

**A COMPARISON OF CASE PROCESSING  
UNDER THE *YOUNG OFFENDERS ACT*  
AND THE FIRST SIX MONTHS OF  
THE *YOUTH CRIMINAL JUSTICE ACT***

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Report to the Department of Justice Canada

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*The views presented here are those of the author and do not necessarily represent the views of the Department of Justice or the Government of Canada.*

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## Summary of Main Findings

This report was prepared in response to questions on the differences in youth court processing before and after the *Youth Criminal Justice Act* that were raised by officials of the Youth Justice Policy Section, Department of Justice Canada. Two surveys in five major centres collected quantitative data from justice system files for cases dealt with under the *Young Offenders Act* and under the *YCJA*. The random sample of *YOA* data was collected in 2002 but involved cases processed in fiscal year 1999-2000. The *YCJA* cases were dealt with by youth courts from April to September-November 2003 in the first six months of the new law. The urban courts studied were Halifax, Toronto and Scarborough, Winnipeg, Edmonton, and Vancouver and Surrey.

The analysis describes case processing in terms of the *percentages* of cases being dealt with by the youth courts. These data can be used to analyze changes in relative case characteristics and outcomes, but not changes in the volume of cases.

### Characteristics of Cases Entering Youth Court

- Overall, the percentage of youth with a prior finding of guilt did not differ in the two time periods. Data problems may have obscured changes in individual court locations.
- There was no change in the percentage of young persons charged with the most serious, “pure” indictable offences.
- Less serious hybrid charges such as theft under and possession under \$5,000 showed a decrease overall and in some individual courts.
- Administration of justice charges increased in the total sample and in some court locations. In only one court was there a downward trend (bail-related charges in Winnipeg).
- The average number of charges laid did not change in the sample as a whole.

### Pre-trial Detention

- Police detained youth for a bail hearing in roughly the same proportions in 2003 as they had in 1999. However, in the total sample and in the Edmonton court, proportionately more youth were detained by police after the *YCJA* came into effect.
- There was no indication that the number of release conditions imposed on police undertakings was influenced by the *YCJA*.
- The court decision to release at a bail hearing did not change over time although in two courts there was an indication that the percentage detained until their case was over had increased.
- The average number of court-imposed release conditions did not change and there was little evidence that the use of specific conditions had altered.
- The average number of days detained were not significantly different under the *YOA* and the *YCJA*.

## Findings of Guilt

- Compared to *YOA* processing, in the first six months of the *YCJA* fewer cases resulted in a conviction in Toronto, Scarborough and Edmonton; similar patterns were evident in Halifax and Winnipeg but the changes were not statistically significant.
- The analysis of factors affecting adjudication decisions found that the number of current charges was most important in both periods – the larger the number of charges, the greater the likelihood that the case resulted in at least one conviction. The nature or apparent seriousness of the charges did not significantly predict findings of guilt in either time period. These data – that is, the decreased proportions of guilty findings – suggest that there may have been uncertainty among key decision-makers, primarily Crown prosecutors, in the first months of the *Act*.

## Sentencing

- About 20 percent of *YCJA* cases received one of the new sentences (reprimand, intensive support and supervision, attendance centre order or a deferred custody and supervision order). No case in the *YCJA* sample received an intensive rehabilitative custody and supervision (IRCS) order.
- When the use of custody is operationalized as the proportion of sentenced cases that received custody including deferred custody, there were significant decreases in Halifax, downtown Toronto, and Vancouver/Surrey.
- When offence type was controlled, there were significant reductions in the percentage of cases receiving custody in most major offence categories. The main exceptions were offences against the rights of property.
- When we look at the profile of charges that resulted custody/DCSO in the two time periods, in the *YCJA* sample, indictable person and property charges were more likely to receive custody, and administration of justice charges less likely.
- A large majority of young persons receive a probation order, regardless of their offence category and the time period.
- The number of probation conditions significantly increased after the legislation in three court locations and in the sample as a whole.
- The types of probation conditions also changed, for example: proportionately more probationers were required to keep curfew, abstain from alcohol and non-prescription drugs and attend programs as directed by the probation officer.
- The types of probation conditions that were breached in the post-law period did not differ from before the law, but the six months time period is too short for follow-up, so this finding should be viewed cautiously.
- At 13 months per case, the average number of months of probation orders was the same in the two time periods.
- Under the *YCJA* most youth sentenced to custody remain under the authority of the court beyond the conclusion of the community portion of their custody sentences either because the court had ordered custody and supervision *and* probation or because they were already on probation. The proportions on probation after custody were almost identical – 85 percent before and 82 percent after the *Act* began.

### Factors Affecting Custodial Sentences

- There were substantial differences by court location in the factors significantly associated with receiving a custodial sentence before and after the *YCJA*. This summary presents the findings for the sample overall.
- In the pre-law sample, having a prior custody sentence and having more current charges were better predictors of custody than other factors.
- In the post-law sample, having three or more prior convictions *and* a current indictable conviction as well as having more current charges were the best predictors of custody. The strength of the former factor – which operationalizes one of the criteria for custody in the *Youth Criminal Justice Act* – suggests that the courts are giving this factor more weight than they may have under the *Young Offenders Act*.
- Having a current conviction for breach of probation was a significant predictor of custody in the pre-law group but not in the post-legislation sample.
- Having a current conviction for a bail violation was unrelated to custody before the *Act*, but after the *YCJA* there was a significant negative relationship.
- Having one or more social or psychological problem predicted custody under the YOA but not under the YCJA.

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## Introduction

The purpose of this report is to provide the Youth Justice Policy Section of the federal Department of Justice with quantitative comparisons between the functioning of the youth justice system under the *Young Offenders Act* and the *Youth Criminal Justice Act* – in fiscal year 1999-2000 and in the first six months of the new legislation in 2003 (April to September), respectively. The data sources are the case processing baseline study undertaken in 2002 on behalf of the Youth Justice Policy Section and a monitoring study done by the Research and Statistics Division of Justice Canada in the fall of 2003. The research questions were identified by federal government officials and are appended to this report.

The analysis describes case processing in terms of the percentages of cases being dealt with by the youth courts. These data can be used to analyze changes in relative case characteristics and outcomes, but not changes in the volume of cases. For example, there may be only a tangential relationship between the percentages reported here and the number of cases being dealt with by youth correctional staff.

### 1. Data

In essence, there are three datasets explored in this report:

- (a) the baseline sample of FY 1999-2000 *YOA* cases (N = 1,843).

The six month *YCJA* sample can be thought of as two sub-samples:

- (b) those cases that had their first court appearance after the new legislation began on April 1, 2003 and were concluded before data collection in the fall of the same year (N = 395, the “pure” post-*YCJA* group), and
- (c) the cases that began under the *Young Offenders Act* and were concluded after the start-up of the *YCJA* (N = 548).

Only group (b), the “pure” post-*YCJA* cases, was used for most analysis of case and court processing characteristics because all police and some of the court decisions of the latter group were made under the *Young Offenders Act* – not under the new legislation. The total six month monitoring sample, groups (b) and (c) combined (N = 943), was employed for sentencing analysis since all sentences were imposed under the new legislation.<sup>1</sup>

### 2. Analysis

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<sup>1</sup> Although not reported here in any detail, groups (b) and (c) differed on a number of dimensions which suggest that group (c) were more likely to include *less serious* cases. For example, a smaller percentage of group (c) had prior convictions.

The baseline and six months' monitoring data were merged into one SPSS dataset. The monitoring dataset represented a major challenge to the analysis because the data had not been cleaned and a number of variables were not in the same format as the baseline study. As a consequence, some time was required to make the information from the two time periods comparable.

The analysis was hampered by apparent differences in the interpretation of variables by data collectors in the monitoring phase. In order to improve data quality, the author had to make assumptions as to the meaning of the data; the accuracy of these assumptions is not known. In addition, the small numbers of cases in the "pure" post-*YCJA* group precluded analysis by court location in some instances.

### **3. Caveats**

The cases dealt with in the first six months of the *YCJA* may not be representative of all cases dealt with under the new legislation. To give one example, the timing of data collection means that cases with longer court processes are excluded. Furthermore, during the initial months of implementation, many parts of the youth justice system were still adjusting to the new legislation; delays in processing, uncertainty about new provisions, and other factors may have affected the data.

The changes over time observed in this report should not be viewed as necessarily caused by the new legislation. Other factors may have intervened between 1999 and the proclamation of the *YCJA* in April 2003. It is known that in several jurisdictions, there were substantial reductions in the number of cases entering both probation and custody as well as decreases in the number of youth charged by police.

This report provides details of case processing in terms of proportions (percentages) of cases being dealt with by the youth courts. (The actual numbers of young persons being dealt with in these urban youth courts are not readily available for most jurisdictions.) These data can be used to analyze changes in relative case characteristics and outcomes, but not changes in the volume of cases.

The courts included in this research deal with about one out of seven youth cases in Canada (excluding Québec).<sup>2</sup> Although this proportion is substantial, the case characteristics and outcomes described below are not necessarily representative of all courts in the country.

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<sup>2</sup> Calculated from Youth Court Survey data for FY 1999-2000, provided by the Canadian Centre for Justice Statistics.



## Characteristics of the Case

### 1. Social Characteristics

The gender of cases did not differ in the two time periods. There was no difference by Aboriginal status except in downtown Vancouver, where there was a twofold rise (from 23 to 49 percent of cases entering the court) in the percentage of Aboriginal youth dealt with under the YCJA. In the overall sample, the young persons whose cases started after the new law were marginally older; the difference was remarkable only in Halifax where youth were on average almost a year older after the new law. These data are not shown in table form.

### 2. Prior Record

In the total sample, there was no difference in the percentage of first offenders dealt with by the youth courts before and after the *YCJA*. In some locations, it is impossible to draw conclusions on the trend in prior record because the percentages of unknown data differ in the two time periods (see the “not known” row in Table 1). That is, no conclusions can be drawn about the differences in the percentage of first offenders entering youth court in Halifax, Toronto/Scarborough, and Edmonton because of the disproportionate number of “not knowns” in either the “pre-“ or “post-“ groups. In the courts where comparisons can be made – Winnipeg, downtown Vancouver and Surrey – there were no significant differences in prior record.<sup>3</sup>

### 3. Number of Current Charges

Instant charges are the charges that brought the case into the sample. In Edmonton, on average, there were more charges laid after the *Act* began than there were before, an average of 5.4 per case compared to 4.4. Fewer charges were involved in cases in Vancouver and Surrey and this is confirmed by the impressions of system personnel, many of whom have commented on the sharp drop in the number of charges. There was no difference in the average number of charges in the sample overall. See Table 2.

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<sup>3</sup> However, in downtown Vancouver there was a non-significant increase in the average number of past convictions, from 3.8 to 4.9 per case (and the median number of past offences rose from 1 to 2.5). In Surrey, the average decreased in the *YCJA* period. In Winnipeg, there was no change in the average or median number of earlier findings of guilt. In the total sample, the average number of prior convictions went from 3.2 under the *YOJA* to 3.5 under the new legislation, a non-significant difference. These data are not shown in table form.

