmonton (+108%) police are arresting many more young offenders with minor theft.

Edmonton had an average JDA theft rate of 58.5 similar to Regina (57.3) and Saskatoon (42.0). Minor theft charges in Edmonton jumped by +108% since the YOA. Edmonton's YOA rate of 150.7 is slightly lower than Regina's at 194.7 and Saskatoon's at 204.0. Calgary police have maintained stable theft charges (+2%) as anticipated with the age change. The city does not show the tremendous increases as Edmonton, Saskatoon, and Regina do. Part of the reason could be Calgary's proportioneately higher JDA theft charge rate of 176.1. Calgary maintains a high rate during the YOA of 267.0. In fact, when compared to all cities in Canada during the YOA, Calgary's theft rate is ranked 3rd highest, Victoria's 2nd, and Dartmouth's 1st.

e. Assessing the differences in minor theft charges between Edmonton and Calgary:

Edmonton's YOA theft rate is 44% lower than Calgary's. Are youths more law-abiding in Edmonton? Why are there such differences in juvenile arrests between Edmonton and Calgary? Both cities are approximately the same size and have similar socioeconomic and demographic characteristics (Hackler 1981:118). Shouldn't juveniles commit similar levels of minor theft in both cities? It is plausible the official statistics reveal system characteristics between Edmonton and Calgary police departments rather than actual volumes of juvenile delinquency.

Edmonton and Calgary's juvenile arrests show the opposite response to adult crime. While Edmonton arrests

far more adult offenders than Calgary, it charges fewer juveniles (Hackler 1981). Are adults bad and youths good in Edmonton as compared to Calgary? To attempt to resolve this dilemma, Statistics Canada undertook a study of quality assessment procedures for recording of crime between Edmonton and Calgary police forces (Statistics Canada 1990). Although the study does not examine police *charging* policies, its findings on the police *recording* of crime will provide some answers about the first phase in the police process. If police do not respond to a citizen complaint of a theft offence, then a suspect will not be charged. Cities which fail to record all crimes will therefore have lower charge rates.

Statistics Canada found that Edmonton's higher rate of crimes "known to the police" is caused by its 100% recording of crime.[8] Between 1983-88, Edmonton's total Criminal Code crime rate for adults and juveniles was 58-69% higher than Calgary's (Statistics Canada 1990:8). When police receive a citizen report of a crime, Edmonton police are required to officially record it (Statistics Canada 1990:50).[9] To assess whether this official policy was put into practice in Edmonton, Statistics Canada indicates almost all offences were recorded in Edmonton. Only 2 of 257 offences were not recorded by Edmonton police, whereas 28 of 267 crimes were not recorded in Calgary (Statistics Canada 1990:28). Such findings demonstrate Calgary's greater use of screening policies with regard to recording.

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[8]Crimes "known to the police" are the number of reported criminal incidents police receive from the public and discover in their law enforcement role.

[9]Victimization reports of crime are very similar across Canadian cities (Solicitor General 1986). The difference in crime rates between Edmonton and Calgary are not due to different levels of victim reports.

Knowing that Edmonton's total crime rate is 69% higher than Calgary's in official statistics, an adjustment of the data estimates Edmonton's rate is only 32% higher when Calgary's loss of recorded crime is accounted for (Statistics Canada 1990:51). In comparison to Edmonton, there is considerable underreporting of offences in Calgary.

Statistics on police charges reflect police recording techniques. How does Calgary's lower recording of crime influence its juvenile charge rates? Given the above logic, one would expect Calgary's juvenile charge rate to be lower than Edmonton's due to its failure to record all crimes known to the police. Yet Calgary's rate of young offenders arrested is comparatively higher. Is there some policy intervening between the recording and charging stage in Calgary? Are Calgary police required to charge all youths they apprehend and are Edmonton police officers allowed discretion? What screening provisions exist in Edmonton and Calgary? Over the last 20 years, Calgary has developed a policy of sending more juvenile cases on to court. Has this influenced the way Calgary police charge juveniles as distinct from adults?

Hackler (1981) had attempted to answer such questions previously in a study comparing police department strategies in Edmonton and Calgary. He found that 40-50% of Edmonton juveniles were deliberately screened out of the system in 1978 compared to 10% in Calgary (Hackler 1981:119).[10] These screening policies could partially attribute to Edmonton's lower theft charge rate (58.5)

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[10] Calgary police were given complete authority to screen *adult* offenders, resulting in lower charges. For B&E's, the police used the Burglary Investigation Screening Model to screen out cases with little likelihood of being solved (Chappell, Gordon, and Moore 1982).

during the JDA than Calgary's (176.1). Screened cases may escape the recording stage and result in comparatively lower charge rates in Edmonton than in Calgary which has little or no screening.

Calgary's chief probation officer and crown prosecutor were in charge of screening procedures (see Chapter two). Once police lose their discretion to screen, police charges tend to increase (Doob 1983:149). Police may fear that other screening agencies would screen out too many cases. Police charges would increase to ensure a charge will "stick" (Doob 1983:149). Calgary's policy to send most youth on to court for prosecutorial screening could explain why 77% more youth were arrested for theft in Calgary than Edmonton. It seems that police department screening policies and recording techniques influence the difference in Edmonton's and Calgary's charge rates for theft.

f. Diversion and minor theft:

Much research has studied the factors that police use in screening (Doob and Chan 1982; Doob 1983; Ericson 1982; Piliavin and Briar 1964; Grosman 1975; Hackler and Cossins 1989). The police are important screening agents in deciding whether a charge is to be laid. Diversion is often an individual decision confronting each officer in his/her law enforcement role. "As one Canadian Chief of Police said:

> 'There is a great human element in law enforcement that you can never lose sight of. This is the public relations area, because they say that no law was made to be enforced to the letter ... I cannot stand behind and hold the hand of anyone in our department. I can't say "You do this under certain conditions and you do that." A great deal of judgment is up to the individual ... You can't say "I am a policeman, this is the law" and bang-bang

> enforce it. I don't think anyone who does that in a police uniform is a good law enforcement officer.'" (Grosman 1975:86).

The job of any police officer is to make spontaneous, individual decisions. Because circumstances will vary, the degree of discretion used will differ according to situational factors.

Research has tried to pinpoint which factors are most important in police discretion. An individual police officer's discretion reflects personal values to a large extent (Grosman 1975:81). Piliavin and Briar (1964) found that most officers viewed the juvenile justice system as punitive. As a result, police only dealt with delinquents in a formal manner if they felt the offenders were highly committed to deviance (Piliavin and Briar 1964:208). When an officer is allowed to rely on personal intuition, no rules for discretion usually exist.

In police departments which develop official policies of discretion, officers may receive training manuals specifying the conditions under which diversion is to be considered (Piliavin and Briar 1964:208). The decision to charge can be based on the nature of the offence, and also age, prior record, and demeanor. Official screening policies may be encouraged to 1) deal with a juvenile informally for what was in his/her best interest, 2) avoid heavy caseloads for courts and detention centres, and 3) keep the recorded crime rate lower to avoid public criticism over the competence of the law enforcers (Piliavin and Briar 1964:210).

Doob and Chan (1982) tested the significance of 12 independent variables on the police decision to arrest in a S. Ontario police force. Prior record explained 15% of the variance, while the actual crime committed explained 7%

(Doob and Chan 1982:30). The study found a high reliance on legal factors (prior contact and nature of offence) and situational factors (juvenile's attitude and demeanor).

Piliavin and Briar's American study on police encounters with juveniles (1964) identified prior record, race, and demeanor as key variables affecting police discretion. In fact, 50-60% of police decisions were based on demeanor (Piliavin and Briar 1964:206).

Grosman (1975) found that police may pay attention to court decisions of suspects arrested by police. If a prosecutor screened out most of the arrested juveniles and/or court dispositions were too lenient, the police force may subsequently fail to arrest this target group (Grosman 1975:79). The police would be wasting valuable resources and time.

Reactive and proactive policing: Police may divert young offenders they apprehend while on patrol (proactive policing) or through responding to a victim's request for assistance (reactive policing)[11] (Ericson 1982:73). For juvenile crime, proactive policing occurs in video arcades, fast food outlets, shopping malls, and parks. Young people are usually checked for drug and alcohol violations (Ericson 1982:82). For property crime, however, Ericson found that 95.6% of police encounters with young offenders are reactive. In the regional Ontario police force Ericson studied, the police could "choose to ignore possible criminal-law violations, charge some persons and not others, charge for particular things and not others, and

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[11] The following discussion does not deal exclusively with petty theft, but its reference to general property crime reveals many insights into police screening procedures.

produce some facts while ignoring others" (Ericson 1982:176). These decisions affect "what becomes officially known as police business and what the courts are able to do with their business" (Ericson 1982:176). When a citizen called the police to report a crime, the police could therefore decide whether to respond and record the incident in official statistics. 70.8% of property crimes had official reports written for reactive situations (Ericson 1982:112). Doob and Chan's study (1982:26) of a S. Ontario police force observed only one-third of cases with written reports. In addition, Edmonton police record almost all cases reported (Statistics Canada 1990). The different observations in Ericson, Doob and Chan, and Statistics Canada's studies indicates the extent of regional variability in charge rates.

Police charging decisions in minor theft cases: Once the police decide to proceed with the case, an officer would fill out a "general occurrence report" (Doob 1983:156). If the name of the juvenile was on the report, the police would check their files for prior records. The police would then contact the juvenile and parents and explain that officers had the power to charge or caution. Most adolescents would admit their guilt in an informal manner. Only about 30% of theft offenders were charged (Doob 1983:156). As already mentioned, the key factor in arresting a young offender was prior record.

Minor theft is more easily screened than B&E's (Hackler and Cossins 1989; Doob 1983). For minor offences, police may wish to avoid paperwork and recording an incident which could end up as "unfounded" or trivial (Ericson 1982:121). In 1976 only 34% of minor theft offenders were charged in all major cities compared to 79% of B&E's (Doob 1983:150). In the early 1980's similarly

only 30% of theft offenders were charged in S. Ontario (Doob 1983:156). Under the JDA's welfare-oriented philosophy, many juvenile justice practitioners saw diversion as meeting the "best interests" of the child (Moyer 1980). Courts were to be used as measures of the last resort for older and more serious offenders (Doob 1983:158). Leniency was reserved for trivial offenders to avoid negative impacts from labelling in the formal process. Most police forces allowed their officers discretion to divert juveniles away from the courts under the JDA.

The JDA legislation never specifically mentioned diversion (Trepanier 1983:192). Only juveniles who were *arrested* by police could be taken to court under S. 8(1) of the JDA. By contrast, youth who were sent to diversion were rarely charged by police. Due to the absence of diversion criteria set out in law, police enjoyed wider powers of discretion under the JDA. Technically any case could be sent to the juvenile justice system or screened away (Doob 1983:162). It was normal practice though to send trivial offences to diversion. The YOA, however, specifies in S. 4(1) that "alternative measures may be used to deal with a young person alleged to have committed an offence instead of judicial proceedings under this Act only if ... the person who is considering whether to use such measures is satisfied that they would be appropriate, having regard to the needs of the young person and the interests of society". Now that diversion is spelled out in legislation, do police have more restrictions on diverting youth? How would this affect police charge rates for theft?

The data presented on theft charges across Canada showed the majority of cities charging more youths since

the YOA (see Table 2). Cities like Regina, Saskatoon, Thunderbay, Waterloo R., and Burnaby have all charged more theft offenders. Do they feel society needs to be protected and/or the needs of the youth require court action? If so, this may account for the growing numbers of youths charged with theft since the YOA. Or perhaps police believe they must arrest youth before sending them to Alternative Measures. Certainly the great numbers of shoplifters suddenly appearing in court since the YOA is suspicious. Chapter five will discuss the court scene in more detail.

The YOA does not specify that police must send a young offender to court before Alternative Measures. Perhaps the inclusion of Alternative Measures in legislation has led police to believe young offenders must pass through the formal system first. Such a mistaken assumption could explain why police are arresting more youth for minor theft violations.

The YOA allows for warnings with no charges or referrals to child welfare as the JDA did. Police, however, may not feel they are entitled to do so under the YOA. Police may be misunderstanding S. 3(1)(d) of the YOA which says "taking no measures or 'other measures' than judicial action should be considered". 'Other measures' should not be equated with Alternative Measures. 'Other measures' also includes informal measures like warnings and release. The vagueness of legislation allows for a variety of interpretations.

An alternative explanation for the increased numbers of theft charges was offered by one Edmonton police officer. The YOA's requirement of a juvenile's voluntary compliance for entering Alternative Measures could lead

police to charge uncomplying youth. As a hypothetical case, if the police handle a minor thief who agrees with police recommendations of diversion to Alternative Measures, no charge would be laid. However, if the youth does not express any intention of entering an Alternative Measures Program, police may then feel the uncooperative youth should be sent to court. As a result, formal charges would be laid before the young offender reaches court.

g. Summary of police charges for minor theft:

With older offenders absorbed into the juvenile justice system under the YOA, increases in theft charges are obviously anticipated. Estimations show that 50% increases in police charges should have occurred when 16 and 17 year olds were added to the system. Yet data on thefts revealed general increases over and above anticipated rates. The majority of cities may be following a law and order ideology where young offenders are held more responsible. Being arrested by police may serve as a deterrent measure to help reduce future incidents of minor theft. An extension of social control is definitely taking place for minor theft offences.

4. Police Charges For Break And Entry.

As the previous section discovered that most police forces are arresting more minor theft offenders, do similar patterns exist for B&E offences? Viewing B&E as a serious offence, will the police treat violators with the same degree of impunity as seen for the theft data?

a. Ranking 30 cities on changes in B&E charges since the YOA:

Table 3 shows the change in police charges for B&E's between the JDA and YOA periods when the age change is accounted for. The layout of the data in Table 3 corresponds to Table 2 for minor theft. As for Table 2, column 6 (Table 3) was calculated using the formula:

$$\text{Column 6} = \frac{\text{Actual Rate} - \text{Anticipated Rate}}{\text{JDA Rate}} \times 100$$

Table 3 ranks percentage changes in charge rates for cities from "the greatest increase" (1) to the "greatest decrease" (5) (see column 6).[12] As with Table 2, the categorization of each city into the 5 ratings in Table 3 was based on the author's own judgment. Table 3 shows the majority of cities falling under the "greatest *decrease* in police charges" category (5). For example, Calgary shows a -63% decrease in B&E charges with the YOA. Its actual YOA charge rate (column 4) is 93.7, but its anticipated rate (column 5) is a much higher 162.5. In other words, Calgary police should have charged a rate of 162.5 B&E's between 1987-89 since a 50% increase from 16 and 17 year olds was expected.

The lowest decreases in B&E charges occurred in those cities which were required to include 16 and 17 year olds to their juvenile justice systems. Perhaps these jurisdictions were adopting a "tougher" approach to older offenders who had previously been handled by the adult

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[12] Exact category names differ between Tables 3 and 2 since different patterns in charge rates exist.

Table 3. Changes in Police Charges of Break and Entry Offenders Between 1979-83 and 1987-89 Accounting For Anticipated Increases From Age. (Rates per 100,000 total population)

(1)	(2) JDA B&E Charge Rate (1979-83)	(3) YOA B&E Charge Rate (1984-86)	(4) Actual post-YOA B&E Charge Rate (1987-89)	(5) Anticipated YOA B&E Charge Rate (1987-89)	(6) % Changes in B&E Charge Rate (1979-83 vs. 1987-89)
No Anticipated Increase From Age					
Montreal	62.3	45.7	26.7	62.3	-57% (5)
Quebec	135.9	22.7	18.2	135.9	-87% (5)
Laval	86.1	47.5	30.7	86.1	-64% (5)
Longueuil	158.1	63.5	32.7	158.1	-79% (5)
Winnipeg	162.0	120.1	81.7	162.0	-50% (5)
Anticipated +25% Increase					
Vancouver	63.9	67.2	51.6	79.9	-44% (4)
Burnaby	80.3	89.2	65.4	100.4	-44% (4)
Surrey	131.9	163.3	91.5	164.9	-56% (5)
Richmond	67.1	48.5	51.9	83.9	-48% (4)
Victoria	94.7	63.2	66.0	118.4	-55% (5)
St. John's	34.7	9.6	14.7	43.4	-83% (5)

Table 3 (contd.) Changes in Police Charges of *Break and Entry* Offenders Between 1979-83 and 1987-89 Accounting For Anticipated Increases From Age. (Rates per 100,000 total population)

(1)	(2) JDA B&E Charge Rate (1979-83)	(3) YOA B&E Charge Rate (1984-86)	(4) Actual post- YOA B&E Charge Rate (1987-89)	(5) Anticipated YOA B&E Charge Rate (1987-89)	(6) % Changes in B&E Charge Rate (1979-83 vs. 1987-89)
Anticipated +50% Increase					
Toronto	37.1	33.9	40.9	55.7	-40% (4)
Peel R.	26.6	32.4	39.8	39.9	0% (3)
York R.	46.5	34.9	38.6	69.8	-67% (5)
Durham R.	54.9	47.5	61.8	82.4	-37% (4)
Halton R.	45.0	30.5	38.3	67.5	-65% (5)
Ottawa	32.0	42.3	40.3	48.0	-24% (4)
Hamilton-Wentworth	38.3	43.3	40.3	57.5	-45% (4)
Niagara R	35.8	59.4	74.1	53.7	+57% (2)
Waterloo R.	36.7	65.0	85.0	55.1	+82% (1)
London	53.0	65.9	72.1	79.5	+14% (3)
Windsor	45.5	35.9	36.5	68.3	-70% (5)
Sudbury R.	77.4	70.4	124.8	116.1	+11% (3)
Thunderbay	54.3	120.9	119.1	81.5	+69% (2)

Table 3 (contd.) Changes in Police Charges of Break and Entry Offenders Between 1979-83 and 1987-89 Accounting For Anticipated Increases From Age. (Rates per 100,000 total population)

(1)	(2) JDA B&E Charge Rate (1979-83)	(3) YOA B&E Charge Rate (1984-86)	(4) Actual post- YOA B&E Charge Rate (1987-89)	(5) Anticipated YOA B&E Charge Rate (1987-89)	(6) % Changes in B&E Charge Rate (1979-83 vs. 1987-89)
Halifax	57.6	52.7	66.9	86.4	-34% (4)
Dartmouth	57.7	85.9	106.9	115.4	+35% (2)
Regina	48.6	108.8	130.1	72.9	+118% (1)
Saskatoon	41.2	97.2	144.0	61.8	+200% (1)
Calgary	108.3	72.3	93.7	162.5	-63% (5)
Edmonton	44.5	40.5	67.6	66.8	+2% (3)

Column 6 = $\frac{\text{Actual Rate - Anticipated Rate}}{\text{JDA Rate}} \times 100$

(1) Greatest Increase in Police Charges for B&E's
(2) Modest Increase
(3) No Change
(4) Modest Decrease
(5) Greatest Decrease

Source. Canadian Centre for Justice Statistics, Statistics Canada, computer printouts, 1979-89.

system under the JDA. Similar patterns were indicated in the minor theft data in Table 2: cities which included 16 and 17 year olds witnessed the greatest change in police arrests.

