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POLICE DISCRETION WITH YOUNG OFFENDERS

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Report to the Department of Justice Canada

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The opinions expressed in this report are those of the authors alone, and do not necessarily represent the views of the Department of Justice Canada.

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Executive Summary

This report was commissioned by the Department of Justice in support of the implementation and evaluation of the Youth Criminal Justice Act. The research had two main objectives: to provide a comprehensive description of the ways in which police in Canada currently exercise their discretion with youth, and to identify and assess factors which affect that exercise of discretion. Our intention was to provide information which could be used in two ways:

- as baseline data which can be compared in the future with similar data on the exercise of police discretion under the YCJA, in order to conduct an evaluation of the impact of the YCJA on police decision-making with youth, using a “pre-post” quasi-experimental design; and
- to identify aspects of the policing environment and of police organizations, which policymakers and police management could attempt to modify, in order to support police officers in exercising their discretion in conformity with the intent and specific provisions of the YCJA.

We collected in-depth qualitative and quantitative information on a nationally representative sample of 95 police services, including many OPP and RCMP detachments, by means of more than 200 interviews with officers, observation during “ride-alongs”, police agency documents, and statistical data from the Uniform Crime Reporting (UCR) Surveys. The sample is representative of all provinces and territories, all types of communities, and all types of police service, including independent municipal services, provincial police, First Nations police services, and police training facilities.

Use of police discretion

Two aspects of police decision-making with youth were analyzed: the police disposition, or clearance, of the incident: whether to lay a charge (or recommend one, in provinces where the Crown makes the final decision) or divert to a pre-charge diversion program or Alternative Measures, or to resolve the incident by informal action; and the method(s) chosen to compel the appearance of the youth in court. Most police officers do not see these as two discrete decisions concerned strictly with the enforcement of the law, but rather view them as inseparably interrelated parts of a repertoire of responses which they use to resolve situations involving youth whom they believe to have committed offences.

Police officers appear to have two main objectives in deciding upon a disposition for an incident. One is to satisfy the requirements of traditional law enforcement: to investigate the incident, identify and apprehend the perpetrator(s), and assemble the necessary evidence if there is to be a prosecution. Their other, less explicit, objective appears to be

to deliver an appropriate sanction, or consequence, semi-independently of the Youth Court and correctional system. Particularly in metropolitan jurisdictions, police officers tended to contrast unfavourably the perceived remoteness of the Crown and Youth Court, and the cumbersome and slow nature of their proceedings, with their own proximity to the reality of street crime, their own ability to deliver swift sanctions, and their familiarity with the circumstances and needs of individual young offenders.

On the basis of our discussions with police, it is possible to construct a list of the consequences, or sanctions, usually applied by police in dealing with a young person who they believe on reasonable grounds has committed an offence. From least to most severe, these are:

1. Take no further action.
2. Give an informal warning.
3. Involve the parents.
- 4a Give a formal warning; and/or
- 4b. Arrest, take to the police station, and release without charge.
- 5a. Arrest, take to the police station, and refer to pre-charge alternative measures; or
- 5b. Lay a charge without arrest by way of an appearance notice or summons, then recommend for post-charge alternative measures.
6. Arrest, charge, and release on an appearance notice, a summons, or (more commonly) a Promise to Appear (PTA) without conditions.
7. Arrest, charge, and release on PTA with conditions on an Officer in Charge (OIC) Undertaking.
8. Arrest, charge, and detain for a judicial interim release (JIR) hearing.

(The severity of options 6, 7, and 8 could be mitigated by recommending post-charge alternative measures.)

A third objective of police action arises from what police see as their crime prevention and social welfare responsibilities. On many occasions, police will refer a youth to a diversion program, not as a sanction, but in order to address the youth's perceived needs – whether these needs are directly related to the crime, or are seen as problems with which the youth needs assistance. Officers sometimes also detain a youth who is at risk in the interests of the youth's safety or welfare.

The proportion of apprehended youth who were charged increased under the Young Offenders Act (YOA). This is mainly due to the enormous increase in charging in certain provinces, notably Ontario and Saskatchewan, which appears to be related to their reliance on post-charge delivery of Alternative Measures. The use of police discretion with youth in Quebec and British Columbia has increased substantially in the past decade, with the result that they now have the lowest recorded proportion of apprehended youth charged. This appears to be due to their unique screening systems for charging youth.

Many forms of informal action are open to an officer who has apprehended a youth –

taking no action, informal and formal warnings, involving the parents, arresting and taking the youth to the police station and then releasing him or her, and informal referral to a program (i.e. without invoking Alternative Measures). The great majority of the officers and police agencies in our sample use informal action frequently with youth.

Almost all of the agencies in our sample use informal warnings, and one-third use various types of formal warnings. It is also common practice to take apprehended youth home and/or involve the parents if possible. One-quarter of the sample said that one type of informal action which they use with a youth whom they have reasonable grounds to believe has committed an offence is to arrest and take him or her to the police station, then release without laying a charge.

Approximately half of the sample refer youth to pre-charge diversion programs, whether under the auspices of Alternative Measures or not. The great majority of officers feel that they can play a useful role with some young offenders in some circumstances. Diversion to a program or agency is often seen as a much more effective way of dealing with a youth's perceived criminogenic problem than referring him or her to Youth Court; also, referral to Alternative Measures is seen as a useful intermediate sanction, representing a consequence for the youth which is more severe than informal action, but less harsh than laying a charge. By far the greatest source of dissatisfaction with AM programs which was expressed by interviewees is their unavailability. In many communities, the range of programs is inadequate; in many others, there are no programs at all.

Youth-related cases of administration of justice offences have increased exponentially in the past 20 years. Almost all of these are violations of bail or probation conditions and failures to appear for court. Police exercise less discretion with these offences than with any other offence except murder. Many such cases are referred to them by other system agents – mainly the Youth Court or probation officers – and they feel they have no alternative but to comply with the request to lay a charge. When police themselves discover a breach, they may well overlook it, unless there are aggravating circumstances. Often, for example, the breach is just the tip of the iceberg – the youth has a substantial record of prior offences, including prior breaches, and is on bail in multiple current cases before the court, and/or on probation for past offences. None of the officers whom we interviewed seemed to think that they could overlook a failure to appear: once a bench warrant is issued, they perceive their discretion as inapplicable. One way in which police do seem to be contributing to this epidemic is in their decisions concerning conditions of release from custody. In some circumstances, police will impose, or seek to have imposed, intrusive conditions which may inadvertently “set the youth up for failure”.

Possible methods of compelling the appearance of a youth (or adult) in court include: the summons and appearance notice, which can be used either instead of arrest, or as a method of release after arrest; and release on a Promise to Appear (PTA), with or without an Undertaking involving conditions. Theoretically, police can also release a young person on a Recognizance, but this is apparently never done.

The use of the summons or appearance notice without arrest would seem to be

particularly desirable with young offenders, but in fact they are rarely used. The main reason for this appears to be that when an officer contemplates laying a charge or referring to pre-charge Alternative Measures, s/he needs to obtain enough evidence to support a prosecution, which can be done much more satisfactorily in a police station than in the street or police car. Also, arresting the youth and taking him or her to the police station prior to laying a charge are seen as ways of impressing the seriousness of the situation upon the youth.

Following arrest and temporary custody, most officers prefer the Promise to Appear to the summons or appearance notice as a method of release, because it can be accompanied by an Undertaking which specifies conditions of release. Many officers seem to attach considerable significance to the conditions contained in an undertaking. They see these conditions as relatively precise, immediate, enforceable constraints on the young person's future behaviour, and immediate, concrete consequences (sanctions) for the youth's criminal act.

The most intrusive option for compelling appearance is detention for a Judicial Interim Release (JIR) hearing. The reasons given by police officers for detaining youth fall into three broad categories. The first includes reasons related to law enforcement, narrowly defined, such as establishing identity, protecting evidence, ensuring attendance at court of a youth whom police have reason to believe would not otherwise attend, and preventing a repetition of the offence. The second group of reasons could be summarized as "detention for the good of the youth". These include detaining youth who are intoxicated, who do not have a safe or secure home to be released to, and whom social services will not or cannot accommodate, or who are prostitutes. The alternative – releasing them to a dangerous and possibly lethal environment – is seen by some officers as neither prudent nor humane. The third type of rationale treats detention as another kind of police disposition – that is, as another in the repertoire of measures which police will take in order to administer a sanction, or meaningful consequence, for a youth's illegal behaviour.

Environmental factors

Police agencies operate within a complex environment, consisting of, among other things, the nature of the local community, federal and provincial legislation, policies, procedures, and programs, local public and private resources, and public opinion. The police have little or no control over their environment. Nor can any federal or provincial government agency expect to have much immediate impact on some salient aspects of the policing environment, such as the degree of urbanization, socio-demographic characteristics, or the level and type of crime of the communities which police serve. However, provincial governments can have an effect on other aspects of the policing environment which affect the exercise of police discretion, namely the relationship of Crown prosecutors with the police, and the availability of diversion programs.

The availability of external resources to which apprehended youth can be diverted is seen by many police officers as crucial to their ability to avoid laying a charge. This

availability varies widely. They are much more common in metropolitan jurisdictions than in suburban/exurban communities or, especially, rural communities and small towns. However, they are seen by officers as inadequate in all types of communities and all parts of Canada. When there is no available agency to which police can release a youth in need of immediate supervision or intervention, then they sometimes feel constrained to hold the youth for a bail hearing.

Some research, especially in the U.S.A., has found that urbanization is associated with higher crime rates and higher levels of formal action by police; whereas, there is less crime and a more neighbourly atmosphere in rural areas and small towns, and a corresponding less formal policing style. In Canada, there is no relationship between urbanization and the crime rate. Crime rates in small places are as high as those in the largest cities. However, youths commit more serious violent crime and property crime, and more gang-related crime, in metropolitan areas. There is also a different style of policing in rural and small town areas, and also some differences between policing in urban centres and their suburban and exurban fringes. Rural and small town communities have a distinctive social climate that appears also to influence police decision-making. With a higher density of acquaintanceship, rural and small town officers feel more accountable to the community. On the other hand, most rural areas and small towns in Canada are policed by detachments of the provincial police, including RCMP operating under provincial contracts, and detachment commanders in the RCMP and OPP are accountable to their superiors, and, ultimately, to headquarters in Ottawa or Orillia. Rural and small town officers suggested that the communities they police want the police to be tough on youth crime but not to incarcerate their youth. Officers in rural areas and small towns appear to make more use of informal action, but less use of pre-charge diversion, than officers in metropolitan and suburban jurisdictions.

29% of police services said there was “a lot” of youth crime in their community, 17% said “not very much”, and the others indicated “a normal amount”. Perceived high levels of youth crime are more common in the Prairies and the Territories, and in metropolitan areas. Police agencies in communities with “not very much” youth crime charge higher proportions of apprehended youth. They are also more likely to use various forms of informal action and pre-charge diversion, and they are more likely to detain for a JIR hearing and to cite “legalistic” rather than social welfare reasons for detention. Officers in most police services deal with high levels of minor property crime and minor assaults by youth. Three-quarters of the police agencies also perceive high levels of serious property crime by youth, especially break and enter. One-quarter identified a problem of serious violent youth crime. One-quarter identified a problem of youth gangs. Serious violent crime and gangs are both more common in metropolitan areas and the Prairies. 80% of the police services in the sample perceive a serious problem of drug-related crime among youth in their jurisdictions. These are spread across all the provinces and territories, and in all types of communities. 14% of the police services - all but one in metropolitan jurisdictions - identified a problem of teenage prostitution. We found no significant relationship between the types of youth crime identified in a jurisdiction, and the exercise of discretion with young persons in that jurisdiction.

42% of the agencies in the sample said that they have jurisdiction over significant populations of aboriginal peoples, living either on- or off-reserve. They are more prevalent in the Territories, British Columbia, and the Prairies. Police services which police *off-reserve* aboriginals have rates of charging apprehended youth which are a little higher than other police agencies. The interview data indicate that police agencies with jurisdiction over aboriginal populations are slightly more likely than other police services to use informal action, twice as likely to refer youth to a Restorative Justice program, less likely to use summonses or appearance notices, more likely to use a Promise to Appear and an OIC Undertaking, and more likely to detain for a JIR hearing because the youth is a repeat offender, is intoxicated, or for the youth's safety.

About two-thirds of respondents found the community to be generally or very supportive of the police; one-quarter offered fairly neutral or mixed assessments, and 14% found the community to be only "somewhat" or "not" supportive. We found no relationship between the exercise of police discretion with youth and the perceived level of community support.

Organizational factors

Probably the most salient aspect of the police organization in its decision-making with young offenders is whether or not it has a youth squad (or dedicated youth officers – that is, officers who are assigned exclusively to youth-related crime). Only 17 of the 92 police services in our sample have a youth squad or dedicated youth officers. These are all independent municipal police services, and the great majority (14) are large organizations, with more than 100 officers. They are located mainly in metropolitan areas, especially in Ontario, Quebec, and British Columbia. It is difficult for smaller police services and detachments to dedicate one or more officers exclusively to handling youth crime. Some smaller police services and detachments have officers who specialize in youth-related incidents, but who also do other kinds of police work. It appears that the use of youth squads and dedicated youth officers by Canadian police services has diminished considerably since their heyday in the 1970's, and that this is probably largely due to financial stringencies during the 1990's.

Police services with youth sections and/or dedicated youth officers respond differently to youth-related incidents. In particular, it appears from the interview data that they make more use of referrals to external agencies and pre-charge diversion, and less use of formal charges. They are more likely to use the less intrusive methods of compelling appearance. When using OIC undertakings, however, they tend to use conditions that are more restrictive and are targeted to the youth's alleged criminal conduct. They are also more likely to use detention, like the conditions of release, as a means of addressing what they see as the criminogenic conditions of the youth's life. Many innovative programs are developed by youth officers, and they are able to involve themselves proactively with youth in the community within a primary, secondary or tertiary capacity. Youth officers acting as follow-up and as a resource to patrol officers facilitate the gathering of intelligence and an increased knowledge of alternatives to formal youth court. In a sense, the existence of a youth squad – just like the existence of a homicide or armed robbery

unit - is an indication that the police service recognizes the unique nature of this particular kind of crime, and places priority on developing specialist expertise in responding to it.

83% of police agencies in the sample have School Liaison Officers (SLO's), but only 40% assign enforcement duties (response, investigation and disposition) to their SLO's – in the other police services, the role of the SLO is restricted to making crime prevention presentations in schools. SLO's, especially with enforcement duties, are more common in larger police services, presumably because of resource considerations. The presence of SLO's, especially SLO's with enforcement duties, slightly reduces the use of charging with young offenders. Police agencies which have SLO's, especially SLO's with enforcement duties, appear to use less intrusive means of dealing with youth crime: they are more likely to use informal action, less likely to lay charges, bring the youth home or to the police station for questioning, more likely to make referrals to external agencies, more likely to use pre-charge diversion, and more likely to use appearance notices to compel attendance at court.

Community policing has four dimensions: philosophical, strategic, tactical, and organizational. The strategic dimension of community policing comprises the adoption and public promulgation of written policies and protocols for all aspects of policing, and the allocation of significant resources to community policing. According to the officers whom we interviewed, 22% of the police services in the sample have implemented the strategic dimension by allocating significant resources to community policing. Police services which have allocated significant resources to community policing have lower charge rates. They use more informal action, make more referrals to external agencies, use more pre-charge alternative measures, and more PTA's to avoid detaining the youth, or “as a higher consequence” (than the summons or appearance notice) for the youth.

The tactical dimension of community policing includes involvement in crime prevention programs and the adoption of the problem-oriented policing (POP) model. Every police agency in the sample is involved in crime prevention programs, but the degree of involvement varies considerably. Agencies with a higher level of involvement in crime prevention programs tend to have a lower rate of charging, especially in communities with high levels of youth crime. More involvement in crime prevention programs is associated with more use of informal action. Adoption of the problem-oriented policing (POP) model does not appear to have a large impact on decision-making with youth.

About half of the sample was able to provide documentation on policies and protocols for handling youth-related incidents and young offenders. However, only 13% of officers whom we interviewed found their organizations' policies and protocols helpful, and only 2% found them to be realistic. Police services which have youth-related policies and protocols charge fewer apprehended youth: they tend to make more use of pre-charge diversion, and of appearance notices. Officers who find their agency's policies and protocols for handling youth helpful or realistic are more likely to use various forms of informal action, referrals to external agencies, pre-charge diversion, and appearance notices; and to “follow the law” and not to invoke social welfare considerations, in

making detention and release decisions.

There are two common models for the authority and responsibility to lay a charge: front-line autonomy, and front-line initial decision with review by another officer(s). The impact of the procedural model for charging varies, depending on whether the police service has a youth squad or not. The model with the lowest charge rates is front-line autonomy in a police service which has youth specialists. The model with the highest charge rate is front-line autonomy with no youth specialization. The implication is that front-line autonomy results in greater use of discretion not to charge young persons *if* the front-line officer has training to deal with youth, or if the police service is committed to using discretion with youth, as indicated by its establishment of a youth squad. Agencies in which there are no dedicated youth officers, and front-line officers decide alone on the disposition of youth-related cases, tend to use referrals to external agencies and pre-charge diversion less, and lay charges more. Finally, autonomous patrol officers appear to use less intrusive measures to compel the attendance of a young person in court.

40% of officers said their work was mostly reactive, 9% said it was mostly proactive, and 51% said that their work involved “a bit of both”. Officers whose work is mostly proactive are more likely to use informal action, less likely to use formal charges, less likely to detain youth for a JIR hearing, but more likely to use more intrusive conditions on release Undertakings.

Decentralized police agencies use more informal action, more pre-charge diversion, more Promise to Appear (PTA's), more conditions on release Undertakings, and more detention for JIR hearings.

Offence- and offender-related factors

The “legal” factors of the seriousness of the offence (including its Criminal Code classification, the presence and type of weapon, and harm done to the person or property of a victim) and the youth’s history of previous police contacts are by far the most important determinants of the officer’s decision whether to lay a charge or resolve the incident otherwise. However, the relationship between the type of offence and the likelihood of charging is not a simple question of “seriousness”. Some more serious offences have lower charge rates, and some less serious offences have higher charge rates. A charge is much more likely if the youth was carrying a weapon, especially a firearm (which is very rare), or if a victim suffered significant harm to person or property.

The youth’s history of previous criminal activity has a very strong influence on police discretion. The number of prior apprehensions of the youth is the strongest single predictor of the decision to charge.

The next strongest influence on the decision to charge is the youth’s demeanour. Officers stressed the importance of the youth’s accepting responsibility for his/her wrongdoing, ix and their willingness to “give him a break” when remorse and respect for the law were expressed. They also repeatedly referred to “accepting responsibility” as a criterion of

eligibility for Alternative Measures.

The next most important factors in the decision to charge are the victim's expressed dispositional preference, the extent and nature of parental involvement (whether parents appeared to be willing and able to take custody and control of the youth, and whether they expressed an appropriate attitude to their child's wrongdoing), and the stability of the youth's home and school situations.

40% of respondents mentioned whether the crime was gang-related, and 22% cited the youth's gang affiliation, as factors or major factors in their decision-making.

28% of interviewees said that the youth's age was a factor or major factor in their decision-making. An apprehended 17 year old youth is 50% more likely to be charged, even when other factors such as the seriousness of the offence and his/her criminal history are controlled.

Some other factors play a minor or secondary role in the police decision to charge: whether the incident involved one or more offenders, the location and/or time of day, whether the youth was under the influence of alcohol or drugs, any relationship between the youth and a victim, and whether an adult co-offender was involved.

The type of victim (person or business) and the youth's gender and race play little or no role in the decision whether to charge, according to officers interviewed. Analysis of statistical data from the UCR2 Survey suggests that aboriginal youth are substantially more likely to be charged, even when other related factors are controlled.

We compared the views on the importance of these factors of officers from different parts of the country, different types of communities, and in different functional assignments. The most striking result was the consistency of views across all officers (and the consistency of the interview data with the results of statistical analysis of UCR2 data, and, indeed, with most previous research, in Canada and in other countries).

Conclusions

Our research suggests that the main impediment to police diversion of apprehended youth is the lack of suitable programs. The great majority of police officers whom we interviewed believe that informal diversion and Alternative Measures are potentially valuable responses to youth crime, but many officers are unable to use them at all, and practically all officers are unable to use them as much as they would like to, because of their unavailability. Thus, they feel they have no alternative but to lay a charge in circumstances where mere informal action is, in their view, an inadequate response. At least from the point of view of the police whom we interviewed, post-charge diversion programs are not an attractive alternative. They have little input to the post-charge x diversion decision, and are ignorant of its outcome. It appears paradoxical to them that they have to lay a charge in order to divert the youth. Our analysis of statistical data lends support to the commonsense view that post-charge alternative measures result in an

increase in charging.