**Table 1: Prior Record before and after the YCJA, by Court Location**

Prior record?	Halifax		Toronto & Scarborough		Winnipeg		Edmonton		Vancouver		Surrey		Total	
	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample
	Column percentages													
No, first offender	44.9	25.9	50.0	53.4	42.0	47.4	28.4	31.6	38.3	30.3	46.7	45.8	41.2	38.8
Yes, prior conviction(s)	49.0	50.0	46.5	22.4	54.7	52.6	59.4	66.7	59.3	69.7	47.4	52.1	52.7	53.2
Not known	6.2	24.1	3.5	24.1	3.3	0	12.3	1.8	2.4	0	5.9	2.1	6.0	8.0
Total percent	100.1%	100.0%	100.0%	99.9%	100.0%	100.0%	100.1%	100.1%	100.0%	100.0%	100.0%	100.0%	99.9%	100.0%
Total number	341	58	398	58	369	76	416	114	167	33	152	48	1843	387

Note: Prior record is defined as the presence of past guilty findings in the youth’s history.  
 The disproportionate numbers of “not knowns” in the “YCJA sample” columns (Halifax and Toronto/Scarborough) and in the “YOA sample” column in Edmonton prevent valid pre-/post comparisons.

**Table 2: The Number of Instant Charges before and after the YCJA, by Court Location**

	Halifax		Toronto & Scarborough		Winnipeg		Edmonton		Vancouver & Surrey		Total	
	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample
	Average and median number of charges											
Mean	3.7	3.5	3.3	2.7	5.2	4.8	4.4	5.4	3.0	2.4	3.9	4.0
Median	2.0	3.0	2.0	2.0	4.0	4.0	3.0	4.0	2.0	2.0	3.0	3.0
Total number of cases	341	58	398	58	369	76	416	114	319	81	1843	387
F value, p value	2.96, n.s.		2.14, n.s.		0.53, n.s.		7.75, p<.007		4.27, p<.04		0.31, n.s.	

Note: In this and subsequent tables, the shaded pairs are statistically significant at p<.05 or less. In this case, the before and after *Act* means are significantly different according to the F value of the t-test (difference in means).  
 n.s. = not statistically significant.  
 “Instant” charges are the number of charges in the matter that brought the youth into the sample.

#### 4. Types of Current Charges

This analysis looks at the nature of the charges that brought the young person to court, including the charges where no guilty finding sentence occurred.

Charges were categorized by their major offence category – whether indictable or hybrid/summary and by the type of offence, person, property, drugs, weapons, administration of justice, or “other” (victimless) charges. This categorization is a rough approximation of seriousness, with indictable offences being the most serious and hybrid or summary offences less serious. Offences against the person, especially indictable charges of this type, tend to be seen as the most serious of all charge categories. Charges of probation breach, other offences against the administration of justice, and all “other” offences are considered the least serious by some observers because they lack a victim. Tables 3 and 4 should be examined together. The former shows the distribution of the major offence categories under the YOA and the YCJA and Table 4 presents the distributions for several prominent, usually less serious, specific offences.

The distributions of the pure indictable offence categories did not differ significantly after the law’s proclamation, which suggests that any police or prosecutor uncertainty about charging young persons did not apply to the most serious offence groupings.

Hybrid offences against the person showed a significant decrease over time in the total sample, but other than in Edmonton the drops were not sufficiently large to reach significance (Table 3). When assault level one charges were isolated from other hybrid person charges, there were proportionately fewer in the total sample as well as in the Edmonton court (Table 4).

Hybrid or summary property offences went down substantially in Edmonton and Vancouver/Surrey (Table 3). The charge of theft under \$5,000 showed large reductions in Halifax, Edmonton and Vancouver/Surrey; possession under \$5,000 went down in Halifax and Winnipeg (Table 4).

The two most frequent charges in the administration of justice category are breach of probation conditions and failure to attend court or failure to comply with other bail conditions. Both types of charges – non-compliance with probation and with bail release conditions – went up appreciably in the sample overall (Table 4). The increase in probation violations was largely confined to Halifax and Vancouver/Surrey (Table 3) and the change in bail violations was accounted for by the Halifax and Edmonton courts (Table 4). In Winnipeg, there was a marginal and statistically non-significant decrease in bail-related charges.

Thus, there were moderate differences in the distribution of offence types being dealt with before and after the *YCJA*. Most notably, administration of justice charges increased. Less serious offences involving persons and property decreased in the total sample and in a few individual courts. The most serious “pure” indictable offences showed no change over time.

**Table 3: Major Offence Categories before and after the YCJA, by Court Location**

	Halifax		Toronto & Scarborough		Winnipeg		Edmonton		Vancouver & Surrey		Total	
	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample
	% of cases involving each major offence category											
Indictable person	7.0	5.2	11.6	12.1	8.1	10.9	4.8	0.9	4.7	3.7	7.3	5.7
Indictable property	19.4	15.5	19.1	13.8	20.1	28.9	12.3	13.2	18.2	11.1	17.6	16.3
Indictable weapons & drugs	2.9	6.9	6.5	3.4	0.5	2.6	3.6	0.9	4.4	2.5	3.6	2.8
Hybrid person	25.8	29.3	33.7	36.2	22.5	15.8	17.8	7.9	27.6	23.5	25.3	20.2
Hybrid/summary property	46.6	34.5	28.4	29.3	33.6	35.5	39.4	27.2	36.7	16.0	36.7	27.9
Hybrid/summary weapons & drugs	9.7	8.6	19.1	19.0	7.0	13.2	7.2	3.5	7.5	13.6	10.3	10.6
Probation breach	17.6	34.5	8.5	5.2	13.3	13.2	18.3	20.2	17.6	40.7	14.9	23.0
Other administration of justice	10.3	22.4	15.6	25.9	24.1	15.8	18.8	40.0	4.7	4.9	15.1	23.3
Other charge type (victimless)	4.4	6.9	11.1	15.5	16.5	5.3	16.6	12.3	3.1	3.7	10.8	8.8
Total number on which percentages are based	341	58	398	58	369	76	416	114	319	81	1843	387

Notes: All current instant charges (the charges that brought the young person into the sample) are included.

The percentages do not add up to 100% because most cases have more than one charge. The table is to be interpreted as, for example, in Halifax, 47 percent of cases involved one or more hybrid or summary offence against the rights of property before the new legislation, compared to 35 percent after the *Act*.

Shaded pairs are statistically significant at  $p < .05$ , according to the chi-square statistic.

**Table 4: High Frequency Charges before and after the YCJA, by Court Location**

	Halifax		Toronto & Scarborough		Winnipeg		Edmonton		Vancouver & Surrey		Total	
	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample
	% of cases involving each high frequency charge											
Less serious assault (assault level 1) charge	13.5	19.0	17.3	19.0	9.8	3.9	9.9	5.3	16.0	7.4	13.2	9.6
Theft under charge	29.0	10.3	12.1	15.5	17.3	19.7	24.3	13.2	20.4	8.6	20.5	13.4
Possession under charge	20.5	8.6	11.6	13.8	5.4	0	7.7	10.5	6.6	2.4	10.3	7.0
Mischief under charge	12.9	12.1	6.3	5.2	7.0	10.5	8.9	4.4	10.7	4.9	9.0	7.0
Administration of justice charges												
• probation breach	17.6	34.5	8.5	5.2	13.3	13.2	18.3	20.2	17.6	40.7	14.9	23.0
• bail violation	8.2	17.2	10.8	19.0	20.6	11.8	13.5	39.5	1.6	3.7	11.3	20.2
Total number on which percentages are based	341	58	398	58	369	76	416	114	319	81	1843	387

Note: Shaded pairs are statistically significant at  $p < .05$ , according to the chi-square statistic.

## **Pre-trial Detention**

The *YCJA* contains provisions that restrict the use of pre-trial detention and encourage the use of alternatives by police and justices of the peace/youth court judges, including:

- a prohibition on the use of detention as a substitute for child welfare, mental health or other social measures;
- a presumption against the use of detention if the young person could not be sentenced to custody if found guilty of the offence; and
- a requirement that the judge inquire about the possible availability of a "responsible person" to provide an alternative to detaining the young person.

The youth court judge or justice of the peace is required to presume that detention of a young person is not necessary for the protection of the public if the young person could not, on being found guilty, be sentenced to custody on the grounds set out in paragraphs 39(1)(a) to (c). This subsection sets out three minimum or threshold criteria for the use of custody as a sentence:

- the young person has committed a violent offence;
- the young person has failed to comply with two or more non-custodial sentences (i.e., a breach of probation or other community sentence);
- the young person has committed an indictable offence for which an adult would be liable to imprisonment for more than two years and has a history that indicates a pattern of findings of guilt.

It was originally expected that these restrictions would reduce the use of pre-trial detention under the *YCJA*. This does not appear to have occurred; many jurisdictions have reported no large change in the counts of youth in detention. This section compares the pre- and post-law situations with regard to the percentage of young persons detained by police at apprehension and by the courts after bail hearings. Although our data are very different from detention counts – the counts are the number actually in detention in a specified period and our data are the proportions held by police and the courts – both indicators of detention use show that there is little positive change in pre-trial detention practices.

### **1. Police Detention at Arrest**

The comparison data suggest that the lack of change may be in part related to the inflexibility of police release practices. No city showed a decrease in the percentage of youth held by police for a bail hearing. In Edmonton, an increase in the percentage detained was statistically significant (Table 5). Under the *YOJA*, 45 percent of youth were held by police, compared to 52 percent under the *YCJA*.

Unlike most analysis in this report, Vancouver and Surrey data are separated for this discussion of pre-trial detention. This was done because in the *YOJA* survey, it was found that 79 percent of youth were detained in Vancouver, compared to 35 percent in Surrey. Post-law, the Vancouver

proportions are almost identical to the pre-law finding – that is, more than four out of five young persons were held for a bail hearing.

There was an increase in the proportion of youth released on a police undertaking in Halifax, Toronto/Scarborough and Vancouver/Surrey (Table 6). Because most undertakings entail conditions, they are viewed as more onerous than other forms of police release.

#### Number of Conditions on Police Undertakings

Table 7 shows the number of conditions imposed on young persons that were released by police. In the Introduction, it was explained that there are really three datasets in this analysis: (a) the baseline *YOA* data for FY 1999-00; and two sets of post-legislation data defined as (b) the “pure” post-*YCJA* cases that began after April 1, 2003 and (c) cases that began before that date but were concluded after the law began. Table 7, unlike other tabulations in this section, includes group (c). The incidents that brought the youth in group (c) to the attention of police occurred before the new *Act* – and sometimes well before it. Consequently, the police decisions about pre-trial detention were also made prior to the *Act*’s coming into force. *Both* the pure post-law cases and this group show similar distributions – larger percentages had one or more release condition and the mean number was significantly higher than the pre-law group. In other words, these apparent changes in police decisions occurred before the law came into effect and cannot necessarily be attributed to the *YCJA*. Indeed, it seems unlikely that there is any causal relationship between the change in the law and the change in police practices in this regard.