The general results in Table 3 showing *lower* B&E charges among municipal police forces are surprising. Why are most police showing substantially *lower* YOA charge rates for B&E's than under the JDA period? Why are more serious B&E offenders being arrested *less* than expected, while minor theft offenders are arrested much *more* than expected from the age change? (see Table 2). A detailed analysis of each city's charging practices will now be presented.

b. B&E charges in Quebec cities and Winnipeg:

The first grouping of cities in Table 3 shows the rate of juveniles charged for B&E in Quebec and Manitoba municipalities. Each city shows an unanticipated *decline* in police arrests since the YOA. It will be recalled that the theft data showed a mixed response with lower rates in Quebec, Longueuil, and Winnipeg, and higher rates in Montreal and Laval (see Table 2).

During the JDA era, Winnipeg ranked the highest on B&E charges (162.0), followed by Longueuil (158.1) and Quebec (135.9). Laval (86.1) and Montreal (62.3) were considerably lower. Data should be questioned as a true indicator of juvenile crime rates since a city the size of Montreal should normally have more crime than Quebec City and Longueuil (Hackler, Cossins, and Don 1990). With preference for a welfare approach in the province of Quebec and the reliance on diversion under the JDA, Quebec City and Longueuil's high arrest rates were remarkable

(Trepanier 1983). In addition, Quebec (-87%) and Longueuil (-79%) showed remarkable declines in charges from the JDA to the YOA. Quebec's JDA rate of 135.9 was strikingly reduced to 18.2 in 1987-89 and Longueuil's went from 158.1 to 32.7. In fact, cities in Quebec show some of the lowest rates compared to all cities in Canada under the YOA. The lower B&E rates seen in Table 3 would seem to reflect different police policies or different recording mechanisms being adopted in each city. It is unlikely juveniles in Quebec have suddenly become so much more law-abiding under the YOA.

The Youth Protection Act and screening in Quebec: Exploring the possibility of new police policies on laying charges against B&E young offenders, the following discussion is highly speculative. Nevertheless, literature on Quebec and its Youth Protection Act may shed some light on understanding the data in Table 3.

In 1977, Quebec introduced provincial legislation for adolescents entitled the Youth Protection Act. The legislation followed a welfare-oriented approach in which police discretion often resulted in an informal warning or diversion from the juvenile justice system. However, after 1979 the police were required to send cases on to the Director of Youth Protection before laying a charge (Trepanier 1983:199). It has been suggested Quebec police were reacting in anger to the loss of their discretionary powers to arrest and may in fact have flooded the formal screening committee with more cases than they could handle (Hackler and Paranjape 1984:186). The data for Quebec City, Laval, and Longueuil support this reaction more

strongly than Montreal's change in charge rates (see Appendix 2).[13]

It is interesting to note Quebec City's recording of '0' juvenile charges for B&E's in 1979 (Appendix 2). Could this signify the city's opposition to the Youth Protection Act? It is unlikely that absolutely no juveniles would be charged for B&E's in 1979.[14] The tremendous increased rates of charges in 1980 (221.9) until 1983 (141.6) for Quebec City may have been an indication of how many juveniles flooded the DYP. The sudden drop in charges in 1984 (47.5) could show the restabilization of Quebec's juvenile justice system with the return of police screening authority in 1982 through membership on the official screening committee (Hackler and Paranjape 1984:186). Police discretion on whether to screen has been suggested as a factor which lowers charge rates (Doob 1983:149). In fact, a national study conducted in 1976 found that in those areas where the police were the screening agency, only 27% of juveniles were charged, whereas 69% were charged if prosecutorial screening occurred (Doob 1983:149). The much lower B&E charge rates during the YOA in Quebec cities may be an intelligent means of reducing costs in formally processing young offenders.

The official statistics are unable to provide specific details on the effects of Quebec's legislation on police discretion. However, the overall impression given by the data in Table 3 pointed too clearly in the direction of "an extension of official social control" or to a "widening of

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[13] Montreal does not show a significant drop in charges with police beginning to screen since 1982.

[14] Quebec recorded '0' juveniles charged for every Criminal Code Offence in the official statistics during 1979.

the net" during the JDA (Trepanier 1983:201). Researchers believe juveniles face more likelihood of being arrested when formal screening and diversion programs were set up to intervene between the police and the courts (Trepanier 1983:201; Doob 1983:149). The YOA data shows a reverse pattern with actually *lower* rates of B&E's charged in Quebec. Winnipeg's lower B&E charges could be due to a separate policy than Quebec's implementation of the Youth Protection Act. Encouragement of community alternatives could lead police to screen more charges from the formal system (Ryant and Heinrich 1988).

Recording and multiple charges in Quebec and Manitoba cities: Another factor effecting Quebec's sudden fluctuation in municipal charges may be police recording techniques. In 1979, Quebec City recorded no juvenile charges for any offence, and Montreal, Laval, and Longueuil recorded unrealistically low rates. From 1980-83, suddenly large numbers of juveniles were arrested for B&E. Perhaps the previous statement should be reworded as follows: from 1980-83, suddenly the police were *recording* large numbers of juvenile charges for B&E. Police could have been retaliating to screening provisions of provincial legislation by *recording* more arrests.

Information on Winnipeg shows its fairly average reliance on single charges in 1981 (57.1%) relative to other cities (Bala and Corrado 1985:35). With the highest arrest rates during the JDA period (162.0), multiple charges do not seem to be a major factor. Instead Winnipeg police seemed to make greater use of the formal system (Hackler 1984; Ryant and Heinrich 1988). They may have been adopting a crime control perspective under the JDA and, to a lesser degree, under the YOA.

c. B&E charges in B.C. cities and St. John's, Newfoundland:

Turning to the cities in B.C. and St. John's, Newfoundland whose upper age of delinquency was 16 prior to the YOA, what patterns arise? Given that 25% of 17 year olds are charged by the police for B&E's, one could anticipate such an increase in arrests in Vancouver, Burnaby, Surrey, Richmond, Victoria, and St. John's due to the age factor.

Vancouver shows a -44% *drop* in charges. Its B&E charges went from 63.9 during 1979-83 to 51.6 during 1987-89. Why are *less* juveniles arrested when 17 year olds are handled by the system since 1985? Burnaby's rates decreased as well in the same time frame from 80.3 to 65.4 (-44%), Richmond's from 67.1 to 51.9 (-48%), Surrey's from 131.9 to 91.5 (-56%), and Victoria's from 94.7 to 66.0 (-55%).[15] The data on theft charges for B.C. showed a variable response from great increases to decreases. Have all police forces in B.C. become more lenient to B&E offenders? The rate in St. John's similarly decreased from 34.7 to 14.7. The figures for St. John's, however, are subject to wide annual fluctuations because of the small numbers of juvenile B&E offenders (see Appendix 2). Could B.C.'s lower rates reflect policy changes or different methods of recording official statistics?

Screening policies in B.C.: Corrado and Markwart (1988) researched the impact of the YOA on 6 large police detachments in B.C. Unlike other studies that pointed to less police authority with the YOA because of due process

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[15] Surrey showed a very high arrest rate (163.3) when the YOA was being introduced between 1984-86 compared to any other city.

and higher minimum age jurisdiction (Leschied and Jaffe 1988), Corrado and Markwart believe police enjoy more powers. A definite legislative provision gives B.C. police the authority to send young offenders directly to juvenile court or divert them (Corrado and Markwart 1988:99). Before the YOA, police in B.C. were required to recommend formal charges to prosecutors. It was the prosecutor who ultimately decided if a youth would be charged by police or diverted under the JDA. The police, to some degree, have undermined the authority of the prosecutor as a "gatekeeper" over the processing of cases since the YOA (Corrado and Markwart 1988:99).

What effect could new police charging powers have on the official statistics? Table 3 shows a moderate decline in rates in Vancouver, its 3 suburbs, and in Victoria. As mentioned previously, when police assume direct control over screening decisions, charge rates are usually lower than those resulting from prosecutorial decisions (Doob 1983:149; Hackler and Paranjape 1983a:457).[16] Perhaps because B.C. police are apparently screening out more juveniles than prosecutors do, the charge rates indicated in Table 3 have fallen since the YOA. The anticipated age change with the YOA does not seem to occur. The YOA does not appear to have much impact in B.C. (Hackler, Cossins, and Don 1990:15).

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[16] The Quebec scenario of a return to police of screening authority is similar to B.C. Quebec also showed lower charge rates once police gained screening authority.

d. B&E charges in Ontario, Nova Scotia, Saskatchewan, and Alberta cities:

Those cities where the age limit was raised to include 16 and 17 year olds should naturally show the greatest increases in charges. Have police charges for B&E increased by 50% due to the age factor in Ontario, Nova Scotia, Saskatchewan, and Alberta cities?

Impact of the Young Offenders Act on Ontario cities: An examination of the reaction of Ontario's cities to the YOA shows a variable response. Sudbury R. (+11%), Peel R. (0%), and London (+14%) show no change controlling for new age limits. Ottawa (-24%), Durham R. (-37%), Toronto (-40%), and Hamilton-Wentworth (-45%) all have significantly lower charge rates than expected. Windsor (-70%), York R. (-67%), and Halton R. (-65%) stand alone with the lowest reactions to the YOA.

Waterloo R. (+82%), Thunderbay (+69%), and Niagara R. (+57%), on the other hand, showed higher charge rates than anticipated with the YOA. All 3 more than doubled the number of juveniles charged with B&E's. Were their police forces holding young offenders more responsible for break and entry? Were more offences recorded?

Comparing all Ontario cities in Table 3 during the JDA, the average charge rate is about 40. The JDA rate in Ontario is low compared to the rest of Canada. Sudbury shows the highest arrests (77.4), followed by Durham (54.9), Thunderbay (54.3), and London (53.0). The lowest rate existed in Peel R. (26.6). With the introduction of the YOA, the most noteworthy change took place in Waterloo R. where the rate of juveniles charged with B&E's jumped

from 36.7 to 85.0 (+82%) when the age change is taken into account.

Once the juvenile justice system had time to modify its practices to new legislative requirements, the cities show much more variation in charging rates during 1987-89 than during the JDA period. From 1987-89, charges range from a low of 36.5 in Windsor to a high of 124.8 in Sudbury. Thunderbay (119.1) and Waterloo (85.0) likewise show high arrest rates with the YOA. Toronto, Ottawa, Hamilton-Wentworth, Halton, Peel, York, and Windsor, on the other hand, have low and consistent charge rates at about 40.

Why should a city like Toronto have lower numbers of youth charged with B&E's than Thunderbay or Sudbury? Suburbs of Toronto like Peel (Mississauga and Brampton), York, and Halton (Burlington) Regional consistently show the same patterns as Toronto (Hackler, Cossins, and Don 1990:4). Do the police departments agree on a particular policy of charging fewer juveniles and diverting many away from the formal system? Much higher crime rates in a city the size of Toronto most likely exist. Are there just too many juveniles to bother about through charging and having to follow up on ensuing legal proceedings in large cities? Perhaps Sudbury and Thunderbay are adopting net widening approaches in handling the more manageable portion of juvenile crime committed than the densely populated urban area of Toronto and its surrounding municipalities.

In general, the slightly lower than expected charging practices in the majority of Ontario cities is baffling given the 50% higher rates to be expected from the age change. Could the police avoid recording all the charges they make? Since Ontario refuses to provide Statistics

Canada with youth court data, is this a reflection of Ontario's deviant recording practices? Or is it possible that increased screening has occurred in cities where the YOA seems to have had little impact on police charges? Undoubtedly the police are now handling the new population of young offenders and arresting *some* of them, especially for the more serious offences like B&E's. However, if young offenders between 12-15 were being screened more frequently, it would tend to offset the impact of age in normally increasing rates.

Ontario's two-tiered system of juvenile justice: Leschied and Jaffe (1988) have documented Ontario's resistance to the maximum age clause of the YOA. The province was opposed to including 16 and 17 year olds in the juvenile justice system because of the tremendous costs involved and the belief that this older youth population should be in a separate system from 12 year olds (Leschied and Jaffe 1988:68). As a result, the Solicitor General of Canada gave Ontario (and all other provinces) a one-year "grace" period for implementing the increased age provision.

In response, Ontario developed a two-tiered system of juvenile justice in April 1986 in which the Ontario Ministry of Community and Social Services (COMSOC) assumed jurisdiction for 12-15 year olds and the Ministry of Corrections handled 16-17 year olds (Leschied and Jaffe 1988:68). Ontario justifies its split jurisdiction, despite unsuccessful legal challenges of age discrimination, on the basis of political, financial, and administrative considerations.

What impact Ontario's two-tiered system has on police charging policies is unclear. Since young offenders

normally first come into contact with police, they would likely be subject to a uniform police policy regardless of their age. It is the court, not the police stage which is divided into two separate jurisdictions (Leschied and Jaffe 1988:69). Young offenders brought before Ontario's courts are treated very differently depending on whose jurisdiction they come under. 12-15 year olds are ten times more likely to receive medical/psychological assessments because of emotional or learning problems at COMSOC (Leschied and Jaffe 1988:69). On the other hand, Ontario Corrections tends to adopt a more punitive strategy for 16-17 year olds in corrections and community programs associated with probation. Youths arrested by the *police*, however, should not be treated differently as they are under the authority of the same agency. The lack of anticipated rise in police charges since 1985 does not seem to be a recording technique or a deliberate policy to screen more young offenders from the system. Such policies would likely apply to minor theft offenders as well. As already mentioned, the previous section found *higher* numbers of minor thieves charged.

The *lower* than anticipated B&E charges could be due to the YOA's due process requirements and stricter rules of evidence for convicting young offenders. With a more adversarial process in youth courts, police may prefer to screen harder to solve B&E cases. Otherwise, cases with a lack of firm evidence could fail to result in a conviction and possibly reflect police incompetency.

B&E Charges in Nova Scotia, Saskatchewan, and Alberta cities: An analysis of Nova Scotia, Saskatchewan, and Alberta cities data shows a variable response, as Ontario's data showed. Edmonton police show anticipated increases in charges (+2%). Its rates went from 44.5 to 67.6. It seems

the age change is affecting Edmonton's statistics and the police have not altered their charging policies. Calgary (-63%) and Halifax (-34%) are arresting *fewer* juveniles. Calgary had a very high charge rate during the JDA at 108.3 compared to 44.5 for Edmonton. Similar charge rates exist in 1987-89 for Calgary at 93.7. Statistics for Calgary definitely do not account for its age change.

In contrast, both Regina (+118%) and Saskatoon (+200%) have significantly increased their charge rates with the YOA much above the expected increase from the age change. With similar figures during the JDA, Regina (48.6) has increased to 130.1 and Saskatoon (41.2) rose to 144.0, the highest rate in the nation. Both cities in Saskatchewan seem to be holding youths more responsible and accountable for their actions. Whether juvenile crime has actually increased in Saskatchewan threefold, as the statistics show, is unlikely. Needless to say, Regina and Saskatoon changed the most towards youths. Their B&E charge rates are much higher than other cities apart from Sudbury (124.8) and Thunderbay (119.1) during the YOA. A law and order model may predominate in Saskatchewan's police forces.

Dartmouth police are arresting slightly more B&E offenders than anticipated (+35%), but Dartmouth does not show nearly as great an increase as Saskatoon or Regina. Dartmouth police charged 57.7 youth per 100,000 in 1979-83 and steadily arrested more youth throughout time (85.9 in 1984-86 and 106.9 in 1987-89), an 85% increase. During the JDA, Dartmouth police operated a diversion program whereby youth were required to do voluntary community service or provide restitution to a victim rather than being charged (Bala and Corrado 1985:74). Although Dartmouth police are charging slightly more young offenders (+35%), the small

numbers of arrested youth are subject to fluctuations; Dartmouth's data must be interpreted with caution.

e. Summary of police charges for B&E's:

This thesis had argued that police would widen the net of social control over juveniles for all offences with the YOA. Increased offender responsibility and the protection of society clauses in the YOA were expected to be reflected in higher police charges, especially for more serious B&E offences. Yet most cities arrested *fewer* B&E offenders and significantly *more* minor theft offenders. Have police been so busy pursuing trivial theft offenders that many more serious B&E offenders are ignored? Or has the incidence of break and entry declined since 1984?[17]

The discussion on B&E charge rates is providing an overall picture or generalization regarding the lower rates found. Is it, however, safe to paint a general trend for all of Canada? The next section will address this potential dilemma.

