

Fact Sheet

#11

*in a series of fact sheets
that examine questions
frequently asked about
the criminal justice
system*

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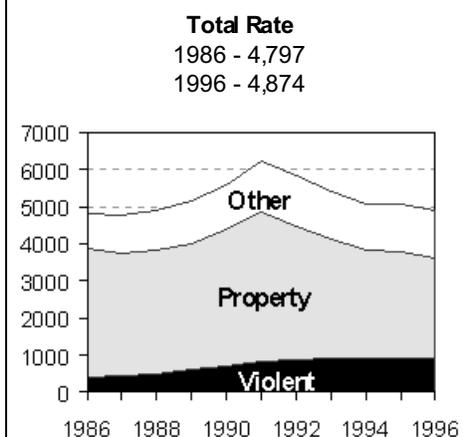
Youth Crime and Our Response: An update

Many Canadians continue to believe that youth crime is “out of control” and that “getting tougher” on young people who commit criminal acts is the way to resolve the perceived crisis. It is not uncommon to hear calls for public shaming through the publication of names, longer terms of imprisonment, harsher conditions in youth prisons and even applying criminal justice responses to children as young as 10 years of age. Media coverage of sensational events and the quick-fix responses delivered by politicians have served to reinforce the fears and the harsh attitudes toward our children and youth.

A number of previous Fact Sheets produced by the John Howard Society of Ontario dealt with the reality of youth crime and the myths surrounding the responses to youth crime. The facts based on trend and current data at the time challenged notions of a youth crime-wave, the leniency of the *Young Offenders Act (YOA)* and the effectiveness of “get tough” measures. Has the situation changed significantly in the intervening years? The purpose of this Fact Sheet is to present up-to-date data on: the current picture of youth crime (the nature and extent of

crimes committed by youth), longer-term trends and responses to the young people who commit the crimes. The federal government is poised to propose important changes to the youth justice system, some of which are likely to be regressive given the public mood and the demands of some provincial governments including Ontario. It is imperative that we carefully and critically examine any proposed changes in light of up-to-date facts on youth crime.

Chart 1
Rate of Youths Charged
(per 100,000 population age 12 to 17)
Canada 1986 to 1996



Source: Canadian Centre for Justice Statistics

What is the nature of youth crime?

While media reports and conventional knowledge would suggest that most youths are charged with serious crimes, particularly ones that are violent in nature, the most recent data demonstrate that this is not the case. Of all youths charged with Criminal Code offences in 1996,

- the majority (81%) were charged with non-violent offences;
- of those charged with violent offences, slightly over one-half (51%) were charged with assault level 1 which involves *no weapon and no serious injury*;
- the offences resulting in the most serious personal injury (homicide, attempted murder, assault level 3 and sexual assault level 3) accounted for 2.15% of those charged with a violent offence and 0.4% of those charged with Criminal Code offences;
- of all youths charged with offences, 56% were charged

with property offences of which almost one-half (48%) were for theft under \$5000 offences (most commonly shoplifting);

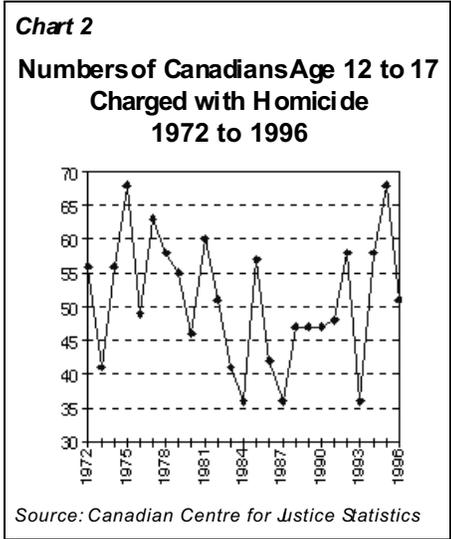
- those charged with mischief accounted for 26% of those charged with other Criminal Code offences.

Is youth crime increasing?

Challenging the notion that youth crime has been steadily increasing over the last decade, an analysis of trend data in the number of youths charged in Canada (Chart 1) shows that:

- the rate of youths charged with all Criminal Code offences was at about the same level in 1996 (the most recent data available) as it was in 1986 (the year of the full implementation of the provisions of the YOA to include those age 16 and 17);
- the peak year was 1991 and it has been declining steadily since then.