**Table 5: The Percentage Detained by Police at Arrest before and after the YCJA, by Court Location**

	Halifax		Toronto & Scarborough		Winnipeg		Edmonton		Vancouver		Surrey		Total	
	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample
	Column percentages													
Detained by police	22.7	31.5	53.1	44.8	49.2	52.1	37.6	56.1	80.4	87.1	35.6	46.8	45.2	52.4
Released by police	72.3	68.5	46.9	55.2	50.8	42.9	62.4	43.9	19.6	12.9	64.4	53.2	54.8	47.6
Total percent	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Total number of cases	332	54	392	58	360	70	396	114	163	31	146	47	1789	374
Chi-square, df=1, p value	0.33, n.s.		1.37, n.s.		1.49, n.s.		12.48, p<.001		0.78 n.s.		1.88, n.s.		6.42 p<.02	

Notes: Shaded pairs are statistically significant at p<.05, according to the chi-square statistic.

**Table 6: Type of Release by Police at Arrest before and after the YCJA, by Court Location**

Mode of police release:	Halifax		Toronto & Scarborough		Winnipeg		Edmonton		Vancouver & Surrey		Total	
	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample
	Column percentages											
Appearance notice	26.7	13.5	20.1	25.0	24.0	23.3	51.0	24.0	12.7	0	29.3	18.0
Summons	33.3	10.8	6.0	6.3	19.7	3.3	16.2	10.0	27.8	20.7	20.6	10.1
Promise to appear	7.5	27.0	26.1	9.4	21.3	33.3	10.9	32.0	23.8	31.0	16.5	27.0
Recognizance	0	10.8	0.5	0	0.5	3.3	0	4.0	11.1	6.9	1.6	5.1
Police undertaking	18.3	35.1	45.7	59.4	29.5	30.0	15.8	14.0	14.3	34.5	24.4	32.6
Released, not known how	14.2	2.7	1.6	0	4.9	6.7	6.1	16.0	10.3	6.9	7.6	7.3
Total percent	100.0 %	99.9%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Total number of released cases	240	37	184	32	183	30	247	50	126	29	980	178
Chi-square, df=5, p value	53.36 p<.001		5.31, n.s.		7.87, n.s.		35.59, p<.01		10.63, n.s.		36.92, p<.001	



**Table 7: The Number of Police Release Conditions: YOA Cases (Baseline), Cases Beginning after the YCJA, and Cases Beginning before the YCJA but Concluded after Proclamation**

Number of police conditions:	Baseline cases	First 6 months cases	
	YOA sample	Proceedings all under YCJA	Began before YCJA & concluded after
	Column percentages		
No conditions of release	76.5	66.9	57.3
1 condition	6.2	5.6	8.1
2 conditions	8.0	10.7	14.2
3 conditions	6.9	7.9	9.7
4 to 7 conditions	2.3	9.0	10.7
Total percent	99.9%	100.0%	100.0%
Total number	980	178	309
Chi-square, df=8, p value	66.65, p<.001		
Mean number of release conditions <i>excluding</i> cases with no conditions (number of cases)	2.3 (230)	2.8 (59)	2.7 (132)
F value, p value	21.46, p<.002		

Note: The last column is included in order to show that the change in the number of police conditions pre-dated the legislation.

### Police Detention Controlling for Legal Factors

The legal factors introduced as “controls” in the police decision to detain were whether a hybrid or indictable offence against the person (i.e., a violent offence) was involved in the case, whether the young person had a past breach of probation, and whether the youth had three or more past convictions of any type. It should be remembered that Table 5 shows that the overall proportion detained by police slightly increased after the new *Act* came into effect, from 45 to 52 percent.

Panels (a) and (b) of Table 8 shows that after the *YCJA*, the percentage detained by police was not related to the presence of an offence against the person, regardless of whether the offence was hybrid or indictable (although youth without violent charges were disproportionately held by police). Therefore, there is no discernible relationship among the three factors – the change in legislation, so-called violent offences, and police release practices. In panels (c) and (d), however, larger percentages of young persons with three or more convictions in the past and those with a past conviction for breach of probation were detained than were youth with no such offence history. These data suggest that the new law may have had an effect on police decisions for young persons with several past convictions and a history of violating the terms of probation orders; it is possible, too, that the charged pool from which detained cases were drawn under the *YOA* differed in key ways from those detained under the *YCJA*.

**Table 8: The Percentage of Cases Detained by Police before and after the YCJA, by Selected Case Characteristics**

% detained by police:	YOYA sample	YCJA sample	YOYA sample	YCJA sample
<b>(a) Hybrid offence against the person (less serious violent):</b>	<b>No hybrid person charge</b>		<b>Hybrid person charge</b>	
Detained by police	46.0%	54.6%	42.8%	43.6%
Total number of cases	1343	295	446	78
Chi-square, df=1, p value	7.11, p<.01		0.02, n.s.	
<b>(b) Indictable offence against the person (more serious violent):</b>	<b>No serious person charge</b>		<b>Serious person charge</b>	
Detained by police	43.3%	51.0%	70.0%	72.7%
Total number of cases	1659	351	130	22
Chi-square, df=1, p value	6.98, p<.01		0.07, n.s.	
<b>(c) Prior convictions</b>	<b>0 to 2 past convictions</b>		<b>3+ past convictions</b>	
Detained by police	38.4%	41.7%	60.5%	73.2%
Total number of cases	1239	247	550	127
Chi-square, df=1, p value	0.93, n.s.		7.11, p<.01	
<b>(d) Prior probation breaches</b>	<b>No past probation breach conviction</b>		<b>Past probation breach conviction</b>	
Detained by police	42.8%	47.2%	57.5%	76.1%
Total number of cases	1490	307	299	67
Chi-square, df=1, p value	2.08, n.s.		7.95, p<.01	

Notes: Shaded pairs are statistically significant at p<.05, according to the chi-square statistic.

## 2. Detention by the Youth Court

The next stage in the decision-making process for police-detained young persons is the court decision, made by a justice of the peace or a judge depending on the circumstances and the court. Approximately 60 percent of detained youth were released by the youth court in both time periods (Table 9). In Halifax, however, only 35 percent of detained youth were released under the YCJA compared to 69 percent under its predecessor; there were only 17 cases in the YCJA sample, so this finding should be viewed with caution. A similar pattern was evident in Winnipeg but the change was not statistically significant.

**Table 9: The Percentage Detained by the Court before and after the YCJA, by Court Location**

	Halifax		Toronto & Scarborough		Winnipeg		Edmonton		Vancouver		Surrey		Total	
	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample
	Column percentages													
Detained by the court/held until case over	30.8	64.7	45.8	50.0	39.8	56.8	37.2	35.6	27.9	25.0	23.5	31.8	36.8	42.7
Released by the court on an undertaking etc.	69.2	35.3	54.21	20.0	60.2	43.2	62.8	64.4	72.1	75.0	76.5	68.2	63.2	57.3
Total percent	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Total number of cases	91	17	201	26	166	37	145	59	129	24	51	22	783	185
Chi-square, df=1, p value	7.15, p<.01		0.02, n.s.		3.57, n.s.		0.05, n.s.		0.09, n.s.		0.55, n.s.		2.23, n.s.	

Notes: The shaded pair is statistically significant at p<.05 or less, according to the chi-square statistic.

**Table 10: Type of Release by the Court before and after the YCJA, All Courts Combined**

Type of court release	YOA sample	YCJA sample
	Column percentages	
“Responsible person” – s. 7.1 of the YCJA	8.1	4.7
Undertaking to appear	61.0	51.9
Recognizance	26.9	28.3
Released, not known how	4.0	15.1
Total percent	100.1%	100.0%
Total number of cases	495	106

The typical means of release by the court remained approximately the same in the *YOA* and *YCJA* samples – the majority of youth are released on an undertaking to appear, followed by recognizances (Table 10). There was an increase in the category “released by unknown means” but this is probably due to data collection issues. As did the *YOA*, the new legislation encourages release to a “responsible person” if the youth is liable for detention. This provision was infrequently used under the *YOA* (8 percent) and there has been no take-up under the *YCJA* (5 percent).

#### Conditions of Release on Bail

There was no change in the mean number of release conditions after proclamation (Table 11). However, the proportion of youth released without conditions was slightly higher among *YCJA* cases – again, this apparent difference may be due to data collection problems in the *YCJA* cases (last row of Table 11).

**Table 11: The Number of Court Release Conditions before and after the *YCJA***

<b>Number of conditions:</b>	<b>YOA sample</b>	<b>YCJA sample</b>
	Column percentages	
1 or 2 conditions	20.3	28.6
3 to 5 conditions	64.0	49.4
6 or more conditions	15.7	22.1
Total percent	100.0%	100.1%
Total number	464	77
Mean number of conditions	3.9	3.9
Median number of conditions	4.0	3.0
% of cases with no conditions (but released on an undertaking, recognizance, etc.)	2.7%	11.5%

Only one condition of court release changed (Table 12). For unknown reasons, proportionately fewer youth in the post-law period had a condition not to communicate with other persons, usually a co-accused. The finding is probably related to the types of cases in the *YCJA* sample. In addition, even though more released youth in the pure *YCJA* group were obliged to report to police or correctional staff (e.g., bail program), the last column shows that this change began before proclamation and can therefore probably not be attributable to the *YCJA*. The increase in reporting is more likely to be related to the implementation or expansion of bail programs after 1999. (All cases in the last column were detained prior to the *YCJA*.)

**Table 12: Type of Court Release Conditions: YOA Cases (Baseline), Cases Beginning after the YCJA, and Cases Beginning before the YCJA but Concluded after Proclamation**

Type of conditions:	Baseline cases	First 6 months cases	
	YOA sample	Proceedings all after YCJA	Began before YCJA & concluded after
Non-communication with victim	27.5	21.8	50.0
Non-communication with others	41.7	25.6	39.9
Report to police/other at specified intervals e.g., daily, weekly	31.1	48.7	44.0
Area restriction	35.0	34.6	49.4
Attend school or work	28.8	29.5	35.7
Abstain from alcohol or non-prescription drugs	22.4	29.5	33.3
No weapons	21.7	24.4	48.2
Curfew	54.3	48.7	43.5
House arrest	11.2	5.1	16.7
Total number of cases	466	78	168

Note: The shaded pairs are statistically significant at  $p < .05$  or less, according to the chi-square statistic.

#### Youth Court Detention Decisions Controlling for Legal Factors

Table 13, below, is identical to Table 8 on the factors associated with police detention, except that Table 13 refers to youth court detention decisions. Results for panels (a) and (b) are similar to those in Table 8 – that is, the percentage detained with a violent offence did not differ in the two time periods. However, the number of violent cases was small in the YCJA sample. Young persons with multiple previous convictions were not detained in larger proportions after the new legislation, according to panel (c); these data also indicate that those with three or more past findings of guilt were twice as likely as those with a less lengthy prior record to be held by the court. Panel (d) shows that cases involving a prior breach of probation did not differ in the YOA and YCJA samples in terms of the proportions held by the youth court.