5. Assessing The Statistical Significance Of Regional Variability In Police Charges.

The above discussion found some variation among cities in B&E charge rates. Table 3 showed the majority of cities with slightly lower B&E charges since the YOA. Other cities showed higher charges and stable rates. How much of this variability is statistically significant? Some profile analyses were conducted in order to determine the

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[17] At best, these questions can only be raised in the hopes that police personnel could shed some light on why these patterns exist.

statistical significance of regional differences. The statistical analysis compared B&E charge rates for 5 regions: the Maritimes, Quebec, Ontario, the Prairies, and B.C.[18] Three time intervals used were 1979-83 (JDA Period), 1984-86 (introduction of the YOA), and 1987-89 (YOA Period). The change in B&E charge rates between these time periods was plotted graphically. The profile analysis found a statistically significant variation among the 5 regions at 0.0048 for B&E charges at Alpha = 0.05. This means there was enough change in B&E charges to be meaningful. The results seem to imply that the Maritimes, Quebec, Ontario, the Prairies, and B.C. are each responding to the YOA in their own way.

A close examination of the profile which graphically plotted the amount of regional variation throughout time, however, seemed to show Quebec with the widest spread; i.e., the most variation. A second profile analysis was therefore run excluding Quebec to determine if the other 4 regions had a statistically significant degree of variation. The results found that variations in B&E charges for the Maritimes, Ontario, the Prairies, and B.C. were <u>not</u> statistically significant at the 0.05 level. Only Quebec's variations throughout time in charging B&E young offenders are significant.

Similar profile analyses were run for minor theft charges and total Criminal Code Offences (excluding B&E's and minor theft). Regional variation for minor theft charges was not significant at the 0.05 level. Regional variation for Criminal Code Offences was also not statistically significant.

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[18] A profile analysis using each separate city was not possible.

These results have important consequences for the interpretation of police data presented in this chapter. General trends can be seen in most of the data. In particular, no significant regional variations exist between municipal police charging practices for minor theft. The overall pattern reveals net widening activities since police are arresting many more young thieves since the YOA. For B&E's, the general trend is that police forces are arresting *fewer* offenders since the YOA, *with the exception of Quebec*. Only Quebec indicated significant regional variability in its B&E charge rates.

6. Conclusion.

This chapter expected to find net widening practices among municipal police forces. In particular, increased police charges for minor theft and break and entry should have occurred. The philosophy of the YOA emphasizes law and order concerns which this thesis believes could lead to an expansion of social control at the police level. Police would hold young offenders more responsible for their actions and possibly protect society by arresting more young law-breakers.

The chapter produced some unanticipated results of police charging practices. Police seem to be widening the net of social control for minor theft offenders, but not for B&E offenders. Charge rates for minor theft increased dramatically in most cities while charge rates for B&E actually declined with the YOA.

The decrease in B&E charges is unexpected since the new juvenile population of 16 and 17 year olds typically commit B&E's. Those regions which added this older age group to their juvenile justice system did not indicate

higher B&E charges. What is occurring at the court level? Are lower numbers of B&E offenders processed through the formal system at the court stage as well? Chapter five will attempt to answer such questions.

CHAPTER V. THE IMPACT OF THE YOUNG OFFENDERS ACT ON JUVENILE COURTS.

1. Introduction.

The previous chapter assessed the impact of the YOA on police charging and screening procedures. Overall it was found that the majority of municipal police forces charged *higher* numbers of minor theft offenders *and lower* numbers of B&E offenders than expected with the age change. For property crime, the nature of the offence was important in determining what effect the YOA had on police charges.

When turning to court procedures, what patterns arise? Is there an extension of the net of social control in courts? Will regional variability exist? The court data analyzed in this thesis will attempt to answer these questions.

Before analyzing court data, this chapter will identify which factors may influence court outcomes. Most literature links the YOA's Declaration of Principles to youth court operations (Markwart and Corrado 1989; Bala and Kirvan 1991; Brodeur 1989; Trepanier 1989; Reid and Reitsma-Street 1984; Leschied and Jaffe 1987; Doob 1989; Havemann 1989). This thesis, however, is wary of such a link as it is equally possible that a judge's personal philosophy or perspective could play a role, as well as local operating procedures and practices which are not based on ideology. In other words, no firm support has been given to explain what is attributed to daily court operations and characteristics. Needless to say, this chapter will begin by reviewing the literature which claims

there is a relationship between the philosophy of the YOA and court outcomes.[1]

2. The YOA's Declaration Of Principles And The Court's Implementation.

Bala and Lilles (1982) quote the 4 key principles of the YOA. They are:

1) *"While young persons should not in all instances be held accountable in the same manner or suffer the same consequences for their behavior as adults, young persons who commit offences should nonetheless bear responsibility for their contraventions."*

2) *"Young persons have rights and freedoms in their own right, including those stated in the Canadian Charter of Rights and Freedoms or in the Canadian Bill of Rights, and in particular a right to be heard in the course of, and to participate in, the processes that lead to decisions that affect them, and young persons should have special guarantees of their rights and freedoms."*

3) *"Society must, although it has the responsibility to take reasonable measures to prevent criminal conduct by young persons, be afforded the necessary protection from illegal behaviour."*

4) *"Young persons who commit offences require supervision, discipline and control, but because of their state of dependency and level of development and maturity, they also have special needs and require guidance and assistance."*

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[1]This thesis is not criticizing the literature which attributes court practices to the YOA's ideological base. Rather the author is emphasizing the uncertainty as to whether the YOA *per se* directly influences court personnel and their practices.

Principles 1 and 3 are cited as law and order concerns in which young offenders are to be held responsible and accountable for their actions, and society is to be protected from juvenile crime (Bala and Lilles 1982). Principle 2 upholds the due process model of justice whereby a young offender is to enjoy protection of basic legal rights. Principle 4 reflects a more welfare-oriented approach as a young offender has "special needs" to be protected due to his/her adolescent stage of development.

Each YOA principle has been linked to court outcomes (Bala and Kirvan 1991; Trepanier 1989; Brodeur 1989; Reid 1986; Havemann 1989). The principle of a young offender's *limited accountability* is reflected in the maximum disposition under the YOA, which is 3 years in custody compared to life imprisonment for adults (Bala and Kirvan 1991:76). When judges are sentencing youths or juvenile agencies are deciding whether to divert youths from the formal juvenile justice system to Alternative Measures, the principle of limited accountability may apply. Because of their age, youths should not be held fully responsible for their actions.

Responsibility for individual actions is linked to specific deterrence where the justice system hopes to deter the individual offender from committing future crimes (Trepanier 1989). The cost/benefit analysis of specific deterrence is part of the YOA's responsibility clause. More juveniles are sent to court by being held responsible for their criminal behaviour (Havemann 1989; Hackler 1991).

The protection of a young person's *rights and freedoms* and the due process model has led to more legal representation for youth, court delays, and overall proceduralism and formalism in youth courts. Although this

thesis will not be examining the due process model in detail, suffice it to say that the YOA has been referred as "a boon for young lawyers needing to gain courtroom experience; however, this may not have been in the interest of young offenders." (Hackler 1991:40). The rigid adherence to formality has led to delays and confusion for youths (Hackler 1987:209).

The *protection of society* clause seeks to reduce juvenile crime and meet the communities' immediate needs for protection from crime (Bala and Kirvan 1991:77). More serious dispositions like secure custody are often ordered with societal protection in mind (Trepanier 1989; Brodeur 1989). As an offshoot of the protection of society clause, incapacitation aims to prevent future acts of delinquency especially among a small group of chronic offenders (Trepanier 1989).

Finally, the "*special needs*" of youths (Principle 4) are safeguarded through limits on dispositions (YOA S.20), involvement of parents, restricted use of records, and confidentiality of identity (Bala and Kirvan 1991:77). The needs of each youth will vary depending on his/her level of biological, psychological, and social development. Bala and Kirvan (1991) define "special needs" as the needs of youth to form positive peer relationships, to develop appropriate self-esteem, and to establish an independent identity. In addition, further needs are recognized for those suffering from physical or mental illnesses, psychological disorders, emotional disturbances, learning disabilities, and mental retardation (Bala and Kirvan 1991:77). Pre-disposition reports or medical or psychological assessments (YOA S.13) may be ordered by a youth court to better learn of the needs of each individual. It is vital for the judge to understand the

special needs of these youths if their interests, and the interests of society, are to be met.

Bala and Kirvan's definition of "special needs" can be contrasted to Leschied and Jaffe's much narrower definition of "special needs" for mentally and/or psychologically disturbed youth (Leschied and Jaffe 1987). The latter researchers argue that rehabilitative initiatives have declined with the implementation of the YOA since there are fewer psychological assessments requested by judges (Leschied and Jaffe 1987:423; Jaffe and Leschied 1989:179).[2] Judges are deemphasizing the "special needs" provisions of the YOA with preference for increased offender responsibility and societal protection principles. However "special needs" are defined, there is consensus that this rehabilitative principle is deemphasized in courts, while law and order concerns of responsibility and protection of society are stressed (Bala and Lilles 1982; Trepanier 1989; Havemann 1989).

a. Is there a balancing of Principles in court?:

The intention of the YOA is to achieve a balancing of principles (Bala and Kirvan 1991; Reid and Reitsma-Street 1984). As an illustration, juvenile justice authorities are to guarantee the protection of society, but also take into account the interests of the individual offender and his/her family (Trepanier 1989:42). The judge must take

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[2]Leschied and Jaffe's claim that rehabilitation and therapy have declined with the YOA is questionable given the disagreement over the "rehabilitative" nature of the juvenile justice system *prior* to the YOA.

these factors into consideration when rendering his/her decision. An integration of principles should be reached.[3]

Despite the intention of balancing the 4 YOA principles, many courts seem to overemphasize the crime control philosophy. A mainstream body of literature points to the YOA's more crime control-oriented principles and the resulting "punitive" juvenile court system (Markwart and Corrado 1989; Jaffe and Leschied 1989; Mason 1988; Havemann 1989; Reid and Reitsma-Street 1984 *et al*). Rising custody rates, larger volumes of cases processed through juvenile courts, and less diversion of minor crimes are some indicators researchers use to measure the "punitiveness" of the system.[4] As compared to the more rehabilitative philosophy of the JDA, many researchers contend the YOA primarily follows a law and order ideology. It seems the child welfare system no longer coincides with the juvenile justice system. Youth courts under the YOA seem to be mini-adult criminal justice systems. This thesis will later test such assumptions in examining juvenile court data.

b. Emphasis on offence or young offender?:

Further claims of the YOA's emphasis on a law and order perspective describes the concern with the offence versus the offender. The juvenile justice system may have moved away from concern with the young offender to the offence (Trepanier 1989; Jaffe and Leschied 1989:179). As

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[3]Some researchers indicate the impossibility of balancing YOA principles since they are in conflict with each other (Reid and Reitsma-Street 1984; Havemann 1986:232).

[4]Again, this thesis stresses that direct links between the YOA's Principles and court practices have not yet been firmly established.

discussed in Chapter one, under the JDA juvenile delinquency was seen as stemming from the personal background of the offender and his/her environment. Emphasis was placed on reforming the *offender*. Juvenile courts did not ignore the offence entirely, but this was not the intention of the JDA (Trepanier 1989). The YOA, on the other hand, shifted emphasis from the offender to the particular *offence* committed. The legislation's emphasis on the principles of responsibility and proportionality of the sentence based on the nature of the offence are offered as evidence for the emphasis on the offence (Trepanier 1989:31-33). Keeping judges "ignorant" of the juvenile's background is additional support for the offence-oriented nature of the YOA (Hackler 1991:42). For the majority of less serious cases, judges hand out dispositions immediately after guilty pleas and base their decisions merely on the nature of the offence (Bala and Kirvan 1991:93). Usually for more serious cases, a pre-disposition report will be prepared to supply the judge with personal information on the young offender.

Brodeur (1989) and Doob (1989) also comment on whether the YOA is more concerned with the offence or the young offender. They believe the YOA is more concerned with the *offender*, not the offence as Trepanier had claimed (see above). Brodeur and Doob cite the contradictory opinions gathered from youth court judges as evidence of the unclear orientation of the YOA. To rationalize the differing viewpoints, Brodeur states that those who are comparing the philosophy of the YOA to the JDA will adopt the "offence-oriented" position. Those, however, who compare the YOA with the broader context of the Criminal Code will find that the YOA is "offender-oriented". In adopting the latter position, Brodeur claims the YOA is concerned more with the young offender compared to the Criminal Code since

i) there is no specification of sentence length based on the nature of the offence; ii) youth receive lighter sentences because of their age; and iii) the juvenile legislation is entitled the Young Offenders Act, not the Youthful Offences Act (Brodeur 1989:112). Since this thesis is contrasting the YOA with the JDA, the view that the YOA is more concerned with the *offence* is adopted. The YOA could therefore lay more emphasis on law and order concerns.

c. The ambivalent philosophy of the YOA and the need for sentencing guidelines:

Much regional variability has been linked to the diverse principles of the YOA[5] (Reid 1986; Gabor, Greene, and McCormick 1986:302). Judges in different regions could choose to apply law and order principles of responsibility and society's protection over the more rehabilitative concerns of a young offender's "special needs". As already discussed, however, a balance is to be reached between contending ideologies (Doob 1989:194; Bala and Kirvan 1991:93). Some researchers believe this aim is full of contradictions since the principles are in conflict with each other (Reid and Reitsma-Street 1984; Havemann 1986:232). It may be impossible for a judge to reconcile law and order provisions with welfare concerns. As a result, there may be a need to develop one ideological model (Reid 1986).

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[5]Chapter two described the reasons for the YOA's ambivalent philosophy. There was a need for the YOA to represent competing interest groups' ideologies in order to reach a consensus and end the 20 years of debate in drafting the YOA.

Others applaud the YOA for its ambivalent philosophy (Bala and Kirvan 1991; Solicitor General 1982). Is the ambivalent philosophy of the YOA regarded as a problem among youth court judges? Many judges believe that a more precise statement of principles could help determine a sentence (Doob 1989:195). Sentencing guidelines could direct judges in a less ambivalent position and reduce regional variability (Brodeur 1989:111). Many judges admitted that arriving at a specific disposition for young offenders is "difficult and personally draining for them" (Doob 1989:195). Strict sentencing guidelines have not been advocated since sufficient flexibility is beneficial for allowing judges to use discretion where justifiable (Brodeur 1989:109).

Other judges like the individualism of the YOA and are against sentencing guidelines (Doob 1989:203). Judicial discretion is seen as a valuable resource to be enjoyed by judges in the courtroom. In order to assess whether there really is a problem of unwarranted disparity, there must first be agreement on what the guiding principles of the YOA are (Doob 1989:198). If the YOA is viewed as "offence-oriented", then disparity is theoretically a problem. If, however, the YOA is seen as "offender-oriented", then disparity could be less problematic as individual dispositions will be suited to the needs of the individual (Doob 1989:198). Until consensus is reached on the nature of the YOA, there may be disagreement over the need to reduce regional disparity in sentencing. The discussion will now analyze provincial court appearances to determine whether regional disparity exists.

3. Juvenile Court Appearances.

Before analyzing the courts' responses to the YOA, it is necessary to clarify some methodological issues affecting the youth court data presented. Unfortunately, city data for courts under the YOA was not made available and therefore the thesis will have to resort to provincial court statistics.[6] The author realizes the pitfalls in using provincial court data since such data hides the amount of variability that is present from one city's court to another. In addition, Ontario court statistics from 1984-89 were inaccessible in the Youth Court Statistics, Statistics Canada publications this thesis used. However, Ontario data gathered by Leschied and Jaffe's research will be presented when discussing Ontario's reaction to the YOA.

Age-specific rates per 100,000 juveniles are used for the presentation of court data. The thesis argues that age-specific rates provide more accurate figures than those based on the total population (see Chapter three). The police data presented in Chapter four, however, calculated charges on rates per total population as population figures were not broken down by age for Canadian cities. Nevertheless, Chapter three showed that the two separate calculations of crude and refined rates did not pose a problem because overall trends in rates did not vary for age-specific versus crude rates. In addition, provincial population age pyramids are similar across Canada.

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[6]Some literature showing *municipal* court operations under the JDA will be described to point out variability within provinces.

The data on court appearances and guilty findings was tabulated according to *charges* and *cases* by Statistics Canada. An illustration should clarify the different measures. If a juvenile appeared in court for 3 separate *charges* of theft, the court data on *charges* would record 3 distinct theft charges brought before youth court. Court data on *cases*, on the other hand, would record only 1 *case*. The number of *cases* data will therefore underestimate the volume of charges processed through the courts, especially when there are frequent multiple charges.

The thesis cannot argue that one measure is superior to another. *Charges* data may be difficult for directly comparing provinces as some provinces have more multiple charges appearing in court than others. Technically a province with "higher" rates of charges brought before court may not actually have more juvenile crime. Instead, similar numbers of *young offenders* may be in court, but some may face more *charges* than others. Rates are often inflated in regions with multiple charges.

No direct comparisons will be made between police and court statistics. Both agencies may record data using different methods and definitions. In fact, police are advised in the manual of UCR rules not to rely upon court records due to different recording mechanisms. Hackler and Paranjape (1984) have found that Alberta consistently sends more charges to court than are charged by police. Such patterns are illogical and provide evidence that police and court statistics do not coincide.

4. Criminal Code Violations Brought Before Provincial Youth Courts.

The discussion will begin by analyzing Criminal Code offences appearing in juvenile courts across Canada. First, an overall comparison of provincial changes in Criminal Code *charges* sent to court before and after the YOA will be presented. Second, a more specific analysis of separate provinces' court referral rates will attempt to reveal regional characteristics in court processing. Both *Criminal Code charges* and *cases* data will be used.[7] A ratio of *charges* to *cases* data should provide a better indication of which courts use multiple charges more than others under the YOA.[8] Regions with more multiple charges before court could have inflated rates, thereby making provincial comparisons difficult.

a. Ranking provinces on changes in Criminal Code charges brought before court since the YOA:

Table 4 shows official court reactions to the YOA regarding the rate of total Criminal Code *charges* sent to court.[9] The layout of the data in Table 4 corresponds to the police data of Chapter four presented in Tables 2 and

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[7]Number of *cases* data format is only available from 1984-89 for appearances in court and found delinquent.

[8]The ratio of *charges* to *cases* can only be calculated for Criminal Code Offences. Even though ratios could vary by offence, property offences make up the majority of Criminal Code Offences. This thesis assumes that ratios for Criminal Code data may therefore be similar for B&E's and minor theft.