Apart from diversion programs per se, social programs which can offer help to youth in need or at risk are, according to many of our respondents, woefully inadequate. In the absence of these programs and agencies, police officers sometimes find themselves in the position of surrogate social workers, seeing no alternative to the use of their powers to arrest, charge and detain youth whose main needs are for protection and assistance, not criminal sanctioning.

Concerning informal action, our conclusion from this research is that it is, and always has been, widely used by police with apprehended youth, and will continue to be under the new statute. However, there is room for a huge expansion in its use. Under the Juvenile Delinquents Act, many police services used informal action with three-quarters or more of apprehended youth. Quite a few police services and detachments, particularly in Quebec and British Columbia, currently charge only 20-30% of apprehended youth. The YOA explicitly authorized the use of police discretion with youth: to take “no measures” or “measures other than judicial proceedings” but it seems that the implementation of the YOA was singularly unsuccessful in legitimating, for both the police and the public, the use by police of informal action with youth. Most police officers continue to see informal action (and pre-charge diversion) as “giving the kid a break”, rather than as a legitimate law-enforcement response to a violation of the law.

The YCJA encourages informal action by police, and makes it presumptive instead of merely acceptable with non-violent first offenders. However, it seems to us that a major educational campaign will be needed to persuade the police that informal action is a fully legitimate and appropriate response to juvenile lawbreaking – just as legitimate and appropriate, in some circumstances, as referral to a program or to court.

The YCJA also encourages the use of non-judicial measures with administrative offences. However, as with the use of informal action by police, it seems to us that the implementation of this new way of thinking about administrative offences will require a major effort.

The two provinces in which police told us that the Crown screens their recommendations to charge – Quebec and British Columbia¹ – also have the lowest recorded rates of charging of apprehended youth in the country. This seems unlikely to be a coincidence. Many officers in British Columbia told us that they find the system of Crown screening of their recommendations to charge so frustrating that they prefer, wherever possible, to use informal action or pre-charge diversion (not Alternative Measures). The rather perverse implication of this is that one way to reduce the use by police of formal charges is to make the procedure frustrating so that they avoid using it.

¹ Although New Brunswick is usually identified as a Crown screening province, the police officers whom we interviewed in New Brunswick told us that they had the authority to lay a charge without consulting the Crown.

Concerning organizational influences on the use of police discretion with youth, our findings suggest that police services which want to increase their use of informal action and of pre-charge diversion, and to reduce the use of intrusive methods of compelling appearance, might consider any of the following measures: wholehearted adoption of the community policing model, in all its dimensions, including a fundamental organizational redesign and philosophical reorientation, the allocation of significant resources to community policing, increased involvement in crime prevention programs, especially in high-crime communities, and the adoption of the POP model by all ranks; creation of a youth squad, or at least one or more officers who specialize in youth crime; adoption of explicit policies and protocols for handling youth crime and young offenders; provision of training in handling youth crime to all front-line officers, and then allowing them to have autonomy in deciding how to dispose of youth-related incidents; assigning investigative and enforcement functions to SLO's who currently are limited to making presentations in schools; increasing the use of proactive policing; and decentralizing decision-making in the organization.

Many police managers are perfectly aware of the value of a youth squad, enforcement SLO's, etc., and many police services used to have youth squads, but they were abandoned under the pressure of financial stringency during the 1990's. The core activities of the police, in the view of most police officers and most members of the public, are routine patrol, and responding to calls for service, i.e. reports by the public of a crime. Therefore, if the various organizational innovations detailed above are to be adopted, a police service must not only receive funding for that innovation, but it must also be assured of an adequate base budget – because if the base budget for traditional policing functions which are expected by the public is inadequate, then inevitably ways will be found to divert the funds for innovation to what are seen by all as core activities.

Our analysis of situational factors in police decision-making has at least one implication for the implementation of the YCJA. This concerns the paramount importance to police of the record of the youth's previous apprehensions, whether or not they resulted in a charge or a conviction. If one aspect of the implementation of the YCJA is going to be a significant improvement in the recording of informal action, in order to track its use and effectiveness, this may well have the effect of increasing the information available to police on a youth's previous criminal activity – and this may result in an increase in charging.

We suggest several research initiatives which are complementary to the present research: an impact evaluation of the YCJA which collects comparable data in a few years time, and analyzes any changes that have taken place; a baseline file study of police discretion under the YOA, which collects quantitative data on various aspects of police discretion, such as informal warnings, formal warnings, arrest, etc.; an in-depth study of police services which exemplify “best practices” with youth; a study of the processing of administrative offences under the YCJA; and improvement of the UCR2 Survey as a tool for monitoring the implementation and impact of the YCJA, by increasing its coverage and improving the integrity of its key indicators of police discretion.

Acknowledgments

This report relies principally on information obtained from police officers during lengthy face-to-face interviews conducted during 2002. It also draws on documents supplied by police services, observation of police work during ride-alongs, and statistical data from the Uniform Crime Reporting Survey. Above all, however, it is based on the information provided, and views expressed, by over 300 police officers in 95 police agencies. It is to these officers that we owe our heartfelt thanks for their generous cooperation. When we planned this project, we had no idea how much cooperation we could expect from police services and their members. In the event, practically every police service which we approached agreed to participate in the research, and the few which declined did so for reasons beyond their control. Furthermore, in practically every police service which participated, we were allowed to interview not only patrol officers, investigators, and supervisors, but also senior management including Commanding Officers. All of these individuals took time from crowded schedules to participate in lengthy interviews which covered many subjects whose relevance must have been far from obvious to them. Nevertheless, they were not only exceptionally forthcoming with information and opinions, but also unfailingly courteous, helpful, gracious, and even hospitable – which we much appreciated, given the rigours of Canada-wide travel. We were particularly struck by the openness of the police services and their members – exemplified by one officer who, when asked for permission to quote him, said “Go ahead – I’ve got nothing to hide.” We hope they will feel that the results of the research justify the considerable investment which they made in it.

There are too many officers and police services to list individually here, but the names of all who participated in the research are listed in the Methodological Appendix, as a token of our gratitude to each of them.

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The POLIS Committee, chaired by Supt. Frank Ryder, OPP, then by Chief Cal Johnston, Regina Police, provided crucial early support for the project, and helpful advice and feedback during its planning and execution. Members of the Committee also provided us with our first opportunities to visit and interview police services. We believe that this committee’s endorsement and early support of the project were crucial to its acceptance by the wider police community. We particularly wish to acknowledge the assistance of John Turner, Canadian Centre for Justice Statistics, and vice-chair of the POLIS

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The endorsement of the project by the National Youth Strategy of the RCMP, and by its Officer in Charge, Dorothy Franklin, were, we believe, crucial to our obtaining access to, and the cooperation of, the 29 RCMP detachments in which we conducted interviews. Ms. Franklin's staff wrote a large number of introductory letters for us to members at several levels of the RCMP, including provincial Divisional Commanders and Officers in Charge of detachments; the provincial Divisional Commanders in turn approved and facilitated our access to detachments in their Divisions. In addition, on the initiative of Cpl. Dave Gray, National Youth Strategy, we were able to interview several members who had recently served in remote Northern detachments but who were currently stationed in more accessible locations. This allowed us to include in the sample detachments in the Northwest Territories and Nunavut, which would otherwise have been inaccessible to us.

We were also unable to visit detachments of the OPP in Northern Ontario, but on the initiative of Supt. Susan Dunn, Commander, Operational Planning and Research Bureau, and with the assistance of Acting S/Sgt. Larry Proctor and Mr. Garth Coleman, arrangements were made for members of ten Northern Ontario detachments to travel to OPP Headquarters in Orillia to be interviewed. This generous initiative by Supt. Dunn and her staff, and the willingness of the officers to undertake the travel to Orillia, and of their Commanders to permit their absence from their duties, greatly improved the representativeness of our sample, since we would otherwise have been forced to omit most of Northern Ontario.

Finally, the support and cooperation of the Canadian Centre for Justice Statistics (CCJS) were also absolutely crucial to our ability to obtain the data which we required. In order for us to do a satisfactory multivariate analysis of data from the Incident-Based Crime Reporting Survey, it was necessary for CCJS to carry out a special record linkage project. Joan Coulter, Assistant Director, CCJS, provided crucial early support for this project and shepherded it through the initial stages of the institutional arrangements. When Ms. Coulter moved to another branch of Statistics Canada, her work on behalf of this project was taken over and brought to a successful completion by her successor, Jillian Oderkirk, with the support of Roy Jones, Director, CCJS, and Orest Fedorowycz, Senior Analyst. John Turner, Chief, Policing Services Program, also provided early support. Colin Babyak, Lori Stratychuk, Zachary Pritchard, and Kuawa Williams, Methodology Section, Statistics Canada, provided the statistical and methodological expertise to carry out and evaluate the record linkage process. Holly Johnson, Chief, Research and Analysis Program, CCJS, and Robin Fitzgerald, Senior Advisor, Special Studies, provided institutional support and collegueship. Above all, we wish to express our appreciation to Tim Leonard, Manager, UCR Survey, upon whose shoulders fell the task of coordinating the CCJS part of the project. He provided invaluable expertise concerning the intricacies of the UCR2 Survey, assistance in arranging our visits to and work at CCJS, acute commentary on the developing results of the record linkage project, and continuing invaluable advice, support and collegueship during its long genesis.

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Table of Contents

Executive Summary	i
Acknowledgments.....	xiii
Table of Contents.....	xvii
List of Figures.....	xx
List of Tables	xxiii
I. Introduction.....	1
II. A Descriptive Profile	7
1.0 Detection of youth crime.....	7
1.1 Clearing the incident	10
1.2 Proportion of apprehended young persons who are charged.....	12
1.2.1 Changes over time and differences between jurisdictions	13
1.2.2 Differences between types of police agencies	19
1.2.3 Differences by type of offence.....	21
2.0 Offences that are almost always dealt with informally, referred to alternative measures, or charged.....	21
3.0 Informal action.....	23
3.1 Frequency of use of informal action.....	24
3.1.1 Statistical data	24
3.1.2 Interview data	29
3.2 Referrals to external agencies.....	31
3.3 Tracking of informal warnings.....	32
3.4 Use of informal and formal warnings with young persons.....	33
3.5 Other types of informal action.....	34
4.0 Use of alternative measures.....	36
4.1 Use of pre-charge alternative measures/diversion	38
4.2 Process of making pre-charge referrals	41
4.3 Use of post-charge alternative measures	41
4.4 Feedback on cases referred to alternative measures	42
4.5 Summary	46
5.0 Discretion with offences against the administration of justice.....	47
6.0 Discretion with provincial/territorial offences	56
7.0 Procedures used to compel appearance in court.....	56
7.1 The summons and appearance notice	59
7.2 Release on a Promise to Appear (PTA).....	63
7.3 Release on an Officer In Charge undertaking.....	64
7.4 Release on a Recognizance	67
7.5 Summary: Methods of compelling appearance without detaining	67
7.6 Detention for a judicial interim release hearing	68
7.7 Offences that almost always result in arrest and detention.....	72
8.0 Summary	74

III. Environmental Factors Affecting Police Discretion	77
1.0 The legal environment.....	78
2.0 Provincial policies and procedures.....	84
2.2 Crown screening versus police authority to charge.....	86
3.0 External resources	88
4.0 The nature of the community	92
4.1 Degree of urbanization	93
4.2 Socio-demographic characteristics	104
4.2.1 Level of wealth	106
4.2.2 Residential instability.....	109
4.2.3 Tourists	111
4.2.4 Aboriginal population	112
4.3 Level and type of crime in the community.....	118
4.4 Community-police relations	126
5.0 Summary	128
IV. Organizational Factors Affecting Police Discretion	133
1.0 Size.....	135
2.0 Centralization	137
3.0 Hierarchy.....	142
4.0 Specialization.....	145
4.1 Youth squads and dedicated youth officers.....	147
4.2 School liaison officers (SLO) and school resource officers (SRO).....	155
4.3 Policy and protocol for handling youth-related incidents.....	159
5.0 Authority and responsibility for the decision to charge	162
6.0 Policing styles: Reactive versus proactive policing	168
7.0 Support for community policing	173
7.1 The philosophical dimension: mission statements and documented mandates and objectives	175
7.2 The strategic dimension: policies, protocols, and allocation of resources.....	176
7.3 The tactical dimension: crime prevention programs and problem-oriented policing (POP) ...	181
7.4 The organizational dimension : organizational redesign	190
8.0 Summary	190
V. Situational Factors Affecting Police Discretion	197
1.0 Background	199
2.0 Seriousness of the crime.....	202
2.1 Presence of a weapon	206
2.2 Harm done to a victim	207
3.0 The role of the victim.....	209
3.1 The victim's dispositional preference.....	209
3.2 Type of victim	212
3.3 Victim-offender relationship	212
4.0 Co-offenders and apparent gang-related crime	213
4.1 Gang-related crime	214
4.2 Group crime.....	216
4.3 Adult co-offender	217

5.0	Under the influence of alcohol or drugs.....	218
6.0	Location and time of day.....	219
7.0	Prior record: contacts, alternative measures, charges, convictions	220
8.0	Demeanour	222
9.0	Age.....	228
10.0	Gender.....	231
11.0	Race.....	232
12.0	Peer group and gang affiliations.....	233
13.0	Home and school situations.....	235
14.0	Parental involvement.....	238
15.0	Summary.....	240
VI.	Conclusions.....	247
1.0	The exercise of police discretion with youth.....	248
2.0	Environmental factors influencing police discretion with youth.....	253
3.0	Organizational factors influencing police discretion with youth.....	256
5.0	Implications for implementation of the YCJA	261
6.0	Implications for future research	265
6.1	A pre-post evaluation of the impact of the YCJA	265
6.2	A baseline file study of police discretion under the YOA.....	266
6.3	A “best practices” study of police discretion under the YCJA.....	266
6.4	A study of the processing of administrative offences under the YCJA.....	266
6.5	Improvement of the UCR2 Survey.....	267
	List of References	269
	Methodological Appendix	284

List of Figures

II.1	How police become aware of youth-related incidents.....	9
II.2	Proportion of apprehended young persons charged, Canada, 1977-2000	13
II.3	Percentage of apprehended young persons charged, by province, 2000	14
II.4	Proportion of apprehended young persons charged, by province, 1977-2000	15
II.5	Incident clearance status, all UCR2 respondents, 2001	26
II.6	Clearance status of youth-related incidents, UCR2 Trend Database respondents, 1995-2001	27
II.7	Clearance status of youth-related incidents, all UCR2 respondents, by province, 2001.....	28
II.8	Frequency of consideration of use of informal action	30
II.9	Tracking informal warnings in the RMS	32
II.10	Other types of informal action	34
II.11	Types of pre-charge diversion programs available for referrals of youth	39
II.12	Feedback on Alternative Measures cases.....	44
II.13	Is feedback on Alternative Measures useful (or would it be, if it were available)?.....	45
II.14	Rates of young persons apprehended and charged for offences against the administration of justice, Canada, 1977-2000	48
II.15	Proportion of young persons apprehended for offences against the administration of justice who were charged, Canada, 1977-2000	49
II.16	Rates of young persons apprehended for common offences against the administration of justice, Canada, 1977-2000	49
II.17	Discretion with Administration of Justice incidents	52
II.18	Use of the summons with young persons.....	60
II.19	Use of the Appearance Notice with young persons.....	61
II.20	Reasons for release on a Promise to Appear.....	63
II.21	Conditions of OIC Undertakings	65
II.22	Reasons for detention for a JIR hearing.....	69
II.23	Offences for which police almost always arrest and detain.....	73
III.1	Clearance status of youth-related incidents, all UCR2 respondents, by Province, 2001	85
III.2	Types of communities served by police agencies in the sample	99
III.3	Police services in communities with poverty problem areas, by region.....	106
III.4	Conditions of OIC Undertakings by low-income/poverty area	108
III.5	Reasons to detain for a JIR hearing, by poverty problem area	108
III.6	Police services in communities with significant transient youth, by region.....	110
III.7	Aboriginal populations served by police services	114
III.8	Regional distribution of police agencies which serve aboriginal populations.....	114
III.9	Regional distribution of police agencies which perceive “a lot” of youth crime ..	119
III.10	Types of informal action used, by the perceived level of youth crime in the community	120

III.11	Reasons to detain a young person for a JIR hearing, by perceived level of youth crime in the community	121
III.12	Types of youth crime which are prevalent in the community	122
III.13	Regional distribution of police agencies which report dealing with a significant amount of serious violent youth crime.....	123
III.14	Regional distribution of police agencies reporting youth gang problems	124
III.15	Regional distribution of police agencies reporting teenage prostitution	124
III.16	Regional distribution of police agencies reporting significant numbers of administration of justice offences involving young persons.....	125
III.17	Officers' perceptions of community-police relations	127
III.18	Regional distribution of police officers' perceptions of community support.....	128
IV.1	Distribution of the sizes of police services in the sample.....	136
IV.2	Size of police services, by type of community	137
IV.3	Proportion of decentralized police agencies, by size of police service.....	140
IV.4	Proportion of decentralized police agencies, by type of community.....	140
IV.5	Degree of hierarchy in police services, by type of community	144
IV.6	Degree of hierarchy in police services, by size of police service	144
IV.7	Regional distribution of police agencies with youth specialization.....	149
IV.8	Reasons to detain for a JIR hearing, by specialization	153
IV.9	Functions of SLOs/SROs.....	156
IV.10	Functions of SLOs/SROs, by type of community	156
IV.11	Regional distribution of police agencies with SLOs/SROs.....	157
IV.12	Clearance status of youth-related incidents, by type of SLO, 2001	158
IV.13	Procedural models for the authority to charge young persons	165
IV.14	Regional distribution of procedural models for the authority to charge young persons	166
IV.15	Style of policing by location of service	169
IV.16	Regional distribution of styles of policing.....	170
IV.17	Styles of policing by type of community.....	171
IV.18	Styles of policing by whether a First Nations reserve is in the police agency's jurisdiction	172
IV.19	Regional distribution of adoption of the philosophical dimension of community policing	176
IV.20	Police services which provided documentation on the strategic dimension of community policing.....	177
IV.21	Level of commitment by police agencies to community policing.....	178
IV.22	Regional distribution of the level of commitment by police agencies to community policing	179
IV.23	Views on agency's support for community policing, by location of service	180
IV.24	Regional distribution of the level of involvement of police services in crime prevention programs	182
IV.25	Types of crime prevention programs.....	183
IV.26	Regional distribution of involvement by police agencies in youth gang related crime prevention programs	184

IV.27	Regional distribution of involvement by police agencies in youth violence related crime prevention programs	185
IV.28	Type of involvement in problem-oriented policing.....	188
IV.29	Regional distribution of the extent of adoption of the POP model.....	188
V.1	Regional distribution of views on the impact of the victim’s preference	211
V.2	Views on the impact of victim preference, by location of service.....	211
V.3	Regional distribution of views on the impact on decision-making of gang-related crime.....	215
V.4	Regional distribution of views on the impact on decision-making of the youth’s prior record.....	221
V.5	Views on the impact of the youth’s prior record, by the officer’s location of service	222
V.6	The effect of the youth’s demeanour on police decision-making.....	223
V.7	The impact on decision-making of the youth’s demeanour, by the type of community and perceived level of crime.....	225
V.8	Regional distribution of views on the impact on decision-making of the youth’s demeanour.....	225
V.9	Regional distribution of views on the impact on decision-making of the youth’s demeanour, by the perceived level of youth crime in the jurisdiction.....	226
V.10	Regional distribution of views on the impact on decision-making of the youth’s demeanour, by jurisdiction over a First Nations reserve	227
V.11	The effect of the offender’s age on police decision-making.....	229
V.12	Regional distribution of views on the impact on decision-making of the youth’s age.....	230
V.13	The effect of a youth’s gang affiliation on police decision-making	234
V.14	Regional distribution of views on the impact on decision-making of the youth’s gang affiliation.....	235
V.15	The effect of home and school situations on police decision-making	236
V.16	Regional distribution of views on the impact on decision-making of the youth’s home and school situations	237
V.17	The effect of parental involvement on police decision-making.....	238
V.18	Regional distribution of views on the impact on decision-making of the youth’s parents’ involvement.....	239
V.19	Overall ranking of situational factors affecting police decision-making with youth	241

Appendix

A.1	Locations of police services in the sample	284
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List of Tables

II.1	Proportion of apprehended youth charged, by province/territory and type of policing, 1998-2000	20
II.2	Proportion of apprehended youth charged, by offence, Canada, 2000	22
II.3	Classification of incident clearance statuses in the UCR2 Survey	25
IV.1	Officers' use of specific types of informal action, by their views on youth-related policy and protocol.....	160
IV.2	Proportion of apprehended young persons charged, 1998-2000, by the procedural model for charging and youth specialization	167
IV.3	Proportion of apprehended young persons charged, 1998-2000, by the level of support for community policing and region	181
IV.4	Proportion of apprehended young persons charged, 1998-2000, relative to the overall provincial level of charging, by the level of involvement of police in crime prevention initiatives, and by the perceived level of youth crime in the community	187
IV.5	Proportion of apprehended young persons charged, 1998-2000, relative to the overall provincial level of charging, by the extent of adoption of the POP model	190
IV.6	Summary of relationships between organizational variables and the proportion of apprehended young persons who were charged	191
V.1	Effects of offence seriousness, use or presence of a weapon, and harm done, on police decision-making	203
V.2	Proportion of apprehended youth charged, by offence, Canada, 2001	204
V.3	Proportion of each age group apprehended, by offence category, Canada (parts), 2001	205
V.4	Proportion of apprehended youth, by type of offence and number of prior apprehensions, Canada (parts), 2001	206
V.5	Proportion of apprehended youth charged, by the presence and type of weapon, Canada (parts), 2001	207
V.6	Proportion of apprehended youth charged, by the type of injury to a victim, Canada (parts), 2001	208
V.7	The role of the victim in police decision-making	209
V.8	Proportion of apprehended youth charged, by the relationship between a victim and the apprehended youth, Canada (parts), 2001	213
V.9	Proportion of apprehended youth, by type of offence and relationship with victim, Canada (parts), 2001	213
V.10	Effect of gang-related crime and co-offenders on police decision-making	214
V.11	Proportion of apprehended youth charged, by whether accomplices were involved, Canada (parts), 2001	217
V.12	Proportion of apprehended youth charged, by the number of prior apprehensions, Canada (parts), 2001	222

V.13	Proportion of apprehended youth charged, by the age of the youth, Canada (parts), 2001	228
V.14	Number of prior apprehensions, by the age of the apprehended youth, Canada (parts), 2001	229
V.15	Proportion of apprehended youth charged, by the gender of the youth, Canada (parts), 2001	232
V.16	Proportion of apprehended youth charged, by the race of the youth, Canada (parts), 2001	233
V.17	Overall ranking of situational factors affecting police decision-making with youth	240
V.18	Rankings of situational factors affecting police decision-making with youth, for sub-groups of officers.....	244

I. Introduction

This report was commissioned by the Department of Justice in support of the implementation and evaluation of the Youth Criminal Justice Act. The research had two main objectives: to provide a comprehensive description of the ways in which police in Canada currently exercise their discretion with youth, and to identify and assess factors which affect that exercise of discretion. Our intention was to provide information which could be used in two ways:

- as baseline data which can be compared in the future with similar data on the exercise of police discretion under the YCJA, in order to conduct an evaluation of the impact of the YCJA on police decision-making with youth, using a “pre-post” quasi-experimental design; and
- to identify aspects of the policing environment and of police organizations, which policymakers and police management could attempt to modify, in order to support police officers in exercising their discretion in conformity with the intent and specific provisions of the YCJA.