In summary, detention decisions in the youth courts sampled were not greatly different under the YOA and the YCJA. These results should be viewed with caution because of the small numbers in the YCJA sample.

**Table 13: The Percentage of Cases Detained by the Court before and after the YCJA, by Selected Case Characteristics**

% detained by court:	YOYA sample	YCJA sample	YOYA sample	YCJA sample
	<b>No person charge</b>		<b>Person charge</b>	
<b>(a) Hybrid offence against the person (less serious violence):</b>				
Detained by court	38.3%	46.7%	31.9%	26.5%
Total number of cases	595	80	188	34
Chi-square, df=1, p value	0.06, n.s.		0.40, n.s.	
<b>(b) Indictable offence against the person (more serious violence):</b>				
Detained by court	36.5%	42.9%	38.8%	43.8%
Total number of cases	696	168	83	16
Chi-square, df=1, p value	2.30, n.s.		0.14, n.s.	
	<b>0 to 2 past convictions</b>		<b>3+ past convictions</b>	
<b>(c) Prior convictions</b>				
Detained by court	22.5%	24.7%	57.5%	62.5%
Total number of cases	463	97	320	88
Chi-square, df=1, p value	0.24, n.s.		0.71, n.s.	
	<b>No past probation breach conviction</b>		<b>Past probation breach conviction</b>	
<b>(d) Prior probation breaches</b>				
Detained by court	30.1%	39.1%	61.3%	53.2%
Total number of cases	615	138	168	47
Chi-square, df=1, p value	4.26, p<.04		1.01, n.s.	

Notes: The shaded pair is statistically significant at p<.05, according to the chi-square statistic.

### 3. Number of Days Detained

The average number of days detained did not significantly differ in the two periods; in 1999-2000 the mean days held was 11.9 and in 2003 the average was 10.6 and in both samples, the median was 2.<sup>4</sup> There was a significant difference, however, in the percentage of youth held for less than one day or, more accurately, whose dates of entry and release were identical – 19 percent compared to 29 percent after the new law. When the courts were examined individually, the latter pattern was only found in Toronto/Scarborough and Vancouver/Surrey. This finding probably has no relation to the new legislation itself; rather, the availability of justices of the peace is probably the more influential factor.

<sup>4</sup> In order to make the data comparable, very long detention stays (over 120 days) in the pre-law sample were excluded. These data are not shown in table form.

#### 4. Seriousness of Charges Involved in Cases Detained by Police and the Court

This section examines whether the nature of the charges involved in the case differed for young persons who were detained by the police and by the youth court. If seriousness of cases had increased after the proclamation of the new legislation, we would expect that there would be an increase in the percentage of indictable person and property offences (panels a and b), and in the percentage of all indictable offences (panel c) when the two samples are compared. Table 14 shows that this has not occurred. The sole significant change involves the indictable cases detained by police – 38 percent in the *YOA* but only 25 percent in the *YCJA* sample of detainees involved an indictable offence (panel c). The same pattern was found in the court detention data, but the difference did not reach the significance level of  $p < .05$ .

**Table 14: Major Offence Categories of Cases Detained by the Police and the Youth Court before and after the *YCJA***

<b>% of detained cases involving:</b>	<b>YOA sample</b>	<b>YCJA sample</b>	<b>YOA sample</b>	<b>YCJA sample</b>
	<b>Police detention</b>		<b>Court detention</b>	
(a) Indictable offence against the person (more serious violence)	11.2%	8.2%	11.7%	8.1%
Chi-square, df=1, p value	1.43, n.s.		0.86, n.s.	
(b) Indictable offence against property	22.1%	17.4%	21.0%	20.9%
Chi-square, df=1, p value	2.07, n.s.		0.00, n.s.	
(c) Any indictable offence	38.2%	25.1%	37.7%	26.7%
Chi-square, df=1, p value	11.69, $p < .001$		3.49, n.s.	
Total number of detained cases	809	195	300	86

Notes: The shaded pair is statistically significant at  $p < .05$ , according to the chi-square statistic.

In conclusion, there was no increase in the percentage of youth detained by police and the youth court on more serious charges; indeed, the data suggest that more youth were being detained for less serious, non-indictable offences under the *YCJA*.

## Current Findings of Guilt

### 1. No Finding of Guilt on Any Charge

This section looks at the changes over time in the percentage of cases that did not result in any finding of guilt. All charges are included so that “no current guilty finding” means that *all* charges occurring during the study time frame were withdrawn, stayed, dismissed or otherwise disposed of without a guilty adjudication.

Initially we had intended that the analysis of findings of guilt would look at all cases in the six months monitoring sample (i.e., the combined “pure” post-*YCJA* and the cases whose proceedings had begun before the *Act*). An examination of the data revealed that there were some differences between the two subsets in the six months’ monitoring sample (Table 15). It seems that, in terms of adjudication decisions, they were not comparable, primarily in Halifax. In this city, the “pure” post-law group were almost identical to the pre-law sample (83 and 76 percent were found guilty on at least one charge), but this was not true for the third group – only 52 percent were found guilty. A similar phenomenon was noticeable in Vancouver/Surrey for the two subsets of the monitoring data although the difference was not nearly as striking (68 percent versus 57 percent of cases involved a guilty finding).

A second aspect of the guilty finding data is relevant only in the two British Columbia courts. In that province, every six months court administrators receive a list of cases/Informations where all charges were stayed, dismissed, etc. and court registry staff expunge these files from the registry. This practice, which is not found in any of the other study locations, explains the extremely low rate (5 percent) of cases with no guilty findings in Vancouver/Surrey in the baseline dataset. By the time the baseline data collection was undertaken – some two years after the court events – most of these files had been purged. (Presumably, the 5 percent in the baseline sample column represents the few cases that had been missed.) Probably most if not all of the six months’ monitoring data were collected prior to the purging process, thereby making them more representative of the actual situation in the Vancouver and Surrey youth courts.

Most importantly, these data suggest that in the first six months of the *YCJA*, fewer youth were convicted of their charges in the two Toronto-area courts and in Edmonton. The patterns were similar in Halifax and Winnipeg but the changes were not statistically significant.

### 2. Factors Affecting Guilty Findings

Multivariate analysis permits conclusions on the effects of one variable while controlling for the effects of all other variables at the same time. The objective is to determine an appropriate combination of independent variables to explain the outcome of no guilty finding versus one or more guilty finding in the case. The research question here is whether the importance of the key factors changed in the two time periods. Table 16 summarizes the findings, comparing the *YOJA* cases to the total *YCJA* sample. Vancouver and Surrey were omitted from the analysis for the reasons given above.



**Table 15: Current Guilty Finding Cases: YOA Cases (Baseline), Cases whose Proceedings Were All After the YCJA, and Cases that Began before the YCJA but Concluded after Proclamation, by Court Location**

	Halifax			Toronto & Scarborough			Winnipeg		
	Baseline cases	First 6 months cases		Baseline cases	First 6 months cases		Baseline cases	First 6 months cases	
Any current guilty finding?	YOA sample	Proceedings after YCJA	Began before proclamation	YOA sample	Proceedings after YCJA	Began before proclamation	YOA sample	Proceedings after YCJA	Began before proclamation
	Column percentages								
No	17.3	24.1	48.5	22.6	56.9	56.7	19.2	25.0	28.8
Yes	82.7	75.9	51.5	77.4	43.1	43.3	80.8	75.0	71.2
Total percent	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Total number	341	58	99	398	58	141	369	76	125
Chi-square, df=2, p value	40.56, p<.001			69.03, p<.001			5.38, n.s.		
Chi-square, df=1, p value	1.55, n.s.			30.31, p<.001			1.30, n.s.		

	Edmonton			Vancouver & Surrey			Total*		
	Baseline cases	First 6 months cases		Baseline cases	First 6 months cases		Baseline cases	First 6 months cases	
Any current guilty finding?	YOA sample	Proceedings after YCJA	Began before proclamation	YOA sample	Proceedings after YCJA	Began before proclamation	YOA sample	Proceedings after YCJA	Began before proclamation
	Column percentages								
No	13.2	28.1	22.8	5.0	32.1	42.7	18.0	32.0	41.0
Yes	86.8	71.9	77.2	95.0	67.9	57.3	82.0	68.0	59.0
Total percent	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Total number	416	114	79	319	81	117	1524	306	444
Chi-square, df=2, p value	15.78, p<.001			Not applicable			109.25, p<.001		
Chi-square, df=1, p value	14.38, p<.001			Not applicable			30.70, p<.001		

Notes: The third column in each court location contains data on cases that had their first court appearance before the YCJA but whose cases concluded under the *Act*. Most of the adjudication decisions were made after the *Act* began. The dark shading indicates that the data are unrepresentative of the pre-legislation period. The second last row in each table provides the chi-square results for the table as shown. The last row provides the chi-square results for no/yes guilty finding before and after the *Act*, excluding the cases that began before the legislation but concluded after proclamation.

No chi-square tests are provided for Vancouver and Surrey because the pre- and post-legislation data are not comparable.  
 \*The total columns *exclude* Vancouver and Surrey for the reasons discussed in the text.

**Table 16: Factors Affecting Guilty Finding Cases, before and after the YCJA: Regression Coefficients and Significance of Individual Factors, by Court Location (excluding Vancouver/Surrey)**

	Halifax		Toronto & Scarborough		Winnipeg		Edmonton		Total*	
	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample
	<b>Dependent variable = no finding of guilt on any charge vs. finding of guilt on one or more charge</b> <b>Regression coefficients (standardized betas) and the degree of significance (p values)</b>									
Not guilty plea made (defined as trial date scheduled)	-.20***	-.22**	-.02	-.07	-.01	-.08	-.22***	.02	-.09***	-.09*
1+ prior conviction	.02	.09	.17***	.17*	.05	.15*	.09	.17*	.09***	.17***
Number of current charges	.28***	.20*	.28***	.37***	.37***	.26***	.34***	.50***	.30***	.36***
1+ indictable person charge			.06	.10	-.10*	.05	.05	-.06	.01	.01
1+ indictable property charge	-.01	-.08	-.02	-.04	.02	.07	-.02	.07	-.01	.02
1+ indictable drugs/weapons									.03	-.02
1+ hybrid person charge	-.01	-.16	-.10	.08	-.13*	.05	.06	-.02	-.03	-.04
1+ hybrid property charge	.05	.05	-.04	.00	.11	-.07	.08	-.09	.08*	-.02
1+ hybrid drugs/weapons	.02	-.09	.01	-.11	.06	-.16*	.01	.02	.03	-.10**
1+ other charge (victimless)									.01	-.01
1+ breach of probation charge	.00	-.04			.09	-.01	-.01	-.10	.04	-.02
1+ bail charge	.07	.04			-.09	-.08	-.10	-.21*	-.01	-.08
Number of adjudicated cases	320	127	384	170	357	194	365	190	1425	680

Notes: This analysis includes all YCJA data collected by the six months monitoring study; the totals exclude Vancouver/Surrey. Linear regression was used; similar findings were apparent using logistic regression.

