

**EVALUATION OF
LEGAL AID ONTARIO'S
YOUTH COURT ACTION PLANNING PILOT PROJECT**

Report to the Department of Justice Canada

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Executive Summary

August 27, 2004

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Executive Summary

1. INTRODUCTION

The Department of Justice Canada, Youth Justice Branch requires an evaluation of Legal Aid Ontario's Youth Court Action Planning Program, a pilot project that was funded under its Youth Justice Renewal Initiative.

The major purpose of the evaluation is to examine the degree to which the pilot project has achieved its stated outcome objectives of: 1) reducing the use of the youth court; 2) reducing the use of pre-trial detention; and 3) reducing the use of custodial sentences.

2. LEGAL AID ONTARIO'S YOUTH COURT ACTION PLANNING PILOT PROJECT

Legal Aid Ontario (LAO) established a pilot project designed to provide Duty Counsel and Defence Counsel with Youth Court Workers in several court locations in Toronto including: 311 Jarvis, North York and Etobicoke. Two additional sites were implemented outside of Toronto: Newmarket and Kenora. In September 2004, the North York and Etobicoke sites were combined into a single site.

Pilot Project Objectives:

The program was designed to achieve three major objectives that are consistent with the Youth Criminal Justice Act (YCJA), including:

- 1) Reduce the use of the youth court, particularly for less serious offences;
- 2) Reduce the use of pre-trial detention; and,
- 3) Reduce the use of custodial sentences.

In addition, LAO had the following objectives:

- 1) To build on LAO's existing resources by staffing youth courts with experienced, knowledgeable duty counsel who work as a team with community agencies to maximize the potential for out-of-court diversions and alternatives to custody for young persons; and,

- 2) To improve the delivery of high quality legal services to young persons by fostering community outreach and the development of relationships between defence counsel, partners in the justice system and community agencies delivering services to young persons.

3. PURPOSE OF THE EVALUATION:

The purpose of the evaluation is to examine the degree to which the objectives of the Youth Court Action Planning Project (YCAPP) are being met.

4. EVALUATION DESIGN:

Process and Outcome Evaluation:

The evaluation included both a process and an outcome evaluation. However, the major focus was on examining outcomes achieved in relation to each of the outcome objectives for the pilot project.

The brief process evaluation examined: how the program was implemented; changes made to implementation plans and the reasons for and impacts of the changes; program structures and administration; level of use of the program; types of services provided; and use levels. It should be noted that service use data is required to understand the outcome data in the context of clients served through YCAPP.

The outcome evaluation addressed: outcomes that result from the program; and the degree to which the key program objectives are being met.

Data Collection Approaches:

Data was collected through: program delivery databases specific to each of the components of the YCAPP (i.e., extra-judicial sanctions, bail, and sentence planning); interviews with YCAPP staff and management; interviews with key community stakeholders, interviews with justice system personnel (i.e., judiciary, Crown Attorneys, Duty Counsel, defence bar), interviews with program clients, and interview with parents of program clients.

5. LIMITATIONS OF THE EVALUATION:

Several limitations of the evaluation were identified, including:

- 1) Interview participation rates for parents and clients:

The interview participation rates for parents and clients were quite low. While their participation in interviews does not affect analysis of program data to examine whether or not the program is effective in achieving its goals, it does limit the extent to which parent and client qualitative input about the impacts of the program can be incorporated into the results. Often, client and parent input can provide information that ensures a more comprehensive understanding of why the results are achieved. The extent to which interview materials for parents and clients in this study can aid in understanding the results is therefore limited.

2) Comparison Data:

Given that we were not able to obtain data directly from the Ministry of the Attorney General, the data we were able to collect from CCJS for Ontario was in a format that, for many variables, was not compatible with the program data collected. Hence, the usefulness of the CCJS data for comparative purposes was limited.

3) Outcomes:

The identified outcomes for YCAPP are consistent with the mid-term outcomes identified for the YCJA. However, the program outcomes do not address longer-term outcomes of effectiveness such as reduction of recidivism and lifestyle changes adopted by the youth (and parents) as a result of involvement in the program. The outcomes are focussed strictly on more administrative outcomes (reduction in use of courts, reduction in pre-trial detention, and reduction in use of custodial sentences). A relationship between reducing these factors and impacts on the youth in terms of criminal behaviour, lifestyle, and the likelihood of future charges, is assumed in the outcomes identified for the YCJA. However, this study was not designed to examine these assumed relationships and cannot be assumed to provide evidence to support that the assumed longer-term outcomes will be achieved. An examination those relationships would require study of the clients over a much longer period of time and collection of additional data dealing with personal, lifestyle, and criminal record changes.