[9]*Cases* data has been omitted from the analysis in Table 4 as JDA figures were unavailable in the *cases* format.

Table 4. Changes in Criminal Code *Charges* Brought To Court Between 1979-83 and 1987-89 Accounting For Anticipated Increases From Age. (Age-specific rates per 100,000)

(1)	(2) JDA Rate of Crim. Code Charges In Ct. (1979-83)	(3) YOA Rate of Crim. Code Charges In Ct. (1984-86)	(4) Actual post-YOA Crim. Code Charge Rate In Ct. (1987-89)	(5) Anticipated YOA Crim. Code Charge Rate (1987-89)	(6) % Change in Crim. Code Charges In Court (1979-83 vs. 1987-89)
No Anticipated Increase From Age					
QUEBEC	1956	2282	2428	1956	+24% (4)
MANITOBA	5635	5620	6336	5635	+12% (4)
Anticipated +25% Increase					
B.C.	2936	3694	4619	3670	+32% (3)
NEWFOUNDLAND	2038	2551	3275	2548	+36% (3)

Table 4 (contd.). Changes in Criminal Code *Charges* Brought To Court Between 1979-83 and 1987-89 Accounting For Anticipated Increases From Age. (Age-specific rates per 100,000)

(1)	(2) JDA Rate of Crim. Code Charges In Ct. (1979-83)	(3) YOA Rate of Crim. Code Charges In Ct. (1984-86)	(4) Actual post-YOA Crim. Code Charge Rate In Ct. (1987-89)	(5) Anticipated YOA Crim. Code Charge Rate (1979-83 vs. 1987-89)	(6) % Change in Crim. Code Charges In Court (1979-83 vs. 1987-89)
Anticipated +50% Increase					
MARITIMES	1182	2003	3214	1773	+122% (2)
ONTARIO	1724	---	---	---	----
SASKATCHEWAN	1526	3017	6715	2289	+290% (1)
ALBERTA	2636	4614	6528	3954	+98% (2)

$$\text{Column 6} = \frac{\text{Actual Rate} - \text{Anticipated Rate}}{\text{JDA Rate}} \times 100$$

(1) Tremendous Increase in Court Processing of Criminal Code Charges
(2) Large Increase
(3) Modest Increase
(4) No Change

Sources. Juvenile Delinquents, Statistics Canada, 1979-83.
Youth Court Statistics, Statistics Canada, 1984-89.

3. Similarly, the period 1979-89 has been divided into 3 time intervals as shown. Court referrals between the JDA period (1979-83) and the YOA period (1987-89) are compared to determine how much change in Criminal Code *charges* has occurred. To reiterate the layout of the data, an explanation of the calculation of each column in Table 4 will be given.

Column 1 groups each province by its JDA age limits. Quebec and Manitoba were not required to alter their upper age of delinquency and therefore a 0% increase in charges in court is anticipated. B.C. and Newfoundland expect 25% increases from the inclusion of 17 year olds, while the Maritimes, Saskatchewan, and Alberta anticipated 50% increases in court referrals of Criminal Code charges.[10]

Column 2 depicts the actual rate of Criminal Code charges in court during the JDA period, 1979-83. The figure was calculated from the raw number of Criminal Code charges in court in official court statistics and expressed as a rate based on the age-specific population of each province (see Chapter three). Columns 3 and 4 similarly indicate the actual rate of Criminal Code charges in court for the introduction of the YOA period (1984-86) and the post-YOA period (1987-89) respectively.

Column 5 shows the *anticipated* rate of Criminal Code charges in court given the anticipated age increases of 0%, +25%, and +50%. To illustrate, under the YOA, B.C. expected a +25% increase in its JDA rate with the addition of 17 year olds. B.C.'s JDA rate of 2936 (see column 2) is

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[10]The Maritimes are Nova Scotia, New Brunswick, and Prince Edward Island. Newfoundland is discussed separately with B.C. since its upper age of delinquency was different from other Maritime provinces.

anticipated to increase by 734 (25% of 2936). 734 is therefore added to 2936 to obtain the 3670 anticipated rate shown in column 5 of Table 4 for B.C.

A comparison of columns 4 and 5 should indicate if actual 1987-89 rates before court (column 4) exceed or fall short of anticipated rates (column 5). If courts are absorbing more Criminal Code charges than anticipated (column 4 > column 5), then net widening may be present.

Column 6 shows the percentage change in court referrals for Criminal Code charges between the actual 1987-89 rate and the anticipated rate accounting for the age change. Column 6 was calculated as follows:

$$\text{Column 6} = \frac{\text{Actual Rate} - \text{Anticipated Rate}}{\text{JDA Rate}} \times 100$$

To clarify, Saskatchewan will be used as an example. Saskatchewan's anticipated rate of Criminal Code charges before court given the +50% age change is 2289 (column 5). This figure is subtracted from the actual YOA rate of 6715 (column 4) to give 4426. 4426 is then divided by the JDA rate of 1526 to give a +290% increase in Saskatchewan's court referral rate of Criminal Code charges.

As with the police data in Tables 2 and 3, Table 4 shows a ranking number beside column 6 from 1 to 4. Provinces in Table 4 are ranked from "tremendous increases in court processing of Criminal Code *charges*" (1) to "no change" (4).

An analysis of data in Table 4 shows all provinces except Quebec and Manitoba with *higher* court referrals of Criminal Code *charges*. The percentage increases are

definitely substantial in Saskatchewan (+290%), the Maritimes (+122%), and Alberta (+98%). Saskatchewan's anticipated rate for 1987-89 is only 2289 (column 5) while its actual YOA rate is a very high 6715 (column 4). With such a tremendous increase in charges absorbing Saskatchewan's courtrooms, net widening seems to be occurring. Similar scenarios exist for Alberta and the Maritimes.

B.C. (+32%) and Newfoundland (+36%) show "modest increases" (3) in court referrals. Both provinces are widening the net to a much lesser degree than the Prairie provinces and the Maritimes. By contrast, Quebec (+24%) and Manitoba (+12%) show "no change" (4) in court referrals. What regional characteristics could account for such variability? The discussion will turn to an analysis of separate regions' court referral rates (columns 2-4).

b. Criminal Code offences in Quebec and Manitoba courts:

Although both Quebec and Manitoba show fairly stable rates of court referrals before and after the YOA, Manitoba shows a much higher rate of charges in court than Quebec. Manitoba's JDA rate of 5635 can be compared to Quebec's much lower JDA rate of 1956. Similarly, Manitoba's YOA rate of 6336 exceeds Quebec's at 2428. Quebec may have relied more on child welfare services under the JDA than the formal justice system (Hackler and Paranjape 1984:190) or Quebec may have been doing nothing to juveniles. With the YOA, Quebec appears to prefer diversion over court intervention (LeBlanc and Beaumont 1988).

Comparing Quebec and Manitoba's charges vs. cases in court: Table 5 shows Manitoba and Quebec's data for number of *cases*. As mentioned previously, *cases* data may

Table 5. Official Processing of Total Criminal Code Cases Through Juvenile Courts in Quebec and Manitoba. (Age-specific rates per 100,000).

Region	Time Interval	Rate of Criminal Code Cases In Court	Ratio of Charges to Cases In Court
QUEBEC	1984-86	773	3:1
	1987-89	764	3:1
MANITOBA	1984-86	3440	2:1
	1987-89	3763	2:1

Sources: Juvenile Delinquents, Statistics Canada, 1979-83. Youth Court Statistics, Statistics Canada, 1984-89.

provide a better estimate of the number of juveniles passing through the court system since multiple charges are not counted. More importantly, a ratio of *charges* to *cases* could serve as the best measure of system dynamics. Regions with higher ratios of *charges* to *cases* would tend to have greater reliance on multiple charges in court. In those jurisdictions with most multiple charges (or higher ratios), rates of charges in court will tend to be higher.

The data shows Manitoba with fairly high volumes of *cases* in court during the YOA period (3440 in 1984-86 and 3763 in 1987-89). Quebec has rates about one-fourth lower at 773 and 764. Manitoba may genuinely have higher amounts of juvenile crime than Quebec and perhaps relies less on diversion schemes or its police do not screen.

A noteworthy comparison between *cases* data in Table 5 and *charges* data in Table 4 is that Quebec's rate of *charges* in court comes closer to Manitoba's than its volume of *cases* in court. Quebec's *charges* in court are only about half the rate of Manitoba's. Its *cases* are about a quarter lower than Manitoba's. The reason for this difference is Quebec's average number of charges per case. As column 4 in Table 5 shows, Quebec averages 3 charges per case.[11] Manitoba has only 2 charges per case. Quebec therefore seems to process more multiple charges through court which has tended to inflate its already low charge rates. In fact, Quebec has even lower volumes of young offenders passing through court than the *charges* data depicts; instead of 3 separate youths appearing in Quebec's courts, only 1 would appear with an average of 3 charges.

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[11]Ratios are averaged to whole numbers as fairly stable ratios exist between 1984-89.

The results from the ratio of charges to cases in Table 5 suppcrt Bala and Corrado's findings for the Montreal court. 42% of Montreal's youth faced 3 or more charges in court for 1981-82 (Bala and Corrado 1985:36). This practice seems to remain under the YOA and may be common to other cities in Quebec from the provincial data results. All other municipalities outside Quebec had similar and lower multiple charges in court (Bala and Corrado 1985:36). If Quebec screens less serious cases, it would be logical for those which appear in court to be more serious and have more charges.

Manitoba's high rates of *cases* and *charges* in court, on the other hand, do not seem to be particularly attributed to multiple charging practices. Manitoba's ratio of 2 charges per 1 case is equivalent to Saskatchewan, Alberta, B.C., and the Maritimes (see Tables 6 and 7). It would be wrong to speculate that Manitoba's proportionately high court referrals are attributed to a higher use of multiple charging practices since its ratios are no higher than other provinces. Only Quebec shows higher multiple charges in court than all other provinces. Yet its court appearances are some of the lowest.

Needless to say, calculating a ratio of *charges* to *cases* data serves as a valuable measure of multiple charging practices. The measure helps illuminate some of the difficulties one could have in comparing *charges* data at the court level. Since all provinces except Quebec have similar ratios, however, it may be safe to use *charges* data for comparative purposes.[12] The thesis is not, however,

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[12]As *case* data was unavailable for the JDA era, the author is unsure whether similar multiple charges appeared before court during this period. Bala and Corrado's (1985) court study, however, has shown only Montreal with high multiple charges in court during 1981. Most likely the provinces

claiming that one measure is preferred to another. Both *charges* and *cases* data are therefore presented.

c. Criminal Code offences in B.C. and Newfoundland courts:

Both B.C. and Newfoundland's rate of Criminal Code *charges* before court have moderately increased since the YOA, as indicated in Table 4. During the YOA period, B.C.'s *charges* increased from 3694 to 4619, and its *cases* in court increased from 1996 to 2511 (see Table 6). The ratio of charges to cases in B.C. and Newfoundland was 2:1 during the YOA period, as for all other provinces except Quebec. The moderate increase in court referrals seems to be mainly reflected in B.C. and Newfoundland's addition of 17 year olds to the juvenile court system in 1985.

d. Criminal Code offences in the Maritimes, Ontario, Saskatchewan, and Alberta courts:

Between 1987-89, Saskatchewan (6715), Alberta (6528), and Manitoba (6336) have the highest rate of Criminal Code *charges* appearing in court (see Table 4). Ontario's JDA rate of 1724 was similar to Saskatchewan's (1526). Both provinces may have relied on the child welfare system more than the juvenile justice system and/or screened charges at the police and court levels. Alberta's higher JDA court referral rate of 2636, by contrast, may reflect its reliance on the formal system and/or lack of police and court screening.

Table 7 shows increased *cases* in court for the Maritimes, Saskatchewan, and Alberta during the YOA. The

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with 2:1 ratios for the YOA period have similar ratios during the JDA.

Table 6. Official Processing of Total Criminal Code Cases Through Juvenile Courts in B.C. and Newfoundland. (Age-specific rates per 100,000).

Region	Time Interval	Rate of Criminal Code Cases In Court	Ratio of Charges to Cases In Court
B.C.	1984-86	1996	2:1
	1987-89	2511	2:1
NEWFOUNDLAND	1984-86	1589	2:1
	1987-89	1943	2:1

Sources: Juvenile Delinquents, Statistics Canada, 1979-83. Youth Court Statistics, Statistics Canada, 1984-89.

Table 7. Official Processing of Total Criminal Code *Cases* Through Juvenile Courts in the Maritimes, Saskatchewan, and Alberta. (Age-specific rates per 100,000).

Region	Time Interval	Rate of Criminal Code Cases In Court	Ratio of Charges to Cases In Court
MARITIMES	1984-86	1206	2:1
	1987-89	1901	2:1
SASKATCHEWAN	1984-86	1882	2:1
	1987-89	3852	2:1
ALBERTA	1984-86	2853	2:1
	1987-89	3873	2:1

Sources: Juvenile Delinquents, Statistics Canada, 1979-83. Youth Court Statistics, Statistics Canada, 1984-89.

rate of *cases* in court for the Maritimes went from 1206 to 1901. The Maritimes showed fairly stable rates of cases in court when the anticipated 50% increase from the age change is accounted for. Alberta , by contrast, has a slightly lower than expected increase in cases from 2853 to 3873. Saskatchewan has a slightly greater increase in *cases* than expected from 1882 to 3852.

Caseloads then have definitely increased in Saskatchewan courts, but not in Alberta and the Maritimes when the addition of 16 and 17 year olds is considered. What implications do the caseloads data have on juvenile courts across Canada?

e. *Summary of Criminal Code offences in court:*

Since the YOA, Saskatchewan, Alberta, and the Maritimes are processing much higher volumes of Criminal Code charges through court than expected with the age change. B.C. and Newfoundland are sending slightly higher volumes to court, and Quebec and Manitoba show no change. It seems the law and order and due process models of justice are prevailing in the majority of youth courts across the nation. Increased caseloads seem to indicate a harsher juvenile justice system, especially in Saskatchewan.

Regional variability in court referrals for *charges* data is not particularly related to variable multiple charging patterns since all provinces, except Quebec, send an average of 2 charges to court. Since the ratio of *charges* to *cases* was equivalent for all provinces besides Quebec, interprovincial comparisons of *charges* in court can be made, while stressing Quebec's higher multiple charging practices.

5. The YOA And Increased Caseloads: Are The Courts More Harsh?

Recent concern has arisen over the huge volumes of cases processed through youth courts since the YOA. Many researchers have claimed that the YOA and its legalistic orientation translates into increased caseloads in court (Havemann 1989; Corrado and Markwart 1988:103; Milner 1991; Hackler 1991). The right to counsel and other due process provisions are believed to alter the nature of the youth court process and the degree of court delay, court time required, and volume of cases backlogged in court (Corrado and Markwart 1988:103).

The rapid increase in caseloads has occurred largely because 16 and 17 year olds were directed to youth court rather than adult court. Cases involving this older age group were heard at a rate of 60 per 1,000 youths compared to a rate of 24 per 1,000 youths for 12-15 year olds in Canada during 1986-87 (Statistics Canada, Juristat, Vol. 11, no. 10). Sixteen and 17 year olds tend to be more serious offenders. In fact, 75% of recidivists are 16 and 17 years old (Statistics Canada, Juristat, Vol. 10, no. 8). As a result, they are more likely to end up in court rather than being diverted to Alternative Measures. In 1984, Alberta youth court judges anticipated increased workloads once the maximum age took effect (Gabor, Greene, and McCormick 1986:316). Some of the increased caseloads are therefore a result of the 16 and 17 year old, often serious repeat offender population reaching courts.

Corrado and Markwart (1988:105) present data for B.C. from 1983 to 1987 which points to more case delays and court backlogs even though the number of cases did not

increase in B.C.'s courts. While only 2.5% of cases were delayed by 3 months in 1983 for B.C., 41% were delayed in 1987 for 3 months. Correspondingly, court backlog rose from 1,034 cases in 1983 to 2,177 cases in B.C. courts for 1987. The researchers attribute this problem in B.C. courts to the new age limit and to due process provisions of the YOA (Corrado and Markwart 1988:106). The authors believe the costs of administering B.C.'s courts are affected and may limit the capacity of the province's juvenile justice system to devote resources to other preventive, community or treatment resources.

Contrary results were collected in Milner's observations of Edmonton's youth court during 1985. She found that there were no increased delays in case processing after the YOA (Milner 1991:220). A previous study conducted the year before Milner's in 1984, however, discovered that some Edmonton youth court judges expected *more* court delays (Gabor, Greene, and McCormick 1986). This did not occur in 1985 in Edmonton. Moreover, legal representation did not affect the time required to move a case from its first to last hearing (Milner 1991:220).

The situation in Edmonton has worsened though since Milner's study in 1985.[13] Moreover, this thesis suspects that court delay exists elsewhere as well. Recent media coverage of the dilemma surrounding Alberta's youth court delays blames the tougher approach adopted by the YOA and the inclusion of 16 and 17 year olds (Alberta Report, April

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[13]Milner may not have found more court delay in Edmonton courts with the YOA since the maximum age change had just been instigated in April, 1985. Milner's court observations were conducted in the summer of 1985. The full effects from 16 and 17 year olds in court would not have been felt at such an early stage.

15, 1991). Recommendations for screening out trivial offences from courts could prove beneficial (Hackler 1991:62). Feeley (1979) contends the process of appearing before court is the punishment. He believes it is too expensive to process minor offences and overburden the courts (Feeley 1979:242).[14]

One Edmonton Youth Court Judge has noticed many more shoplifters appearing before courts under the YOA. Trivial offenders were less likely to reach court under the JDA.[15] An explanation offered for the lack of diversion under the YOA is the mistaken belief among police that young offenders must be technically charged before entering an Alternative Measures Program. Are more youth appearing in court *before* entering Alternative Measures?