\* p<.05; \*\* p<.01; \*\*\* p<.001

blank cell = the factor was not included in the model because preliminary analysis showed that it was not related to guilty finding cases when other factors were controlled.

The minus sign before the beta coefficient means that the relationship between the independent and dependent variables was negative (inverse relationship). For example, in Halifax and elsewhere, if there was no not guilty plea, then the young person had a greater likelihood of being found guilty on at least one charge.

In both time periods in all courts, the number of current charges was the most influential factor in whether case involved a finding of guilt – the larger the number of charges dealt with, the more likely that the young person had a guilty finding. In the sample in total, having a prior conviction also increased the likelihood of being convicted. Also in the entire sample, a not guilty plea influenced adjudication in the inverse direction: pleading not guilty lowered the likelihood of being convicted. This phenomenon is common; for a variety of reasons, most often a weak case, the prosecutor stops proceedings either at or before the trial date. Much less frequently, the young person is found not guilty at trial. As explained below in section 3, the “pure” post-legislation cases under-represent the number of not guilty pleas and the lack of difference over time in some sites should be seen as resulting from the timing of data collection.

Interestingly and unexpectedly, the type of charges before the court – indictable or hybrid, person or property, administration of justice or other type of (alleged offence) – was rarely associated with being convicted. (We expected that less serious offences, such as hybrid property charges, would have been more likely to be dealt with by means of a withdrawal or a stay of proceedings.) The finding that hybrid drugs and weapons charges were less likely to result in a conviction is very likely due to the *Cannabis Reform Bill*, which was introduced into Parliament a few months after the *YCJA* was proclaimed.

### **3. Not Guilty Pleas**

“What were the proportions of guilty pleas versus not guilty pleas and how many not guilty pleas lead to a finding of guilt?” was a research question that could not be answered. Unfortunately the six months’ monitoring dataset did not contain plea data. The data did include whether a trial date was set which, we have assumed, can be interpreted as a not guilty plea. Trial dates were relatively infrequent in the “pure” six months sample<sup>5</sup> but this may be and probably is due to research timing – cases with trial dates may not have been completed at data collection, since there is usually a three month lag between the setting of the date and the actual trial. Incomplete cases were automatically excluded from the sample by the data collectors.

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<sup>5</sup> Only 12 percent of cases which started and were completed after the *Act* involved a trial date, compared to twice that percentage in the pre-*YCJA* group.

## Sentencing

The after *Act* data in this section represent all case information collected in the six months' monitoring study because all sentences were imposed under the aegis of the *Youth Criminal Justice Act*.

### 1. All Sentences

The *Youth Criminal Justice Act* introduced several new sentences – reprimands, non-residential orders (known as attendance centre orders), intensive support and supervision, and deferred custody and supervision.<sup>6</sup> Almost 20 percent of cases disposed of under the *YCJA* had one or more of these new sentences imposed (Table 17). Also notable is the significant post-legislation reduction in proportions of youth receiving probation, time served and custody (or custody and supervision, as the sentence is now known). The other changes may be due to differences in data collection methods in the two samples.

**Table 17: Detailed Distribution of Sentences before and after the *YCJA*, All Courts Combined**

Percentage of cases receiving:	YO sample	YC sample
Absolute discharge	3.4	2.6
Reprimand	NA	4.3
Conditional discharge	7.0	7.1
Fine, restitution	14.6	10.0
Community service	32.8	27.9
Probation	73.7	63.7
Intensive support & supervision program (ISSP)	NA	4.5
Time served	17.2	12.3
Attendance centre	NA	5.4
Deferred custody & supervision order	NA	4.5
Custody, custody & supervision	31.8	19.7
Total number of sentenced cases	1552	578

Notes: NA = not applicable; the sentence did not exist under the *Young Offenders Act*.  
 The percentages add up to more than 100% because the same case can result in multiple sentences.  
 Shaded pairs are statistically significant at  $p < .05$ , according to the chi-square statistic.

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<sup>6</sup> Another new sentencing option is the intensive rehabilitative custody and supervision order, or IRCS. No young person in the monitoring sample received this sentence.

**Table 18: Detailed Distribution of Sentences before and after the YCJA, by Court Location**

Percentage of cases receiving:	Halifax		Toronto		Scarborough		Winnipeg		Edmonton		Vancouver		Surrey	
	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample
Absolute discharge	1.4	1.2	11.2	20.0	6.2	0	0.3	0.7	4.4	2.1	1.2	0	0.7	6.5
Reprimand		5.3		26.7		0		1.4		4.2		5.2		3.1
Conditional discharge	2.1	4.8	15.7	10.0	14.6	3.6	5.0	9.0	1.4	2.8	12.3	10.3	11.3	14.5
Fine, restitution	12.1	14.3	3.9	6.7	4.6	3.6	16.8	11.0	21.6	9.8	11.7	6.9	23.4	11.3
Community service	37.2	31.0	22.5	26.7	30.0	19.6	30.9	30.3	40.2	44.8	27.8	22.4	30.5	25.8
Probation	75.5	72.6	71.3	40.0	89.2	91.1	80.2	76.6	56.5	40.6	74.7	58.6	87.9	66.1
ISSP		0		0		0		8.9		0.7		17.2		3.1
Time served	4.3	2.1	37.1	23.3	42.3	39.3	19.1	15.1	12.5	3.5	14.8	17.2	5.7	4.7
Attendance centre		0		3.3		0		0		19.6		0		0
Deferred custody & supervision order		3.2		0		8.9		4.8		4.2		1.7		6.3
Custody, custody & supervision	34.0	21.1	33.1	0	30.0	23.2	29.2	25.3	29.9	18.9	38.9	17.2	29.8	9.4
Total number of sentenced cases	282	95	178	30	130	56	298	146	361	143	162	58	141	64

Notes: The percentages add up to more than 100% because the same case can result in multiple sentences. Shaded pairs are statistically significant at  $p < .05$ , according to the chi-square statistic.

Table 18, above, contains the same information as Table 17 except that it is provided for each youth court separately. Reprimands occurred in the downtown Toronto youth court much more often than elsewhere; attendance centre orders were most common in Edmonton; intensive support and supervision programs were most frequent in downtown Vancouver; and, deferred custody and supervision (DCSO) was marginally more common in Scarborough and Surrey, although it is not a high frequency sentence in any court. The frequent use of attendance centre orders in Edmonton is explained by the development of a high profile centre in that community. The centre staff are responsible for both supervision of ISSP cases and persons on bail. No ISSP programs are available in Halifax or Toronto/Scarborough.

### Number of Current Charges

A case characteristic that is frequently ignored in sentencing analysis is the effect of the number of charges on justice system decision-making. Table 19 shows that both before and after the new *Act*, the more current charges, the more serious the sentence. More pertinent is the finding that on average more charges were involved in cases receiving a monetary sanction, probation, time served, and custody after the *YCJA* began.

**Table 19: The Number of Current Charges involved in Sentenced Cases before and after the *YCJA***

Percentage of cases receiving:	YOYA sample	YCJA sample
Average number of charges in entire case		
Absolute discharge	2.8	3.1
Reprimand		3.4
Conditional discharge	2.4	2.3
Fine, restitution	4.1	5.1
Community service	4.1	4.6
Probation	5.0	6.1
Time served	6.0	7.6
Attendance centre		7.1
ISSP		6.2
Deferred custody & supervision order		10.0
Custody, custody & supervision	6.2	9.2
Average number of charges for all sentenced cases	4.3	4.4

Note: Most sentenced cases receive multiple sentences, so that the same case can be counted in more than one of these sentences.

## 2. Custody

With regard to the incidence of the use of custody in the two time periods, no changes occurred in Scarborough and Winnipeg – the percentages are almost identical pre- and post-legislation when the DCSO cases are combined with custody and supervision (the second last row of Table

18). In Edmonton, if DCSO is combined with custody, there is no statistically significant difference before and after the *Act*. In Halifax, downtown Toronto, downtown Vancouver and Surrey, there were significant decreases in custody sentences. While there were only 30 sentenced cases in the downtown Toronto sample in the post-law months, it is remarkable that none resulted in custody, compared to one-third of sentenced cases in the baseline survey.

The next analysis presents the relationships between type of offence and custodial sentences.

#### Charges that Resulted in Custody and DCSO: Offence Profiles of Custody Cases

Thus far, the analysis has used the case as the unit of count but in Table 20 the offence is the unit of count. The data show the percentage of each major offence category that received custody under the *YOA* and the *YCJA*. Both indictable person and property charges were more likely to result in custody under the *YCJA*, whereas the opposite was true for probation breaches and other administration of justice offences such as failure to attend court or abide by bail conditions.

**Table 20: The Percentage of Charges in Each Major Offence Category that Resulted in Custody/Deferred Custody**

	<b>YOA sample</b>	<b>YCJA sample</b>
Column percentages		
Indictable person	5.9	11.0
Indictable property	12.8	25.7
Indictable weapons or drugs	2.7	0.5
Hybrid person	9.1	8.7
Hybrid/summary property	16.8	17.5
Hybrid/summary weapons or drugs	4.1	4.2
Probation breach	27.2	19.5
Other administration of justice	20.2	12.7
Other offence types	1.1	0.2
Total percent	99.9%	100.0%
Total number of charges	1308	401

#### Sentenced Cases (Community vs. DCSO/Custody) Controlling for the Offence

The rest of this section returns to the case as the unit of count (Table 21). Here, the research question is “when the major offence category is introduced as a control, does the percentage of custody/DCSO outcomes differ in the two time periods?” The data are to be interpreted as, for example: 61 percent of cases that included a conviction for an indictable offence against the person under the *YOA* received a custody sentence whereas after the *YCJA*, 46 percent of cases that included an indictable person offence resulted in a DCSO or a custody and supervision order. A significant decrease in custody use is found in most of the major offence categories. Property offences, both indictable and hybrid, were an important exception. This does not

*necessarily* mean that property offences received custody in equal proportions under the *YOA* and *YCJA*; rather, cases involving convictions on these offences received custody in similar proportions.

