

Fact Sheet

#4

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

February 1995

Youth Crime and Punishment: Countering the claims

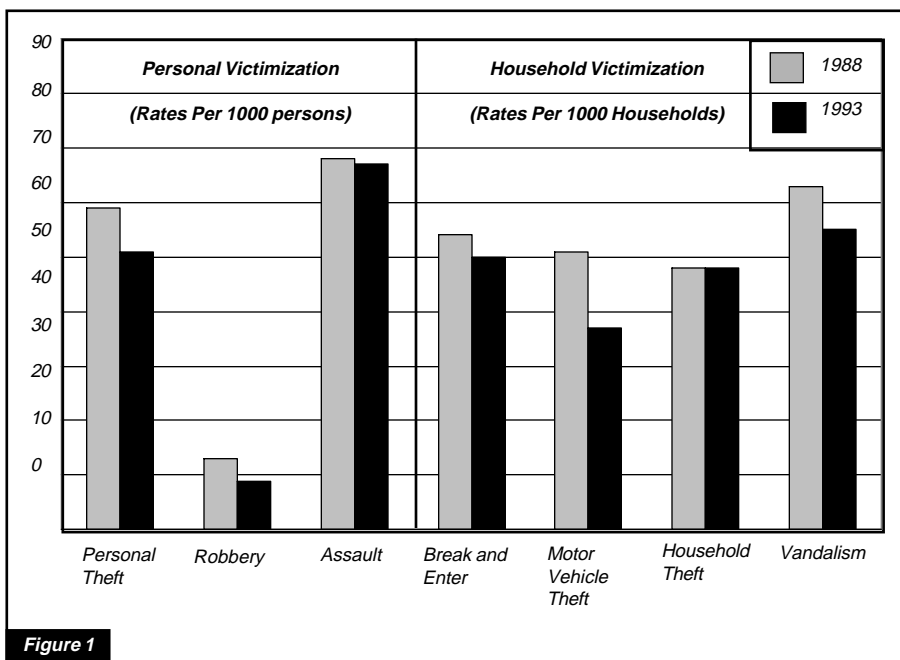
The claim that crime is out of control is a common one. Yet the results of the recent victimization survey tell us that Canadians were less likely to be victims of crime in 1993 than in 1988 (Figure 1). Why does the crime scare continue despite evidence to the contrary and what are the costs of this fear? Often at a time when a sensational incident has hit the headlines, many people respond out of fear and anger to demand "quick-fix solutions" - tougher penalties and longer jail terms - in the

belief that such measures will solve the problem of crime.

The information presented in this fact sheet will respond to some of the claims made by those who advocate a harsher criminal justice response to young offenders and will examine them in light of the facts.

Right now, young people who commit crimes are the particular targets of public fear and anger. There is a great deal of pressure to "toughen up" the *Young Offenders Act* (YOA) - to increase

penalties and to expand the provisions that allow a young person to be tried in an adult court where they are subject to adult sanctions including incarceration in an adult prison. To justify these demands, many claims are made about the "permissive and lenient" manner in which we deal with young offenders now and about the potential effectiveness of increasing penalties as a means of controlling youth crime. Is the public well-informed about what life is like for young people who break the law once they have been convicted? Is there evidence to suggest that our juvenile justice system is "too soft" on offenders? Are harsher penalties the solution to the problems of youth crime?



Claim #1 "All too often, young people are getting off without being charged because the *Young Offenders Act* makes it impossible for the police to do their job".

Police-reported data show that police are **more** likely to charge a young person now than they were before the *Young Offenders Act* came into effect in 1984. In 1983, police reported that 51.1% of youths suspected of an offence were charged. In 1985 60.5% of youth suspects were charged and by 1992 this figure rose to 66.1%.

Figure 1

Source: Canadian Centre for Justice Statistics 1994

Formal charges are not always necessary or the most effective option. Police have always recognized the need to respond to situations by using other community resources and not charging when a criminal justice response would either be unnecessary, ineffective or even harmful. In the case of the young person, the offending behaviour may be dealt with better by a warning, by advising the parents or by a referral to a social service agency. By clamouring to "get tough" on young offenders, we may be discouraging police from using better alternatives than charging to deal with the young person's behaviour.