The situation has become so progressively worse that a recent Supreme Court ruling permits cases to be dismissed which are delayed by more than 6 to 8 months. Known as the *Askov* decision, 27,000 adult and juvenile cases in Ontario have been stayed or dismissed because of lengthy court delays (Edmonton Journal, April 1, 1991). Instead of the reliance on court rulings to resolve the issue of court delays, would juvenile justice agencies be wiser to divert trivial offences from courts in the first place? Unnecessary court expenses and case overloads could be avoided (Feeley 1979:242).

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[14]As an illustration of how trivial offences really are which appear in youth court, a 15 year old boy was sent to court in Calgary in 1991 on a charge of riding the LRT without a ticket (Alberta Report, April 15, 1991).

[15]It is unclear exactly what happened to trivial offenders under the JDA. Some may have been warned and released by police, and others may have been informally screened from the court system (see Chapter one).

Needless to say, *net widening* seems to occur at the court level. The court statistics (see Table 4) showed Saskatchewan, Alberta, and the Maritimes with increases in Criminal Code *charges* appearing in court since the YOA. Increased caseloads seem to translate into a more coercive and punitive system. Law and order concerns may be over-emphasized in the juvenile justice system under the YOA. What happens to young offenders once they *reach* court? The next section on delinquency findings will attempt to assess the consequences of the YOA on the lives of young offenders.

6. Regional Variability In Rates Of Criminal Code Offences Found Delinquent In Youth Court.

With increased caseloads in court and many trivial offences transferred to court instead of diverted, has the number of charges and cases found delinquent changed since the YOA?[16] The "found guilty" category in court statistics could include those cases that ended up in guilty pleas and those declared guilty in a trial.[17] Court clerks are usually in charge of keeping court records. In some regions, the court's chief clerk may make up the records while in others, each clerk may be responsible. Different definitions of "found delinquent" and "not found

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[16]It must be stressed that no further estimates of percentage increases due to age can be made. The 0%, +25%, and +50% anticipated increases from the age change only apply to *charges* appearing in court and police charges, not delinquency findings and the subsequent dispositions stage. Regions vary on what percentage of 16 and 17 year olds are found guilty of B&E's, minor theft, and total Criminal Code Violations.

[17]The "found guilty" category is equivalent to the "found delinquent" category used during the JDA era.

delinquent" could well exist to influence the region's court statistics. In fact, court clerks admit the classification of cases as discharged, adjourned, and reprimanded is extremely difficult (Bala and Corrado 1985:141). Considerable regional variability could therefore be influenced by the courts' different recording techniques.

a. Percent found guilty in Quebec and Manitoba:

Table 8 for Quebec and Manitoba shows fairly stable rates of charges and cases found delinquent for Criminal Code Offences. No change in Criminal Code charges or cases in court occurred either in the two provinces (see Tables 4 and 5). Perhaps a more meaningful measure of court decision-making is the *percentage* of charges and cases found delinquent. This measures the proportionate change in court referrals to guilty findings. If there is no increase in caseloads in Quebec and Manitoba, is there a corresponding constant rate of delinquency findings?

Manitoba shows fairly stable percentages of charges and cases found guilty. Quebec, however, finds many fewer *charges* guilty since the YOA (68% in 1987-89 vs. 82% in 1979-83). Perhaps Quebec courts under the YOA are screening more charges at the court level rather than officially convicting charges. Because Quebec finds a higher percentage of charges and cases delinquent than Manitoba, Quebec seems to be screening out the less serious offences compared to Manitoba.

The national average of arrested youth who were found guilty of at least 1 charge between 1986-89 is 80% (Statistics Canada, Juristat, Vol. 10, no.1). Both Quebec and Manitoba's YOA figures are considerably lower. With

Table 8. Rate of Criminal Code *Charges* and *Cases* Found Delinquent in Quebec and Manitoba. (Age-specific rates per 100,000).

Region	Time Interval	Rate of Crim. Code *Charges* Delinquent	% Crim. Code *Charges* Delinquent	Rate of Crim. Code *Cases* Delinquent	% Crim. Code *Cases* Delinquent
QUEBEC	1979-83	1595	82%	---	---
	1984-86	1575	69%	653	69%
	1987-89	1639	68%	642	68%
MANITOBA	1979-83	3259	58%	---	---
	1984-86	2958	53%	2022	53%
	1987-89	3157	50%	2190	50%

Sources: Juvenile Delinquents, Statistics Canada, 1979-83.
Youth Court Statistics, Statistics Canada, 1984-89.

only half of Manitoba's charges convicted, is this a reflection of screening taking place *within* the courtroom setting? Judicial screening could well be occurring since Manitoba has significantly higher rates of charges in court. Prosecutorial screening *before* charges reach court appears to be minimal. Is this the most efficent use of resources? Would valuable court resources be saved if prosecutors were encouraged to screen more charges away from the court scene? Court backlog could be reduced.

An indepth analysis of court decisions made in Manitoba reveal what is occurring. Table 9 has selected 1980, 1983, and 1987 as years for illustrating the change in Manitoba's court system. Under JDA legislation, Manitoba found about 1 in 3 charges not guilty for 1980 (35%). By 1987, a higher 1 in 2 charges escaped conviction. The proportion of charges found not guilty may reflect administrative procedures.

Judges who fail to find charges delinquent were either adjourning *sine die* under the JDA, dismissing, withdrawing, reprimanding, or finding charges not guilty that appear before them. Manitoba appeared to make great use of adjourned *sine die* provisions under the JDA (Hackler 1991:54; Bala and Corrado 1985:104). Usually Manitoba judges adjourned proceedings for first-time offenders with the understanding that a case could be reopened and result in a sentence if the juvenile recommitted an offence. Hackler (1991) interviewed a court administrator from the Ottawa court during the JDA and was told that no *sine die* adjourned cases were ever returned to Ottawa's court. Bala and Corrado (1985) similarly found that Winnipeg and Toronto resorted to adjourned cases *sine die* and rarely recalled juveniles to court. Vancouver used adjourned *sine die* provisions very rarely (Bala and Corrado 1985:104).

Table 9. Adjudication of Criminal Code *Charges* Through Manitoba and Quebec's Youth Courts for Selected Years (Age-specific rates per 100,000).

Province	Year	Rate of Criminal Code Charges In Court	Rate Found Delinquent	Rate Found Not Delinquent	Adult Court	Other Adjudication
MANITOBA	80	5147	3052 (59%)	1818 (35%)	167 (4%)	110 (2%)
	83	5836	3188 (55%)	2311 (40%)	311 (5%)	27 (0.5%)
	87	6873	3378 (49%)	3438 (50%)	38 (0.6%)	19 (0.3%)
QUEBEC	80	1405	1141 (81%)	188 (13%)	26 (2%)	50 (4%)
	83	2725	1997 (73%)	648 (24%)	60 (2%)	20 (0.7%)
	87	2252	1585 (70%)	643 (29%)	15 (0.7%)	8 (0.3%)

Sources: Juvenile Delinquents, Statistics Canada, 1979-83
Youth Court Statistics, Statistics Canada, 1984-89

With the YOA, judges are no longer able to adjourn *sine die* (Hackler 1991:54). In Manitoba, almost all charges found not guilty in 1987 resulted in a "stay of proceedings".[18] Is this equivalent to the adjourned *sine die* decisions Manitoba's court made under the JDA? One Edmonton Youth Court Judge said it is not. Technically, a "stay of proceedings" can be used by a judge if there were flaws in the legal proceedings; e.g., if a judge felt a case should have more appropriately been handled by the child welfare system instead or if a prosecutor slipped up. Manitoba may have been witnessing procedural flaws in 1987 or judges may have cleverly used "stay of proceedings" provisions to continue the practice of "adjourn *sine die*". Moreover, court clerks in Manitoba may have been recording cases which were "adjourned" as a "stay in proceedings". Other regions' clerks may have recorded "withdrawn" charges for the same outcome.

Table 9 also indicates Quebec's more substantial increase in rates of charges found not delinquent since the YOA (188 in 1980 to 643 in 1987). More courtroom screening seems to be occurring. With 3 charges per case under the YOA in Quebec, quite possibly judges are screening multiple charges. Quebec courts may be processing more trivial charges which could explain the higher percentage of "not delinquent" findings with the YOA. Later, an analysis of theft charges in court could help explain Quebec's higher percentage of charges found not delinquent. If more thefts are appearing in Quebec courts, higher screening could well occur.

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[18]The author's in depth statistical analysis of the "not guilty" category in 1987 produced this finding.

b. Percent found guilty in B.C. and Newfoundland:

Table 10 shows the rate and percentage of Criminal Code *charges* and *cases* found delinquent between 1979-89. When the percentage of *charges* is analyzed, Newfoundland finds 8% fewer *charges* guilty while B.C. finds 13% fewer *charges* guilty. Newfoundland's percentage figures of between 83% to 91% approach the normal mark of 80% (Statistics Canada, Juristat, Vol. 10, no. 1). However, B.C. seems to screen more *charges* at the court level as its percentage of delinquency findings are between 57% to 70%. Table 10 depicts B.C.'s decreased percentage of *charges* found guilty from 70% during the JDA to 57% between 1987-89.

As was illustrated for the *cases* data for Quebec, Table 10 shows B.C.'s similarly higher percentage of *cases* found guilty than *charges* during the YOA time interval. B.C.'s YOA *cases* data is about 70%, while its *charges* data is roughly 60%. Perhaps more multiple charges are being withdrawn in court in B.C.

c. Percent found guilty in the Maritimes, Saskatchewan, and Alberta:

Table 11 indicates Saskatchewan's dramatic increase in charges found delinquent from 1314 to 4688 which parallels the province's dramatic increase in court appearances. The percentage of charges convicted though decreased from 86% to 70%. With the formal and legalistic orientation of the YOA, perhaps more minor delinquencies are handled by the formal court system. As a result, Saskatchewan judges may well prefer to dismiss charges for some of these minor offences.

Table 10. Rate of Criminal Code *Charges* and *Cases* Found Delinquent in B.C. and Newfoundland. (Age-specific rates per 100,000).

Region	Time Interval	Rate of Crim. Code *Charges* Delinquent	% Crim. Code *Charges* Delinquent	Rate of Crim. Code *Cases* Delinquent	% Crim. Code *Cases* Delinquent
B.C.	1979-83	2041	70%	---	---
	1984-86	2311	63%	1523	69%
	1987-89	2626	57%	1816	68%
NFLD.	1979-83	1851	91%	---	---
	1984-86	2212	87%	1428	53%
	1987-89	2704	83%	1695	50%

Sources: Juvenile Delinquents, Statistics Canada, 1979-83.
Youth Court Statistics, Statistics Canada, 1984-89.

Table 11. Rate of Criminal Code *Charges* and *Cases* Found Delinquent in the Maritimes, Ontario, Saskatchewan, and Alberta. (Age-specific rates per 100,000).

Region	Time Interval	Rate of Crim. Code *Charges* Delinquent	% Crim. Code *Charges* Delinquent	Rate of Crim. Code *Cases* Delinquent	% Crim. Code *Cases* Delinquent
MARITIMES	1979-83	1076	91%	---	---
	1984-86	1660	83%	1071	69%
	1987-89	2634	82%	1667	68%
ONTARIO	1979-83	1146	66%	---	---
	1984-86	---	---	---	---
	1987-89	---	---	---	---
SASK.	1979-83	1314	86%	---	---
	1984-86	2269	75%	1496	53%
	1987-89	4688	70%	2927	50%
ALBERTA	1979-83	2277	86%	---	---
	1984-86	3332	72%	2322	81%
	1987-89	4427	68%	3019	78%

Sources: Juvenile Delinquents, Statistics Canada, 1979-83.
Youth Court Statistics, Statistics Canada, 1984-89.

Alberta similarly experiences increased rates of charges found delinquent (2277 to 4427), and lower percentages (86% to 68%).[19] Between 1987-89, Saskatchewan ranks number one on delinquency findings (4688), Alberta second (4427), and Manitoba third (3157).

d. Summary of Criminal Code offences found delinquent:

The data indicated regional variability in rates of Criminal Code *charges* and *cases* found delinquent. Quebec and Manitoba showed stable rates, B.C. showed moderate increases, and Saskatchewan, Alberta, and the Maritimes showed fairly high increases. For the percentage of charges found delinquent before and after the YOA, all provinces found lower percentages delinquent, except Manitoba and Newfoundland. Manitoba, however, already had low percentages of about 50% in the JDA period. What does the percentage of *charges* and *cases* found delinquent mean?

First, the proportional change in charges and cases "found delinquent" versus "not found delinquent" is measured. The lower percentages found guilty seen in the data implies that more "not guilty" charges emerge. Second, more court level screening may be occurring under the YOA with lower percentages found guilty. That is, judges seem to be dismissing more charges, suspending sentences, or withdrawing charges from the adjudication stage. Perhaps more trivial offences, like minor theft, are reaching court and end up being found "not guilty". The next section will examine court processing of minor theft offences.

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[19]It was common practice in Alberta to give juveniles a reprimand during the JDA if they were not found delinquent (Bala and Corrado 1985:130).

7. Processing Minor Theft Offences Through Provincial Youth Courts.

Turning to data on minor theft charges appearing before court, what regional responses to the YOA exist? Has there been an increase in the response to theft? Does net widening occur? Court data for minor theft and B&E's was presented in the *charges* format only by Statistics Canada. The above section on Criminal Code Offences has concluded that comparisons on *charges* in court can be made between provinces as multiple charging ratios were calculated and found to be similar except in Quebec. Do provincial comparisons of theft charges in court reveal substantial regional variability?

a. Ranking provinces on changes in minor theft charges sent to court:

Table 12 shows the rates of minor theft *charges* appearing in court between 1979-89 and the percentage change in JDA and post-YOA rates. A range of court responses to minor theft is indicated in Table 12. Both Manitoba (-8%) and Newfoundland (+12%) show "no change" (4) in court referrals of minor theft. However, all other provinces indicate *increases*: B.C. (+38%) and Alberta (+36%) show "modest increases" (3), Quebec (+155%) and the Maritimes (+102%) have "large increases" (2), and Saskatchewan (+289%) shows a "tremendous increase" (1). A separate examination of each group of provinces in column 1, Table 12 will reveal distinct regional characteristics.

Table 12. Changes in Minor Theft *Charges* Brought To Court Between 1979-83 and 1987-89 Accounting For Anticipated Increases From Age. (Age-specific rates per 100,000)

(1)	(2) JDA Rate of Minor Theft Charges In Ct. (1979-83)	(3) YOA Rate of Minor Theft Charges In Ct. (1984-86)	(4) Actual post-YOA Minor Theft Charge Rate In Ct. (1987-89)	(5) Anticipated YOA Minor Theft Charge Rate (1987-89)	(6) % Change in Minor Theft Charges In Court (1979-83 vs. 1987-89)
No Anticipated Increase From Age					
QUEBEC	118	188	301	118	+155% (2)
MANITOBA	1045	931	964	1045	-8% (4)
Anticipated +25% Increase					
B.C.	573	706	934	716	+38% (3)
NEWFOUNDLAND	489	606	670	611	+12% (4)

Table 12 (contd.). Changes in Minor Theft *Charges* Brought To Court Between 1979-83 and 1987-89 Accounting For Anticipated Increases From Age. (Age-specific rates per 100,000)

(1)	(2) JDA Rate of Minor Theft Charges In Ct. (1979-83)	(3) YOA Rate of Minor Theft Charges In Ct. (1984-86)	(4) Actual post-YOA Minor Theft Charge Rate In Ct. (1987-89)	(5) Anticipated YOA Minor Theft Charge Rate (1979-83 vs. 1987-89)	(6) % Change in Minor Theft Charges In Court (1979-83 vs. 1987-89)
Anticipated +50% Increase					
MARITIMES	283	469	714	425	+102% (2)
ONTARIO	459	---	---	---	----
SASKATCHEWAN	266	562	1169	399	+289% (1)
ALBERTA	708	1196	1314	1062	+36% (3)

Column 6 = $\frac{\text{Actual Rate - Anticipated Rate}}{\text{JDA Rate}} \times 100$

(1) Tremendous Increase in Court Processing of Minor Theft Charges
(2) Large Increase
(3) Modest Increase
(4) No Change

Sources. Juvenile Delinquents, Statistics Canada, 1979-83.
Youth Court Statistics, Statistics Canada, 1984-89.

b. Minor theft offences in Quebec and Manitoba courts:

Great differences exist between Quebec and Manitoba's statistics. With the same age jurisdiction, Manitoba's rates of theft charges in court are more than 3 times as high as Quebec's. The greatest divergence in court referrals exists in the JDA period where Manitoba's rate (1045) is 9 times greater than Quebec's (118). Manitoba may have been handling most juvenile crime under its juvenile justice system, while Quebec may have been resorting to the child welfare system or screening charges at earlier stages from court (Hackler and Paranjape 1983b:185).

Although still low, Quebec's rate of theft charges in court has dramatically *increased* since the YOA from 118 to 301 (+155%). Perhaps the YOA practice in Quebec is to allow minor charges to stand in court. Are more minor thieves being held more responsible for their actions by being processed through the formal court system? Are police screening fewer theft charges from the system?

As compared to Quebec's *higher* rate of theft charges brought before court, Manitoba is sending *similar numbers* of charges to court since the YOA. Even though Manitoba is not referring more theft charges to court, its YOA rates are comparatively some of the highest in the nation. It is difficult to know how many theft charges are diverted to Alternative Measures programs instead of courts.

c. Minor theft offences in B.C. and Newfoundland courts:

B.C. moderately increased the rate of theft charges in court from 573 to 934. When the age change is accounted

for, B.C.'s minor theft court referral rate increased by 38%. This increase could be due to fewer theft charges being diverted from court, as may be happening in Quebec. Emphasis on due process and responsibility for one's actions could cause minor offenders to reach court (Corrado and Markwart 1988).

d. Minor theft offences in the Maritimes, Ontario, Saskatchewan, and Alberta courts:

The Maritimes, Saskatchewan, and Alberta all show higher rates of minor thefts in court. Most noteworthy is Saskatchewan. The province has dramatically increased its court appearances for minor theft: with a low rate of 266 theft charges in court during the JDA, Saskatchewan's courts processed 1169 charges per 100,000 in 1987-89. Saskatchewan ranks second on theft charges in court during the YOA. Alberta's rate of theft charges in court in the YOA ranks number 1 at 1314.