Although there have been several in-depth studies of individual police services in Canada, no attempt has been made to analyze police decision-making on a national scale since the study carried out by Statistics Canada in 1976 (Conly, 1978) – and even that study was limited in the depth of information which it collected and the scope of the sample which it studied. Accordingly, we set ourselves the goal of gathering in-depth information, both qualitative and quantitative, on a nationally representative sample of police services. Since a substantial proportion of smaller cities and towns, and most rural areas, in Canada are provided with policing services by detachments of the provincial police, including the RCMP working under contract to provincial governments, we felt that the sample must include a substantial number of these detachments.

Possible sources of information on police decision-making include interviews with officers at all levels and in all units of the police organization, observation of their work during “ride-alongs”, police agency documents, statistical data from the Uniform Crime Reporting (UCR) Survey and Incident-Based Uniform Crime Reporting (UCR2) Survey, operated by the Canadian Centre for Justice Statistics, and the individual case files maintained by police agencies, either in hardcopy or on their Records Management Systems (RMS). We used all of these sources except police case files. Early in the design phase of this project, we were advised by representatives of several police services that it would be problematic to access these data; we recognized also that to collect file data on a substantial number of youth-related cases from a representative sample of Canadian police agencies would be prohibitively expensive and time-consuming.

I. Introduction

We conducted over 200 in-depth interviews with more than 300 police officers in 95 police services and detachments which are approximately representative of all police services in Canada – from all provinces and territories, all types of communities, and all types of police service, including independent municipal services, detachments of provincial police services including the RCMP, First Nations police services, and police training facilities. The sample included the police services in all of the largest cities in Canada, and a substantial number of police services and detachments in the smallest towns and the most remote rural areas of the country. We also analyzed aggregate UCR data for 1977-2000, and did detailed statistical analysis of UCR2 data on a large sample of individual young offender cases for 2001.

Chapter II is a descriptive profile of the exercise of police discretion with young offenders. It discusses the main areas of police work with young offenders in which discretion is exercised: the detection of youth crime, clearing youth-related incidents by informal action, referring to alternative measures, or laying a charge, and procedures used to compel the attendance at court of youth who are charged. Special attention is given to the handling of incidents involving offences against the administration of justice and provincial/territorial offences.

For each of these topics, we attempt, within the limits of the data available to us, to provide a general view which applies to police work with young offenders everywhere in Canada, and then to point out what seem to us to be noteworthy variations – in different parts of Canada, different types of communities, different types of police services, and for police officers with different lengths of service.

Chapters III to V of this report explore the reasons for variations in the exercise of police discretion which are identified in Chapter II. We draw from information provided to us by police agencies in interviews and documentation, and statistical data from the UCR and UCR2 Surveys.

Chapter III considers aspects of the environment in which police agencies work. Police agencies operate within a complex environment, consisting of, among other things, the nature of the local community, federal and provincial legislation, policies, procedures, and programs, local public and private resources, and public opinion. The impact of these factors on police decision-making with young offenders is analysed. Since this research was commissioned in support of the implementation and evaluation of the YCJA, it is worth considering the relevance to that initiative of consideration of the policing environment. The police have little or no control over the environment in which they work. Nor can any federal or provincial government agency expect to have much immediate impact on some salient aspects of the policing environment, such as the degree of urbanization, socio-demographic characteristics, or the level and type of crime of the communities which police serve. However, it is certainly within the power of provincial governments to affect other aspects of the policing environment which affect the exercise of police discretion, namely the relationship of Crown prosecutors with the police, and,

I. Introduction

above all, the availability of programs to which youth can be referred as an alternative to being charged (and, on occasion, held in police detention).

In Chapter IV, we discuss factors related to the police force as an organization, drawing on organizational theory in general, and, in particular, its application to police organizations. We have deliberately avoided applying broad classificatory schemes such as Wilson's (1968) classic typology of watchman, legalistic, and service styles of policing. Our purpose in this report is not to develop a scheme for classifying Canadian police forces, but to identify specific aspects of their structure, operations, and orientation which affect the ways in which their members exercise their discretion in dealing with youth crime. Therefore, we present a list of organizational characteristics and discuss to what extent each of these appears to influence police decision-making. Structural attributes include: the size of the police service, indexed by the number of officers; the degree of centralization, or horizontal differentiation into semi-autonomous divisions; the degree of hierarchy, or vertical differentiation into ranks and positions; the extent of functional specialization related to youth crime, and the locus of authority and responsibility to lay a charge against a young person – or to recommend charging, if the decision is made outside the police service. Aspects of the police agency's orientation which we examine are: the degree of proactive versus reactive policing; the level of support for community policing; the adoption of problem-oriented policing; and the level and types of involvement in crime prevention initiatives.

An understanding of the organizational factors affecting police discretion with youth is relevant to the implementation of the YCJA because almost all of these aspects of police organization are mutable. Police forces which want to modify the ways in which their members exercise their discretion with young offenders, in order to conform to the specific provisions and general intent of the YCJA, can effect change to most of the aspects of police organization and culture which are identified here as affecting the exercise of discretion – although organizational change can be difficult and fraught with risks and unanticipated consequences (Cordner & Sheehan, 1999; Grosman, 1975). Presumably, federal and provincial policy-makers in the areas of policing and youth justice can play a role in encouraging such changes.

In Chapter V, we assess the impact on police decision-making with young persons of factors specific to the individual incident and the apprehended youth. Circumstances of the incident which we examine include: the seriousness of the crime, as indicated by the type of offence, the presence or use of a weapon, and the harm done to a victim; victim-related circumstances, including the expressed preference of the victim for a particular course of action by police, the type of victim (person or business), and the relationship, if any, between the victim and the offender; accomplice-related aspects, including whether there were accomplices, whether any was an adult, and whether this was apparently a gang-related crime; whether the apprehended young person was intoxicated at the time of the incident; and the location and time of day of the incident. We examine the following characteristics of the apprehended youth: his or her prior record of criminal activity, age, gender, race, demeanour, any delinquent peer group or gang affiliation, home and school situations, and the involvement of the parents.

I. Introduction

For each of these possible influences on police decision-making, we have tried to assess its impact in two ways. First, in our interviews with police officers, we asked all officers who were currently, or had recently been, involved in decision-making with apprehended youth, to what extent each factor had an impact on their decision whether to use informal action, refer to alternative measures, or lay a charge (or recommend the latter actions, if the decision was not theirs). At least one officer from each police service in the sample was asked these questions. In smaller police services and detachments, where we interviewed only one or two officers, the current assignments of the persons who answered these questions ranged from patrol to commanding officer, but all were currently, or had recently been, directly involved in decision-making with youth. In larger police services, where we interviewed between two and seven officers, these questions were not posed to senior management, since they had generally not been involved in this kind of decision-making for several years or more.

The second method which we used to assess the impact of situational factors on police discretion was multivariate analysis of statistical data from the UCR2 Survey. The data which we analysed include 38,727 young persons apprehended in 2001 by 186 municipal police services and provincial police detachments which report to the UCR2. For each apprehended young person, the decision which we analysed (i.e. the dependent variable) was the police disposition: whether the young person was charged (or recommended to be charged in Crown screening jurisdictions) or processed otherwise (i.e. by informal action or referral to alternative measures, although these two actions are unfortunately not distinguished in the available data). The factors whose impact were analysed include: the type of offence (using grouped Criminal Code classifications), the number of prior apprehensions of the youth, the youth's age, sex, and race (aboriginal or not), whether the incident involved a lone offender or accomplices, any weapon present, any injury suffered by a victim, and any relationship between a victim and an apprehended person. Using multivariate analysis, the impact of each factor was assessed, while holding other related factors constant; also, the relative weight of the various factors was estimated.

This statistical analysis is similar to that used in a previous study of police discretion with young offenders in Canada in 1992-1993 (Carrington, 1998a), but there are two innovations. One is the use of UCR2 data for 2001. Not only are these data more recent, but they include substantially more police services than were included in the UCR2 Survey during the period of the earlier study. However, the more important innovation is the inclusion of the young person's record of prior contacts with the police (apprehensions) as an independent variable. Although this information is not captured in UCR2 records, it was constructed by a record linkage project carried out by the Canadian Centre for Justice Statistics especially for this project.

Chapter VI summarizes the main findings and conclusions of the research. It also comments on some implications of the findings in relation to the implementation and evaluation of the YCJA, and suggests several research initiatives related to police discretion with youth which would, in our opinion, complement the present research.

I. Introduction

Details of the qualitative and quantitative methodologies, including the samples, methods of data collection and data analysis, which were used in this research are provided in the Methodological Appendix.

II. A Descriptive Profile

This chapter is a descriptive profile of the exercise of police discretion with young offenders. It discusses the main areas of police work with young offenders in which discretion is exercised: the detection of youth crime, clearing youth-related incidents by informal action, referring to alternative measures, or laying a charge, and procedures used to compel the attendance at court of youth who are charged. Special attention is given to the handling of incidents involving offences against the administration of justice and provincial/territorial offences.

For each of these topics, we attempt, within the limits of the data available to us, to provide a general view which applies to police work with young offenders everywhere in Canada, and then to point out what seem to us to be noteworthy variations – in different parts of Canada, different types of communities, different types of police services, and for police officers with different lengths of service.

Our aim in this chapter is to describe the exercise of police discretion with young persons, not to explain it. Our attempts to explain the phenomena described herein are reported in the following chapters.

1.0 *Detection of youth crime*

Detection of crime can occur in one of two modes. Proactive policing involves police-initiated activities by either an individual officer or the police organization (e.g., traffic tickets, crime prevention initiatives). Proactive mobilization occurs when officers make spontaneous decisions to stop citizens for further investigation, or reflects administrative and supervisory decisions to focus on certain groups of people who are believed to be crime-prone (Ericson, 1982).¹ Reactive policing involves a police response to a specific request by a citizen (e.g. telephoning the police to report a crime). These requests can range from individuals asking for help handling their difficulties, or from community groups requesting a certain level or pattern of service to meet their interests (ibid.).

Police work predominantly involves reactive policing. Black & Reiss (1970) found that 72% of police-juvenile encounters were citizen-initiated. Similarly, Webster's (1970) findings indicated less than 20% of police encounters were self-initiated (proactive). More recent findings indicate the same trend but to a lesser degree: approximately 50% (Cordner, 1989) and 53% (Ericson, 1982) of police encounters were reactive and a large proportion of the balance involved administrative work. A study of a large police force

¹For example, Ericson (1982) found proactive policing directed at lower status citizens who either presented problems in the officer's view or were out of place in the neighbourhood.

in eastern Canada found that even reactive policing does not involve a large number of calls that relate to crime control (approximately 35%) (Shearing, 1984). Hence, earlier conclusions that “the moral standards of the citizenry have more to do with the definition of juvenile deviance than do the standards of policeman on patrol” (Black & Reiss, 1970: 66-67) are borne out by existing Canadian research.

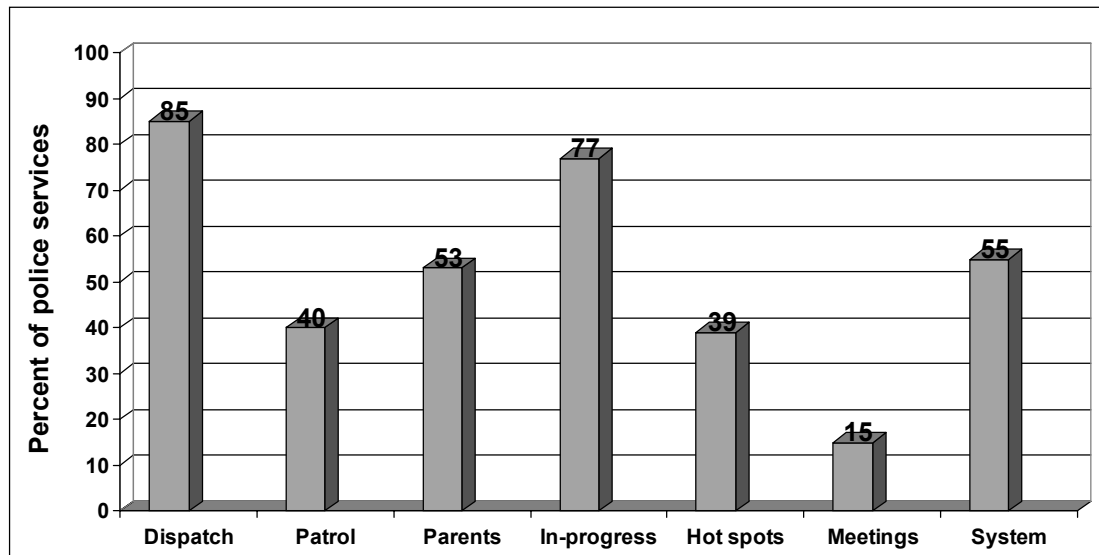
In the reactive situation, a police officer can exercise his or her discretion only after two events have occurred: (i) a decision has been made by either a member of the public (observer, parents, school authorities, etc.) or the victim to call the police, and (ii) the dispatchers have decided this incident warrants sending a patrol car to the scene. Stated differently, typical mobilization scenarios are: (i) police are called by a complainant or witness while the incident is in progress, (ii) police are called by a complainant or witness after the incident is completed, (iii) police discover an incident in progress, (iv) police discover a completed incident, or (v) police are notified by other agents in the criminal justice system (judge, probation officer, etc.). Thus, the detection of crime can be seen as an organizational mobilization (Black & Reiss, 1970).

Within our sample, interviewees were asked whether they felt their work was mostly reactive, mostly proactive, or a bit of both. About one half (51%) told us they felt their work was a bit of both, just under one half (40%) indicated their work was mostly reactive, and 9% suggested it was mostly proactive. The responses suggest three different understandings of the word ‘proactive’. First, some officers indicated that even when they respond to a call from dispatch, which is traditionally considered reactive policing, they can choose to deal with the incident proactively (e.g. informally mediating between parties). Second, officers suggested that they not only responded to calls for service by dispatch but proactively went to known ‘hot spots’ for youth-related deviance (e.g. parks, donut shops). Finally, some officers working within specialized programs (e.g. SHOCAP, SHOP) would proactively check for probation condition compliance by actively door-knocking to ensure the young person was home during the curfew period. All of these conceptualizations of the term ‘proactive’ led to their answering our question with ‘a bit of both’. Those officers that indicated their work was mostly proactive tended to focus on crime prevention initiatives as a community service officer, or were assigned as a school liaison officer who did not perform any enforcement-related duties within the schools. Finally, a large proportion of those who felt their work was primarily reactive worked in patrol or the general investigation section (GIS).²

There are several different ways that police officers become aware of youth-related incidents. These include: dispatch, patrol investigation, parents calling in, coming across an in-progress incident while in the field, proactively going to hot spots, through weekly meetings, or via other system agents (e.g. social services, probation, and school officials). Figure 1 presents the percentage of police services that indicated the various ways they become aware of youth-related incidents (percentages add to more than 100% since multiple answers were permitted).

² The influence of proactive versus reactive policing on the exercise of discretion is discussed in Chapter IV, Section 6.

Figure II.1. How police become aware of youth-related incidents



The majority of officers indicated that the most common ways they find out about incidents involving youth are via dispatch (85%) or coming across an incident while it is in progress (77%). However, they also receive information from other system agents (55%) and parents (53%). In some jurisdictions, police services have worked very hard to improve their links with the community as well as with other parts of the criminal justice system. With over half of the respondents indicating system agents and parents, this suggests these efforts have been successful to some degree. Finally, officers also told us that they find out about incidents through patrol investigations (40%), proactively going to hot spots (39%), and through weekly meetings with other police officers, community members, or system agents (15%).

Police officers predominantly agreed (88%) that the way they become aware of youth-related incidents does not impact on their use of discretion. Of the 12% whose exercise of discretion was affected, some said that it was the amount of time which had elapsed after the incident that might affect them: they might exercise discretion differently if they were receiving the information several days later (regardless of the way in which they received that information). A few also mentioned that they would respond differently, based on the type of offence (e.g. serious violent offences).

How police officers become aware of youth-related incidents can vary by location of service, type of community, and by province or territory. There was no variation between police types (independent municipal, First Nations, RCMP, or provincial). When police officers are assigned to general duty (patrol), they tend to find out about youth-related incidents through dispatch or coming across them in the field. However, detectives in GIS, officers in a youth division, or school resource officers can potentially find out about these incidents in all of the ways previously discussed.

Two aspects of the detection of youth-related incidents appear to vary with the type of community (metropolitan, suburban/exurban, rural/small town). Learning of the incident from the youth's parents, who have called about it, is more likely to be cited by officers in metropolitan areas (53%) and in rural/small town jurisdictions (59%), and less in suburban/exurban areas (37%). This may be due to the nature of the suburban community ("bedroom community"), in which a significant proportion of the population commutes to a metropolitan area. However, this is speculation and no theories have been offered to explain differences in crime detection between these three types of communities. The highest proportion of officers who indicated parents calling in were in Ontario (73%) and the smallest proportion were in the Prairies (35%). System agents provide police with information about young persons more often in metropolitan areas (77%) than in suburban/exurban (42%) or rural/small town areas (45%). This may be due to differences in the human resources available in different types of communities.

A very clear difference is seen when comparing by province and territory the proportion of officers who proactively go to hot spots. 78% of officers in the Yukon, Northwest Territories, and Nunavut indicated that they find out about youth-related incidents through proactively seeking them out. This can be attributed to a very different style of policing that occurs in the Territories. Officers stated that to be accepted by the communities, which tend to be quite small, they spend very little time in their detachment offices and interact with the residents on a daily basis on and off shift. Members indicated they were out on the road all the time stopping and chatting with the kids at the skateboard park, the arena or wherever the local youth congregated. One officer stationed in Nunavut suggests that officers should "always try to have an open door policy, open to every conversation. I think the best approach is to be very visible, not stay in the office that was the best thing". Another officer stationed at an isolated detachment says that "up north, a police officer has to get out and meet people, particularly children. The children will tell you exactly what's going on, in what house, and who does it".