**Table 21: The Percentage of Cases Receiving DCSO/Custody before and after the *YCJA*, by the Major Offence Category**

<b>% of DCSO/custody cases:</b>	<b>YOA sample</b>	<b>YCJA sample</b>	<b>YOA sample</b>	<b>YCJA sample</b>
<b>(a) Indictable offence against the person (more serious violent):</b>	<b>No indictable offence against the person</b>		<b>1+ indictable offence against the person</b>	
Sentenced to custody/DCSO	29.4%	19.8%	61.3%	46.3%
Total number of cases	1433	525	119	67
Chi-square, df=1, p value	17.93, p<.001		3.95, p<.04.	
<b>(b) Indictable offence against property</b>	<b>No indictable offence against property</b>		<b>1+ indictable offence against property</b>	
Sentenced to custody/DCSO	28.2%	16.8%	46.3%	41.4%
Total number of cases	1243	447	309	145
Chi-square, df=1, p value	22.90, p<.001		0.96, n.s.	
<b>(c) Hybrid offence against the person (less serious violent)</b>	<b>No hybrid offence against the person</b>		<b>1+ hybrid offence against the person</b>	
Sentenced to custody/DCSO	32.6%	24.2%	29.4%	19.0%
Total number of cases	1188	434	364	158
Chi-square, df=1, p value	10.57, p<.001		6.17, p<.05	
<b>(d) Hybrid offence against property</b>	<b>No hybrid offence against property</b>		<b>1+ hybrid offence against property</b>	
Sentenced to custody/DCSO	34.8%	21.9%	27.9%	24.4%
Total number of cases	886	383	666	209
Chi-square, df=1, p value	20.62, p<.001		1.00, n.s.	
<b>(e) Probation breach</b>	<b>No probation breach</b>		<b>1+ probation breach</b>	
Sentenced to custody/DCSO	24.1%	18.1%	50.6%	39.7%
Total number of cases	1099	452	453	140
Chi-square, df=1, p value	6.58, p<.02		6.91, p<.01	
<b>(f) Bail violation</b>	<b>No bail violation</b>		<b>1+ bail violation</b>	
Sentenced to custody/DCSO	27.3%	22.0%	44.9%	24.8%
Total number of cases	1153	427	399	165
Chi-square, df=1, p value	4.57, p<.04		19.65, p<.001	

Note: Shaded pairs are statistically significant at p<.05, according to the chi-square statistic. The denominator of each of the percentages is the number of cases in the pertinent major offence category.



The relationships between DCSO/custody sentences and all indictable current offences and offences against the person are shown in Table 22 for the major urban courts. Custody was imposed proportionately less frequently in cases with an indictable offence in the two British Columbia courts and the sample as a whole. Similarly, a lower proportion of cases involving violence received custody in Halifax, the two B.C. courts and the total sample.

#### The Number of Current Charges in Custody/DCSO cases

Compared to custody cases in the *YOA* period, cases receiving DCSO or custody under the *YCJA* had significantly more charges involved in their case in Winnipeg, Edmonton and the sample overall (Table 23).

**Table 22: The Percentage of Sentenced Cases Receiving DCSO/Custody by Seriousness of the Offence, before and after the YCJA, by Court Location**

	Halifax		Toronto & Scarborough		Winnipeg		Edmonton		Vancouver & Surrey		Total	
	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample
<b>(a) Any indictable current offence</b>												
1+ indictable current offence	53.4%	48.3%	52.4%	42.3%	39.8%	39.4%	50.0%	34.8%	51.1%	29.4%	49.3%	38.3%
Total number of indictable cases	88	29	105	26	98	71	88	46	90	34	469	206
<b>(b) Any offence against the person (violent) current offence</b>												
1+ violent current offence (indictable or hybrid)	37.5%	15.2%	37.6%	27.8%	35.6%	31.7%	35.6%	32.4%	34.4%	13.3%	36.2%	24.8%
Total number of violent cases	96	33	109	36	73	63	90	37	93	45	461	214

Note: Shaded pairs are statistically significant at  $p < .05$ , according to the chi-square statistic.

**Table 23: The Number of Current Charges Involved in DCSO and Custody Cases before and after the YCJA, by Court Location**

	Halifax		Toronto & Scarborough		Winnipeg		Edmonton		Vancouver & Surrey		Total	
	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample
	Average and median number of current charges involved in DCSO and custody cases											
Mean	7.4	10.0	5.2	5.3	7.5	12.4	6.7	10.0	4.5	4.6	6.2	9.2
Median	7.0	5.0	5.0	4.5	6.0	9.0	6.0	9.0	3.0	3.0	5.0	7.0
Total number of custody cases	96	21	98	18	87	43	108	32	105	22	494	136
F value, p value	2.56, n.s.		0.01, n.s.		12.83, $p < .001$		10.48, $p < .001$		0.01, n.s.		29.92, $p < .001$	

Note: Shaded pairs are statistically significant at  $p < .05$ , according to the t-test statistic (difference in means).

Sentenced Cases (Community vs. DCSO/Custody) Controlling for Prior Record

On Tables 23 and 24 are found the relationships between prior record and the use of custody, first for the sample overall and then broken down for each youth court. Table 24(a) shows that few youth with no past convictions received custody in either time period (13 and 11 percent). When we look at those with a prior conviction, after the *YCJA* young persons with a record were less likely to receive custody than under the *YOA* (47 compared to 35 percent). Similarly, in panel (b) where the sample is categorized into those with two or fewer *versus* three or more prior guilty findings, significantly lower percentages of each group were sentenced to custody after the *Act*.

**Table 24: Cases Receiving DCSO/Custody by Prior Record before and after the *YCJA*, All Courts Combined**

	YOA sample	YCJA sample	YOA sample	YCJA sample
	% of DCSO/custody cases:			
<b>(a) Prior record:</b>	<b>No prior record</b>		<b>1+ prior conviction</b>	
Sentenced to custody/DCSO	12.6%	10.8%	46.5%	34.6%
Total number of cases	605	240	864	321
<b>(b) Pattern of prior offences:</b>	<b>0 to 2 prior convictions</b>		<b>3+ prior convictions</b>	
Sentenced to custody/DCSO	17.1%	12.4%	59.3%	45.7%
Total number of cases	923	356	528	199

Note: Shaded pairs are statistically significant at  $p < .05$ , according to the chi-square statistic.

These trends were largely replicated in individual youth courts (Table 25). Among cases with a prior record, a decrease in custody usage was apparent in Halifax, downtown Toronto, Edmonton, and Vancouver. Those with three or more prior findings of guilt were less likely to receive custody in Toronto, Edmonton and Vancouver.

There was no statistically significant relationship between the average number of prior convictions and custody sentences in any court (panel (c) in Table 25).

One of the four criteria for custody in the *YCJA* is whether the youth committed a serious indictable offence and has a history that indicates a pattern of offences. This factor was operationalized as whether the youth had a current conviction for an indictable offence of any kind *and* the youth had three or more prior convictions (Table 26). Both before and after the legislation came into effect, about 70 percent of cases meeting these criteria were sentenced to custody. In other words, a substantial majority of youth meeting both conditions received custody regardless of the time period.

**Table 25: The Percentage of Cases Receiving DCSO or Custody by Prior Record before and after the YCJA, by Court Location**

	Halifax		Toronto		Scarborough		Winnipeg		Edmonton		Vancouver		Surrey	
	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample
	% of DCSO/custody cases													
<b>(a) Prior record?</b>														
No, first offender	14.4%	7.7%	16.5%	0	14.5%	17.9%	7.4%	16.9%	6.3%	10.3%	23.4%	9.1%	10.8%	0
Yes, prior conviction(s)	53.1%	37.3%	48.9%	0	43.5%	50.0%	45.3%	44.8%	43.1%	28.4%	48.9%	25.7%	43.3%	39.3%
<b>(b) 3 or more prior convictions?</b>														
0 to 2 prior convictions	21.5%	12.2%	20.0%	0	19.5%	22.7%	13.9%	17.0%	10.0%	10.4%	24.2%	9.1%	14.9%	4.4%
3 or more prior convictions	68.8%	53.6%	58.1%	0	52.5%	88.9%	56.5%	53.1%	57.2%	35.6%	63.3%	33.3%	58.3%	75.0%
<b>(c) Number of prior convictions of cases receiving DCSO/custody</b>	Average and median number of prior convictions in DCSO/custody cases													
Mean	5.7	7.8	6.1	na	5.0	3.7	6.7	5.2	9.3	9.9	6.3	7.9	6.4	5.5
Median	4.0	5.5	5.5	na	3.0	2.0	6.0	6.0	7.0	8.0	5.0	8.0	5.0	5.5
Number of cases	94	22	58	0	37	18	86	42	100	31	61	11	35	10

Notes: In some cases, the existence of a prior record was available – i.e., yes or no – but the number of prior convictions was not known. Shaded pairs are statistically significant at  $p < .05$ , according to the chi-square statistic.

**Table 26: The Percentage of Cases with Three or More Prior Convictions and an Indictable Current Conviction that Received Custody before and after the YCJA, All Courts combined**

3+ prior convictions <i>and</i> indictable current conviction?	YOAsample	YCJA sample
	Column percentages	
No	28.4	29.9
Yes, both 3+ priors & indictable current conviction	71.6	70.1
Total percent	100.0%	100.0%
Total number of cases with both 3+ priors & indictable current conviction	169	77
Chi-square, df=1, p value	0.06, n.s.	

### 3. Probation

A large majority of youth receive probation regardless of the time period. In two courts, significant reductions in the use of probation were found after the *YCJA* even for more serious offences such as indictable and violent offences (Table 27, panels a and b). In Vancouver/Surrey proportionately fewer young persons convicted of an indictable offence received probation after the law began; in Edmonton, considerably fewer youth convicted of an offence against the person received probation.

#### Probation Conditions

Anecdotal evidence from system professionals surveyed after the proclamation of the *Youth Criminal Justice Act* has suggested that more and more onerous conditions are now placed on probationers. The data in Tables 28 and 29 support their perceptions.

The only common probation condition that showed a decrease after proclamation was the fairly standard “attend school/look for or maintain employment” in Winnipeg, Edmonton and the total sample. The imposition of curfews increased in Edmonton, Vancouver/Surrey and the sample overall. The use of (presumably) offence-related conditions of non-communication with victims or others and area restrictions also rose in some youth courts. “No weapons” significantly increased everywhere but in Toronto. Abstention from alcohol or illicit drugs dramatically increased in Edmonton and Vancouver/Surrey (a threefold increase).<sup>7</sup> See Table 28.

<sup>7</sup> Some of these changes may be due to differences in the interpretation of coding instructions among coders in the two time periods.

**Table 27: The Percentage of Sentenced Cases Receiving Probation by Seriousness of the Current Offence before and after the YCJA, by Court Location**

	Halifax		Toronto & Scarborough		Winnipeg		Edmonton		Vancouver & Surrey		Total	
	YOAsample	YCJA sample	YOAsample	YCJA sample	YOAsample	YCJA sample	YOAsample	YCJA sample	YOAsample	YCJA sample	YOAsample	YCJA sample
	% of sentenced cases receiving probation											
<b>(a) Any indictable current offence</b>												
1 or more indictable current offence	92.0%	81.5%	88.6%	84.6%	90.8%	84.5%	79.3%	64.4%	92.2%	73.5%	88.7%	77.8%
Total number of indictable cases	88	27	105	26	98	71	87	45	90	34	468	203
<b>(b) Any offence against the person (indictable or hybrid)</b>												
1 or more violent current offence (indictable or hybrid)	86.5%	90.9%	91.7%	88.9%	89.0%	92.1%	74.4%	52.8%	91.3%	80.0%	86.7%	82.2%
Total number of violent cases	96	33	109	36	73	63	90	36	92	45	460	213

Note: Probation combined with DCSSO and custody sentences are excluded.  
 Shaded pairs are statistically significant at  $p < .05$ , according to the chi-square statistic.

