

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

## EXECUTIVE SUMMARY

### Introduction

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

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

The objectives of this report are to:

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

### Methodology

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

Two main strategies were undertaken to accomplish these objectives:

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

The following research questions are addressed in this report:

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

## **Discussion and Conclusions**

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

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

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

From the quantitative data examined, the *YCJA* appears to have greatly affected the flow of cases through the youth criminal justice system in Alberta. The year the legislation came into force marked a shift in the pattern of youth charges, court decisions, and sentence outcomes. The number of youth charges experienced a sharp decline in 2003, particularly with regard to property crime charges. This suggests that

youth are increasingly being diverted away from criminal justice system, which was one of the main principles of the *Act*. The number of youth apprehended for other Criminal Code offences, but not charged, also increased after the YCJA came into force. This likely reflects an increase in administration of justice offences, as the focus group participants mentioned that there are now many more opportunities for youth to breach. The number of youth cases heard in court decreased, with subsequent decreases in court decisions. Of particular interest was the increase in cases that were stayed, which may reflect cases that are proceeding through extrajudicial measures or sanctions. This is especially evident for property crimes, drugs, and other *Criminal Code* offences, including administration of justice offences and disturbing the peace offences, which showed decreases in guilty decisions and increases in the proportion of stay decisions. Again these findings suggest that the legislative goal of diversion is being accomplished.

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

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

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

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

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

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

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

### The Use of Extrajudicial Measures

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

### Suggestions for Change

Overall, police officers were less optimistic than probation officers about the effectiveness of the *YCJA*, in particular for reducing crime of persistent and serious youth offenders. On the other hand, many of the suggestions that they made spoke to

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

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

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

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