1.1 Clearing the incident

The process of dealing with an incident can be broken down into five stages, or decision points (Klinger, 1996). The first stage is gathering initial information and making a decision as to whether further investigation is warranted; i.e. deciding whether the incident involves a criminal violation (is founded or unfounded). In the second stage, investigation results in the identification of the offender(s), or "clearing" the incident. The third stage involves the choice of disposition for each apprehended offender. This can entail the police laying a charge (or referring a recommendation to the Crown to charge in some provinces), with or without a recommendation for post-charge Alternative Measures; referring the youth to pre-charge Alternative Measures or a Youth Justice Committee, or taking informal action. The next decision is whether to make a police (occurrence) report. If the suspect is charged or referred to Alternative Measures, a report must always be completed. However, if an officer chooses to use informal

II. A Descriptive Profile

measures to handle the incident it is up to the officer's discretion or departmental policy³ whether a report is completed. Finally, if charges are (to be) laid, an officer (or officers) make a decision concerning the mode of compelling his or her attendance at court: whether the youth is to be given an appearance notice, summonsed, or taken into custody (arrested); and, if arrested, whether to be released or held for a judicial interim release hearing. Thus, officers make three fundamental decisions: (i) whether a youth should be charged or dealt with in other ways; (ii) if not charged, what type of diversion is appropriate (Hornick et al., 1996); or, (iii) if charged, how to compel attendance at court.

The typical process involved in clearing youth-related incidents varies, depending on the type of officer who is responsible for making the decision: patrol, general detective, or youth bureau detective. A member on patrol tends to deal with the investigative process in a similar fashion for youths and adults, with a few exceptions. The officer decides whether an offence was committed, and, if so, who did it. Subsequently, the officer determines whether the youth should be arrested and brought back to the station. Officers often mentioned they would be more likely to let a 16 or 17 year old go at the scene with an appearance notice, as they were able to notify the parents by telephone. However, with a 12 to 15 year old they were more inclined to have the parents come to the station to pick up the young person. One officer summarized this process thus:

A 16 or 17 year old we can release them on an appearance notice and notify the parents later. But if he's under 16 then we make every effort to contact the parents, we don't release him unless we can find a parent. If we have to bring them in as a result, they are arrested.

Thus, the requirement (under the YOA) to notify the parents, coupled with a concern about the young person's welfare, increases the use of the power of arrest.

Depending on the organizational structure, some police services refer certain types of offences to a youth bureau or the general investigative (detective) section (GIS). In those circumstances, the patrol officer will conduct the preliminary investigation, possibly arrest the young person, and pass the file off to the appropriate investigative section. It is once the file has been taken on by the youth bureau or GIS that the parents are notified, the Section 56 waiver is repeated, statements are taken, and decisions for compelling appearance are made. In one Ontario police service, all files that involve young persons are referred to the youth bureau where the decision is made whether the case will be dealt with informally, by alternative measures, or by way of charge. However, in most police services, if informal action is chosen it is done at the level of the patrol officer.

An officer's and police agency's attitudes towards informal action and alternative measures can also have an impact on how youth-related incidents are cleared. Many

³Some jurisdictions (e.g. Ottawa-Carleton Regional Police) have internal policies that dictate the use of a formula-based decision-making model such as the Prevention Intervention at the Pre-Court Level (PIP) Program or the John Howard Pre-Charge Diversion Program (Hornick et al., 1996).

police services have departmental policies that specify which youth-related offences can be considered for alternative measures. None of the police services which we interviewed had policy regarding informal action. However, officers did indicate that there were unwritten rules regarding when informal action is considered appropriate. Some police officers felt very strongly that informal action and alternative measures either work or don't work. For officers who were sceptical about the efficacy of informal action and diversion, only the most minor offences would be considered appropriate to be dealt with outside the formal system.

1.2 Proportion of apprehended young persons who are charged

The main statistical indicator of the exercise of police discretion with respect to laying charges is the proportion of young persons apprehended by police who are charged.

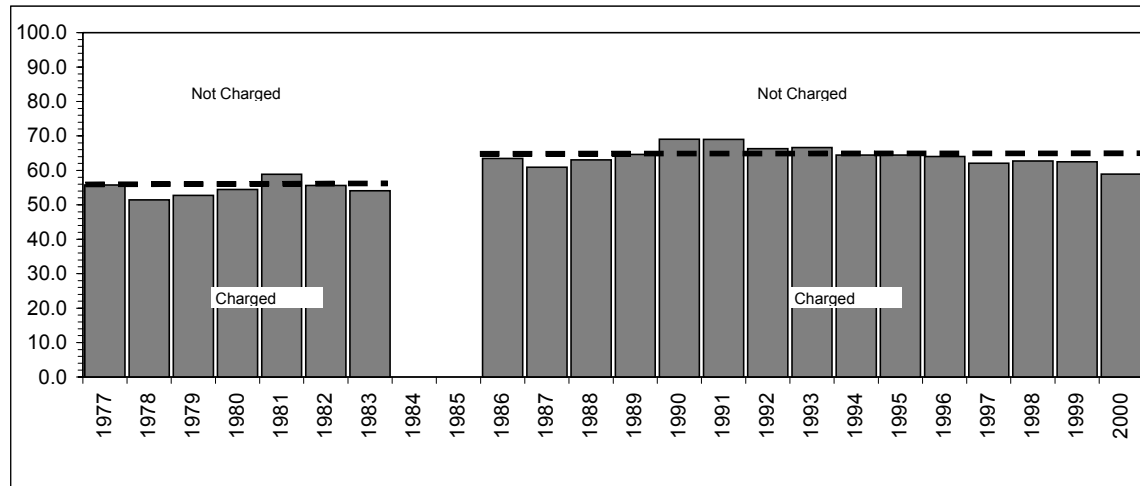
The Uniform Crime Reporting (UCR) Survey provides aggregate numbers of young persons charged (or recommended by police for charging, in provinces with Crown screening) and young persons not charged (but apprehended), by police service, by year, for all of Canada. The numbers of 'youth not charged' reported in the UCR do not distinguish among the reasons for not charging; in particular, they do not distinguish informal action from referral to alternative measures (although this is done by another statistical indicator of police discretion, which is presented later in this section).

From these numbers, we can calculate the proportion of apprehended youth who were charged, which is a rough indicator of the "amount" to which police use their discretion not to lay charges in all cases. It is by no means a perfect indicator of police discretion, for at least three reasons. First, when officers resolve an incident informally, they do not always make a record of it; and if it is not in the RMS (Records Management System) of the police service, it cannot be reported to the UCR. However, a record is always created when officers lay a charge. Second, police services in Canada vary in the degree to which they take the trouble to report numbers of 'youth not charged' to the UCR. The more of these 'youth not charged' who are omitted from the UCR return of a given police service, the more its use of discretion will be underestimated by the variable, 'proportion charged'. In the extreme case, a police service such as Toronto, which has a practice of not reporting numbers of youth not charged, will have a 'proportion charged' of 100%, and appear to exercise no discretion at all with apprehended young persons. Thus, 'proportion charged' tends, to an unknown extent, to underestimate the amount of police discretion. On the other hand, not all 'youth not charged' represent the exercise of police discretion: some apprehended youth cannot be charged, for reasons beyond the control of the police, such as the death, disappearance, or diplomatic immunity of the accused youth. Thus, 'proportion charged' overestimates, to an unknown extent, the extent of police discretion. For these reasons, this indicator is not a reliable basis for comparisons of the use of police discretion by individual police services. Nevertheless, it can be used to compare the use of police discretion, aggregated to the level of the province/territory, and to track changes in police discretion over time *within* provinces and territories (Carrington 1999; Scanlon 1986: 94-95).

1.2.1 Changes over time and differences between jurisdictions

Carrington (1999) found that the proportion of apprehended young persons charged by police was stable at about 55% during 1977-1983, under the Juvenile Delinquents Act,⁴ jumped to approximately 65% after the Young Offenders Act came into force, and remained, with minor variations, at that level until 1996. Figure II.2 updates Carrington's analysis to 2000, and shows what appears to be a declining trend from 1991 to 2000 (when 59% of young persons apprehended in Canada were charged), although additional years of data will be needed to establish this apparent trend with certainty. The average proportion of apprehended young persons charged from 1986 to 2000 was 64%, which is substantially greater than the average of 55% for the period, 1977-1983.

Figure II.2. Proportion of apprehended young persons charged, Canada, 1977-2000



Sources: 1977-1996: Carrington (1999); 1997-2000: UCR Survey.

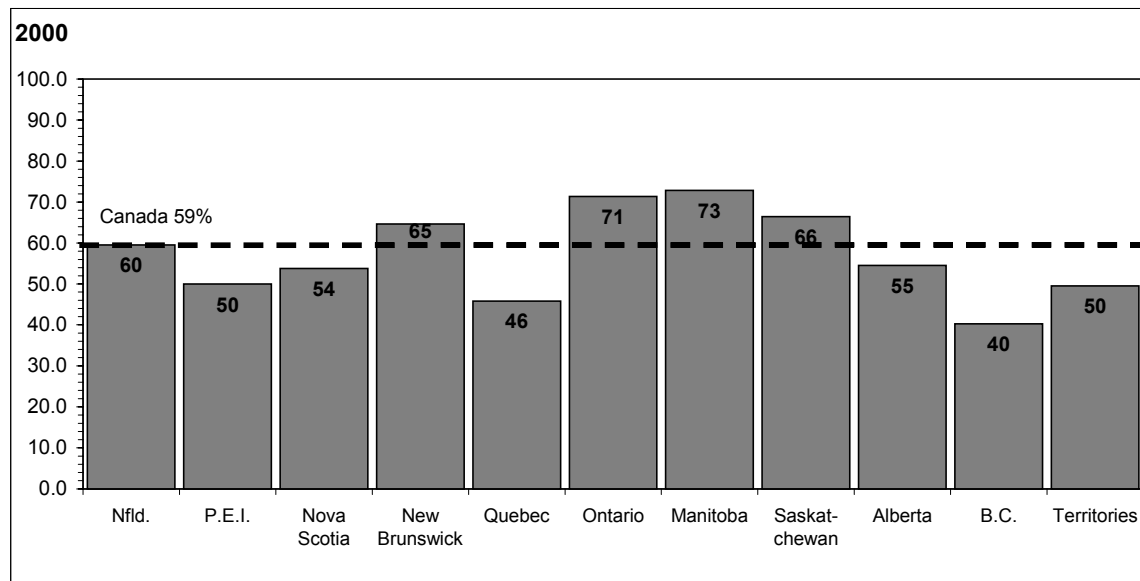
Looking at the trends over time in separate provinces and territories, Carrington (1999) identified two groups: those in which police had exercised a relatively low degree of discretion not to charge under the Juvenile Delinquents Act (charging 50% - 80% of apprehended youth in 1983), and continued to exercise a low degree under the YOA (Newfoundland, New Brunswick, Quebec, Manitoba, Alberta, British Columbia, and the Yukon); and those (P.E.I., Nova Scotia, Ontario, Saskatchewan, and the Northwest Territories) in which police had exercised a relatively high degree of discretion under the JDA (charging 25% - 50% of apprehended youth in 1983) but suddenly started to charge higher proportions when the YOA came into effect, so that the amount of discretion exercised approximated that in the first group of provinces. The change in Saskatchewan – from an average level of 24% of apprehended youths charged during 1977-1983 to an average level of 67% during 1986-1996 – was the most spectacular, but the second largest increase was in Ontario – from an average level of 34% of apprehended youths

⁴ Data are not available for years prior to 1977.

charged during 1977-1983 to an average level of 64% during 1986-1996 – and is particularly significant because Ontario accounts for such a large part of the population of Canada.

Figure II.3 shows the proportion of apprehended youth charged in each province and the Territories in the year 2000, and Figure II.4 (on the following pages) shows the trends over time since 1977.⁵

Figure II.3. Percentage of apprehended young persons charged, by province, 2000

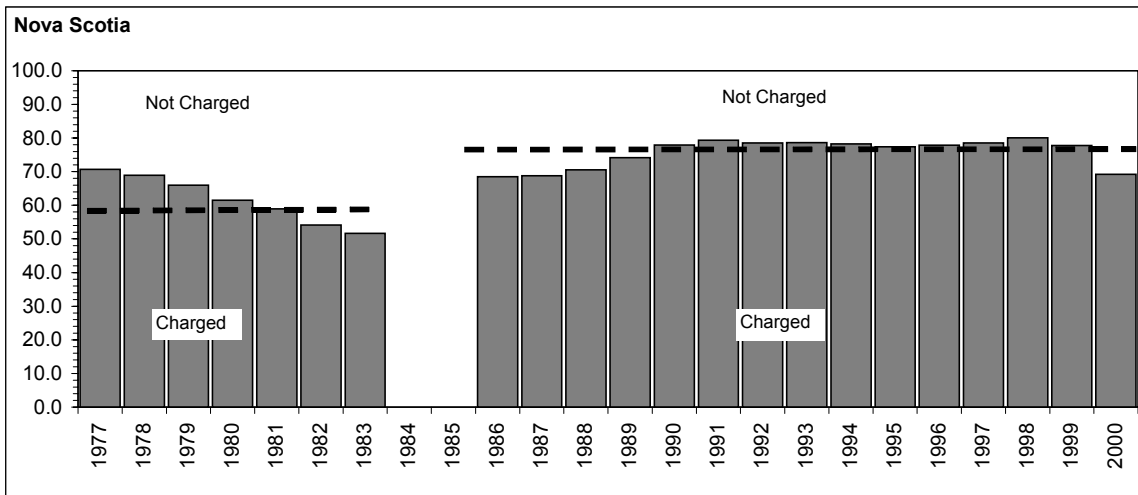
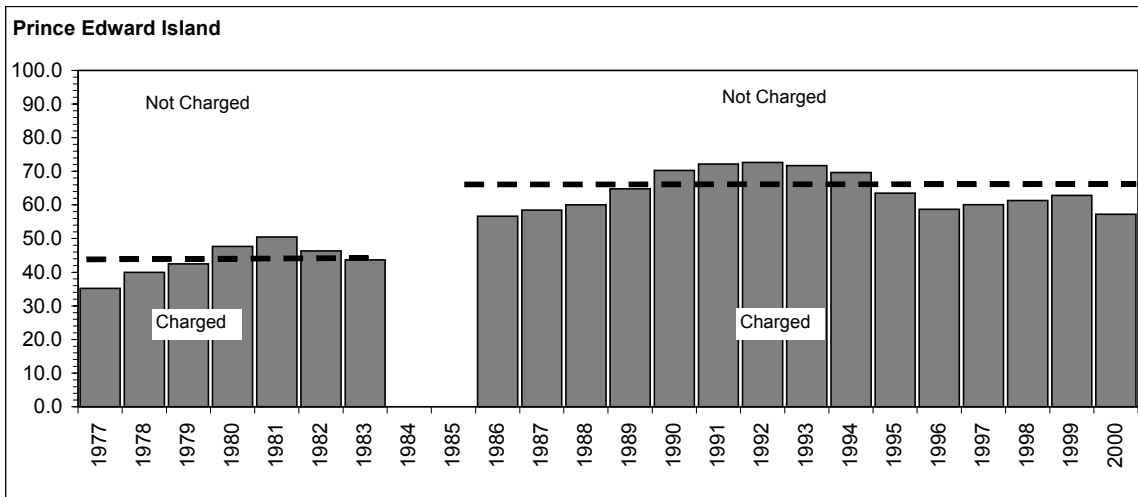
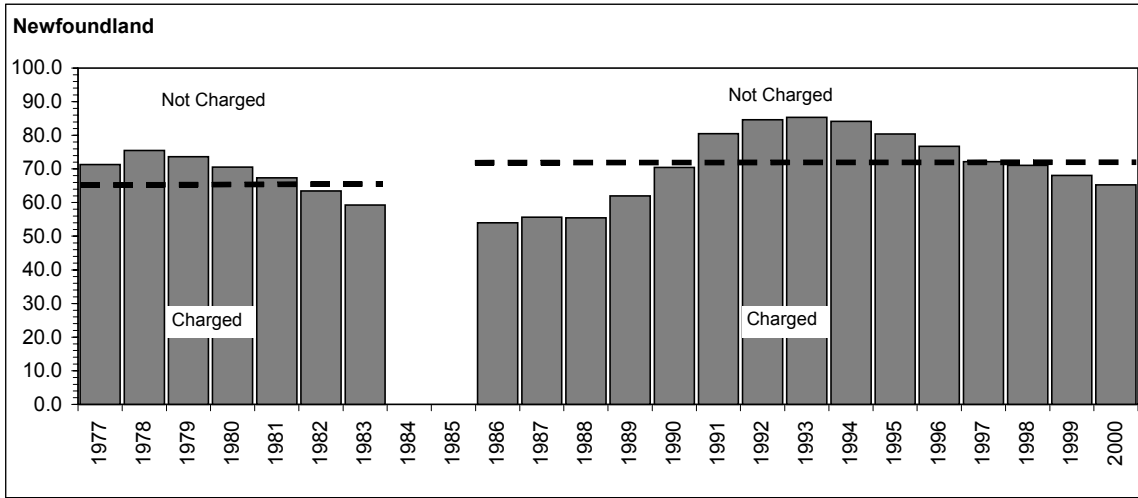


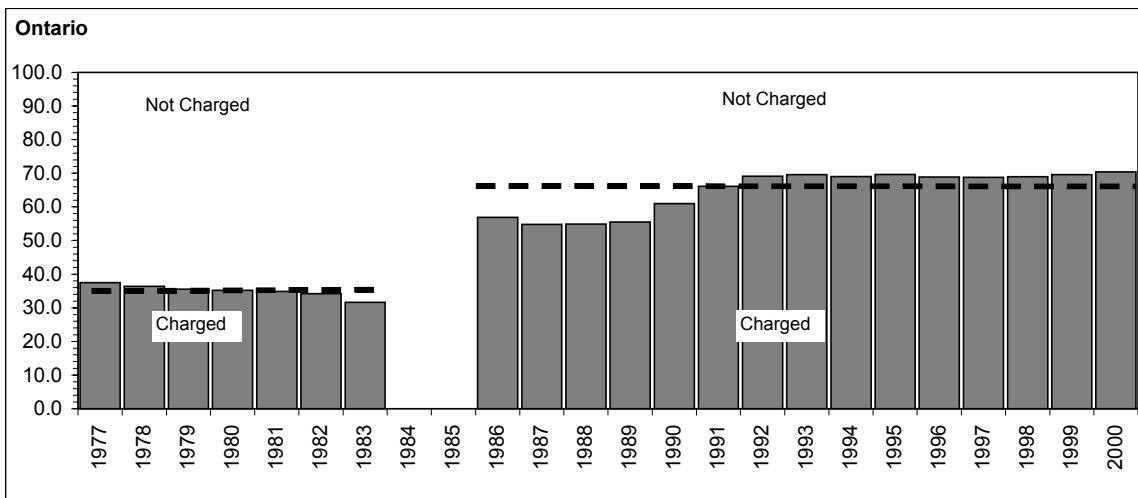
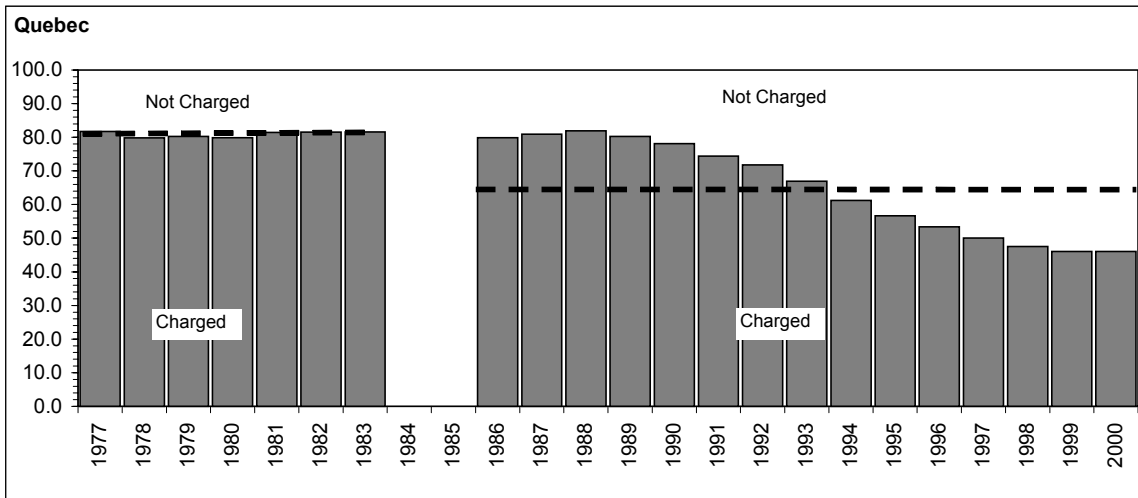
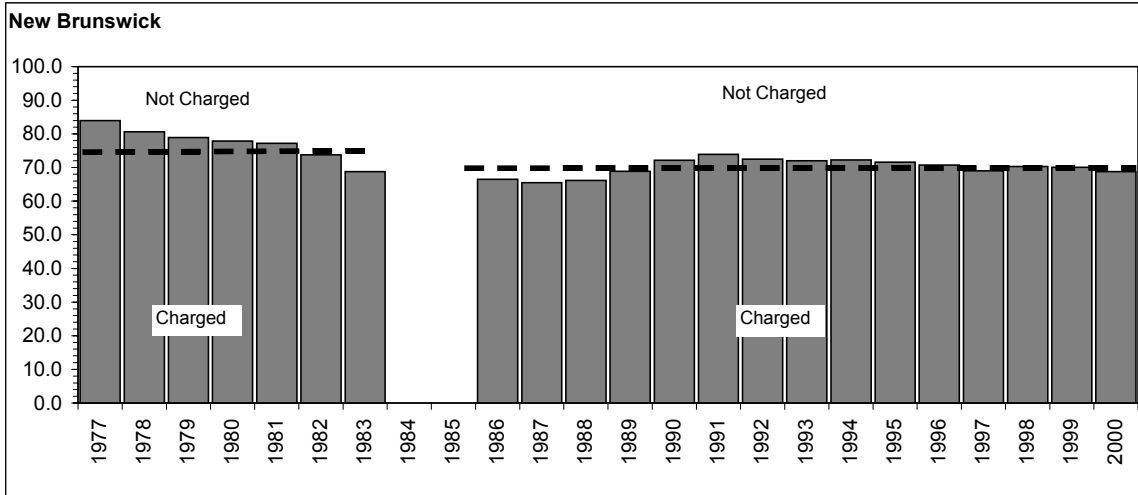
Sources: 1977-1996: Carrington (1999); 1997-2000: UCR Survey.