6. EVALUATION FINDINGS:

The YCAPP was designed to achieve several major outcomes, including:

- 1) Reduce the use of the youth court, particularly for less serious offences;
- 2) Reduce the use of pre-trial detention; and,
- 3) Reduce the use of custodial sentences.

In addition, LAO had the following objectives:

- 1) To build on LAO's existing resources by staffing youth courts with experienced, knowledgeable duty counsel who work as a team with community agencies to maximize the potential for out-of-court diversions and alternatives to custody for young persons; and,
- 2) To improve the delivery of high quality legal services to young persons by fostering community outreach and the development of relationships between defence counsel, partners in the justice system, and community agencies delivering services to young persons.

- **Reduction in the Use of Youth Court:**

With respect to reduction in the use of youth court, particularly for less serious offences, the evaluation indicates that the outcome is achieved through the YCAPP. To demonstrate that the outcome is being achieved, reductions in the average number of court appearances are sufficient for both bail planning and sentence planning. While reduction in the average number of court appearances is necessary to demonstrate the outcome is being achieved for extra-judicial sanctions, it is also necessary to show that extra-judicial sanctions cases also result in the sanctions being completed and the charges withdrawn or stayed.

In total, 225 youth became involved in the extra-judicial sanctions planning component of the program. The Crown Attorney is responsible for screening youth into the formal extra-judicial sanctions programs operated by probation services using criteria set by the Ministry of the Attorney General (Ontario). The 225 youth who became involved in the YCAPP extra-judicial sanctions planning component had been denied access to extra-judicial sanctions by the Crown Attorney. The denial was based on criteria for acceptance, such as the type of charge. Of the 225 youth, 218 were deemed eligible to have plans developed based on rejection by the Crown for the extra-judicial sanctions program and their willingness to become involved in and cooperate with the YCAPP. A total of 200 cases had completed plans. Of these, outcome information was available for 139 cases. In 125 cases (89.93%), the charges against the youth were either stayed or withdrawn, or in situations of multiple charges, both stayed and withdrawn, depending on the charge (2 of the 125 cases). In 14 of the 139 cases (10.07%), the youth was sentenced to probation. The data illustrates that this component of the program was successful in diverting youth away from other forms of sanctions in almost 90% of cases that reached the point of completion. Hence, the extra-judicial sanctions component is achieving the intended outcome of reducing the use of the court system and diverting youth from other forms of sentencing.

The average number of court appearances in Ontario youth courts is 7 (2003-2004). The results indicate that regardless of the type of planning in which the client is involved, YCAPP clients appear in court fewer times on average than the average for Ontario. The most reliable comparisons are for those involved in sentence planning. YCAPP clients made an average of 2.5 court appearances, compared to the average of 7 for Ontario youth courts. Bail planning cases made an average of 1.7 court appearances. Finally, Extra-judicial Sanctions Planning clients made an average of 2.8 appearances.

- **Reduction in the Use of Pre-trial Detention:**

To illustrate that YCAPP results in reduction in the use of pre-trial detention, it is necessary to show that a substantial proportion of the completed YCAPP bail planning cases resulted in bail being granted and that in a sufficient proportion of cases granted bail, the Crown's was asking for detention.

In total, 318 cases were processed to the point where a plan was completed and presented in court and a bail decision was rendered. Of these, 272 (85.5%) cases were granted bail, while 46 (14.5%) were detained.

The Crown's position on bail was identified through the Crown's submission to the judge after verbal or written receipt of the individual plan developed for YCAPP clients. In 93 of the 272 cases (34.2%) where bail was granted, it was granted in situations where the Crown's was asking for detention. It is interesting to note that in those cases in which bail was not granted, none of the cases were cases where the Crown would have consented to release.

Based on the data, it can be concluded that the YCAPP is effective in reducing the use of pre-trial detention, based on the number of cases in which bail is granted, and the proportion of those cases where the Crown would have requested detention.