Are more minor offenders appearing in court *before* entering Alternative Measures Programs? One Youth Court Judge has suggested that police may mistakenly believe that young offenders be technically charged *before* entering an Alternative Measures Program. Another possibility is that police are charging minor offenders who seem to have poor demeanor, but the judge later decides to send them to Alternative Measures. Youths may cooperate more with judges than police in giving voluntary compliance to enter Alternative Measures Programs. Saskatchewan's similarly huge increase in police charges for theft from 221 to 1083 (see Chapter four) could be reduced if more minor offences were diverted away from court.

Alberta appeared to handle theft charges formally in courts during the JDA and YOA. Its JDA rate (708) was high compared to Saskatchewan (266), Ontario (459), and the Maritimes (283).[20] Alberta was referring slightly more theft charges to court (+36%) than anticipated. Its rate changed from 708 to 1314.

e. *Summary of minor theft offences in court:*

All provinces except Manitoba and Newfoundland are sending more minor theft charges to court than expected with the YOA's age change. Since minor theft is a less serious offence, are increased court referrals a reflection of the YOA's law and order ideology? Rather than diverted for their infractions, minor thieves seem to be held more responsible.

This thesis believes the juvenile justice system is more punitive since overwhelming numbers of minor theft offenders are charged by police and sent to court. The resultant case overloads in the majority of Canada's youth courts could be avoided if juvenile justice agencies were encouraged to screen minor offenders from the formal process. Valuable court time and resources could be saved.

8. Processing B&E Offences Through Provincial Youth Courts.

Have youth courts similarly widened the net for more serious crime like B&E's? As B&E's are less easily screenable, will more youth be held responsible in the

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[20]The higher rate of theft court referrals in Alberta is probably influenced more by Calgary than Edmonton (Hackler and Paranjape 1984:182). Chapter four described Calgary's policy of sending most cases on to court and Edmonton's pre-court screening practices.

court scene? The following discussion will analyze B&E charges in provincial courts and contrast with the findings for minor theft. This thesis expects to find net widening with more B&E charges appearing before Canada's youth courts since the YOA.

a. Ranking provinces on changes in B&E charges sent to court:

Table 13 depicts the change in rates of B&E charges sent to court before and after the YOA. The majority of provinces show *decreased* rates. The result is surprising given the *increased* rates obtained for less serious minor theft *charges*. Only Saskatchewan (+95%) shows any sort of increase in B&E court referrals, but not nearly as dramatic an increase as for minor theft (+289% -- Table 12) or total Criminal Code (+290% -- Table 4).

Net widening does not appear to be taking place for B&E *charges* at the court level, except in Saskatchewan. The "largest decreases" (4) occurred in B.C. (-41%) and Quebec (-39%), while Newfoundland (-25%) and Manitoba (-22%) showed "modest decreases" (3). Alberta (-12%) and the Maritimes (+7%) indicate "no change" (2). What is occurring within each particular province?

b. B&E offences in Quebec and Manitoba courts:

Because Quebec and Manitoba were not required to alter their maximum age of delinquency at 17 with the YOA, their lower rates appearing in court for B&E charges could reflect a deliberate policy change. For minor theft, it was found that Manitoba did not alter the volumes of minor theft through court, while Quebec increased its volumes substantially (see Table 12). What changes in Quebec's and

Table 11. Changes in B&E *Charges* Brought To Court Between 1979-83 and 1987-89 Accounting For Anticipated Increases From Age, (Age-specific rates per 100,000)

(1)	(2) JDA Rate of B&E Charges In Ct. (1979-83)	(3) YOA Rate of B&E Charges In Ct. (1984-86)	(4) Actual post-YOA B&E Charge Rate In Ct. (1987-89)	(5) Anticipated YOA B&E Charge Rate (1987-89)	(6) % Change in B&E Charges In Court (1979-83 vs. 1987-89)
No Anticipated Increase From Age					
QUEBEC	846	673	513	846	-39% (4)
MANITOBA	1634	1455	1271	1634	-22% (3)
Anticipated +25% Increase					
B.C.	938	1036	787	1173	-41% (4)
NEWFOUNDLAND	850	839	849	1063	-25% (3)

Table 13 (contd.). Changes in B&E *Charges* Brought To Court Between 1979-83 and 1987-89 Accounting For Anticipated Increases From Age. (Age-specific rates per 100,000)

(1)	(2) JDA Rate of B&E Charges In Ct. (1979-83)	(3) YOA Rate of B&E Charges In Ct. (1984-86)	(4) Actual post-YOA B&E Charge Rate In Ct. (1987-89)	(5) Anticipated YOA B&E Charge Rate (1979-83 vs. 1987-89)	(6) % Change in B&E Charges In Court (1979-83 vs. 1987-89)
Anticipated +50% Increase					
MARITIMES	443	566	698	665	+7% (2)
ONTARIO	476	---	---	---	-----
SASKATCHEWAN	583	839	1429	875	+95% (1)
ALBERTA	785	957	1081	1178	-12% (2)

Column 6 = $\frac{\text{Actual Rate - Anticipated Rate}}{\text{JDA Rate}} \times 100$

(1) Large Increase in Court Processing of B&E Charges
(2) No Change
(3) Modest Decrease
(4) Largest Decrease

Sources. Juvenile Delinquents, Statistics Canada, 1979-83.
Youth Court Statistics, Statistics Canada, 1984-89.

Manitoba's courts could have contributed to surprisingly *fewer* charges for B&E's in court?

Screening Procedures: The type of pre-screening procedures within each jurisdiction will affect the number of youths appearing in courts. Different screening mechanisms under the YOA could have lowered court appearances in Quebec and Manitoba. It is unclear whether charges in court have been sent directly from the police or after prosecutorial screening. The lower rates seen in Quebec and Manitoba since the YOA could be caused by several factors. First, the police and/or prosecutors may be diverting more B&E charges away from youth courts. Second, the YOA's requirements of due process and stricter rules of evidence may encourage police to screen out cases which have a lack of evidence. Third, serious crime may have *decreased*.

In Quebec, the provincial Youth Protection Act of 1977 favored diversion schemes. Any court intervention is required to take into account the needs and situation of the young offender (LeBlanc and Beaumont 1988:82). As a result, limited court intervention occurs in Quebec to allow the youth to remain in the family setting (Trepanier 1983:193). Alternative Measures programs in Quebec are used as much as possible (LeBlanc and Beaumont 1988:87). The court is to be used as a measure of last resort only if no agreement can be reached for a youth's voluntary participation in Alternative Measures or the Director of Youth Protection believes formal proceedings are necessary (Trepanier 1983:193). In addition, court action is threatened if a youth does not follow a diversion program.

Under the JDA, most who were sent to Quebec's courts had refused a diversion measure. From 1980-81, 47% of a

total 36,795 delinquency cases were referred to courts and 13% were diverted (Trepanier 1983:197). As discussed in Chapter four, police lost their powers of arrest after 1977 to the Director of Youth Protection (DYP). Police could therefore no longer directly send young offenders on to court. That decision rested with the DYP and the Person Designated by the Minister of Justice. When police do not have final screening authority, charge rates tend to be higher, as Quebec's police data in Chapter four appeared to indicate (Doob 1980:149). It seemed the police were more likely to refer cases if they anticipated screening later on in the process (Doob 1980:149).

Annual rates of B&E charges appearing in Quebec's court had increased during the JDA period (see Appendix 3). The low rate of B&E charges in Quebec's court in 1979 (425) jumped dramatically to 671 in 1980 (+58%), then to 1042 in 1981 (+55%). The rate then declined in 1984 to 718 from 1080 in 1983. YOA rates are similar to 1979-80 figures. Does this signal Quebec's return to more "normal" practices? It is difficult to know since Quebec's rate of theft charges in court has shown steady increases from 1979-89 (see Appendix 3). No dramatic increase in theft charges in court took place when police had lost their screening authority until 1982.

c. B&E offences in the Maritimes, Ontario, Saskatchewan, and Alberta courts:

Ontario's rate of B&E charges in court is presented in Table 13 for the JDA period only since the province did not provide statistics after 1983 to Statistics Canada. Nevertheless, its JDA rate of 47[illegible] is similar to the Maritimes (443) and slightly lower than Saskatchewan's (583).

Saskatchewan's 95% increase in B&E charges in court may illustrate a crime control ideology. Saskatchewan stands alone with the most punitive courts. It will be recalled that the province showed remarkable increases in theft charges in court as well. Only a 50% increase is expected with the change in age. Are Saskatchewan youth being held more responsible for their actions? Are they less protected in the child welfare system? Is less pre-court screening occurring? When Saskatchewan's YOA B&E rate of 1429 is compared to all other provinces, it is significantly higher. Only Manitoba (1271) and Alberta (1081) come close. Perhaps Manitoba and Saskatchewan are adopting a tougher approach to B&E young offenders compared to Quebec, B.C., and the Maritimes.

Alberta's rate of B&E charges in court has remained fairly stable (-12%) when the 50% change in age is taken into account. The stable rates in Alberta could be partially explained by its higher JDA rate. The statistics suggest Alberta relied most on the formal system compared to all other provinces with under 16 age jurisdictions as its JDA rate was considerably higher.

9. Summary Of Juvenile Charges In Court And Found Delinquent.

With the introduction of the YOA, the number of B&E charges brought before court showed a surprising trend. *Fewer* B&E charges reached court. Chapter four similarly indicated the majority of municipal police departments charging *fewer* B&E offenders than thieves. Why has the system responded less to more serious B&E offenders? Are agencies spending so much time handling trivial offenders that they are neglecting more serious crime? Or is it

possible that delinquency is actually decreasing? At best, this thesis is limited to speculation. The trend of *lower* court referrals for B&E's was clearly unexpected.

The increase in minor theft charges before court has negative side-effects. Increased court referrals and court delay are an ongoing concern among policy-makers. Valuable court resources and court time seem to be spent on processing the huge volume of minor thefts through court as indicated by the data. Holding young offenders more responsible, protecting society from juvenile crime, and stressing the offence over the offender may necessitate and justify court action. Law and order supporters believe young offenders must be brought to justice rather than receive lenient treatment under diversion measures. Yet many serious B&E offenders appear to be escaping deterrent measures since there were fewer passed through the system with the YOA, except in Saskatchewan.

The lower percentage of Criminal Code charges resulting in a finding of delinquency appears to result from the higher volumes of trivial offences in court. Instead of screening minor offenders away from the courtroom, screening seems to be occurring *within* the court setting. Judges seem to play a greater role in screening youths by declaring them "not guilty", as seen in the increased percentages of cases found not guilty and decreased percentages found guilty. Prosecutors should perhaps be fulfilling a larger portion of this role instead.

This thesis contends that simply appearing in court is punitive for young offenders, as Feeley (1979) maintains. Because great increases of minor offences are brought before youth courts since the YOA, this thesis is critical

of the system for spending valuable court resources and time on petty crime. Perhaps community alternatives outside the court setting would prove to be a more rational and cost effective means of handling minor theft offenders (Feeley 1979:242).

The discussion will now turn to an analysis of dispositions data. Is there evidence of the juvenile court system's coerciveness? Unfortunately, the data is not broken down by offence so total Criminal Code Offences will be analyzed.[21]

10. Dispositions In Youth Courts.

Once a young offender is declared guilty, what disposition does he/she face? National data indicates over 50% of sentences are probation under the YOA (Statistics Canada, Juristat, Vol. 10, no. 1). This thesis maintains that one way to assess the impact on court dispositions is to measure the proportional change of probation to custody. If a large increase exists for custody, the system seems more punitive.

a. Methodological issues in dispositions data:

Comparing pre- and post-YOA dispositional statistics is difficult since the measures used by Statistics Canada are not easy to interpret. The major obstacle surrounds the format of the data. JDA statistics recorded data on *charges* for dispositions. YOA statistics record *cases*. This means the most significant disposition for each

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[21]Property crimes comprise three-quarters of Criminal Code Offences. Much of the dispositions data will therefore pertain to minor theft and B&E offenders.

separate *charge* a juvenile faced on a given day was recorded during the JDA. On the other hand, YOA data records the most significant disposition for the one *case* on a given day. JDA dispositions data could be inflated.

How many judges ordered a separate sentence for each charge a juvenile faced? "Usually, the judge would delay disposition until all charges had been resolved so that a disposition could be imposed which was appropriate for the entire pattern of conduct, and to ensure that inconsistent dispositions were not imposed" (Bala and Corrado 1985:94). As an illustration, if a judge were to deliberate on a case consisting of one charge of B&E and one count of possession of stolen property, the youth would receive <u>one</u> disposition for the B&E and possession of stolen property incident.

There is some evidence, however, that multiple dispositions were received. The most frequent combination of sentences received for multiple dispositions were probation and orders for community service (Statistics Canada, <u>Juristat</u>, Vol. 10, no. 19).[22] About one-third of cases received 2 dispositions. Regional variability in multiple disposition practices could exist.

The presentation of YOA dispositions data records only the *most serious disposition*. Multiple dispositions are therefore not recorded. However, JDA data on *charges* could reflect multiple dispositions since several charges in a given case could receive separate dispositions. Dispositions for *charges* data could therefore be inflated compared to *cases* data.

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[22]Although the findings in <u>Juristat</u> occurred in 1989, the thesis believes multiple disposition practices were similar during the JDA period.

The thesis will therefore avoid making direct comparisons between JDA *charges* and YOA *cases* dispositions data. At best, the following discussion will briefly comment on sentencing data for the JDA and then elaborate on separate statistics for the YOA. Separate discussions and analyses will be made. Consequently, any real assessment of the YOA's impact on dispositions will be made for YOA data only.

b. JDA sentencing patterns:

Chapter one has already described the more rehabilitative approach of the JDA. Probation was described as the most preferred sentence for those reaching juvenile courts. The vast majority of juvenile delinquents, however, were simply dealt with informally outside the courtroom setting. The juvenile justice system emphasized keeping the child in the family and providing rehabilitation. It was felt the child's "best interests" were being met informally.

Data in Table 14 shows the rate of Criminal Code charges receiving dispositions during the JDA.[23] Quebec had a high institutionalization rate at 431 (27%). The province sent only 35% of its charges to probation. Quebec's high rate sent to custody and low rate in probation may seem surprising in light of the province's welfare ideology. However, a much lower number of charges were found to actually reach Quebec's courts when compared to Manitoba (see Table 4). Those charges in court

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[23]JDA dispositions data are presented in the *charges* format.

Table 14. JDA Dispositions for Criminal Code *Charges* for Provinces, 1979-83 (Age-specific rates per 100,000).

Province	Time Interval	Rate Found Delinquent	Juvenile Institution	Charge of Province	Probation
QUEBEC	1979-83	1595 (82%)	431 (27%)	14 (1%)	554 (35%)
MANITOBA	1979-83	3259 (58%)	316 (10%)	43 (1%)	1611 (49%)
B.C.	1979-83	2041 (70%)	133 (7%)	22 (1%)	1656 (81%)
NEWFOUNDLAND	1979-83	1851 (91%)	51 (3%)	263 (14%)	771 (42%)
MARITIMES	1979-83	1076 (91%)	191 (18%)	32 (3%)	510 (47%)
ONTARIO	1979-83	1146 (66%)	103 (9%)	51 (4%)	590 (51%)

Table 14 (contd.). JDA Dispositions for Criminal Code *Charges* for Provinces, 1979-83 (Age-specific rates per 100,000).

Province	Time Interval	Rate Found Delinquent	Juvenile Institution	Charge of Province	Probation
SASKATCHEWAN	1979-83	1314 (86%)	0 (0%)	255 (19%)	548 (42%)
ALBERTA	1979-83	2277 (86%)	14 (0.6%)	440 (19%)	1114 (49%)

Source: Juvenile Delinquents, Statistics Canada, 1979-83.

therefore are most likely more serious and subject to stiffer penalties like incarceration.

Official statistics on Quebec's use of custody for females do not seem to point to the province's intolerance of teenage prostitutes. Between 1985-89, an average of 25 girls were sent to secure and open custody in Quebec. This figure is lower when compared to most other provinces like Alberta where an average of 177 girls were institutionalized between 1985-89.[24] The results for Quebec are surprising since local knowledge points to the province's incarceration of females for "immorality" offences.

Manitoba sent a rate of 31¢ (10%) charges to juvenile institutions during the JDA. Manitoba's 49% in probation (1611) is a normal pattern for the JDA period (see Chapter one). The proportion of probation orders to custody is lower in Quebec (35%).

B.C. shows a very high 81% of charges sent to probation and a lower 7% in juvenile institutions. Newfoundland sent 42% to probation, 3% to custody, and 14% under the Charge of the Province. The "Charge of the Province" category meant a delinquent could be handled by the child welfare system or sent to a juvenile institution.

All provinces with under 16 as the maximum age of delinquency sent close to half of charges to probation. Alberta found about twice the charges delinquent, but sent more to court initially. Alberta sent only 0.6% to

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[24]Alberta's higher numbers of incarcerated females than Quebec is even further inflated as the population size of Alberta is much smaller.

juvenile institutions and Saskatchewan sent none. Both provinces preferred to place delinquents under the Charge of the Province (19%). In Alberta, many of those assigned to the Charge of the Province were sent to the Youth Development Centre. Perhaps Saskatchewan followed similar practices. At least institutions in Saskatoon and Regina remained relatively full during the JDA period.

c. *YOA sentencing patterns:*

Most of the literature analyzing the YOA's impact concentrates on the use of custodial dispositions (Reid 1986; Caputo and Bracken 1988; Markwart and Corrado 1989; Mason 1988). The thesis agrees that an increase in custody is a valid indicator of the YOA's punitive influence. The discussion will present dispositions data for 6 provinces in Canada and attempt to incorporate other researchers' findings for the corresponding provinces.[25] Is the juvenile justice system even more harsh since 1984 or have custody levels steadied?