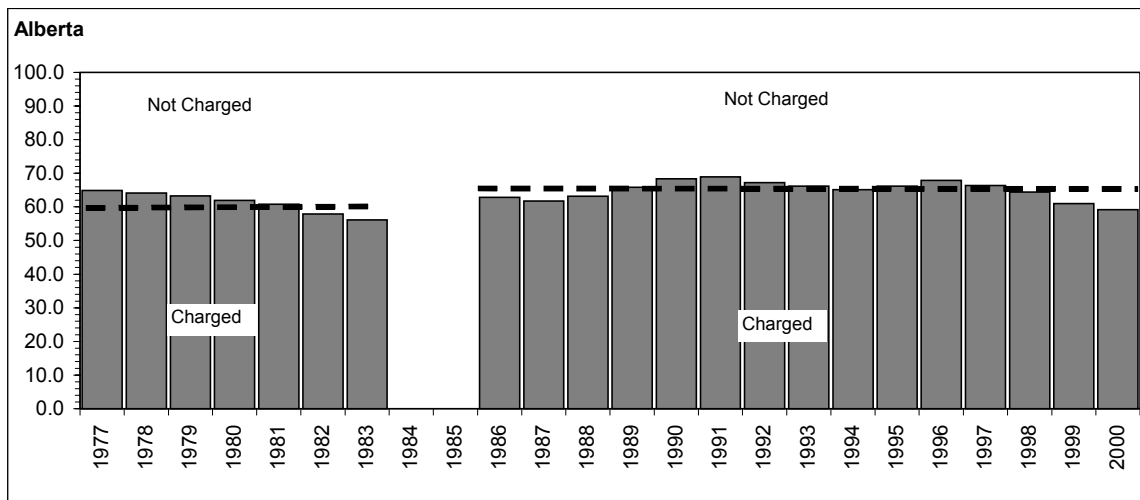
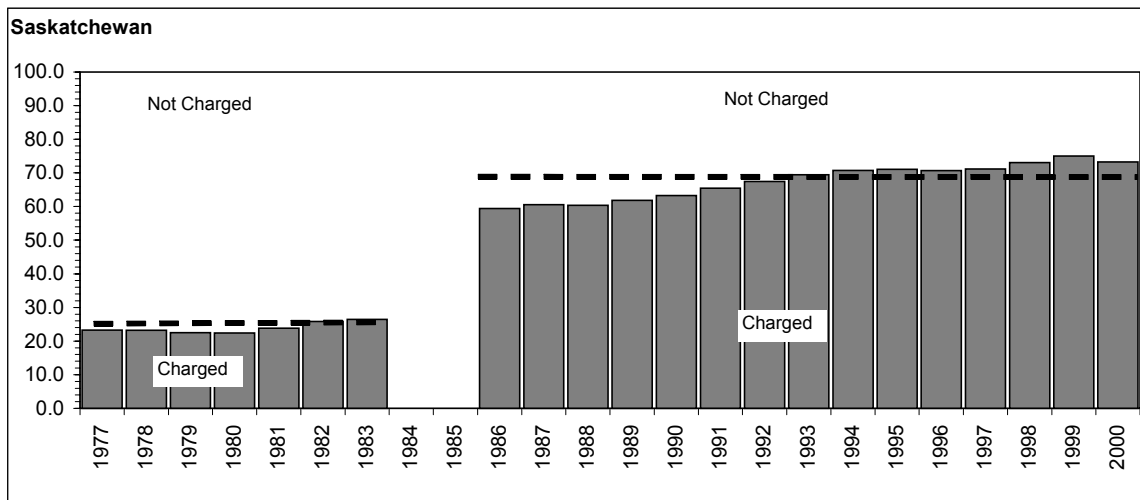
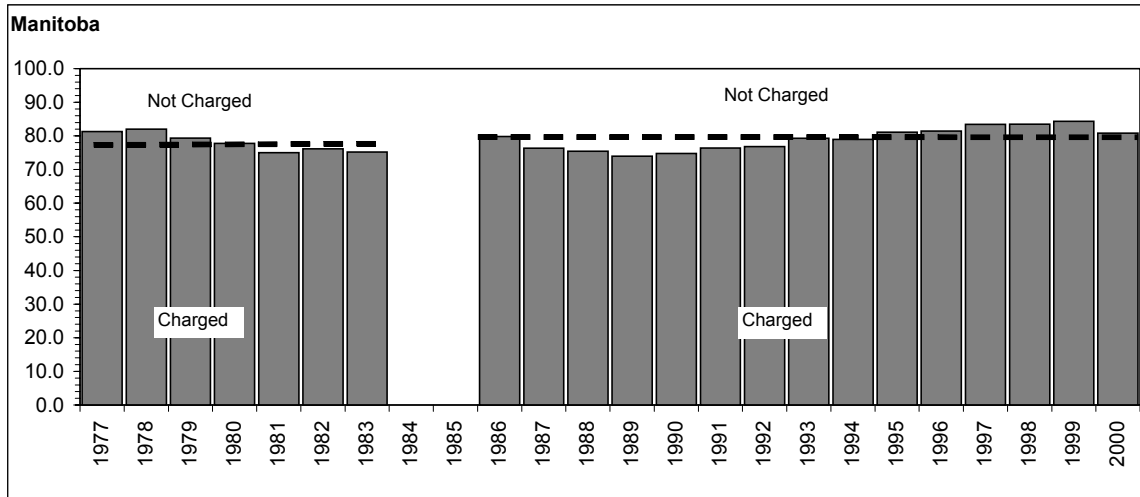
Three patterns are evident in Figures II.3 and II.4. The most striking pattern, noted by Carrington (1999), occurred in Ontario, Saskatchewan, and the Territories, and to a lesser extent in Prince Edward Island and Nova Scotia. This is a sudden shift when the YOA came into force from a regime of high levels of police discretion (low charging) with young offenders to much lower levels of discretion, bringing these jurisdictions into line with the rest of the country. Carrington (1999) pointed out that this change was probably caused, at least in part, by the change in the age jurisdiction of the youth justice system mandated by the YOA; since these four provinces and two territories make up six of the eight jurisdictions in Canada which underwent the major change from a maximum age of 15 years under the JDA to a maximum age of 17 years under the YOA. However, the increase in proportions charged was not simply due to 16 and 17 year olds being charged in higher proportions than 12 to 15 year olds: as Carrington (1998b) showed, apprehended young persons of *all* ages from 12 to 17 were charged in substantially higher proportions in Ontario and Saskatchewan after the YOA came into effect.

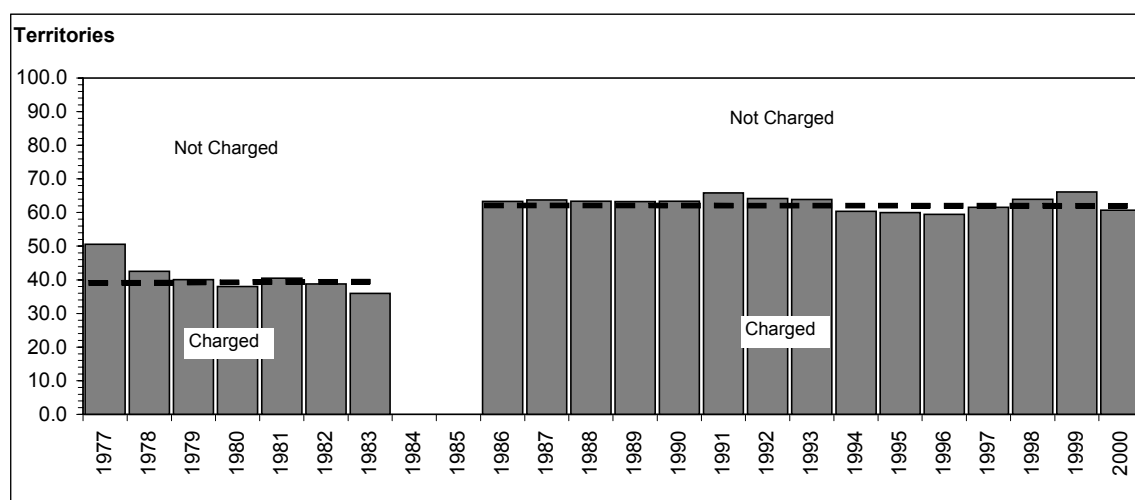
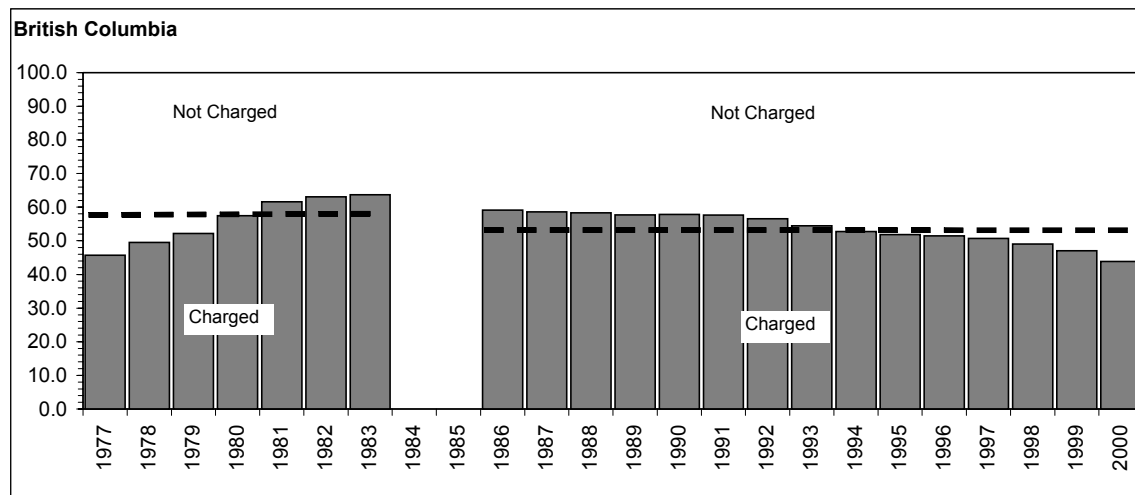
⁵ 1984 and 1985 are omitted due to the difficulty of calculating per capita annual rates for those years, when the change in age jurisdiction of the youth justice system was being phased in.

Figure II.4
Proportion of apprehended young persons charged, by province, 1977-2000









Note: 3-year moving averages have been used for smoothing.
 Sources: 1977-1996: Carrington (1999); 1997-2000: UCR Survey.

The second pattern, occurring in Quebec and British Columbia, is an *increase* in the use of police discretion (declining levels of charging⁶). This is most pronounced in Quebec, which has been transformed from the province with the highest average levels of charging during 1977-83 to the province with the second-lowest level in 2000. The level of charging of apprehended young persons in British Columbia has declined from a high of 66% in 1981 to the lowest level in Canada (40%) in 2000. Many police officers whom we interviewed in British Columbia expressed dissatisfaction with the Crown screening regime, which they see as taking an important tool out of their hands; and we speculate that the decline in recommendations to charge by police in that province may, to some extent, reflect the preferences of police to dispose of youth-related incidents in other ways which remain under their control, such as informal action or referral to pre-charge diversion.

⁶ Actually, recommending charges, since, in both Quebec and British Columbia, it is the Crown that makes the final decision concerning laying a charge against a young person.

It appears that one effect of the YOA has been to impose greater uniformity across Canada in the use of discretion concerning the charging of youth (see Figure II.3). In 1977, there was wide variation among the provinces and territories in the proportions of apprehended youth who were charged: from 23% in Saskatchewan to 84% in New Brunswick. Nine of the eleven jurisdictions (combining the Territories) were more than 10% higher or lower than the national rate of 56%. In effect, the jurisdictions were polarized into low-charging and high-charging regimes, with only two jurisdictions (Alberta and the Territories) close to average. Low-charging regimes included - in ascending order of proportion charged - Saskatchewan, Prince Edward Island, Ontario, and British Columbia. The other five provinces charged high proportions of their apprehended youth. In 2000, the range of provincial/territorial proportions charged had narrowed considerably: the lowest was 40% in British Columbia, and the highest was 73% in Manitoba. Only four jurisdictions differed by more than 10% from the national rate of 59%: British Columbia and Quebec on the low side, and Manitoba and Ontario on the high side.

1.2.2 Differences between types of police agencies

In order to compare the use of discretion not to charge young persons by different types of police agencies, we calculated from UCR data the proportion of apprehended young persons charged by each of the 93 police services in our sample. We chose a period of three years (1998-2000) combined, in order to smooth out any anomalies that might have occurred in any police services in any one year. Eight police services, in four provinces, reported charging 95% or more of apprehended youth; we omitted these from the analysis, in case they represented under-reporting of number of youth not charged. The three First Nations police services were also omitted from the analysis, since this is too small a number for reliable calculations.

The resulting sample of 82 police services reported charging an average of 61% of apprehended youth. This is the same as the overall rate of charging of apprehended youth for all police services reporting to the UCR in 1998-2000. This suggests that our sub-sample of 82 police services is representative of all services in Canada, at least with respect to this phenomenon. However, as is shown below, the sample is more representative in some provinces than in others.

Overall, independent municipal police services in our sample ($n = 46$) reported charging an average of 61% of youth whom they apprehended. RCMP detachments ($n = 26$) had a slightly lower rate of charging apprehended youth (56%), and provincial police detachments (OPP and RNC, $n = 10$) had a considerably higher rate (79%).

However, clearer patterns emerge if the comparison is made within provinces. Table II.1 shows that, in British Columbia, Alberta, and Manitoba, RCMP detachments in our sample reported charging considerably lower proportions of apprehended youth than the independent municipal services in those provinces. Little difference is observed in

Saskatchewan or New Brunswick. In the Territories, where RCMP detachments are the only police services, overall rates of charging (Table II.1, last column) are either similar to (in the Yukon and Northwest Territories) or lower than (in Nunavut) the overall national rate. Since the RNC and RCMP are the only police services in Newfoundland, and since the rate of charging reported by the two RNC detachments in our sample (80%) is much higher than the overall provincial rate (65%), we can deduce that in Newfoundland, RCMP detachments must have a considerably lower rate of charging than the RNC. The OPP detachments in our sample reported charging an average of 79% of youth whom they apprehended, which is a considerably higher rate than that reported by the independent municipal services in Ontario.

Table II.1 Proportion of apprehended youth charged, by province/territory and type of policing, 1998-2000

Province/territory	Independent Municipal Police sample (n=46) %	RCMP sample (n=26) %	Provincial police sample (n=10) %	Overall sample (n=82) %	Overall (all UCR) %
British Columbia	73	42		56	44
Alberta	64	46		51	59
Saskatchewan	75	77		76	73
Manitoba	95	80		85	81
Ontario	65		79	69	70
Quebec	44			46	46
New Brunswick	64	60		63	69
Nova Scotia	70			70	69
Prince Edward Island	76			76	57
Newfoundland			80	80	65
Yukon		61		61	61
Northwest Territories		68		68	62
Nunavut		47		47	51
Overall	61	56	79	61	61

Source: UCR Survey.

In summary, based on a sample of 82 police services, it appears that in provinces in which the RCMP serves as the provincial police force, it exercises considerably more discretion not to charge young persons than the independent municipal services in those provinces. On the other hand, the two provincial police services in our sample appear to charge apprehended youth in considerably higher proportions than the independent municipal services in those provinces. These comparisons must be interpreted with

caution, both because of the unreliability of UCR data on numbers of youths not charged, and also because of the small size of our sample and its apparent non-representativeness in some provinces (suggested by a comparison of the last two columns of Table II.1).

1.2.3 Differences by type of offence

The importance of the type, or seriousness, of the offence in the exercise of police discretion has been emphasized by practically every writer on the subject. The impact of various case-related factors on the decision to charge, including the type of offence, is explored in depth in Chapter V. In Table II.2 (below), we present data from the UCR Survey for 2000 to describe the variations in proportions of apprehended young persons charged, by the type of (alleged) offence.

This simple distribution gives the lie to the truism that the exercise of police discretion is related in a straightforward way to the “seriousness” of the offence. For example, less discretion is exercised with offences against the administration of justice than with any other offence except homicide and attempt murder – although administrative offences have no victim and cause no harm, except expense and inconvenience to the justice system.⁷ If discretion varies inversely with seriousness of the offence, then possession of stolen property is more serious than abduction, major assaults, drug trafficking, break and enter, sexual assaults, etc.; impaired driving is more serious than break and enter, sexual assaults, sexual abuse, etc.; arson is less serious than almost any other offence; and violent crimes, as a group, are slightly less serious than victimless (“Other”) crimes. Clearly, there is *some* relationship between the seriousness of the offence and the amount of discretion exercised by police, but the relationship is not straightforward, as Carrington (1998a) also found.

2.0 Offences that are almost always dealt with informally, referred to alternative measures, or charged

In view of the common belief that the type or seriousness of offence is the principal factor determining the way in which police officers exercise their discretion, we asked officers whether there were any types of offences which they “almost always” cleared in a particular way.

Few police officers whom we interviewed were willing to identify specific types of offences that they almost always charge, refer to alternative measures, or deal with informally. Rather, they emphasized that their decisions on clearing an incident were invariably “case-specific”: that is, based on a constellation of factors in each case.

⁷ The exercise of discretion by police with offences against the administration of justice is discussed in detail in Section 5.0 below.

However, almost half (44%) of our respondents volunteered that they almost always charge “serious” offences. A small contingent of officers (7%) reported that they almost always charge minor offences; these tended to be working for independent municipal police services. A few officers did say that they would almost always charge for drug offences (5%) or gang-related offences (1%).

Table II.2 Proportion of apprehended youth charged, by offence, Canada, 2000

Offence category	Percent charged
Homicide and related	100.0
Attempted murder	100.0
Offences against the administration of justice	95.6
Kidnapping	95.3
Robbery	87.4
Possession stolen property	83.6
Abduction	80.0
Criminal code traffic	79.9
Major assault	79.2
Traffic/Import drugs	77.4
Other federal statutes (primarily YOA)	76.3
Impaired driving	76.1
Break and enter	71.1
Sexual assault	67.7
Fraud and related	64.5
Weapons and explosives	62.4
Sexual abuse	55.0
Other criminal code offences	54.3
Theft	52.7
Common assault	52.2
Possession of drugs	47.1
Morals – sexual	46.0
Arson	45.0
Morals - gaming/betting	40.0
Property damage / Mischief	38.1
Public order offences	28.5
Total Violent Crimes	62.7
Total Property Crimes	55.7
Total Other Crimes	63.6
TOTAL - CRIMINAL CODE	58.9

Source: UCR Survey.

One-third of our interviewees indicated there were no offences that they would almost always refer to alternative measures, despite the clear stipulation in most departmental

policy that there are certain types of offences that officers must consider for diversion. A further 22% of officers indicated they would almost always refer youth to alternative measures if they committed a minor offence. These offences tended to involve minor theft (e.g. shoplifting), mischief, or very minor crimes against the person. In the Atlantic Provinces, half of the officers interviewed responded in this fashion. Finally, very few officers told us they would almost always refer serious offences (1%) or provincial/territorial offences (1%) to alternative measures.