Claim #2 *"Even if young people do get charged, nothing really happens to them in youth court. They just get a slap on the wrist and go home. It would be different if they had to face adult court."*

Of the 114,716 cases that were heard in youth courts in Canada in 1992-93, 67% resulted in a conviction. The next most frequent decision was withdrawal (21%) - largely due to Ontario's practice of laying charges in cases where Alternative Measures are used. (Ontario is the only province that requires that a charge be laid prior to consideration for an Alternative Measures program. Upon successful completion of the program, the charges are withdrawn.)

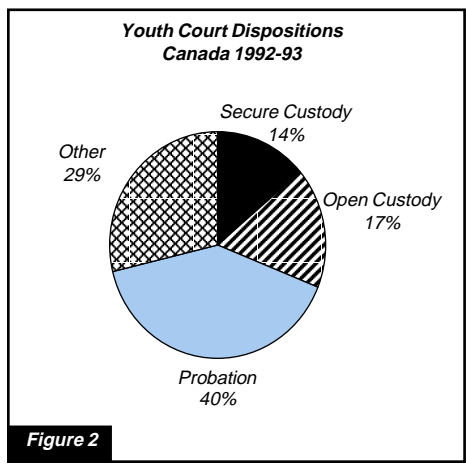


Figure 2
Source: Youth Court Survey 1992-93

A substantial proportion of young people who are convicted of an offence are incarcerated. In 1992-93, a sentence of custody was imposed in 31% of cases. (Figure 2). While there are no national data on sentencing in adult courts, a recent study of six jurisdictions in Canada showed that 29% of all cases in adult court resulted in a sentence of imprisonment. Youth courts are **not** less likely than adult courts to hand out the severest form of punishment - the deprivation of freedom through incarceration.

When a young person is sentenced to custody, he/she will serve the full term. Unlike the adult system, there is no parole or remission (time off for good behaviour) in the young offender system. Corrado and Markwart (1994) analysed available sentencing data in youth and adult courts in 1991 and concluded that:

"...when (the virtually automatic) earned remission is applied to the adult sentences, the youth custody sentences were longer for eight out of ten offenses, including sexual assault, common assault and aggravated assault. Using the latter measure, the average youth custody sentence was 22 percent greater than the adult [our emphasis]."

Probation is a more frequent disposition in youth courts (40% of cases) than in adult court (27%). Fines, however, are used in youth courts far less frequently than in adult court (7% vs. 21%) - a natural consequence of the young persons' lack of financial resources. It can be said that, in both youth courts and in adult courts, probation and fines are the principal sanction imposed in slightly less than one-half of the cases.

Claim #3 *"It's only those youths who have committed serious violent offenses who get sentenced to custody."*

In total, 83% of the cases involving a custody order were for offenses categorized as non-violent. Figure 3 sets

out the various categories of offenses for which young people have been incarcerated. In 1992-93, almost one half of youth court cases resulting in a sentence of custody involved property offenses. While a large percentage of custody orders for property offenses were for break and enter (42%), 17% were for theft under \$1000 and 17% for possession of stolen goods. Of the "Other" Criminal Code offenses cases which resulted in a sentence of custody, 41% were for the offence of "failure to appear".