1) Probation: Table 15 reveals system characteristics and substantial regional variability in sentencing between Quebec, Manitoba, Saskatchewan, Alberta, and B.C. Probation remains the most prevalent disposition for young offenders (Bala and Kirvan 1991). As expected, all provinces in Table 15 show higher percentages of youth receiving probation orders than custody. Since custody is to be reserved for more serious offenders, the higher use of probation for the majority of less serious delinquents can be expected. With the increased reliance on offender

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[25]The Maritimes region is omitted as dispositions received are minimal.

Table 15. Rate of YOA Custody and Probation Dispositions for *Cases* in Provinces, 1984-1989. (Age-specific rates per 100,000) (% of total dispositions)

Province	Year	Rate Found Delinquent	Secure Custody	Open Custody	Probation
QUEBEC	84	573	51 (9%)	115 (20%)	224 (39%)
	85	691	112 (16%)	77 (11%)	291 (42%)
	86	694	122 (18%)	81 (12%)	290 (42%)
	87	648	120 (19%)	80 (12%)	268 (41%)
	88	620	120 (19%)	71 (11%)	272 (44%)
	89	657	123 (19%)	87 (13%)	302 (46%)

Table 15 (contd.). Rate of YOA Custody and Probation Dispositions for *Cases* in Provinces, 1984-1989. (Age-specific rates per 100,000) (% of total dispositions).

Province	Year	Rate Found Delinquent	Secure Custody	Open Custody	Probation
MANITOBA	84	2042	173 (8%)	111 (5%)	905 (44%)
	85	1941	204 (11%)	193 (10%)	826 (43%)
	86	2084	220 (11%)	300 (14%)	881 (42%)
	87	2355	221 (9%)	308 (13%)	1065 (45%)
	88	2069	224 (11%)	344 (17%)	844 (41%)
	89	2147	242 (11%)	290 (14%)	939 (44%)

Table 15 (contd.). Rate of YOA Custody and Probation Dispositions for *Cases* in Provinces, 1984-1989. (Age-specific rates per 100,000) (% of total dispositions).

Province	Year	Rate Found Delinquent	Secure Custody	Open Custody	Probation
SASKATCHEWAN	84	599	68 (11%)	84 (14%)	387 (65%)
	85	1569	238 (15%)	141 (9%)	816 (52%)
	86	2321	253 (11%)	322 (14%)	1218 (52%)
	87	2774	360 (13%)	418 (15%)	1303 (47%)
	88	2831	331 (12%)	453 (16%)	1364 (48%)
	89	3176	315 (10%)	515 (16%)	1664 (52%)

Table 15 (contd.). Rate of YOA Custody and Probation Dispositions for *Cases* in Provinces, 1984-1989. (Age-specific rates per 100,000) (% of total dispositions).

Province	Year	Rate Found Delinquent	Secure Custody	Open Custody	Probation
ALBERTA	84	1612	67 (4%)	101 (6%)	748 (46%)
	85	2476	170 (7%)	240 (10%)	1052 (42%)
	86	2877	279 (10%)	352 (12%)	1138 (40%)
	87	2846	246 (9%)	340 (12%)	1075 (38%)
	88	3083	288 (9%)	350 (11%)	1178 (38%)
	89	3129	319 (10%)	353 (11%)	1047 (33%)

Table 15 (contd.). Rate of YOA Custody and Probation Dispositions for *Cases* in Provinces, 1984-1989. (Age-specific rates per 100,000) (% of total dispositions).

Province	Year	Rate Found Delinquent	Secure Custody	Open Custody	Probation
B.C.	84	1201	60 (5%)	75 (6%)	894 (74%)
	85	1485	162 (11%)	99 (7%)	1030 (69%)
	86	1882	200 (11%)	206 (11%)	1227 (65%)
	87	1886	199 (11%)	237 (13%)	1154 (61%)
	88	1744	153 (9%)	246 (14%)	1041 (60%)
	89	1819	169 (9%)	262 (14%)	1084 (60%)

Source: Youth Court Statistics, Statistics Canada, 1984-89.

responsibility and the protection of society of the YOA, have judges relied less on probation?

Comparing probation figures under the two different pieces of Canadian juvenile legislation reveals that about 60% of delinquents during the JDA received probation (Cousineau and Veevers 1972:249). The YOA data presented in Table 15 shows lower reliance on probation in every province except B.C. The majority of provinces average between 40-50% probation, while B.C. shows higher figures from 74% in 1984 to 60% in 1989. Saskatchewan, Alberta, and B.C. show declining probation percentages since 1984, Manitoba stable figures, and Quebec a slight increase from 39% in 1984 to 46% in 1989.

2) Custody: The statistics on custody for each province should nct be directly compared. There is a lack of reliable pre- and post-YOA data on the use of custody (Markwart and Corrado 1989). Under the JDA, custody was measured as "juvenile institution" and the "Charge of the Province". Provinces vary on how many youths who were under the Charge of the Province were incarcerated. Under the YOA, custody is designated on 2 levels: secure and open. It is therefore unwise to compare JDA and YOA custody measures.

Different definitions of secure and open custody exist across provinces (Caputo and Bracken 1988:140; Markwart and Corrado 1989; Doob 1989). Since different levels of custody are designated by provincial governments, comparisons between provinces are dangerous (Bala and Kirvan 1991). In one province, part of a secure institution could be classified as "open", while in another, "open" custody would only refer to group homes. The "treatment young offenders receive may [therefore]

depend more on where they live than on the offence" (Caputo and Bracken 1988:140).

An examination of each separate province in Table 15 reveals several insights. Starting with Quebec, the province has increased its use of secure custody between 1984 (9%) and 1985 (16%). Quebec's increase in secure custody is accompanied by declines in open custody (20% in 1984 to 11% in 1985). With the majority of young offenders diverted away from the court scene, it is likely that Quebec's most serious offenders are receiving court dispositions. Perhaps Quebec's increase in secure custody was filled by serious, repeat offenders.

Under the YOA, judges determine the level of custody, but the provincial director decides which facility is appropriate (LeBlanc and Beaumont 1988:85). Generally, the system in Quebec "appears to offer a more integrated approach to dealing with young people, with a combination of child welfare and juvenile justice programs" (Caputo and Bracken 1988:136). Since child welfare and young offender cases are mixed in Quebec's institutions (and possibly other provinces too), do both groups receive similar treatment? Or is harsher treatment reserved for young offenders?

Manitoba's secure custody figures are fairly level at 8-11%. Its use of open custody has increased since 1984. Generally open custody facilities are to provide community services like schools, employment opportunities, and specialized counselling programs (Caputo and Bracken 1988:138). Manitoba's increased use of open custody could be due to the province's expansion of open custodial settings since 1985 (Caputo and Bracken 1988:131). Manitoba has stressed community alternatives since the YOA

(Ryant and Heinrich 1988:95). In addition, increasing volumes of older offenders are appearing in custody in Manitoba (Markwart and Corrado 1989:10).

Fairly stable percentages of custody exist in Saskatchewan. Fewer percentages though are sent to probation. Although Saskatchewan's YOA rates in custody have remained fairly stable, the province appears to be incarcerating more than Manitoba, Alberta, B.C., and Quebec.

Alberta shows increased rates in secure and open custody and slightly increased percentages. Secure custody has increased from 4% (67) in 1984 to 10% (279) in 1986. Open custody rose from 6% (101) in 1984 to 12% (352) of all dispositions in 1986. JDA figures indicated Alberta's practice of referring most sentenced youth to the Charge of the Province. It is uncertain how many were sent to juvenile institutions. During the early stages of the YOA, Alberta had to mix the young offender and child welfare populations due to scarce resources. Gradually, new facilities were built and child welfare cases are now segregated (Mason 1988:57).

With the addition of 16 and 17 year olds, what effect has this had on Alberta's custody rates? Three-quarters of all youths in secure custody are 16 and 17 years old (Statistics Canada, Juristat, Vol. 10, no. 1; Mason 1988:51). Forty-five percent in open custody are under 16 (Statistics Canada, Juristat, Vol. 10, no. 1). Also the majority of the custodial population are repeat property offenders (Markwart and Corrado 1989).

Alberta's increased custodial rates are largely due to the age change (Mason 1988:51; Gabor, Greene, and McCormick

1988:316). When the average number of 16 and 17 year olds under the adult prison during the JDA is compared to 16 and 17 year olds in YOA corrections, Alberta is absorbing more than 100 more juveniles in custody over and above the anticipated increase from the age change (Mason 1988:51). Some have commented that 16 and 17 year olds are treated more harshly under the juvenile justice system than the adult system since they are the most serious of the juvenile population (Corrado and Markwart 1988:109; Mason 1988).

B.C. shows quite substantial increases in custody in Table 15, as Corrado and Markwart's (1988) investigation also found. Its percentage of probation dispositions subsequently decreased. When Corrado and Markwart controlled for the effects of the age change, B.C.'s custody rate increased by 85% between 1983-87 (Markwart and Corrado 1989:9).[26] The study attributed B.C.'s increased incarceration to the law and order philosophy of the YOA (Markwart and Corrado 1989:10).

Ontario's use of custody: Ontario did not supply Statistics Canada with court data for the YOA, but Leschied and Jaffe obtained JDA and YOA dispositions statistics for S.W. Ontario (Leschied and Jaffe 1987 and 1988). The data controls for the effects of an age change by including only 12-15 year olds. Table 16 reprints the data obtained by Leschied and Jaffe's research (1988). Unlike the YOA dispositions data this thesis has presented in number of *cases* format (see Table 15), Leschied and Jaffe's

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[26]The authors believed B.C.'s JDA custody data could be compared with the YOA data as B.C. did not alter the organization or nature of its level of custody (Markwart and Corrado 1989:9).

Table 16. Number of Court Dispositions for 12-15 year olds Southwestern Ontario Youth Courts for Criminal Code *Charges*, 1983-86.

	JDA	YOA		
	1983	1984	1985	1986
Charges	3944	3989	3404	5143
Dispositions	2750	2585	3178	4227
Probation	1178 (43%)	1203 (47%)	1196 (38%)	1964 (47%)
Training School/ Secure Custody	138 (5%)	134 (5%)	106 (3%)	230 (5%)
Open Custody	---	149 (6%)	159 (5%)	339 (8%)

Source: Leschied and Jaffe. "Implementing the Young Offenders Act In Ontario. Critical Issues and Challenges For the Future" in Hudson, J, Hornick, J. and Burrows, B. (eds.), Justice and the Young Offender in Canada. Toronto: Wall & Thompson, 1988, p.73.

statistics are based on *charges* data for Criminal Code Violations for those between 12-15 years old.

Table 16 indicates that Ontario's percentage of charges receiving custody has not changed significantly, but its volumes have increased. 6% of charges resulted in open custody in 1984 and 8% in 1986. No corresponding category of open custody existed in the JDA era. Leschied and Jaffe compared JDA training school dispositions with secure custody. This thesis believes some problems could result since it is unclear whether Ontario's training schools were "secure" facilities. Nevertheless, rates in training schools/secure custody did not change until 1986 when they doubled.

Leschied and Jaffe's interpretation of the data is questioned by this thesis. The researchers claim Ontario youth are held more responsible since 13% in the YOA receive open and secure custodial sentences compared to 5% sent to the JDA's training schools and Children's Aid Societies (Leschied and Jaffe 1988:71). This thesis argues against making direct comparisons between JDA and YOA dispositions data. Were child welfare and delinquency cases mixed in Ontario's training schools and Children's Aid Societies, as in Alberta, Saskatchewan, and Quebec? It is unclear whether young offenders are sent to custody more frequently in Ontario, although they probably are since custody rates have increased dramatically in most other provinces (Markwart and Corrado 1989).

11. Average Length Of Stay In Custody Under The YOA.

The system seems to be more punitive since more young offenders are sent to custody. Statistics on the length of

stay in custody may reveal further whether young offenders are subject to much harsher treatment under the YOA.

Table 17 has selected Alberta, Manitoba, and Quebec as provinces to analyze. With more emphasis on deterrence and associated custody orders, are youths receiving longer periods of incarceration? The statistics show they are not. Alberta's percentage of cases in secure custody for less than 3 months has dramatically increased from only 35% in 1984 to 68% in 1989. By contrast, percentages of incarceration for periods of 4-6 months and 7-12 months have substantially declined, while the number of cases have increased for all time intervals. Manitoba and Quebec show similar patterns.

Quebec's numbers in secure custody for longer periods of stay (7-12 months and more than 1 year) are much higher than Alberta's and Manitoba's statistics.[27] It seems the volume of more serious offenders requiring extended periods of supervision in a secure facility is much greater in Quebec. Previous analysis showed Quebec with lower volumes in court. Undoubtedly, only the most serious cases in Quebec are brought to court to receive harsh deliberations like incarceration. Quebec reserves rehabilitative measures like diversion for the majority of less serious young offenders (LeBlanc and Beaumont 1988).

Can the increase in percentages of shorter custody stays be regarded as an example of a "short, sharp shock"? Markwart and Corrado (1989) believe that shorter terms signify deterrence for the young offender. Is the system

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[27]The numbers in custody though under 3 months and between 4-6 months are similar between Quebec and Alberta despite the size of each province.

Table 17. Length of Stay in Secure Custody From 1984-89 (Raw Numbers).

Province	Year	<3 Months	4-6 Months	7-12 Months	>1 Year
ALBERTA	84	75 (35%)	64 (30%)	60 (28%)	13 (6%)
	85	357 (55%)	184 (28%)	93 (14%)	13 (6%)
	86	643 (60%)	269 (25%)	128 (12%)	26 (2%)
	87	562 (59%)	269 (28%)	101 (11%)	26 (3%)
	88	715 (64%)	260 (23%)	118 (11%)	27 (2%)
	89	856 (68%)	249 (20%)	124 (10%)	21 (2%)
MANITOBA	84	63 (21%)	73 (24%)	115 (37%)	56 (18%)
	85	135 (38%)	88 (24%)	95 (26%)	42 (12%)
	86	158 (41%)	88 (23%)	108 (28%)	33 (9%)
	87	172 (44%)	109 (28%)	84 (22%)	25 (6%)
	88	162 (41%)	100 (26%)	102 (26%)	[illegible] (7%)
	89	207 (50%)	81 (19%)	104 (25%)	26 (6%)

Table 17 (contd.). Length of Stay in Secure Custody From 1984-89 (Raw Numbers).

Province	Year	3 Months	4-6 Months	7-12 Months	> 1 Y
QUEBEC	84	232 (45%)	69 (13%)	143 (28%)	69 (13%)
	85	476 (43%)	20[illegible] (18%)	328 (29%)	106 (10%)
	86	594 (49%)	243 (20%)	301 (25%)	75 (6%)
	87	589 (49%)	241 (20%)	296 (25%)	75 (6%)
	88	672 (56%)	230 (19%)	245 (20%)	57 (5%)
	89	720 (58%)	228 (18%)	221 (18%)	75 (6%)

Source: Youth Court Statistics, Statistics Canada, 1984-89.

processing the increased volumes of the juvenile correctional population quickly through the system to free more inmate beds? An increase in remands may translate into more young offenders being held in secure custody for less than 3 months while awaiting final deliberation.

Many researchers claim the YOA has led to longer terms in custody (Mason 1988; Reid 1986; Caputo and Bracken 1988; Leschied and Jaffe 1987). The researchers have arrived at this conclusion through simply analyzing *rates*, not *percentages*. When Table 17 in this chapter examines the *percentage* of secure custody orders of less than 3 months, between 4 to 6 months, etc., the *percentage* of short stays (less than 3 months) are increasing. Shorter custodial stays under the YOA actually exist.

12. Conclusion.

The thesis believed that the court system would widen the net of social control since the YOA with emphasis on law and order concerns. Net widening by courts would translate into increased caseloads and the possibly associated lower levels of pre-court screening. The data on minor theft and Criminal Code Violations seemed to support the net widening argument for most provinces. The data for B&E's, however, indicated that most courts are not apparently extending the net of social control for B&E offenders. *Lower* volumes of B&E charges were found to reach court than anticipated with the age change. Different court responses therefore seem to exist for different types of property offenders.

Some regional variability existed. Most apparent disparities occurred in Saskatchewan. The province showed remarkable increases in all offences. Its minor theft and

total Criminal Code *charges* and *cases* appearing in court increased to a greater degree than its processing of B&E charges and cases. A more punitive, crime control-oriented approach seems to be adopted in Saskatchewan's courts.

The more punitive court system was also apparent across Canada from the higher rates of young offenders found delinquent and incarcerated. It seems the courts are holding youth more responsible and accountable for their actions under the YOA. Once incarcerated, the length of stay has declined to less than 3 months for the majority. Perhaps the system has widened the net so extensively that there is an inadequate number of custody beds for the increasing volumes of incarcerated youth and remanded cases awaiting the judge's final deliberation.

CHAPTER VI. CONCLUSIONS.

1. Data Results.

This thesis has examined the impact of the Young Offenders Act on the juvenile justice system. Ideologically, Canada's new legislation may have created a more punitive atmosphere for young offenders with increased emphasis on offender responsibility and societal protection.

An attempt was made to assess the impact of the YOA on police charging practices and on court operations in the data analysis section of Chapters four and five. It was argued that the police and courts would show *net widening* behaviour under the YOA. If police charged more youths than anticipated by the change in age alone and if increased volumes of *charges* and *cases* were sent to court, net widening would exist.

The results obtained from the analysis of police data in Chapter four show variable patterns. The majority of police departments were found to charge *fewer* B&E offenders than anticipated when the age change is accounted for, and charged *higher* rates of minor theft offenders than anticipated by the age change. These results were clearly unexpected. This thesis expected to find net widening, as measured by increased police charges, for all offences examined. The thesis concludes that net widening practices exist among police towards minor theft offenders, but not towards more serious B&E offenders.