The rate of youths charged with property offences actually decreased by 21% since 1986 largely due to decreases in the rate of youths charged



What the experts say:

We would suggest that crime generally and youth crime in particular are probably not increasing, or, if they are increasing, they have not reached a level that should alarm us. (1995)
 A.N. Doob, V. Marinos and K. Varma (University of Toronto)

Violent youth crime is hardly, as many crime control advocates vehemently suggest, out of control. (1995)
While we believe the evidence supports the view that there has been real and substantial increases in youth violence (other than homicide) in recent years, these changes must be put into perspective. While the increases may be real, the incidence remains relatively low. Violent youth crime is certainly not running rampant and non-violent crime remains the staple of youth crime. (1994)
 R. Corrado (Simon Fraser University) and A. Markwart (B.C. Ministry of the Attorney General)

The increase in police-reported violent youth crime is considerably smaller than was suggested by Corrado and Markwart's analyses, is concentrated in mainly non-violent offences against the person and appears to be part of a larger social trend, not unique to young offenders. (1995)

with break and enter (-37%) and thefts (-21%).

Some categories of offences have shown increases and it is important to examine what underlies the increases.

The rate of youths charged with other crime offences increased by 36%. What has largely driven this increase is not any offences associated with harm to another's person or property but a dramatic increase in the bail violations category, primarily failure to appear in court.

The rate of youths charged with violent offences has risen by 121% from 1986 to 1996. This increase has been due considerably to an increase in assault level 1 charges (no weapon and no serious injury) which rose 162% in the same time period. Assault level 1, the offence most often associated with "zero tolerance" policies and practices which allow for less discretion around reporting incidents to the police and the laying of charges by the police,

accounted for more of the violent offence category in 1996 (51%) than in 1986 (43%). While there has been an increase in youths charged with more serious violent offences such as robbery and assault level 2, the incidence of these offences is relatively low and is not reflective of youth crime generally. With respect to the most serious violent offence, there is no discernible trend in the numbers of youths charged with homicide (Chart 2).

Are we becoming "soft" in responding to youth crime?

To answer this question, we need to look at the evidence relating to trends in police charging practices, youth court appearances and sentencing and the youth incarceration rate.

Police charging practices

With first-time offenders committing minor offences, police frequently decide not to lay charges. In such cases, police may decide that it would be a sufficient and effective consequence to take the young person home to parents or to warn him/her. There is no evidence that police have been less likely to lay charges over the past decade. Of those youths "seen to be associated with a criminal offence", 64% were charged in 1996, compared with 63% in 1986. Police charged slightly over one-half of those youths "associated" with a criminal offense in the early 1980's, challenging the notion that police are getting "softer" since the introduction of the *Young Offenders Act* in 1984, .

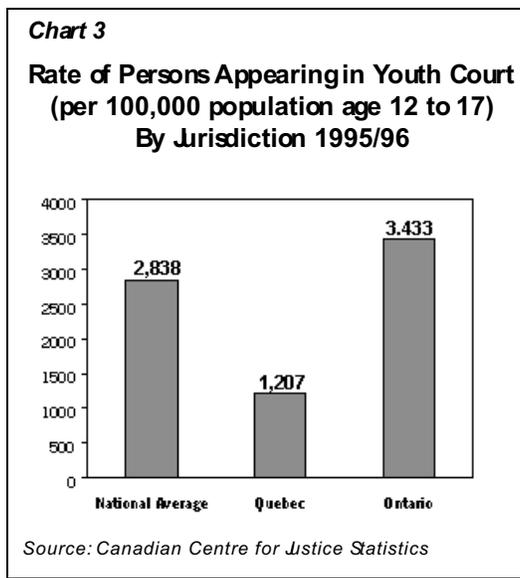
Youth court appearances and sentencing

While conventional knowledge suggests that young offenders are not being held accountable for their behaviour, recent evidence indicates that there has been a greater increase in youth court cases than in youths charged in the past years. Statistics Canada reports that between 1987/88 and 1995/96, the youth court case rate increased 4% while the rate of youths charged with Criminal Code offences rose 2.5%.

While all of the provinces operate under the *Young Offenders Act*, there is a great deal of interprovincial variation in the use of youth courts. Contrary to what some provincial politicians and media stories reflect, more of Ontario's youth per capita are dealt with in youth court than most other jurisdictions in Canada. The rate of young persons (per population age 12 to 17) appearing in youth court in

Ontario is higher than the national average and *almost three times higher than Quebec* (chart 3). Quebec is less likely to criminalize youth misbehaviour and appears to be more willing and able to use alternatives to the youth justice system.

In 1995/96, 111,027 cases were processed in youth courts in Canada of which 80% were for non-violent offences. Of the cases where there was



a finding of guilt, 33% received a sentence of custody, a figure which has increased from 30% in 1991/92. For those who believe that the youth system is more lenient than the adult system, it should be noted that the relative use of custody for youth is similar to adult court where 33% of cases where guilt was established resulted in a prison sentence. Of cases where a sentence of custody was imposed in youth court, the vast majority (83%) were for non-violent offences.