The use of informal action also does not appear to be determined simply by the type of offence. One-third of the responding officers indicated that there are no offences where they almost always would use informal action. A small percentage suggested they would almost always use informal action with provincial offences (14%) and minor offences (13%). Less than 1% identified serious offences or shoplifting as offences where they would “almost always” use informal action. However, 19% of the officers who worked in rural/small town services and detachments said that they almost always use informal action with minor offences, compared to 11% in metropolitan and suburban/exurban areas.

Comments made during the interviews suggest that the primary reason officers felt compelled to indicate there were no specific offences for any of these categories is their belief that each case must be judged on its own merits; thus, the decision is case-specific and cannot be reduced to a formula. One officer says “we’ve all tried to climb trees, and we all had ways to test our boundaries”. A School Resource Officer in Alberta suggests,

Every time I have a young person in my office and I’m dealing with them in a criminal investigation I always look at their marks, I look at their attendance, their make-up, their behaviour towards life, I look at their relationship with their friends, their demeanour, the way they’re sitting, the way they talk. But the most critical aspect is, I extrapolate four years of their life from the time of the incident, I go back four years and I ask them to tell me what it’s been like for the last four years. 95% of the time, probably 100% of the time, the common denominator is lack of parenting, effective parenting, alcohol or drug abuse, bad decisions based on friends showing them, lack of dignity and respect, that is the common denominator. When I know that those are the issues, as a policeman, and even as a parent of two young kids, how do you charge somebody like that?

3.0 Informal action

When officers decide not to lay (or recommend) a charge, or to recommend alternative measures, they have a choice among several kinds of informal action. They may give an informal or formal warning, involve the parents and/or social services, arrest and question

the youth at the police station and release him or her, make a referral to a community-based intervention program, or simply take no action, except possibly to file an occurrence report (Bala et al., 1994a). According to Mueller and Heck (1997:116),

A number of criminologists (including Tittle, 1980; Braithwaite, 1989; Sampson and Laub, 1993) have argued that informal sanctions are more influential and cost-effective than formal sanctions that the police can muster in fighting juvenile crime.

Little is known about the use of informal action by police in Canada, or about their screening practices (Hackler & Don, 1990). According to some writers, young offenders are handled informally in circumstances involving less serious crime (Ericson & Haggerty, 1997; Meehan, 1993). There is evidence of less use of informal action since the inception of the YOA (see Section 1.2 above; Carrington 1999; Carrington & Moyer, 1994; Schissel, 1993). Informal warnings have been found to be used more frequently in rural areas or by school resource officers than by regular front-line officers (Hornick et al., 1996), raising the possibility that rural and Youth Officers may use this approach more with youth due to their familiarity with their 'clientele'.

British research suggests that the use of informal warnings is largely influenced by the administrative and ideological support within a department (Steer, 1970). Although formal, recorded warnings ("cautions") are used by police in other countries, there is no evidence in the literature that they are currently used in Canada, although caution letters issued by Crowns are used in some provinces as alternative measures (Engler & Crowe, 2000; Task Force, 1996). However, we did find evidence of the use of caution letters by some police services in Canada (see Section 3.4 below).

3.1 Frequency of use of informal action

3.1.1 Statistical data

Statistical information on the use of informal action and pre-charge diversion by police is available from the Incident-Based Uniform Crime Reporting Survey ("UCR2"), maintained by the Canadian Centre for Justice Statistics. This survey, which operates in parallel with the UCR Survey, collects data on the characteristics of individual incidents, apprehended offenders, and victims of crime. Thus, it can provide data which are much more detailed than those available from the traditional, aggregate UCR Survey. Its drawback is that it is relatively recent, and some police services do not yet participate in it. Although it began operation in 1988, it did not achieve significant coverage of recorded crime in Canada until 1995, when it included 42% of all recorded incidents in Canada, and 50% of young persons charged (Canadian Centre for Justice Statistics, 2003). By 2001, it covered 59% of recorded incidents in Canada, and 71% of young

persons charged (ibid.). For 2001, the UCR2 covers practically all of the Province of Quebec, much of Ontario (including the OPP and 13 independent municipal police services), and a small number of municipal services in each of the other provinces, except Prince Edward Island. Its major omission is the RCMP, which provides policing services to much of rural and small town Canada, and many larger centres, outside Ontario and Quebec; but many independent municipal police services are also missing. Therefore, distributions of variables in the UCR2 may not be representative of Canada as a whole (Canadian Centre for Justice Statistics, 2002a).

The detailed information in the UCR2 can provide a useful complement to the limited information available in the UCR Survey. The UCR2 records the “clearance status” of incidents. Incidents which are cleared (i.e., in which at least one chargeable suspect, or “accused”, is identified), are classified as “cleared by charge” (at least one suspect in the incident has been charged) or “cleared otherwise”. For incidents which are cleared otherwise, the reason given by police for not charging any suspects is classified under several headings, which are shown in Table II.3.

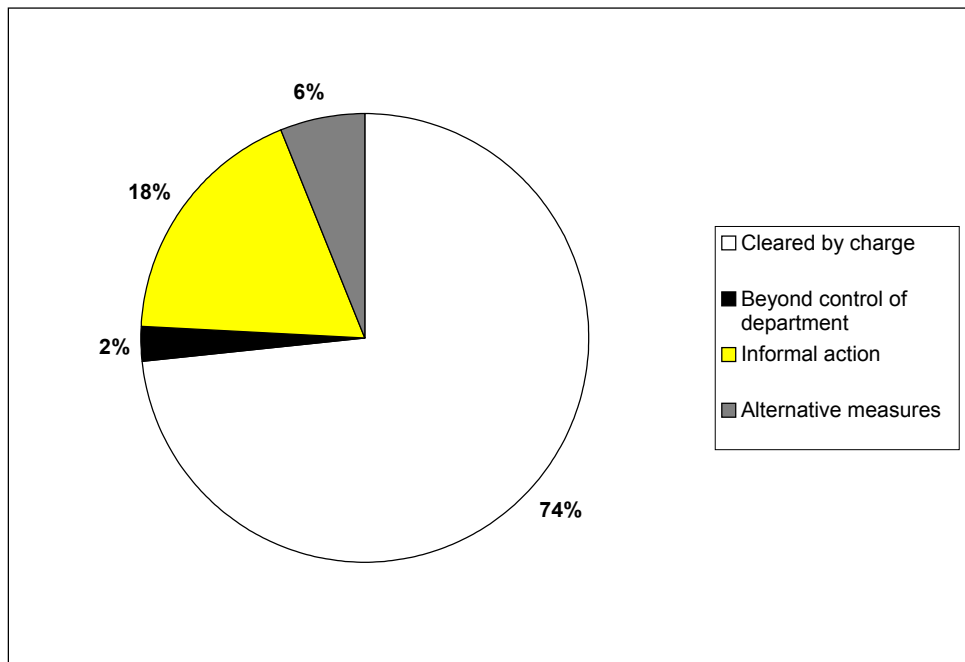
Table II.3 Classification of incident clearance statuses in the UCR2 Survey

Cleared by charge
No charges laid, for reasons beyond the control of the police department
Suicide of the accused
Death of the accused (other than suicide)
Death of a key witness/complainant
Extra-departmental policy (e.g. a directive from the Attorney General)
Diplomatic immunity of the accused
Accused is less than 12 years old
Accused is committed to a mental hospital
Accused is in a foreign country and cannot be returned
No charges laid, police discretion (police could lay a charge but decide not to)
Complainant declines to lay charges (i.e. to cooperate with police)
The accused has been charged in other incidents
The accused is already serving a sentence in a correctional facility
Other discretionary reasons
The accused is being diverted into a (pre-charge) alternative measures program

Source: Canadian Centre for Justice Statistics, 2002b.

We grouped these clearance statuses into four categories: 1) cleared by charge, 2) no charges laid due to reasons beyond the control of the department, 3) no charges laid due to informal action (all “discretionary” reasons except diversion), and 4) no charges laid due to diversion of the accused to alternative measures.. Figure II.5 shows the breakdown of clearance statuses of incidents involving at least one apprehended young person, for all respondents to the UCR2 in 2001.

Figure II.5 Incident clearance status, all UCR2 respondents, 2001



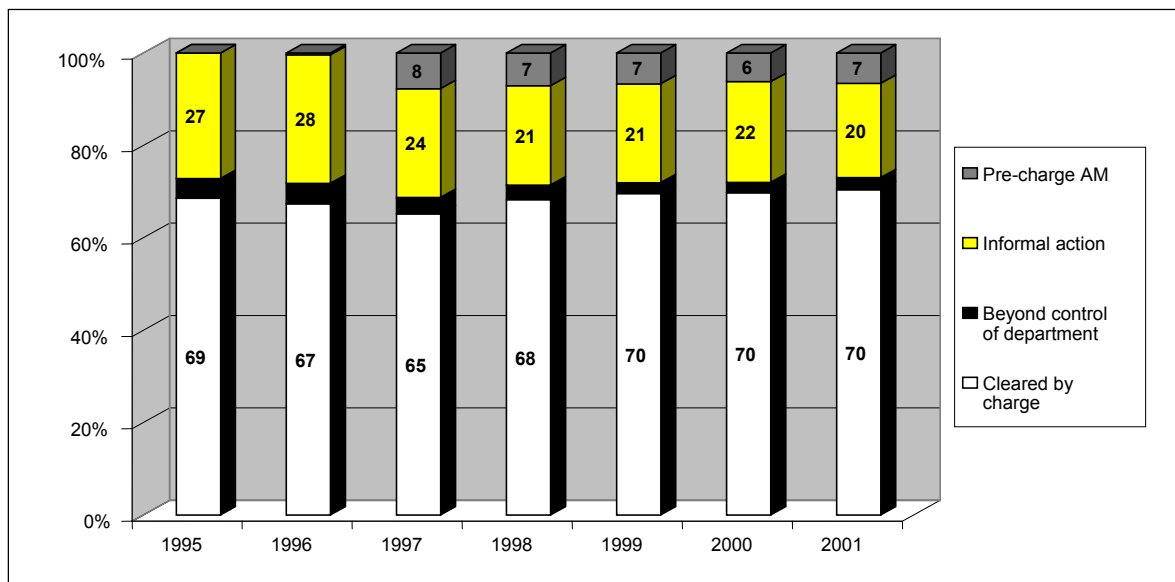
Source: Incident-Based UCR Survey, 2001.

The proportion of incidents cleared by charge is 74%, which is much higher than the proportion of apprehended youths who were charged in Canada in 2000 (59%), according to the UCR Survey (Figure II.2). There are several possible reasons for this discrepancy. One is the omission of the RCMP and other police services which tend to use charges less than the police services included in the UCR2 (see Section 1.2.2). Second, many incidents involving young persons include more than one accused (Carrington, 2002), and if any one of the co-accused is charged, then the incident is classified as “cleared by charge”: e.g. if there were two co-accused and one was charged and one was not, this would contribute a count of one incident “cleared by charge” to the UCR2 clearance status variable, but counts of one accused charged and one accused not charged to the “charge status” variable from which we computed that 59% of apprehended youth were charged in 2000. Third, some of the incidents captured in Figure II.5 include adult co-offenders as well as young persons, and adults are more likely to be charged than young persons (Carrington, 2002) – and if any co-offender in the incident is charged, then the incident is classified as “cleared by charge”.

The fact that only 2% of all incidents, or 8% of incidents “cleared otherwise”, involved “reasons beyond the control of the department” confirms that it is reasonable when analyzing data from the aggregate UCR Survey to use the variable “proportion of apprehended youth not charged” as an indicator of the use of police discretion (as in Section 1.2.1 above). If a large proportion of incidents which were “cleared otherwise” involved reasons which were beyond the control of police, then “not charging” would not be a good indication of the exercise of police discretion.

Of the 24% of youth-related incidents which were cleared without charge due to police discretion, one-third were diverted to alternative measures, and two-thirds were cleared by informal action. This underestimates the *proportion of apprehended youths* dealt with by informal measures and informally, because, for the many incidents in which more than one person was apprehended, the incident is classified according to the most serious “police disposition”. Therefore, if one co-offender is charged, and others are diverted or dealt with informally, the incident is classified as “cleared by charge”; or, if none is charged but one youth is diverted to alternative measures and others are dealt with informally, then the incident is classified as “cleared otherwise: diversion”.

Figure II.6 Clearance status of youth-related incidents, UCR2 Trend Database respondents, 1995-2001



Source: Incident-Based UCR Survey, Trend Database, 1995-2001.

Figure II.6 shows the trend since 1995 in the clearance status of youth-related incidents recorded in a sub-sample of police services reporting to the UCR2.⁸ There is no trend over time: the proportion of incidents cleared by charge fluctuates around 68-70%, and the proportions of incidents cleared by informal action and by alternative measures fluctuate around 20-22% and 7% respectively.⁹ The overall proportion of incidents

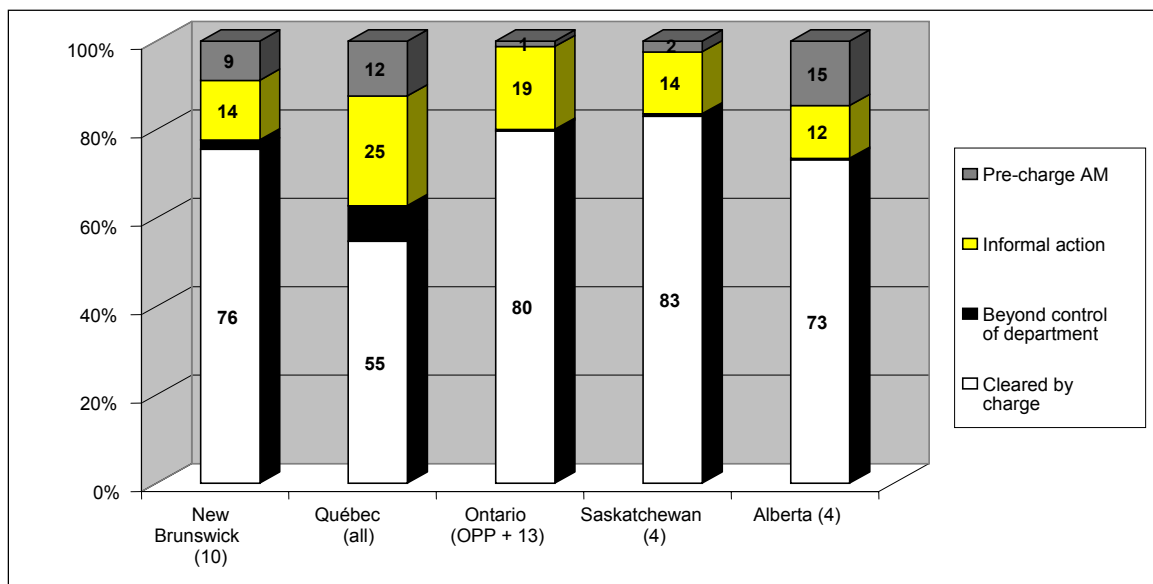
⁸ The police services participating in the UCR2 Survey change each year as new forces join the Survey, and occasionally, a police service leaves the Survey. In order to have comparable data over time, we used the “UCR2 Trend Database”, which is restricted to police services which reported continuously to the UCR2 from 1995 to 2001. Coverage of this sub-sample is approximately 42% of recorded incidents, and 50% of young persons charged, in Canada.

⁹ Referral to alternative measures and informal action were not distinguished before 1997.

cleared by charge is lower than in Figure II.5, and closer to the proportions of apprehended youth charged shown in Figures II.3 and II.4, because some of the police services which are included in the data shown in Figure II.5, notably the OPP, have relatively high proportions of youth charged and of youth-related incidents cleared by charge (see Section 1.2.2 above).

Figure II.7 shows the clearance status of youth-related incidents in police services reporting to the UCR2 in five provinces. The number of police services is shown in parentheses after the name of the province. As in Figure II.5, the proportion of incidents classified as cleared by charge is higher in each province than the proportion of young persons charged in the UCR (Table II.1 above); the reasons for this are discussed above.

Figure II.7 Clearance status of youth-related incidents, all UCR2 respondents, by province, 2001



Source: Incident-Based UCR Survey, 2001.

Note: So few police services in Newfoundland, Nova Scotia, Manitoba, and British Columbia reported to the UCR2 in 2001 that it would be misleading to include them in this analysis.

Proportions of incidents cleared by informal action vary from 12% in Alberta (where only four police services report to the UCR2) to 25% in Quebec. It is noteworthy that, although police services in Ontario which reported to the UCR2 in 2001 had a relatively high overall charge rate (80% of youth-related incidents were cleared by charge; cf. Figure II.3 and Table II.1, above), this appears to be entirely due to the unavailability of pre-charge alternative measures; their rate of clearance of youth-related incidents by informal action (19%) is exceeded only by that of police services in the province of Quebec. Similarly, the even higher overall charge rate of the four respondents in

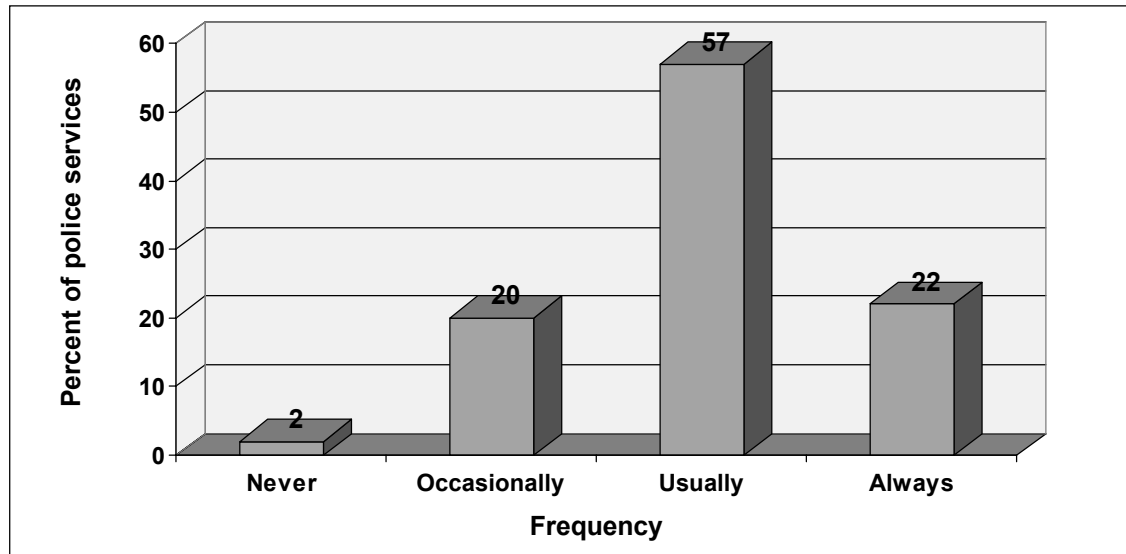
Saskatchewan (83%) is primarily due to the minimal use of pre-charge AM: their rate of informal action (14%) is no lower than that in New Brunswick and Alberta.

3.1.2 Interview data

We asked officers about the extent to which their police service used informal action with young offenders, and classified their answers into four categories. *Always* was used when officers indicated they always consider using informal action in virtually any situation. This is not to say that they do not ultimately proceed by way of charge. There are some circumstances where sufficient evidence exists to proceed on several charges; however, the officer *considers* dealing with some or all of them informally if possible. *Usually* refers to officers that indicated they consider informal action in most cases; however, they offered qualifications to explain their decision-making. For example, an officer might not consider using discretion with charges against the administration of justice, serious offences or with a youth who has an extensive prior record. *Occasionally* means that officers consider informal action only for minor or very minor offences such as shoplifting or mischief. *Never* indicates the responding officer will consider only a charge or alternative measures. These officers felt either that choosing informal action was not their prerogative, or had concerns regarding liability (e.g. from a supervisor questioning their judgment). Figure II.8 summarizes the distribution of our sample in terms of the frequency with which officers from our sampled police agencies told us they use informal action.

Over three-quarters (78%) of the police services in our sample indicated that they would usually or always consider using informal action with young persons. Only 22% of the police services indicated they never or occasionally consider using informal action. Their responses differed by type of police, type of community, province/territory, and location of service.

Figure II.8 Frequency of consideration of use of informal action



Provincial police forces (76%) are more likely “usually” to consider using informal action with young persons when compared to independent municipal police agencies (43%). When looking at the range of responses, independent municipal forces are distributed more widely over the range, “never” to “always” (e.g. 30% answered “occasionally”); whereas, the RCMP and OPP detachments are clustered in the “usually” to “always” categories.