The findings obtained from the analysis of court data in Chapter five conform to the variable pattern found in the police data. The court data indicated *lower* rates of

B&E's brought before youth courts in most regions and *higher* rates of minor theft and total Criminal Code offences in court. Likewise, the courts seem to be reserving net widening practices for minor theft and total Criminal Code offences only and not towards break and entry. Higher court referrals most likely exist for total Criminal Code offences since minor theft comprises the majority of total Criminal Code offences.

Some regional variability existed in the police and court statistics. Saskatchewan and its municipalities of Regina and Saskatoon consistently indicated dramatic increases in police charges and court processing for all offences analyzed. Net widening measures are supported by this region's data results. A more harsh, law and order-oriented juvenile justice system exists in Saskatchewan.

Quebec similarly showed some regional variability from the general patterns outlined above. Quebec's cities indicated *diverse* patterns for police charges of minor theft, ranging from significant increases to decreases. B&E police charges, however, were found to consistently decline among Quebec cities, as in the majority of Canadian cities. Quebec's court data conforms to the general pattern of increased referrals of minor theft and decreased referrals of B&E's. Overall, though, Quebec's rates of police charges and court processing are considerably lower than other regions. The province's Youth Protection Act seems to stress a more welfare-oriented approach.

2. Implications.

The general results showing an inconsistent direction of change with the YOA for B&E versus minor theft and total Criminal Code offences, shed light on the variability that

exists within the juvenile justice system. The operation of the police and courts clearly varies by the nature of the property offence.

The implications of this finding contributes to research conducted on the YOA. Previous studies have concluded that the courts have become more punitive under the YOA, as measured by increased numbers of total Criminal Code cases sent to court, higher numbers declared guilty in court, and increased incarceration in both secure and open custody (Markwart and Corrado 1989; Caputo 1987; Leschied and Jaffe 1987; Mason 1988; Havemann 1989). This thesis has shown that generalized statements that the YOA has created a punitive system (as made by previous research cited above) no longer stand. This author concludes that future assessments of the juvenile justice system under the YOA must differentiate by the *nature of the offence* and the region. The *lower* rates of B&E's charged, sent to court, and found delinquent in the majority of regions does not indicate a more punitive juvenile justice system.

It must be stressed that the thesis has <u>not</u> firmly resolved that the YOA *per se* is connected to system operations at the police and court levels. Speculations can be drawn, but no clear conclusion can be made. At best, this thesis was limited to speculation. Other factors besides the philosophy of the YOA were discussed as possible explanations for the results seen in the data. Police and court screening procedures, data recording mechanisms, the use of multiple charging, actual amounts of crime committed, and provincial legislation have been posed as possible factors affecting the data results.

For police and court screening procedures, the thesis argued that regions with higher police and court screening

could have lower juvenile crime rates. Data were presented to compare Edmonton's lower juvenile crime rate with Calgary's higher rates in Chapter four. A deliberate screening policy existed in Edmonton where 40-50% of youth were diverted (Hackler 1981). The thesis attributes much of Edmonton's lower charge rates than Calgary's to this screening policy.

Frequently related to police and court screening are mechanisms for recording statistical data on police charges and court activities. Part of the police and court screening policy may be to avoid recording official activity.

Multiple charging practices could inflate police statistics and court referral rates. It may appear that more juvenile crime exists in an area with extensive multiple charges. The data found similar ratios of *charges* to *cases* at 2:1 for all provinces except Quebec, which had a ratio of 3:1. The similar ratio for most provinces allowed for provincial comparisons of *charges* data.

Actual crime rates could influence the data results found in this thesis. The lower rates of break and entry offences charged by police and sent to youth court may be due to lower numbers of youth committing B&E's. Serious crime may have decreased. The great increases seen in minor theft, on the other hand, may reveal that juvenile crime is becoming more trivial in nature.

Most importantly, current studies have failed to demonstrate a clear link between the YOA's Declaration of Principles and daily operations of the juvenile justice system (Leschied and Jaffe 1987; Bala and Kirvan 1991; Doob 1989; Trepanier 1989; Corrado and Markwart 1988; Mason

1988; Havemann 1989). Future research is needed to see whether strong statistical correlations exist between the YOA's ideology and its implementation by juvenile justice agencies. Once established, policy-makers would be in a better position to improve the juvenile justice system's implementation of the Young Offenders Act.

This thesis concludes that defects exist in the operation of juvenile justice in Canada. Processing tremendous numbers of less serious minor theft offenders through the formal system since the YOA is an inefficient waste of valuable court resources and time. The YOA *per se* is not the source of the problem. The author believes the ideological background of the YOA is highly adaptive to the diverse nature of juvenile crime. The four ideological models contained in the YOA can be applied in a wide range of ways from dealing harshly with the most serious young offenders to screening out the most trivial offenders.

The *implementation* of the YOA by juvenile justice agencies must be improved. Growing problems of court delay and shortage of court resources could be reduced if *both* the police and courts were encouraged to screen out trivial offences from the formal system. A more integrative communication network between police and prosecutors should be established to compromise on screening policies for minor offenders. If this strategy were developed, many problems which face the juvenile justice system under the YOA would be solved.

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Appendix 1. Comparing Age-specific Rates and Legally Defined Rates of Boys Charged With B&E in Alberta, 1979-89.

AGE-SPECIFIC RATES[1]

Province	Year	Age-specific Population	Age-specific rate of Boys Charged With B&E's
ALBERTA	79	315,300	1138
	80	313,100	1140
	81	320,300	1072
	82	321,700	909
	83	320,300	1001
	84	315,200	968
	85	381,700	1075
	86	382,000	1373
	87	389,800	1310
	88	388,900	1344
	89	391,700	1637

LEGALLY DEFINED JUVENILE POPULATION RATES[2]

Province	Year	Legally Defined Juvenile Population	Legally Defined Rates of Boys Charged With B&E's
ALBERTA	79	315,300	1138
	80	313,100	1140
	81	320,300	1072
	82	321,700	909
	83	320,300	1001
	84	315,200	968
	85	210,500	1944
	86	208,400	2518
	87	211,100	2416
	88	209,400	2494
	89	209,300	3071

[1]Age-specific rates refer to the JDA population of juveniles and includes 7-11 year olds as the YOA population to avoid great fluctuations in charge rates.
[2]The legally defined population of juveniles under the YOA are 12-17 year olds.

Appendix 2. Rates of Juveniles Charged With B&E's and Minor Theft For 30 Canadian Cities, 1979-89. (rates per 100,000 total population).

City	Year	Juv. B&E Charge Rate	Juv. Theft Charge Rate
St. John's	79	14.8	26.2
	80	21.9	12.0
	81	76.2	144.0
	82	---	---
	83	25.9	20.8
	84	14.4	4.4
	85	10.0	2.5
	36	4.3	1.9
	87	0.6	0.0
	88	10.5	4.3
	89	33.1	136.6
Halifax	79	78.8	38.1
	80	81.4	57.6
	81	58.5	46.6
	82	44.1	29.7
	83	25.3	75.0
	84	10.5	40.1
	85	48.9	133.5
	86	98.6	212.0
	87	81.9	157.3
	88	78.4	185.7
	89	40.5	147.9
Dartmouth	79	29.1	79.6
	80	66.2	93.9
	81	58.5	132.3
	82	76.9	120.0
	83	---	---
	84	43.1	272.3
	85	---	---
	86	128.8	518.1
	87	151.8	530.7
	88	93.6	455.5
	89	75.2	449.4

Montreal	79	1.6	1.2
	80	96.0	51.3
	81	88.4	56.9
	82	65.7	51.4
	83	60.0	49.0
	84	47.7	80.5
	85	52.6	88.2
	86	36.7	99.0
	87	27.7	94.7
	88	26.8	79.7
	89	25.5	75.9
Quebec	79	0.0	0.0
	80	221.9	188.0
	81	153.0	195.9
	82	162.9	196.6
	83	141.6	218.1
	84	47.5	74.5
	85	12.2	53.6
	86	8.5	24.9
	87	0.0	1.2
	88	0.6	1.8
	89	54.1	150.1
Laval	79	6.3	0.4
	80	138.5	98.1
	81	118.9	76.0
	82	94.7	92.1
	83	71.9	86.5
	84	57.2	74.9
	85	44.7	105.9
	86	40.5	108.4
	87	31.7	107.0
	88	33.4	116.1
	89	27.1	145.3
Longueuil	79	20.4	16.5
	80	254.4	140.0
	81	248.6	225.2
	82	140.0	235.2
	83	127.1	220.4
	84	69.1	107.6
	85	65.0	52.1
	86	56.6	45.4
	87	37.5	74.2
	88	27.1	138.0
	89	33.5	63.8

Toronto	79	39.4	78.9
	80	43.1	82.7
	81	37.8	89.7
	82	33.3	89.6
	83	31.9	69.0
	84	24.7	65.7
	85	38.5	98.6
	86	38.4	127.6
	87	41.3	125.4
	88	42.4	106.7
	89	39.1	107.3
Peel R.	79	19.5	18.9
	80	38.5	25.4
	81	24.7	25.9
	82	28.5	25.6
	83	21.7	30.4
	84	22.1	43.2
	85	40.1	97.1
	86	35.0	120.4
	87	37.3	127.1
	88	38.5	103.6
	89	43.6	124.3
York R.	79	49.6	72.4
	80	43.4	91.5
	81	62.3	94.4
	82	33.3	52.4
	83	44.1	58.7
	84	17.6	34.1
	85	45.9	47.1
	86	41.4	91.6
	87	30.4	92.5
	88	37.1	99.6
	89	48.3	113.9
Durham R.	79	72.4	98.2
	80	82.2	89.0
	81	59.6	92.7
	82	39.9	66.4
	83	20.5	83.2
	84	18.6	53.7
	85	54.7	81.5
	86	69.3	145.1
	87	72.1	154.0
	88	54.2	122.4
	89	59.0	135.2

Halton R.	79	57.5	48.4
	80	58.4	36.4
	81	65.0	83.1
	82	29.9	31.8
	83	14.3	22.0
	84	14.3	28.6
	85	33.7	69.3
	86	43.5	106.9
	87	40.8	116.2
	88	34.1	96.6
	89	39.9	130.5
Ottawa	79	25.9	28.9
	80	45.7	25.2
	81	31.7	28.3
	82	32.5	34.8
	83	24.1	37.6
	84	27.3	47.0
	85	54.5	51.2
	86	45.2	74.7
	87	46.2	66.5
	88	41.3	76.3
	89	32.8	73.0
Hamilton-Wentworth	79	32.7	42.2
	80	46.5	50.9
	81	42.1	52.5
	82	43.8	36.6
	83	26.3	39.5
	84	29.8	58.9
	85	49.1	89.6
	86	51.0	125.2
	87	49.3	101.0
	88	40.4	89.3
	89	31.4	102.5
Niagara R.	79	35.4	25.2
	80	38.3	32.8
	81	35.2	35.5
	82	28.5	43.3
	83	41.5	42.1
	84	29.9	58.2
	85	68.2	103.4
	86	80.1	146.3
	87	75.2	148.5
	88	74.5	146.9
	89	72.6	145.3

Waterloo R.	79	30.2	74.9
	80	39.6	57.1
	81	39.3	76.4
	82	28.3	84.3
	83	46.4	125.3
	84	46.3	81.4
	85	67.2	125.3
	86	81.6	152.3
	87	65.3	158.7
	88	86.0	213.6
	89	103.6	206.0
London	79	67.6	116.3
	80	57.4	90.0
	81	46.2	94.8
	82	42.8	109.0
	83	51.1	84.8
	84	43.4	128.2
	85	70.0	165.0
	86	84.1	180.5
	87	84.9	194.5
	88	69.7	166.1
	89	61.7	177.4
Windsor	79	30.4	34.8
	80	52.0	21.6
	81	57.7	24.0
	82	45.0	27.8
	83	42.3	20.8
	84	26.6	24.6
	85	43.2	70.5
	86	37.8	74.8
	87	40.1	53.0
	88	35.5	45.1
	89	33.7	46.1
Sudbury R.	79	108.9	78.6
	80	87.8	78.5
	81	90.1	62.0
	82	60.8	76.2
	83	39.7	61.2
	84	26.2	54.4
	85	93.5	84.7
	86	91.4	94.7
	87	115.3	112.5
	88	171.7	131.5
	89	87.5	159.0

Thunderbay	79	90.3	79.6
	80	55.8	149.3
	81	45.3	109.6
	82	47.5	102.5
	83	32.7	186.4
	84	56.7	144.6
	85	156.3	208.9
	86	149.7	303.6
	87	134.0	265.6
	88	104.6	248.2
	89	118.6	262.4
Winnipeg	79	158.2	281.7
	80	161.2	301.4
	81	194.2	332.1
	82	161.8	332.8
	83	134.7	321.5
	84	116.8	330.7
	85	113.9	284.8
	86	129.7	388.0
	87	61.6	162.1
	88	96.1	214.8
	89	87.3	219.2
Regina	79	41.4	26.3
	80	59.2	56.7
	81	57.2	85.2
	82	55.4	78.3
	83	29.9	39.8
	84	49.0	98.6
	85	123.6	172.8
	86	153.9	187.1
	87	146.2	204.3
	88	131.9	191.3
	89	112.1	188.4
Saskatoon	79	58.5	49.4
	80	63.9	58.5
	81	39.6	53.8
	82	19.5	15.7
	83	24.7	32.7
	84	49.7	75.7
	85	122.9	184.0
	86	119.1	205.3
	87	254.9	231.4
	88	91.8	154.9
	89	85.2	225.7

Calgary	79	120.4	147.9
	80	124.7	169.0
	81	112.4	181.5
	82	91.3	158.5
	83	92.8	223.5
	84	81.0	156.4
	85	73.5	164.5
	86	62.4	195.0
	87	70.9	204.4
	88	70.6	194.3
	89	139.7	402.4
Edmonton	79	56.7	71.1
	80	52.9	67.0
	81	49.6	59.5
	82	32.3	43.2
	83	31.0	51.5
	84	38.6	173.0
	85	38.9	139.3
	86	43.8	119.1
	87	42.4	105.0
	88	52.6	112.1
	89	107.8	235.0
Vancouver	79	78.0	148.7
	80	76.1	166.0
	81	55.7	92.0
	82	57.6	85.6
	83	52.2	109.0
	84	53.0	89.1
	85	77.7	115.5
	86	71.0	132.4
	87	65.7	84.9
	88	48.8	94.8
	89	40.2	89.2
Burnaby	79	76.4	72.8
	80	71.3	93.2
	81	74.7	109.2
	82	107.0	71.1
	83	72.2	86.2
	84	64.2	107.3
	85	102.0	136.2
	86	101.3	150.2
	87	66.4	216.1
	88	73.1	223.9
	89	56.7	199.3

Surrey	79	57.5	32.7
	80	175.4	197.7
	81	155.6	134.6
	82	164.9	207.2
	83	106.1	283.5
	84	168.9	222.5
	85	137.0	238.2
	86	184.1	240.8
	87	134.5	205.1
	88	83.7	237.2
	89	56.3	240.7
Richmond	79	6.2	0.0
	80	77.2	185.8
	81	139.4	211.1
	82	52.7	157.3
	83	60.0	181.8
	84	32.8	75.8
	85	63.7	75.5
	86	48.9	89.4
	87	80.7	108.4
	88	45.3	102.9
	89	29.6	82.6
Victoria	79	163.2	266.2
	80	52.9	290.0
	81	81.4	358.6
	82	81.4	380.0
	83	---	---
	84	47.5	379.8
	85	---	---
	86	79.0	549.5
	87	71.6	407.5
	88	89.3	383.9
	89	37.2	535.7

Source: Canadian Centre for Justice Statistics, Statistics Canada, 1979-89.

Appendix 3. Rate of B&E and Minor Theft *Charges* Brought Before Youth Courts for Provinces, 1979-89. (Age-specific rates per 100,000).

Province	Year	Rate of B&E Charges In Court	Rate of Theft Charges In Court
QUEBEC	79	425	109
	80	671	90
	81	1042	136
	82	1013	154
	83	1080	99
	84	718	161
	85	677	167
	86	624	236
	87	578	282
	88	510	294
	89	451	327
MANITOBA	79	1325	978
	80	1333	916
	81	1948	1122
	82	1842	1157
	83	1721	1053
	84	1473	988
	85	1492	870
	86	1402	935
	87	1515	1046
	88	1244	866
	89	1053	980
BRITISH COLUMBIA	79	---	---
	80	773	420
	81	1005	592
	82	972	604
	83	1003	676
	84	1001	584
	85	1021	632
	86	1088	901
	87	927	956
	88	821	910
	89	614	937

Appendix 3 (contd.). Rate of B&E and Minor Theft Charges Brought Before Youth Courts for Provinces, 1979-89. (Age-specific rates per 100,000).

Province	Year	Rate of B&E Charges In Court	Rate of Theft Charges In Court
NEWFOUNDLAND	79	646	470
	80	839	438
	81	1004	531
	82	789	414
	83	974	590
	84	619	502
	85	810	612
	86	1086	704
	87	914	702
	88	793	555
	89	840	753
MARITIMES	79	404	269
	80	440	271
	81	566	248
	82	416	324
	83	389	301
	84	320	284
	85	740	448
	86	639	675
	87	715	653
	88	666	742
	89	713	746
ONTARIO	79	478	398
	80	506	410
	81	517	486
	82	468	519
	83	410	481
SASKATCHEWAN	79	382	150
	80	549	239
	81	741	327
	82	589	311
	83	652	303
	84	355	266
	85	808	495
	86	1353	925
	87	1353	995
	88	1362	1117
	89	1572	1395

Appendix 3 (contd.). Rate of B&E and Minor Theft *Charges* Brought Before Youth Courts for Provinces, 1979-89. (Age-specific rates per 100,000).

Province	Year	Rate of B&E Charges In Court	Rate of Theft Charges In Court
ALBERTA	79	853	642
	80	772	601
	81	831	750
	82	741	712
	83	729	836
	84	632	1042
	85	985	1185
	86	1254	1363
	87	1055	1205
	88	1121	1368
	89	1066	1370

Source: Juvenile Delinquents, Statistics Canada, 1979-83. Youth Court Statistics, Statistics Canada, 1984-89.