**Table 28: Type of Probation Conditions before and after the YCJA, by Court Location**

	Halifax		Toronto		Winnipeg		Edmonton		Vancouver & Surrey		Total	
	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample
	% of probation cases receiving each condition											
Attend school or obtain, maintain employment	29.1	38.1	36.0	29.4	45.6	31.3	58.5	39.5	50.4	52.2	43.8	38.2
Reside with parent or other adult	19.5	30.8	14.6	25.0	12.5	22.5	12.7	38.2	11.3	14.0	14.0	25.0
Reside where directed by youth worker	10.5	12.2	28.6	21.7	22.5	28.8	64.3	79.5	67.8	81.1	39.0	44.6
Reside in foster/group home	2.1	0	1.4	0	4.0	10.0	4.5	0	1.2	2.0	2.5	3.4
Attend counselling or assessment for counselling	50.2	55.6	34.4	35.3	47.3	57.4	43.9	39.5	50.8	58.9	45.2	50.2
No weapons	3.7	22.0	31.1	38.3	5.1	15.0	2.5	17.2	13.8	43.1	12.0	27.4
Abstain from alcohol, non-prescription drugs	25.3	30.8	14.1	11.7	25.0	32.5	17.8	51.4	14.6	52.5	19.1	34.5
Non-communication with victim	28.4	40.4	31.9	45.0	16.0	30.0	8.9	21.4	28.8	58.5	23.7	46.3
Non-communication with other person	40.5	37.7	30.2	36.7	32.0	46.3	41.4	59.1	32.9	55.7	34.9	46.6
Curfew	32.1	35.3	9.0	8.3	38.0	35.0	43.3	55.0	28.3	55.4	29.2	36.8
Area restriction	16.3	13.7	32.1	35.0	11.0	26.3	5.8	35.5	31.7	39.3	20.6	29.7
Community service	28.4	18.0	11.8	21.7	35.9	30.0	3.2	19.4	17.2	21.2	19.7	23.1
Restitution/compensation	4.7	4.2	1.9	3.3	11.5	10.1	0	0	5.4	13.5	4.9	7.1
Victim apology	9.5	2.1	6.1	5.0	7.0	10.1	9.6	25.9	14.9	38.5	8.3	14.7
Attend programs as directed by probation	10.0	47.9	11.8	16.7	23.5	46.8	21.0	29.6	9.1	32.8	12.7	36.5
Restriction on motor vehicle use	1.6	0	3.8	8.3	0	11.4	0	14.8	15.4	21.2	4.2	10.9
Urinalysis, breathalyzer	0	0	0	0	0.5	0	0	0	7.9	30.8	1.7	6.0
Other condition(s)	3.2	na	7.5	na	11.5	na	10.2	na	13.3	na	7.3	na
Total number of probation cases	190	48	212	60	200	79	157	27	241	52	1150	266

Notes: Cases involving any sentence of probation (e.g., if the youth received custody and supervision to be followed by probation) are included in this table. Also included are intensive supervision and attendance centre conditions.  
na = data not available

**Table 29: The Number of Probation Conditions before and after the YCJA, by Court Location**

	Halifax		Toronto & Scarborough		Winnipeg		Edmonton		Vancouver & Surrey		Total	
	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample
	Mean and median number of probation conditions											
Mean	3.3	3.8	3.1	3.6	3.9	5.1	3.8	4.5	4.3	5.9	3.7	4.7
Median	3.0	4.0	3.0	3.0	4.0	5.0	4.0	4.0	4.0	6.0	4.0	4.0
Total number of probation cases	188	56	211	58	194	79	156	50	238	73	987	316
F value, p value	3.45, n.s.		3.70, n.s.		15.69, p<.001		7.48, p<.01		29.98, p<.001		56.70, p<.001	

Note: The shaded pairs are statistically significant at p<.05.  
 Cases involving probation (e.g., if the youth received custody and supervision to be followed by probation) are included in this table.  
 Excluded are intensive supervision and attendance centre conditions.  
 “Other” conditions are excluded from both before and after legislation data because the data from the two periods are not comparable.  
 The data therefore somewhat under-estimate the actual number of probation conditions.



In all courts, the average number of probation conditions per case went up after the law and the change was significant in Winnipeg, Edmonton, Vancouver/Surrey and the sample as a whole (Table 29, above).

The average number of months that youth are sentenced to probation did not change over time – the mean was 13 months in both 1999 and 2003. There are large differences among sites in the length of probation orders. At the low end of the spectrum, the average was about 10 months in Edmonton and Vancouver/Surrey but in Winnipeg the average was 17 months. These data are not shown in table form.

### Breaches of Probation

In this analysis, the three time periods are presented separately because of the substantial differences in the percentage of probation breach charges in the two datasets contained in the first six months’ survey (Table 30). The *YOA* and “pure” after *Act* proportions were almost identical – approximately one-third of cases involved at least one breach charge.<sup>8</sup> However, breaches on current charges are under-estimated in the *YCJA* sample because the timing of data collection prevented a follow-up of more than a few months. They therefore differed from the baseline study, where youth receiving probation on instant charges were followed for at least two years to determine subsequent breach of probation charges.

In the group whose cases began before the new law and concluded afterwards, only 14 percent involved a breach of probation; this group differs in significant ways from the “proceedings all after the *Act*” group; e.g., the former are more likely to have no prior convictions and more likely to have had a trial date scheduled.

**Table 30: Cases with Current Breach of Probation Charges: *YOA* Cases (Baseline), Cases Beginning after the *YCJA*, and Cases Beginning before the *YCJA* but Concluded after Proclamation**

	Baseline cases	First 6 months cases	
	<i>YOA</i> sample	Proceedings all after <i>Act</i>	Began before proclamation
	Column percentages		
No breach of probation charge	67.4	68.1	85.6
One or more breach charge	32.6	31.9	14.4
Total percent	100.0%	100.0%	100.0%
Total number of cases	1843	395	548

Note: The shaded values are statistically significant at  $p < .05$ .

<sup>8</sup> These percentages differ from those in Tables 3 and 4 because in the latter, only “instant” current charges are considered and here we look at all charges laid during the survey periods.

The conditions that were allegedly breached did not alter greatly over time when the before *Act* and “pure” post-*YCJA* cases are compared (Table 31).<sup>9</sup> The change in reporting violations seems to have started before the law came into effect: 28 percent in the baseline sample, 19 percent in the group whose cases began before the law, and 15 percent in the “pure” group were charged with failure to report to probation, to notify probation of change of address or to stay in the jurisdiction. There was a significant decrease in the proportion of cases breached for failure to complete community service or to pay a fine or to pay restitution after the new legislation began. These findings could well be an artefact of the timing of data collection – provincial directors or others may not have yet instigated probation breach charges for these failures to abide by probation orders.

Almost all the charges of failure to “keep the peace and be of good behaviour” occurred in Halifax.<sup>10</sup> The police practice there is to lay this charge when a probationer is charged with other offences. This does not occur to any great extent in other police services.

**Table 31: Types of Probation Conditions Breached: YOA Cases (Baseline), Cases Beginning after the YCJA, and Cases Beginning before the YCJA but Concluded after Proclamation**

Condition allegedly breached:	Baseline cases	First 6 months cases	
	YOA sample	Proceedings all after <i>Act</i>	Began before proclamation
	% of probation breach cases		
Keep the peace & be of good behaviour	14.3	11.5	16.9
Report to probation, report change of address, stay in jurisdiction	27.7	14.8	19.3
Reside with parent, reside where directed, reside in group or foster home	21.0	16.4	9.6
Attend school or obtain, maintain employment	12.3	6.6	2.4
Attend counselling or assessment for counselling, attend specific program, attend program as directed by probation	9.0	6.6	2.4
Abstain from alcohol, non-prescription drugs	4.8	8.2	3.6
Non-communication with victim or other person	6.5	3.3	7.2
Curfew	29.8	27.9	13.3
Area restriction	2.7	0.8	1.2
Failed to complete community service, pay restitution or fine	18.5	7.4	19.3
Total number of cases	600	122	83

<sup>9</sup> In a substantial proportion of cases in the first six months’ sample, the condition of probation breached was not specified. Caution should be used in drawing definitive conclusions.

<sup>10</sup> Data not shown in table form.

Notes: The shaded values are statistically significant at  $p < .05$ .

These data are the main conditions alleged to have been breached; the youth may not have been convicted of the charge(s).

In summary, the data do not permit firm conclusions on changes pre- and post-*YCJA* on the conditions associated with probation violations.

## 5. Probation and Custody Sentences

This section looks at the proportions of cases that received custody *and* probation as well as those who were on probation at the time of their apprehension. Many of the latter group would be still on probation at the conclusion of their custody sentence.

Except in the two Toronto-area courts, there was a decrease in the proportion of custody cases that received both probation and custody. The differences were statistically significant in Edmonton, Vancouver/Surrey and the total sample (Table 32 (a)). In the overall sample, 68 percent of cases received both sentences compared to 53 percent after the *Act*.

In both the pre- and post-law groups, approximately one-half or more of cases sentenced to custody were already on probation and there was no difference by time period other than in Halifax where fewer custody cases were on probation at apprehension in the *YCJA* sample. See Table 32 (b).

The third row of data in Table 32 shows the overall percentage of cases that involved probation and custody, either as a result of the current sentence or as a result of previous probation orders that were (presumably) still in force. The large majority of custody cases – from 74 to 100 percent depending on the court and the time period – had probation orders after leaving custody on their current offences. Again, Halifax was the exceptional court; there was a significant drop in the percentage after the *YCJA* came into effect.

Thus, under the *YCJA* most youth sentenced to custody remain under the authority of the court beyond the conclusion of the community portion of their custody sentences.

**Table 32: Probation and Custody Sentences before and after the YCJA, by Court Location**

	Halifax		Toronto & Scarborough		Winnipeg		Edmonton		Vancouver & Surrey		Total	
	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample	YOA sample	YCJA sample
	% of custody/DCSO cases											
(a) % of cases that received both probation and custody	66.7	55.0	69.4	92.3	67.8	59.5	67.6	33.3	69.5	37.5	68.2	53.1
(b) % of cases that were on probation at apprehension	60.4	25.0	55.1	53.8	64.4	56.8	51.9	55.6	61.0	62.5	58.3	51.3
(c) % of cases that received both probation and custody OR were on probation at apprehension	89.6	65.0	85.7	100.0	93.1	89.2	85.2	74.1	93.3	87.5	85.3	82.3
Total number of custody cases	96	20	98	13	87	37	108	27	105	16	494	113

Note: The shaded values are statistically significant at  $p < .05$ .