Looking at the use of informal action by type of community, two interesting response patterns are evident. First, there is virtually no difference by type of community when looking at the services that “usually” consider using informal action with young persons. However, a significant proportion of suburban/exurban services (41%) “never” or “occasionally” consider using informal action; compared with only 17% of metropolitan forces and 19% of rural/small town forces. To put it differently, metropolitan (83%) and rural/small town forces (81%) were much more likely than suburban/exurban forces to consider using informal action “usually” or “always”.

In all regions of Canada, the majority of police services in the sample “usually” consider using informal action with young offenders. This is the case for 100% of the detachments located within the Territories.

The literature suggests that Youth Officers may divert more youth due to an increased familiarity with their clientele. However, up until now there has been very little research to support this supposition, and it was done when the Juvenile Delinquents Act was in effect (Doob, 1983; Leeson & Snyder, 1981). Three-quarters (75%) of the officers working in a Youth Squad or assigned as School Liaison Officers told us they “usually”

or “always” consider informal action. In contrast, 59% of the officers from all other locations of service (e.g. patrol, GIS, management) consider using informal action “usually” or “always”. Therefore, our data do suggest that Youth Squads and SLO’s are more likely to consistently consider informal action as a legitimate method of dealing with youth-related incidents. The role of specialized youth officers is considered in more depth in Chapter IV, Section 4.

3.2 Referrals to external agencies

Almost two-thirds (62%) of the police forces in our sample make referrals to external agencies for minor and serious offences. These referrals are predominantly to social service agencies, and, in Quebec, to *La Direction de la Protection de la Jeunesse* (DPJ). However, there are some differences in response patterns by type of police agency and province/territory.

Almost two-thirds (64%) of provincial police detachments indicated that they “never” refer young persons to external agencies compared to 18% of municipal independent police forces. This difference may be the result of a lower availability of external resources in the areas in which provincial detachments operate. We can explore this possibility by examining the distribution by type of community and by province and territory. Officers in 43% of suburban/exurban police forces or detachments, and in 49% of rural/small town services, reported that they are never able to make referrals to external agencies, compared to only 23% of metropolitan area police agencies. In Quebec, all of the police agencies in our sample reported making referrals to external agencies (primarily the DPJ). Similarly, over half of the agencies in the Prairies and the Atlantic region make referrals for minor and serious offences. However, in British Columbia and Ontario, in which most of our rural/small town agencies are located, a larger proportion of agencies report they make no referrals or only for minor offences. Most strikingly, in the Territories, 71% of the detachments interviewed are not able to make any referrals to external agencies due to a lack of community and social service resources in their jurisdictions.

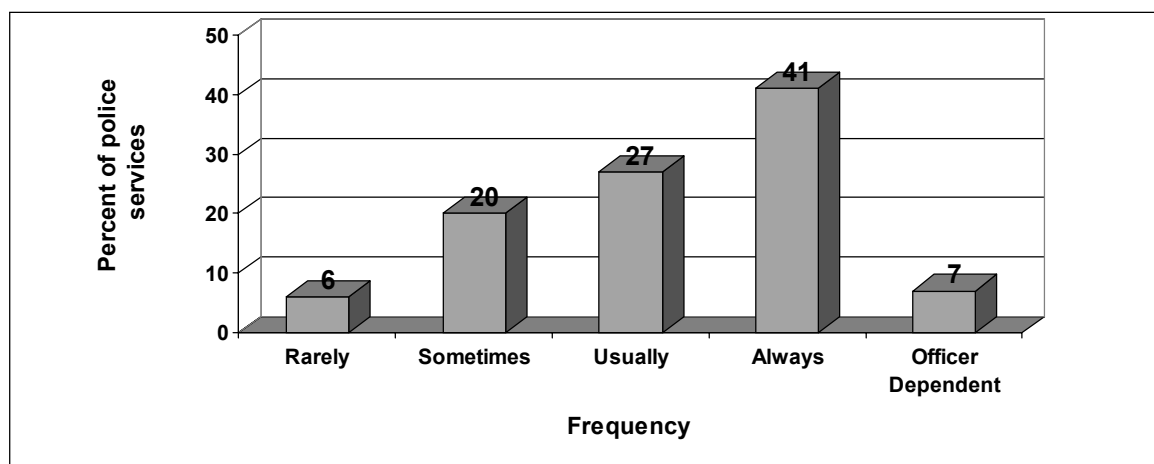
This is a theme which came up repeatedly during the interviews, and which will recur under various headings in this report. When police are dealing with a youth and an offence which, in their view, require a more effective intervention than mere “informal action”, but they are reluctant to invoke the heavy hand of the law by laying a charge, then referral to a program or agency, either informally or through Alternative Measures, is an attractive “intermediate sanction”. However, in a great number of cases, such an alternative is not available, and police must resort to laying a charge. This issue is explored in more depth in Chapter III, Section 3, “External resources”.

3.3 Tracking of informal warnings

There is a great degree of variation across the country in how often police officers' use of informal action is documented within their record management systems (RMS). *Rarely* denotes agencies that do not record informal action except in some rare circumstances where the officer feels it is crucial. This may be the result of management and supervisors creating a somewhat unsupportive environment for informal action, or, in the case of Quebec, where the alternative measures system is highly effective. *Sometimes* refers to agencies where informal warnings do not consistently enter the RMS. *Usually* refers to agencies where it is expected that officers enter informal warnings and they felt confident that it usually occurred. *Always* indicates those police agencies where they consider it mandatory to create a record of all interactions with youth. Finally, *officer dependent* codes the answer, "as long as the officer entered it". This category was created as some officers indicated their police agency would fall under the "always" category; however, the policy directive or unwritten rule that all informal action is documented is not always followed. For example, if an officer comes across a minor incident in the field, he or she may not create a contact entry in the RMS. Several officers argue that as soon as you make a notation into the RMS, the action taken by the officer is no longer informal as a record has been created. Others suggested that, due to time constraints, they are not always able to enter everything in the RMS.

A large proportion of our interviewees suggested that the recording of informal action follows one of two typical scenarios. The first is when an incident is reported by a member of the public. In this situation a notation is almost always made in the RMS. The second category refers to informal action taken by officers when they come across a young person in the field. It is in those circumstances that there may or may not be an entry made into the RMS. Figure II.9 illustrates this variation by police agency.

Figure II.9 Tracking informal warnings in the RMS



Just over two-thirds (67%) of the agencies in our sample reported that they “usually” or “always” record informal action in the RMS. 7% indicated it is dependent on the individual officer. However, the frequency in which officers record informal warnings varies by police agency type, type of community, and province/territory.

Provincial police forces (70%) are much more likely to record their use of informal action in the RMS. Among independent municipal forces, the range varies from “rarely” to “always” with 10% indicating that they never record informal warnings in the RMS. Just under half of metropolitan (43%) and suburban/exurban (47%) police agencies reported that they “always” record informal action. However, there was slightly more variation in recording practices for rural/small town police agencies where 33% reported they usually record informal action. The majority of agencies in Canada reported they “always” record informal warnings and action. However, 38% of those in our sample from the Prairies stated they “sometimes” record informal action.

Evidently, there is much room for expansion in the tracking of informal warnings; but by its very nature, some informal action – perhaps much of it – will always go unrecorded.

3.4 Use of informal and formal warnings with young persons

Informal warnings generally involve a police officer discussing the young person’s behaviour with him or her and the parents, warning them that further law-breaking will result in formal action. As a textbook for law enforcement students puts it, “...It is not unusual for an officer to give a stern lecture or a warning to a juvenile, advising of the possible consequences if arrested” (Dantzker & Mitchell, 1998: 59). As previously mentioned, whether this informal warning is documented varies considerably.

A “formal” warning, as the phrase is understood by our respondents, usually involves a police officer entering the incident in the RMS, or even occasionally having a letter issued to the youth and the parents which alleges the criminal behaviour and the issuance of a warning by police (or by the Crown, on the recommendation of police).

The vast majority of police agencies (93%) in our sample indicated that they use informal warnings with young persons. In addition, 32% of our sample told us they did use some form of a formal warning. However, the nature of the formal warning varies considerably between the agencies that answered in the affirmative. For example, in one Ontario police force the youth squad issues the letters and has the young person and parents (or legal guardian) sign the document as well. In other jurisdictions the police will recommend to the Crown to issue a caution letter. Others will make extensive notations in their RMS.

There are some variations by province and territory in terms of the use of informal and formal warnings. In Quebec, 25% of the agencies in our sample did not indicate to us that they used informal warnings with young persons. The numbers for the other regions in Canada ranged from 0% to 9%. Perhaps this is evidence of net-widening in Quebec:

the extensive use of alternative measures may mitigate against other forms of informal police action.

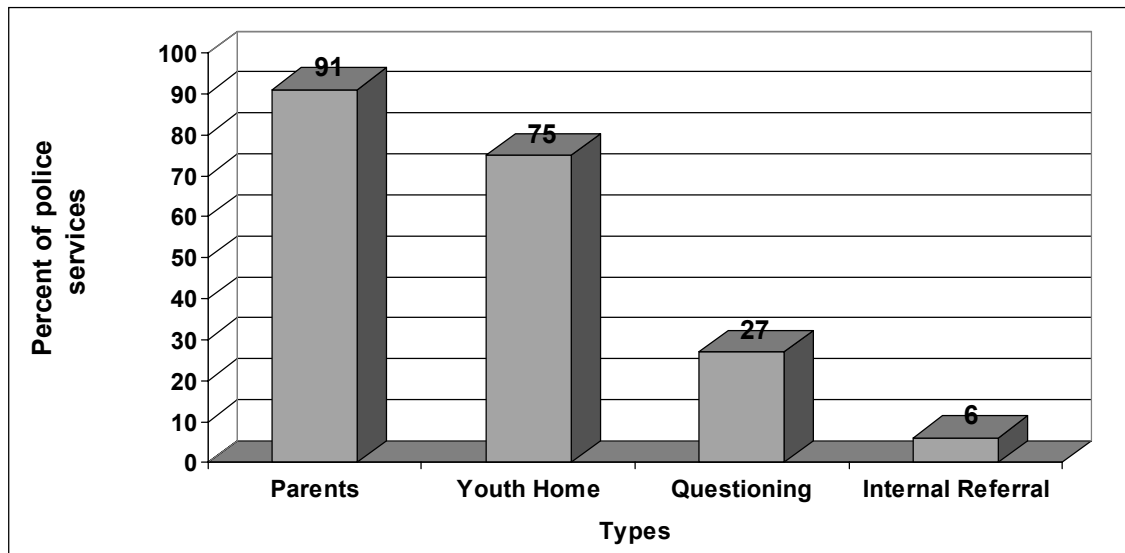
Formal warnings tend to be used in the Prairies, the Atlantic region and the Territories. 92% of the agencies in British Columbia and 88% of the agencies interviewed in Quebec do not use formal warnings. However, the figure for British Columbia should be interpreted with caution as the Crown Attorneys frequently issue Crown cautions. The reason this does not appear in our data is that officers in British Columbia say they rarely have any feedback on Crown decision-making; consequently, they do not know how often a Crown caution letter is issued. For Quebec, the low usage of formal warnings is consistent with the lesser use of informal warnings than the rest of Canada.

Apparently there is considerable variation across the country, and even within individual police agencies, in the understanding of what constitutes an informal or formal warning. If these forms of informal action are going to be recorded and monitored – e.g. in the UCR2 Survey, it will require a substantial effort – involving education and persuasion – to achieve consistency across the country in their operational definitions.

3.5 Other types of informal action

Figure II.10 shows several other types of informal action that officers use when dealing with youth-related incidents (percentages add to more than 100% since multiple answers were permitted).

Figure II.10 Other types of informal action



The majority of police agencies (91%) consider parental involvement mandatory when dealing informally with youth-related incidents informally. Many officers suggest that

the effectiveness of informal action is highly dependent on parental involvement. An officer in Ontario told us, "I place a lot of weight on the parents' input and it's not only getting the young offender on board, it's getting his parent or parents on board". On many occasions officers indicated that they are better able to assess the situation due to the input of first hand knowledge from the parent(s). In some cases, officers indicated it can have a large impact on their decision-making process if they feel that the young person will face a consequence for their behaviour at home. If an officer feels that the young person's behaviour will be dealt with by Mom or Dad, he or she feels much more comfortable not laying charges or referring to alternative measures: "...Occasionally, the best punishment an officer can provide is to take the juvenile home and release him or her into the custody of the parents" (Dantzker & Mitchell, 1998: 59).

Three-quarters (75%) of the police agencies indicated they will take the young person home, or if absolutely unavoidable, to the police station in order to have the parents take care and control over the young person. In the majority of cases, they deliver the young person directly home. However, in some jurisdictions they may bring the young person to the station as a "higher consequence" (i.e. a more severe sanction), as it inconveniences the parents to have to come to the police station to pick up their child. Further, several officers indicated that having the parents pick the youth up at a police station reinforces the message that the behaviour was criminal and needs to be treated as such, even though they are not proceeding by way of charge or alternative measures: "...If the officer wishes to emphasize the situation, the juvenile is taken to police headquarters and, when it exists, to the Juvenile Unit where the release...requires no further action" (Dantzker & Mitchell, 1998: 59). These officers suggest that having the parents come to the police station make them more accountable. They also noted it is much easier to make referrals when the parents and the young person are at the police station.

Despite most officers indicating that they try to *avoid* bringing a young person with whom they intend to use informal action to a police station for *any* reason, 27% of the police forces and agencies indicated that they bring a youth to the police station for questioning even if they know they will be dealing with the incident informally. This practice is especially prevalent in Ontario, and especially among independent municipal police forces, rather than the OPP. In Quebec, none of the agencies in our sample reported bringing a youth back to the station for questioning, in the context of informal action. However, it must be remembered that the police agencies in Quebec which we interviewed rarely mentioned using informal or formal warnings.

Finally, a small proportion of police agencies (6%) refer youths internally to a police-run diversion program. These are all independent municipal police forces. Perhaps it is noteworthy that agencies policing aboriginal peoples are no more or less likely to use informal action than those who do not.

4.0 Use of alternative measures

Rather than using informal action or laying (or recommending) charges, police may choose to refer to or recommend Alternative Measures. 99% of the police agencies in our sample use or recommend either pre- or post-charge alternative measures with youth-related incidents. Typically, alternative measures are considered appropriate for less serious offences and first offenders.¹⁰ The most common alternative measures programs assigned to youth are community service, an apology, social skills improvement, writing an essay, restitution or compensation, and other activities geared toward the specific young person (Kowalski, 1999). A discussion of alternative measures involves an examination of specific procedures and legislation in each province and territory, as there is considerable jurisdictional variation. As of 1998-99, two jurisdictions (Ontario and Yukon) had exclusively post-charge programs (i.e. required that charges be laid before referral to alternative measures); three (New Brunswick, Manitoba, and Alberta) had exclusively pre-charge programs; and the rest had both modes of referral to alternative measures (Engler & Crowe, 2000). Under both modalities (pre-charge and post-charge), the police are responsible for referral, assessment and development of a plan, implementing the plan, and in some cases monitoring the youth's compliance with the plan (Hornick et al., 1996).

Alternative measures refers to programs formalized under Section 4 of the Young Offenders Act where youth are diverted from formal court proceedings at either the pre- or post-charge stage of the proceedings. In most jurisdictions, the referral agent is the Crown Attorney. However, in Manitoba and the Northwest Territories the police can be designated to refer youth to alternative measures programs (MacKillop, 1999). In New Brunswick, police officers are designated as agents for the Attorney General and in Quebec, all referrals are made by the Provincial Director (MacKillop, 1999).

Although the YOA provides for the establishment of formal diversion programs (i.e. alternative measures), this does not automatically entail that the police "cannot continue their former informal procedures in respect of the discretion to lay a charge or not in any given circumstance (Platt, 1991: 87). However, the possibility exists that the availability of alternative measures programs (pre- or post-charge) may lead to the phenomenon known as *net-widening*, in which a measure which is intended to be relatively non-intrusive and to divert people away from other, more intrusive measures, is used with people who would, in its absence, have been dealt with even less intrusively (Lundman, 1993: 99). Thus, the use of pre-charge alternative measures with a youth who would, in their absence, have been dealt with by a police warning, is an example of net-widening; as is the use of post-charge alternative measures with a youth who would otherwise not have been charged. Net-widening would also have occurred if a youth's experience in alternative measures, including the process and the assigned "measure", was more intrusive than the court process and disposition which s/he would have experienced if s/he had been processed "formally". It is not always easy to define, let alone measure,

¹⁰ In contrast, all offenders (regardless of offence) are eligible for alternative measures in Quebec (Kowalski, 1999).

“intrusiveness”, so whether net-widening has occurred in any particular case is not necessarily clear. Nevertheless, in the aggregate, we see a prima facie case for net-widening if pre-charge AM has been used where otherwise an informal action would have been used, or if post-charge AM is used where otherwise pre-charge AM or informal action would have been used.

According to Platt (1991), police may prefer to refer to alternative measures because the participation in AM has evidentiary value in future encounters with the law; whereas informal action does not. Post-charge AM has additional potential for net-widening, because the fact that a charge was laid represents the application of “more law” (Black, 1976), which may increase the probability of police laying a charge in a future encounter.¹¹ Further net-widening may occur if, on a subsequent offence, the prior participation in pre- or post-charge alternative measures is considered as an aggravating factor in the sentencing decision (Platt, 1991). This issue is also discussed in Chapter III, Section 2.1, below.

Section 69 allows for the creation of community-based youth justice committees (groups of citizens) by provincial governments to aid in the administration of any component of the YOA. Committee membership is voluntary and may also include the police or other professionals that have an interest in youth crime and justice. These committees can be used in a variety of ways including: (i) working in conjunction with alternative measures programs as an alternative to formal youth court, (ii) providing recommendations to judges regarding alternatives to sentencing, (iii) providing community service order opportunities, (iv) arranging for reconciliation between victim and offender, and (v) providing community support in various forms to victims and offenders (Bala et al., 1994a).

According to Bala et al. (1994a: 36), “the use of these committees appears to be limited, even though they provide an excellent vehicle for communities to exercise greater authority and control in juvenile justice matters.” When the Federal-Provincial-Territorial Task Force on Youth Justice was doing its research, the Northwest Territories, Newfoundland, and Alberta had begun to use Youth Justice Committees more frequently (Task Force, 1996). Saskatchewan was in the process of developing guidelines to increase their use, Ontario did not have any formally designated YJC’s, and British Columbia used designated YJC’s only as local advisory boards with respect to family and youth court and they did not have direct involvement in working with young offenders (Task Force, 1996: 52). Current examples of the use of these committees can also be found in Manitoba where they are used extensively and are considered particularly appropriate for use with aboriginal youth (Bala et al., 1994a; Task Force, 1996).

When we asked our interviewees whether they found alternative measures effective, two-thirds answered in the affirmative; that is, they said they found it effective “always” (4%), “usually” (52%), or “yes, to an unspecified degree” (11%). The other one-third of

¹¹ For a discussion of the substantial impact of indications of prior criminal activity on police decision-making, see Chapter V.

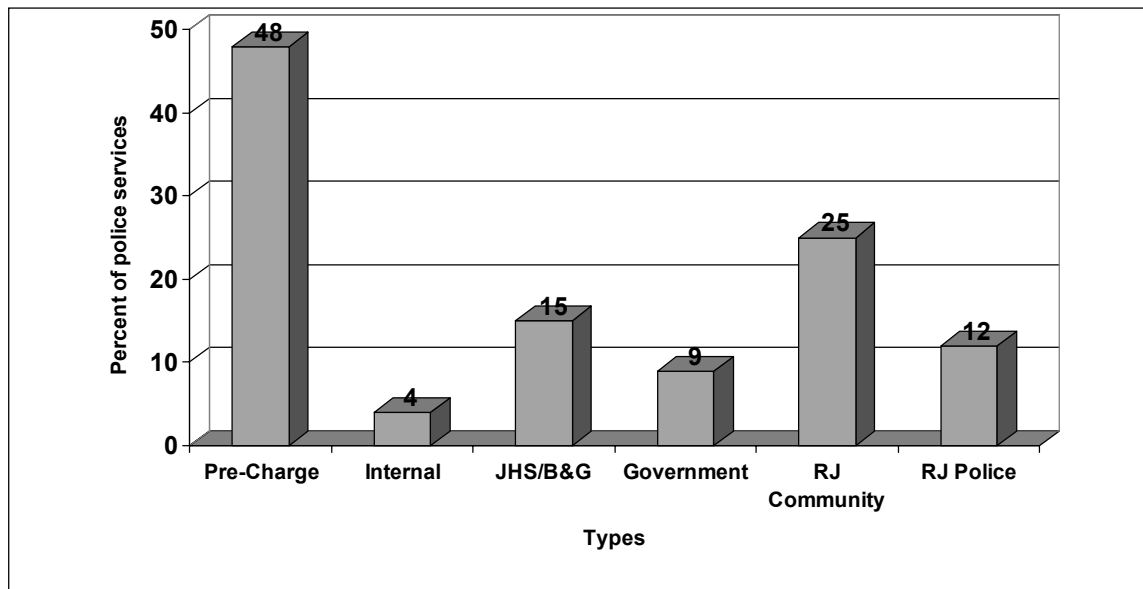
respondents found it effective only “occasionally” (30%) or “never” (4%). Only 50% of respondents in British Columbia answered affirmatively, compared to 58% of Ontarians, and 90% of those in the Prairies (the number of persons answering this question in Quebec, the Atlantic region, and the Territories was too small to provide reliable percentages).