- **Reduction in the Use of Custodial Sentences:**

To determine whether or not the YCAPP is effective in reducing the use of custodial sentences requires examination of:

- The type of sentences YCAPP sentence planning clients were given
- If the sentence involved a custodial term, the level of custody given
- The Crown's position on sentencing relative to the type of sentence received

As in the case of bail plans, use of the Crown's position has similar limitations that must be considered.

In total, there were 60 completed sentencing plan cases. Fifty-six (56, 93.3%) were given non-custodial sentences. The security level of custody and/or the length of custody were affected in 4 of the 60 cases in which a custodial sentence was given. One case was affected at 311 Jarvis, 1 at Kenora, and 2 at Metro West. When both non-custodial sentences and changes in the type of custody or length of custody are considered, 100% of sentence planning cases meet the criteria.

In the 56 cases where a non-custodial sentence was given, the Crown Attorney's position was that some form of custodial sentence should be requested of the court in 50 cases (89.3%). In the remaining cases, the Crown Attorney made a joint submission with the defence lawyer following receipt of the YCAPP plan for the youth.

Of the 4 cases in which a custodial sentence was given, the Crown's position was that custody would be required in 3 cases and no information about the Crown's position was available in the fourth case.

Conclusion:

Based on the evaluation findings, it can be concluded the desired outcomes have been achieved. The YCAPP does result in reduction in the use of youth court. This is true in each site. YCAPP also resulted in reduction of the use of pre-trial detention and custodial sentences for clients involved in the program in all sites.

With respect to the LAO-specific objectives, LAO was successful in achieving the objectives, as demonstrated through process evaluation results. Duty counsel and defence bar serving each of the pilot project sites were trained in working with the YCAPP staff and in dealing with the YCJA. Through this, they were able to increase the potential for out-of-court diversion and alternatives to custody for the YCAPP clients.

Further, community outreach and development of relationships between defence counsel, partners in the justice system, and community agencies delivering services to young people was successfully implemented in each project site through the YCAPP YCW.

7. RECOMMENDATIONS:

Based on the findings, the following are recommended:

- 1) Establish Sustainable Funding:

The YCAPP is effective in achieving program outcomes. Achievement of these outcomes aids the client and his/her family, the justice system through reductions in costs through reductions in use of court time, pre-trial detention, and custodial sentences. Further, Legal Aid Ontario is assisted through reductions in costs of providing legal counsel, given that the number of court appearances is reduced for a substantial number of clients. These results occur regardless of the specific types of planning services that are provided. Further, these results are achieved regardless of the site in which the program is operational. Given the differences between communities, some communities will achieve greater benefit from various types of planning services than others (e.g., Kenora achieves greater benefit from pre-trial detention planning than sentence planning).

2) Expansion of the YCAPP:

Given the success that has been achieved in all YCAPP sites, expansion of the YCAPP should be considered. In considering expansion, consideration should also be given to the level of effort and community resources that are present in communities to which the program is to be expanded. YCAPP requires immediate access to community resources/services in order to provide meaningful planned interventions to address client needs. Both Kenora and Newmarket had fewer resources and more taxed resources than those of the other sites. In both cases, the YCW worked with other community members to attempt to address these issues and develop community services and resources. In communities with limited services and resources, it will be important to ensure that the YCW is skilled and able to undertake community development.

If the YCAPP is going to be expanded into communities where there are few resources available, consideration could also be given to expanding the role of the YCW to provision of some brief but needed services, such as anger management courses for YCAPP clients. Inclusion of direct service provision in the job description for a YCW would have to fit with the mission and objectives of any organization funding the YCAPP.

3) Promotional Materials for the YCAPP:

While the YCAPP staff have done an excellent job of promoting the YCAPP, justice system interviewees indicated that they would have benefited from materials that described the types of cases that would benefit from involvement in any of the planning services and how they would likely benefit. If continued, the YCAPP should develop these materials for promotional purposes.

4) Promotion of the YCAPP in Other Areas of Canada:

YCAPP was funded through the Youth Justice Renewal Initiative. The evaluation provides evidence that program is effective in: reducing the use of youth court, reducing the use of pre-trial detention, and reducing the use of custodial sentences for youth who would otherwise have been processed through the youth court, and been facing detention and custody. The DOJ, Youth Justice Branch should ensure that other jurisdictions across Canada are made aware of the YCAPP's effectiveness and, where appropriate, encouraged to implement the program.