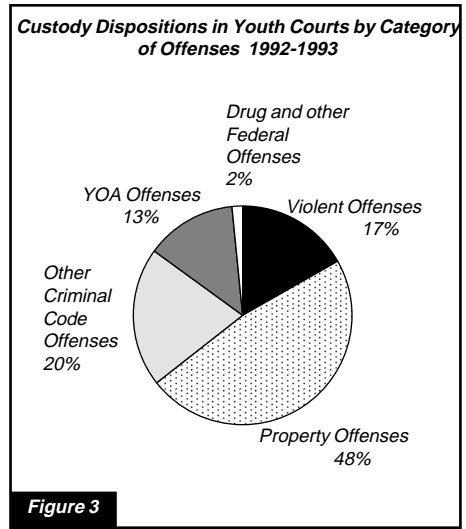


Figure 3
Source: Youth Court Survey 1992-93

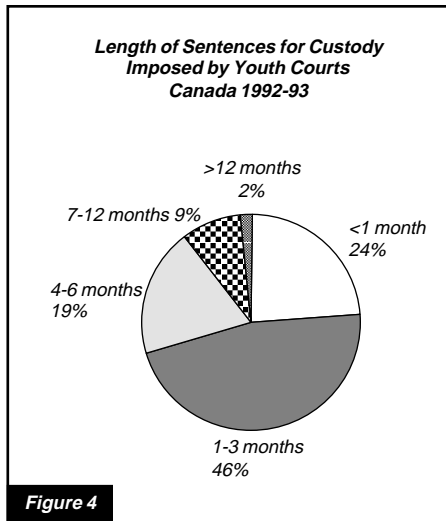
Even for cases of violent offenses resulting in custody, 34% were for minor assault involving no weapon and no serious injury.

Youth who commit serious personal injury offenses make up only a very small proportion of those sentenced to custody (homicide - 0.8%, sexual assault involving a weapon or serious injury - 0.15% and non-sexual assault involving a weapon or serious injury - 3.2%).

Claim #4 *"Some young offenders need a 'short sharp shock'. A short time in custody would certainly wake them up to the consequences of committing crimes."*

Many of the young people sentenced to custody are being subjected

to a "short sharp shock" approach. In 1992-93 sentences of less than one month accounted for almost one-quarter of all custody dispositions (Figure 4). The proportion of sentences of less than one month has increased since 1986-87.



Source: Youth Court Survey 1992-93

One might be able to justify the approach if there was proof that a short period of incarceration works to deter future criminal behaviour. Time and again studies have shown that little can be done to reduce the incidence or severity of crime through changes to sentencing (Andrews et al. 1990). While a potential offender is probably concerned about getting caught, there is little evidence that young offenders consider - or know about - the sentencing provisions or practices under the YOA before committing offenses.

Rather than deterring criminal behaviour, the practice of "shock" sentences may actually be contributing to youth crime. Research has shown that involving youths in correctional programs not appropriate to their level of risk and need increases their chances of re-offending. Incarceration is extremely disruptive, affecting areas of young persons' lives most likely to prevent a recurrence of criminal behaviour - education/employment, family and social life - and changes their perception of themselves and the world around them.

From a cost/benefit perspective,

one must question the value of placing a young person in custody for 30 days. With a average daily cost of \$191 for youths in custody in Ontario, it is important to consider what community services extending well beyond 30 days could be purchased with this money.

One must also remember that the young offender will likely return to the same environment upon release from the custody facility. With a growing body of research pointing consistently towards social factors that contribute to youth crime (i.e. family relying on welfare and aimless use of leisure time), the "short sharp shock" approach seems even more irrelevant as an effective strategy of reducing youth crime.

Claim #5 *"If young offenders were given longer sentences, there would be a substantial reduction in youth crime."*

A major study in the U.S. (Van Dine, Conrad and Dinitz 1979) found that a five year mandatory sentence for all offenses would have resulted in a reduction of less than 5% in the police-reported crime rate. In order to accomplish this modest reduction, the authors of this study projected a 600% increase in the prison population. The construction and operational costs would be prohibitive. There is no reason to believe that an analysis specific to young offenders would produce different results.

The cost of juvenile corrections is already high - \$485 million in 1992/93 - and has risen 37% since 1988/89. In Ontario, the cost of custody is responsible for approximately 70% of expenditures on juvenile corrections.

Claim #6 *"Transfers to adult court are used only for dangerous young offenders."*

There is provision in the *Young Offenders Act* for youths over the age of

14 to be transferred to the adult court system to face adult sanctions including imprisonment in a prison for adults. While the use of the transfer provisions was meant as a safety-valve to be restricted to "dangerous" young offenders, practice shows that this is not always the case.

In 1992-93, there were 33 cases transferred to adult court. Of the 33 cases, 2 were for minor assault, 3 for break and enter, 1 for theft over \$1000, and 2 for failure to appear in court. Use of the transfer provision varies across the country. Of the 33 cases transferred to adult court in 1992-93, 11 were from Quebec and 12 from Alberta. This variation in transfers by provinces suggests unequal treatment of young persons depending on where they live.