Interprovincial variation is again evident in the use of custody in sentencing in youth courts with Ontario (and Prince Edward Island)

ranking the highest in the use of custody in Canada relative to other sentences (probation, fines, community service /restitution) that could be imposed. Ontario youth courts imposed a sentence of custody in 42% of the cases where there was a finding of guilt, a figure that has increased from 36% in 1991/92.

Most sentences to custody are 4 months or less which should not be surprising given that most cases are for non-violent offences. Again challenging the notion of the leniency of youth court relative to adult court, a study of sentencing in adult courts in 1995/96 by Statistics Canada showed a remarkably similar pattern in terms of the percentage of shorter sentences imposed. When one considers that there is no remission (time off for good behaviour) in the youth system, youth custody sentences for many offences can be effectively longer, as a 1994 study by Corrado and Markwart concluded.

Much attention has been directed at the length of sentence for serious violent offences by youths.

Little attention, however, has been given to the amendments to the *Young Offenders Act* in the 1990's which have already resulted in substantially increasing the severity of sentences youths face. Now a young offender convicted of murder in a youth court can be sentenced to a term of 10 years (with at least 6 years to be served in custody). Amendments have made it easier to transfer a young offender age 16 and 17 charged with a serious violent offence to adult court where, if convicted, he/she would face the maximum penalties set for adults and serve all or a portion of that sentence in an adult prison. A young person charged with murder, transferred to adult court and convicted, will be

sentenced to life imprisonment and can be released only if approved by the National Parole Board.

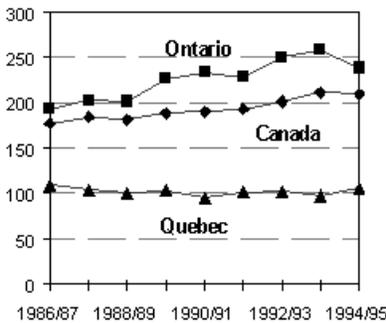
Youth incarceration rate

Contrary to public perception, the numbers of young offenders in custody has increased substantially since 1986. On average in 1994/95, there were 4,186 sentenced young offenders in custody in Canada, a number that has increased 26% over the last decade. Further, there were an average of 756 young people temporarily in custody awaiting a hearing. The number of young people in custody translates into an incarceration rate (per 100,000 persons age 12 to 17) of 209. The youth incarceration rate is higher than for adults. The comparable adult incarceration rate (per 100,000 adult population) is 151.

Ontario accounts for more of the total sentenced young offenders in custody in Canada (43%) than its share of the national youth population (36%). Compare this with Quebec which brings fewer young offenders to court and sentences proportionately less of those found guilty to custody. Quebec has 25% of the youth population in Canada yet accounts for only 12% of the number of young offenders in custody. Quebec, the province that is closest to Ontario in size and urban make-up, has a youth

Chart 4

Youth Incarceration Rate (per 100,000 population age 12 to 17) By Jurisdiction 1986/87 to 1994/95



Source: Canadian Centre for Justice Statistics

incarceration rate less than one-half that of Ontario (Chart 4).

The growth in the numbers of sentenced young offenders in custody in Ontario in the last decade is considerable (40%) and exceeds the national trend. This runs contrary to claims of many provincial politicians who contend that the treatment of young offenders has become too soft and advocate for harsher punishments. Because of the negative consequences of incarceration (disruption of education, work, family life and other pro-social influences) and its ineffectiveness in reducing re-offending in comparison to interventions in the community, we need to develop strategies to limit, not expand, the use of custody.

Facts, not myths: The basis for good juvenile justice policy

As we make decisions about the evolution of our juvenile justice policy, we cannot afford to be driven by our understandable anger, horror and sense of vulnerability connected with incidents of sensational crimes committed by youth. Such crimes are rare and are not reflective of the reality of youth crime generally. The up-to-date facts tell us that:

- youth crime is not “out of control”; and
- the youth justice system as it currently operates under the *Young Offenders Act* is not “lenient and permissive”.

A careful analysis of the facts can reduce the sense of urgency and panic created by myths and the fear and anger induced by those myths. Reduced fear can free us to examine the research on “what works” to prevent crime and reduce re-offending and to develop enlightened policies to promote healthier environments and hopeful opportunities for our children and youth. Strategies based on more humiliation and more punishment are not only expensive and ineffective but also are without hope.

Effective, just and humane responses to crime and its causes

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