## Factors Affecting Custodial Sentences

As already discussed, the *YCJA* brought changes to the sentencing regime for youth convicted of criminal offences. A major change is the prohibition against the imposition of a custodial sentence – including deferred custody and supervision – unless the young person has committed a violent offence; the young person has failed to comply with non-custodial sentences; the young person has committed a serious indictable offence and has a history that indicates a pattern of offences; or in exceptional cases where the young person has committed an indictable offence, the aggravating circumstances of the offence are such that it would be impossible to impose a sentence other than custody.

Multivariate analysis was used to determine whether the importance of the factors listed in the last paragraph changed in the two time periods.

The following lists the independent variables included in the model. The factors that attempt to operationalize the criteria for custody in the *YCJA* are italicized.

- demographic characteristics of young persons: being female, age in years, being of Aboriginal background, and having one or more social or psychological problem<sup>11</sup>
- legal factors relating to prior record: one or more past custody sentence;<sup>12</sup> *more than one past conviction for breach of probation*
- legal factors relating to current case: number of current charges; *one more indictable person conviction; one or more hybrid person conviction*; one or more hybrid property conviction; one or more probation breach conviction; one or more bail-related conviction
- legal factor relating to prior record and current case: *both three or more prior convictions and an indictable current conviction.*

This analysis is not a definitive analysis of factors affecting custody sentences. Rather, the primary interest is to determine the extent to which violent offences, past failure to comply with a non-custodial sentence (probation), and a pattern of offending and a serious current conviction affect the use of custody before and after the *YCJA*. In a similar way, we want to know whether there were changes in the effects of minor but high frequency hybrid property, probation breaches and bail offences.

The differential effects of the key legal factors before and after the *YCJA* (Table 33) were as follows:

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<sup>11</sup> This last variable was defined in the section that presented the multivariate findings for the factors affecting whether the case involved a finding of guilt.

<sup>12</sup> Having a past custody sentence could be assumed to be consistent with the *YCJA* since it is one way of operationalizing a pattern of offending.

**Table 33: Factors Affecting Custody Sentences, before and after the YCJA: Regression Coefficients and Significance of Individual Factors, by Court Location**

	Halifax		Toronto & Scarborough		Winnipeg		Edmonton		Vancouver & Surrey		Total	
	YOYA sample	YCJA sample	YOYA sample	YCJA sample	YOYA sample	YCJA sample	YOYA sample	YCJA sample	YOYA sample	YCJA sample	YOYA sample	YCJA sample
<b>Dependent variable = no custody/deferred custody versus custody/deferred custody Regression coefficients (standardized betas) and the degree of significance (p value)</b>												
<i>Non-legal (social) factors</i>												
Being female											-.04	-.05
Age in years, 12 to 17					.04	.13					.02	.08 *
Being Aboriginal					.14 **	.17 *	.04	.00	.05	.20 *	.02	.10 **
1+ social or psychological problem	.10 *	-.12	.03	.18	.03	-.15 *	.09	.07	.14 **	.03	.08 ***	-.05
<i>Legal factors: prior record</i>												
1+ prior custody sentence			.36 ***	.02	.41 ***	.28 ***	.33 ***	.31 ***	.21 **	.11	.31 ***	.19 ***
1+ prior probation breach conviction									.12	.11	.08 **	.07
<i>Legal factors: current offences</i>												
Number of current convictions	.34 ***	.14	.32 ***	.06	.19 **	.20 *	.27 ***	.06	.32 ***	.16	.31 ***	.19 ***
1+ indictable person conviction	.10 *	.10	.18 ***	.13	.09	.09	.06	.21 **	.12 *	-.04	.11 ***	.13 ***
1+ hybrid person conviction	-.09	-.21 *	-.06	-.11	.04	.23 **	-.08	.03			-.05 *	.04
1+ hybrid property conviction	-.08	-.19 *	-.11 *	-.13	-.01	.15	-.20 ***	.13	-.07	-.01	-.12 ***	.01
1+ probation breach conviction	.24 ***	.10			.04	-.02	.06	.23 **	.03	-.07	.09 ***	.07
1+ bail-related conviction	.13 **	.05			-.02	-.22 **	.02	.05			.02	-.09 *
<i>Legal factor: prior record &amp; current offence type</i>												
Both 3+ prior convictions & indictable current conviction	.03	.45 ***	.09	.46 ***	.19 ***	.23 **	.13 **	.17 *	.07	.30 **	.06 **	.27 ***
Number of sentenced cases	282	95	308	86	293	142	361	143	301	122	1532	575

Notes: Linear regression was used; roughly similar findings were apparent using logistic regression.

\* p<.05; \*\* p<.01; \*\*\* p<.001

blank cell = the factor was not included in the model because preliminary analysis showed that it was not related to custody when other factors were controlled.

The minus sign before the beta coefficient means that the relationship between the independent and dependent variables was negative – e.g., the presence of a bail charge was inversely related to receiving a custody sentence.

Halifax:

- Under the *YOA*, the strongest predictor of custody was more numerous current convictions, followed by a current probation breach conviction.
- Under the *YCJA*, the strongest predictor was the presence of a pattern of offending plus a serious (indictable) current offence.
- After the law, the less serious, hybrid offences against property and the person showed a negative relationship to custody (i.e., having a conviction for these offence groups decreased the probability of custody).

Toronto and Scarborough:

- In the pre-law sample, having a prior custody sentence, more numerous current convictions and an indictable offence against the person were most influential in the DCSO/custody cases.
- The presence of a pattern of offending plus a serious current offence was by far the most influential factor under the *YCJA* and the sole statistically significant factor associated with the case.

Winnipeg:

- Having a prior custody sentence was the strongest predictor under the *YOA*, although also being of Aboriginal origin, more numerous current convictions and having a pattern of offending plus a serious current offence were also statistically associated with custody.
- Having a prior custody sentence, more numerous current charges, having a current hybrid person conviction and having a pattern of offending/serious current offence predicted custody in 2003. Bail convictions were negatively associated with custody, a finding which is consistent with the intent of the new law. Being Aboriginal and having social/psychological problems also increased the likelihood of custody.

Edmonton:

- Having a prior custody sentence, more numerous convictions, and a pattern of offending plus a serious current offence predicted custody under the *Young Offenders Act*.
- Under the *YCJA*, a past custody sentence was most influential followed by having a current conviction for breach of probation, a conviction for an indictable offence against the person, and a pattern of offending plus an indictable current conviction.

Vancouver and Surrey:

- More numerous current charges and prior custody were the main significant factors before the law whereas after the *Act*, having a pattern of offending/serious current offence was the strongest predictor by far. Also significant post-law was being of Aboriginal background, but this finding may not reflect systemic discrimination as much as an indication that there are other factors affecting custody that were not included in the model.

Thus, the changes in the factors appearing to influence Halifax, Toronto/Scarborough and Vancouver/Surrey custody sentences are in keeping with the *Youth Criminal Justice Act*. The case characteristics predicting custody in Winnipeg and Edmonton were somewhat less

consistent with the principles of the Act, although in both time periods in both cities having a pattern of offending and an indictable current offence was statistically associated with custody.

In the sample as a whole, the following changes over time that were consistent with the principles of the *YCJA* were observed:

1. Having a pattern of offending and also serious current offence, as operationalized, was only a weak predictor of custody under the YOA but one of the two strongest predictors in the first six months after proclamation of the *YCJA* .
2. A significant negative relationship between a current conviction for a violation of bail and custody was found under the *YCJA* but not under the *YOA*.
3. Having a current probation breach conviction increased the likelihood of custody before but not after the new legislation came into effect.
4. Serious violent charges – defined as indictable person offences – predicted custody in both periods.
5. Having social/psychological problems increased custody usage before but not after the legislation.

The finding that older youth were treated more severely by the court under the *YCJA* may or may not be consistent with the new legislation depending on one's perspective. This group is usually regarded as more accountable for their actions than younger persons, age can be considered both a "social" and a "legal" factor.



## **Research Questions: Comparing Early Monitoring (2003) Data to Baseline (1999-2000) Data**

### Youth Court Cases

- Have there been changes in the numbers and proportions of offence types dealt with in youth court? \* partly answered
- Has there been a decrease in the following types of charges dealt with in youth court: administration of justice; theft under; possession under; mischief; minor assault? \* partly answered
- Has there been a decrease in the number of first offenders (i.e., no previous finding of guilt) dealt with in youth court? \* answered
- Has there been a decrease in the proportion of cases with a finding of guilt? answered

### Pre-trial Detention - Police

- Has there been a decrease in the number of youths detained by police? \* answered
- Has there been a decrease in the number of youths released by police without conditions? answered
- Has there been a decrease in the number of youths detained by the police whose current offence is non-violent; who have not failed to comply with previous non-custodial sentences; or who do not have a record of three prior offences? Answered more or less
- How long were youths held in police detention before a bail hearing was held, if it was held at all? Not answerable given the state of monitoring data

### Pre-trial Detention – Court

- Has there been a decrease in the number of youths detained by the court? \* answered
- Has there been a decrease in the number of youths released by the court without conditions? \* answered
- Has there been a decrease in the number of youths detained by the police whose current offence is non-violent; who have not failed to comply with previous non-custodial sentences; or who do not have a record of three prior offences? \* answered
- Have there been changes in the number and types of release conditions imposed by the court? \* answered
- Has there been a change in the percentage of bail violations? Answered (sort of) in the offence section
- Has there been a change in the types of conditions violated? Not answered

### Not guilty pleas

- What were the proportions of guilty pleas v. not guilty pleas and how many not guilty pleas lead to a finding of guilt? Our main interest here is what is happening under the YCJA and the analysis does not necessarily need to involve a comparison of YOA and YCJA. Not answerable because no plea data in monitoring dataset.

### Sentencing

- Has there been a decrease in the number and proportion of custody sentences? \* answered
- Have there been changes in the types of offences that result in a custody sentence? \* partly answered
- Have there been changes in the number of previous offences of youths sentenced to custody? answered
- Are custody sentences longer, shorter or the same length for the same type of offence? Not answerable given the monitoring data's shortcomings
- To what extent are the new sentencing options (i.e., reprimand, attendance orders, intensive support and supervision, deferred custody, and intensive rehabilitative custody and supervision) being used? answered
- Is probation being ordered for more serious offences? \* answered
- Have there been changes in the lengths of probation orders? \* not answered
- Have there been changes in the number and types of probation conditions? \* answered
- Has there been a change in the percentage of violations of probation conditions? answered only in terms of offence distributions (not enough time to follow up probation given on instants)
- Has there been a change in the types of probation conditions violated? Not answered
- Are sentences more proportionate to the seriousness of the offence? Not answered and may be impossible given the propensity of the courts to impose a "global" sentence encompassing all offences

### Adult Sentences None

- How many adult sentences? Is the number less than the number of transfers to adult court in the baseline year?

Community/Conditional Supervision: Not feasible because monitoring data did not include custody and violations of conditions of community supervision were not distinguished from breaches of probation so far can be determined.

- What conditions are imposed as part of orders of custody and community supervision or orders of custody and conditional supervision?
- What conditions are violated?
- What percentage of specific conditions are violated?