Claim #7 *"Some young offenders have shown by their behaviour that they are very dangerous and must be transferred to adult court so that they can be sentenced to terms longer than the maximum allowed under the YOA. Sometimes sending them to prisons for adults is the only way that society can be protected."*

In the federal prisons, there are no special facilities or programs for young offenders. Vocational and educational opportunities are limited. Psychological resources are virtually consumed by the demands for assessment and on-going professional treatment is rare. With the growing problems of overcrowding in federal prisons (more than 25% of inmates in the Ontario region are living 2 to a cell), rehabilitation programs and services are stretched even further.

Federal prisons are violent environments. A study of victimization in federal prisons (Cooley 1992) found that the rate of personal victimization (robbery, sexual assault and assault, including threats) was 2.5 times higher in federal prisons than for males age 15-24 in the community. (Figure 5) A recent study by the Correctional Services of Canada found that federal inmates were

3.5 times more likely to commit suicide than those of the same age and sex in the general population. The murder rate is over 8 times higher than that of 18-39 year-old males in the community.

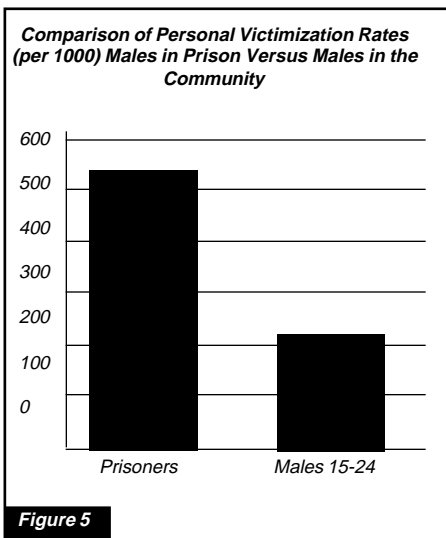


Figure 5

Source: Cooley 1992

Placing young offenders who have been violent in an environment which supports and encourages those violent tendencies ultimately increases the risk we face. If society's goal in the sentencing of violent young offenders is to increase public safety, it is difficult to see the logic of such an approach.

Rather than abandoning this small number of troubled youth to adult prisons, we must reduce their propensity for violence through treatment programs and services designed for youth.

Ultimately, if a young person is so troubled that he/she can not be dealt with adequately within the maximums allowable under the YOA (5 years), the person would be more appropriately detained under the provisions of mental health - rather than criminal justice - legislation.

Creating Sensible Solutions

Over-reliance on criminal justice solutions is expensive and ineffective. A recent study of the factors correlated to crime in 26 of the largest municipalities in Canada tells us that:

* the socio-demographic characteristic that correlates most strongly with all offenses under study is **the male unemployment rate**;

* municipalities with a relatively high proportion of **families living in poverty, in rented dwellings or who are supported by lone parents** tend to have the highest rates of serious assault, robbery, break and enter, theft and the more serious drug offenses;

* municipalities with a relatively high **proportion of males between the ages of 20 and 34** also tend to have high rates of robbery, break and enter, theft and the more serious drug offenses, relative to other areas; and

* the percentage of the population aged 15 and over **without a high school diploma** is the population characteristic most highly correlated with rates of assault and sexual assault.

Source: Canadian Centre for Justice Statistics, 1993

None of these factors can be changed through the justice system although some can be affected by initiatives in other areas of social policy. If the objective is to reduce losses from criminal activity to both the victim and the offender, it simply makes sense, and is in our best interest, to focus efforts in the areas that research has identified as those most likely to produce positive results.

Sources:

R. Corrado and A. Markwart, "The Need to Reform the YOA in response to violent young offenders: Confusion, reality or myth" in *Canadian Journal of Criminology* 36, (3) 1994

D.A. Andrews et al., "Does Correctional Treatment Work? A Clinically relevant and psychologically informed meta-analysis". *Criminology* 28 (3), 1990

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S. Van Dine, J.P. Conrad and S. Dinitz, *Restraining the Wicked*. 1979.

The John Howard Society is an organization of citizens who accept responsibility for understanding and dealing with the problems of crime and the criminal justice system.

If you would like more information about the John Howard Society or you would like to contribute to the work of the Society, please write or contact us by phone at:

John Howard Society of Ontario
6 Jackson Place
Toronto, Ontario
M6P 1T6

Tel: (416) 604-8412
Fax: (416) 604-8948