4.1 Use of pre-charge alternative measures/diversion

Figure II.5 (in Section 3.1.1 above) shows that, in police services reporting to the UCR2 Survey in 2001, 6% of incidents were cleared by referral to pre-charge diversion. This underestimates the *proportion of apprehended youths* referred to diversion, because, for the many incidents in which more than one person was apprehended, the incident is classified according to the most serious “police disposition”. Therefore, if one co-offender is charged, and others are diverted or dealt with informally, the incident is classified as “cleared by charge”. Figure II.6 (above) suggests that the use of pre-charge diversion by police (in the agencies reporting to the UCR2 since 1995) has not changed appreciably since data were first collected in 1997. Figure II.7 (above) shows wide variation among police in five provinces (who reported to the UCR2 in 2001) in the use of pre-charge diversion. As expected, it is hardly used in Ontario; but it is also hardly used in the four municipal police services in Saskatchewan which report to the UCR2. More substantial proportions of incidents are cleared by diversion in New Brunswick, Quebec, and Alberta (four municipal police services).

Our respondents were asked to indicate whether pre-charge alternative measures was an option used by their police service for dealing with youth-related incidents. We quickly learned that most police officers, especially frontline officers, do not make a distinction between pre-charge diversion programs which are and are not officially authorized as Alternative Measures under Section 4 of the YOA. Indeed, when we asked them if a program to which they referred was authorized under Section 4, we were usually met with a blank look. The police officers whom we interviewed tend to use the terms “diversion program” and “alternative measures program” interchangeably, to refer to any program to which youth can be referred as an alternative to formal court processing. They are concerned with finding practical solutions to immediate problems, not with the legal niceties of Section 4 of the YOA. Thus, in what follows, we use the term “pre-charge diversion programs”, in order to avoid misleading the reader who might think that they are necessarily official Alternative Measures programs.

Figure II.11 Types of pre-charge diversion programs available for referrals of youth



If the officer answered that pre-charge diversion programs were used in his or her jurisdiction, then we proceeded to explore the different types of pre-charge diversion. *Internal* pre-charge diversion refers to programs that are run within the police agency. An officer would fill out specific forms to refer a young person into the program. *Pre-charge diversion by the John Howard Society, the Boys and Girls Club*, etc. includes those police agencies that would make pre-charge referrals to an external agency which would execute the diversion agreement and monitor compliance. *Pre-charge by government ministry* includes those police forces and agencies that make referrals to some branch of the provincial/territorial government (e.g. Probation, Social Services). *Pre-charge RJ community based* refers to those agencies that make referrals to a youth justice committee that is run by a community organization and volunteers. Finally, *pre-charge RJ police* refers to those agencies where a police officer conducts the forum as a facilitator and organizes the conference, records the agreement, and monitors or assigns monitoring completion. Figure II.11 shows the various forms of pre-charge diversion programs to which police agencies in our sample can refer youth (percentages add to more than 100% since multiple answers were permitted).

Just under one-half (48%) of the police agencies we spoke to indicated they used some form of pre-charge diversion with youth-related incidents. Of all the various types of policing agencies, 69% of the RCMP detachments and 49% of the independent municipal police forces use some form of pre-charge diversion. The majority of rural and small town forces (66%) do not have access to pre-charge diversion, whereas 63% of metropolitan areas and 53% of suburban/exurban areas do. If rural and small-town police

agencies have access to pre-charge diversion for youth it tends to be community based restorative justice.

Reports based on the Canadian Centre for Justice Statistics Alternative Measures Survey (MacKillop, 1999; Engler and Crowe, 2000) indicate that alternative measures programs for young persons in Ontario and the Yukon are exclusively post-charge. Data from the UCR2 Survey confirm that pre-charge alternative measures are used rarely in Ontario (Figure II.7, above). However, of the police services which we interviewed, 37% of those in Ontario, and 3 of the 4 police agencies in the Yukon, said that they used pre-charge alternative measures. It may be that some of these are examples of the terminological confusion discussed above. Others may have come into existence after the cited sources were compiled. In Cornwall, Ottawa, Windsor, Toronto, and Whitehorse, what we believe are authorized pre-charge alternative measures programs have been set up in cooperation with the Crown Attorney and the John Howard Society. (Of course, pre-charge diversion and alternative programs may also exist in the many jurisdictions in Ontario and the Yukon which were not included in our sample.)

Although virtually all the provinces and territories have mandated pre-charge alternative measures, comments made in the interviews suggest that this option is not exercised as often as police believe that it could be.

Only 4% of the police forces in our sample have the option of referring youth to an internal (police-run) pre-charge program. In all cases, these programs were run by independent municipal police forces. Comments made in interviews suggest that the percentage is low due to a lack of financial and human resources.

Of those police agencies in our sample, 15% make pre-charge referrals to an external organization such as John Howard Society or the Boys & Girls Club. All of these types of programs are used by independent municipal forces and tend to be in metropolitan areas. A slightly smaller proportion (9%) of pre-charge referrals are made to a government ministry. Our data suggest that these types of referrals occur only in Saskatchewan, Nova Scotia, and Prince Edward Island.

One-quarter of the police agencies we spoke to indicated they can divert youths pre-charge to a community-based restorative justice forum. Over half of the RCMP detachments (58%) in our sample made these types of pre-charge referrals, compared to only 16% of the independent municipal forces in our sample. 50% of the forces in British Columbia and 55% of those in the Territories have community based restorative justice committees. Over one-quarter of the agencies in the Prairies (29%) and the Atlantic provinces (27%) made pre-charge referrals. Further, of those police agencies which have jurisdiction over aboriginal peoples – whether on- or off-reserve - 35% had the opportunity to make referrals compared to 18% of those agencies that do not police aboriginals.

A small percentage of police agencies (12%) reported they use pre-charge diversion by running restorative justice conferences themselves. The RCMP detachments in our

sample were twice as likely as other police force types to engage in police-run conferencing. One-quarter of the agencies in the Atlantic provinces (27%) and the Territories (22%) ran conferences themselves.

4.2 Process of making pre-charge referrals

The police play an integral role in the process of making pre-charge referrals. In some jurisdictions, police have the authority to refer directly to an official Alternative Measures program (e.g. Manitoba, Northwest Territories). In New Brunswick, the investigating officer refers the case to a senior police officer who is designated as an agent for the Attorney General. The senior officer then reviews the case to see if the young person is eligible for pre-charge Alternative Measures. If the case meets certain prescribed conditions it is then forwarded to the Alternative Measures Coordinator for that region who makes the final referral to an alternative measures committee.

In most jurisdictions that use pre-charge diversion, police officers are given instructions based on Department or provincial policy regarding which cases can be considered for pre-charge diversion. However, in most cases the final decision still rests with the Crown Attorney whether a young person will be diverted without a charge being laid. In Quebec, the Crown Attorney refers the case to the Provincial Director to consider whether it is appropriate for alternative measures.

In Nova Scotia the pre-charge diversion process has become much more formalized. In particular, Halifax Regional Police has instituted a checklist that must be filled out with each young offender case that is processed. This checklist ensures that officers have considered the possibility of pre-charge diversion. Officers are required to articulate the reasons why a case cannot be considered for diversion. The case is then forwarded to a senior police officer who reviews all files dealing with youths under the age of 15 to ensure that all young persons who are eligible for pre-charge diversion are indeed diverted.

Of those police agencies that provided procedural protocols and policy documents, the majority did not include a section that dealt specifically with pre-charge referrals.

4.3 Use of post-charge alternative measures

Because of the involvement of the Crown in post-charge diversion screening, we presume that when police officers talked about post-charge diversion or alternative measures, they were talking about authorized Section 4 Alternative Measures programs.

Almost all (91%) of our sample indicated that youths were diverted post-charge to alternative measures in their jurisdiction. It appears that jurisdictions policed by the RCMP rely less on post-charge alternative measures than jurisdictions policed by other police agencies: 73% of the RCMP detachments which we interviewed said that post-

charge AM was used in their jurisdiction, compared with 93% of provincial police detachments, 98% of independent municipal forces, and 100% of First National police services. This may be because many of the RCMP detachments which we interviewed operate in the one province and three Territories where post-charge AM are less widely used: in British Columbia, only 75% of police services in our sample said post-charge AM was used in their jurisdiction, and in the Territories, it was just over half.

If the use of post-charge alternative measures does indeed encourage net-widening, because of the necessity of laying a charge in order to qualify a youth for a program (see Section 4.0, above), then it appears that considerable net-widening occurs, since a high proportion of our sample, including all types of police (independent municipal, First Nations, and provincial), said that this mode of alternative measures is used in their jurisdiction.

A case that is referred post-charge to alternative measures does not differ in the procedures and paperwork that officers complete from a case that proceeds to youth court. All forms and reports are filled out exactly as they would be for the case to proceed to court. The differences occur once the paperwork has reached the Crown Attorney.

The majority of officers indicated they did not make any notations on the Crown Brief concerning their thoughts on eligibility for post-charge alternative measures. A few stated they *might* tell the Crown Attorney in a private conversation that they would not object to alternative measures. However, the majority of police officers felt that, since the decision rests with the Crown, it was not their place to offer their input. The majority of officers also indicated that, in order for the young person to receive counselling or make reparations for the harm done, they had to charge the young person, since there were no pre-charge alternatives available in their jurisdiction. This finding supports the notion that post-charge alternative measures leads to net-widening.

Several officers raised strong concerns about the use of Crown discretion over alternative measures. There were many examples given of cases where, in the opinion of the officer, the young person was not remorseful and the crime had serious consequences for the victim; yet, despite the officer's communicating concerns to the Crown Attorney, the case was still diverted post-charge to alternative measures. Others expressed dismay at the volume of cases that the courts are contending with. As one officers put it, "It's the system, you've got one crown attorney, 40 cases in the docket, what are you going to do? You're not going to trial through every one of them". They suggested that cases get referred post-charge to alternative measures as the courts do not have the human resources available to try every case.

4.4 Feedback on cases referred to alternative measures

The few research studies available indicate that police perceptions of program effectiveness hinge on meaningful consequences and accurate knowledge (Caputo &

Kelly, 1997; Gottfredson & Gottfredson, 1988; Task Force, 1996). Results from focus group interviews with a small sample of Canadian police officers found that the police use of community-based alternatives would be higher if the consequences which youths faced for their actions were seen as meaningful and timely (Caputo & Kelly, 1997).¹² Further, a portion of the variability in the use of alternatives to formal processing appears to be due to the lack of feedback (Hornick et al., 1996). Police officers require accurate knowledge on how other officers respond to similar situations and the consequences of their decisions (Gottfredson & Gottfredson, 1988). Police officers working in the same community will react differently towards similar youthful offending situations (Brown, 1981a), if they have inadequate knowledge of discretionary options and the most effective use of community alternatives (Hornick et al., 1996).

Most police officers appreciate the long-term benefits of making the transition from the traditional reactive style of policing to a more problem-solving proactive approach.¹³ However, the police officers surveyed identified two inherent difficulties in making this transition. First, many jurisdictions contend with a high volume of paperwork and service calls. Second, the current system under the YOA is not graduated. In other words, when officers choose not to charge a youth their only options are seen as informal warnings (where they see accountability and tracking as problematic) or referrals to alternative measures (where they seldom find out what happens to the case). Specifically, internal programs created through community links (primary, secondary, or tertiary) do not provide follow-up information or the police are unable to pursue feedback due to time and resource constraints. These problems have led to frustration with the system, a lack of closure for officers, and an inability to assess the effectiveness of their decisions and use of discretion.

The literature led us to ask the officers whether they received any feedback on cases that were referred to alternative measures (pre- or post-charge). We coded their responses into four categories. *None* indicates that they received no feedback at all concerning cases that went to alternative measures. *Informal (if requested)* denotes situations where officers could inquire about the outcome of an incident that was referred to alternative measures; however, if they did not go out of their way to phone the Crown Attorney they would not receive any feedback. *Occasionally but not consistently* refers to police agencies which do receive some feedback, but the circumstances under which they receive feedback are not consistent. Further, in some jurisdictions police are supposed to receive consistent feedback from the organizations that run the alternative measures or from the Crown, but do not receive it consistently. Others that fell under this category

¹² Examples of “meaningful consequences” which were offered by respondents in this study were: “loss of privileges or freedoms” via a curfew or no-association provision, “public accountability” for wrongdoing, and restitution. “Timely” was apparently not defined precisely by respondents, but one explanation was “not six months down the road” (Caputo & Kelly, 1997: 10-11).

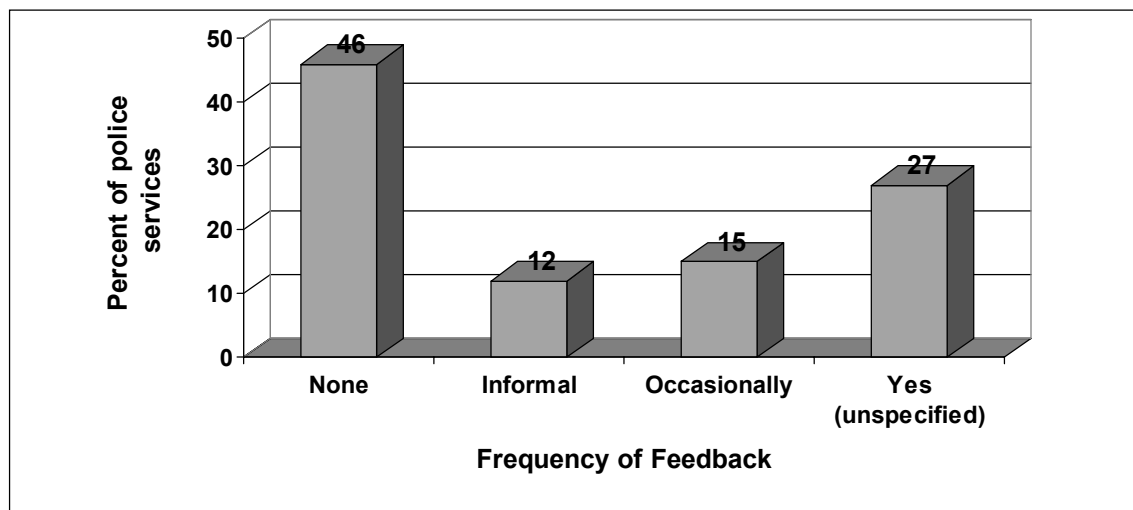
¹³ This paragraph relies on Hornick et al. (1996). These results are from a small sample questioned through focus groups. These findings appear to be the only ones that have addressed this area. Consequently, the impact of various facets of community policing needs further exploration, with a focus on handling youth crime and the creation of comprehensive assessments of “what works”.

were police services where the Court Liaison officer might find out about youth-related incidents that were dealt with by way of alternative measures but the investigating officer probably would not. *Yes (unspecified)* refers to the police agencies that indicated they do receive feedback fairly consistently but did not indicate when or to what degree.

None of the police agencies or detachments specified that they systematically or routinely receive feedback on cases referred to alternative measures.

Figure II.12 shows that just under half of the police agencies (46%) indicated they do not receive any type of feedback at all on the outcome of alternative measures referrals. Approximately 27% of those within our sample told us they receive feedback occasionally (but not consistently) or informally if requested by the officer, and the remaining 27% receive feedback to an unspecified degree.

Figure II.12 Feedback on Alternative Measures cases



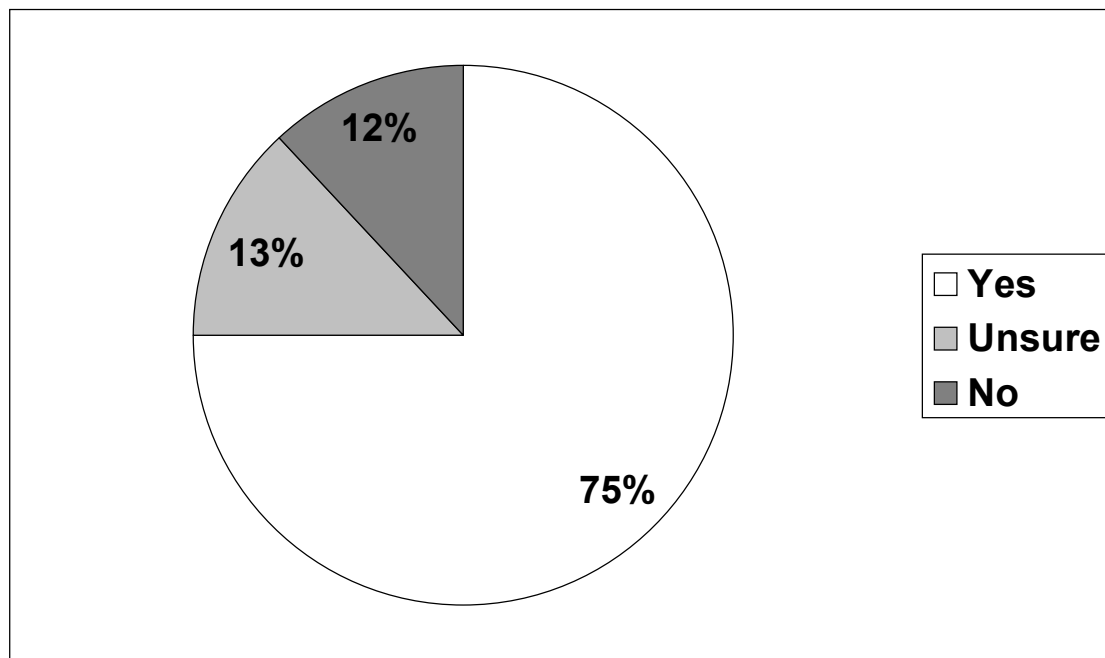
These responses differ by province/territory and type of community. Relatively high proportions of police agencies in British Columbia (67%), Ontario (59%), and Alberta (57%) say that they receive no feedback at all on alternative measures cases. In Ontario and British Columbia, this may be due to the active role of the Crown, in decision-making concerning alternative measures in Ontario, and in screening police recommendations, in British Columbia.

Police agencies in the Atlantic provinces (73%) and the Territories (75%) are much more likely to receive feedback on cases referred to alternative measures than those in the other regions (all under 35%).

Police services in rural and small town areas are more likely to receive feedback (50%) than those in metropolitan (38%) and suburban/exurban jurisdictions (20%).

We asked respondents who do receive feedback whether they found it useful. We also asked respondents who do not receive feedback whether they would find it useful. Figure II.13 shows the range of answers we received from individual police officers (only 92 of our sample of 194 officers answered this question).

Figure II.13 Is feedback on Alternative Measures useful (or would it be, if it were available)?



Three-quarters (75%) of the officers who answered this question felt that feedback on cases referred to alternative measures is or would be helpful for their decision-making processes. One provincial police officer stated, “I think it would be helpful because then you’d know whether to direct others that way. That’s important”. An officer from Ontario summarized the usefulness of feedback as follows,

I think [...] you have to have the feedback because then he’ll know if it’s working or not. An officer on the road who might be getting 15-20 calls a day, from the time they start they’re kicked out on the road, away you go. It’s very hard to do your follow-up on it, so you don’t know. So a letter back makes it easier. Things that work, you’ll use more. Things that you don’t really know, you’ll try it; well I didn’t hear anything back. You’ll just revert back to your old ways again.

A very large proportion of officers in Saskatchewan (100%), Quebec (92%), and New Brunswick (80%) said that they find, or would find, feedback on alternative measures cases useful for their decision-making with youths. OPP officers were more likely than

others to say that they would not find feedback useful. Part of the reasoning provided was that they did not have the time and resources to analyze any feedback if they were to receive it. Officers who were unsure if feedback would be useful suggested that, since they have never received any feedback, they cannot judge its usefulness.

Overall, three-quarters of police officers who expressed an opinion said that they find or would find feedback on alternative measures cases useful, even though almost half of the officers in virtually all of the provinces do not get any.

4.5 Summary

Although some officers remain sceptical about the value of pre-charge diversion and Alternative Measures, it appears that the great majority feel that they can play a useful role with some young offenders in some circumstances. In their view, diversion to a program or agency can be a much more effective way of dealing with a youth's perceived criminogenic problem than referring him or her to Youth Court; also, they see referral to Alternative Measures as a useful "intermediate sanction", representing a "consequence" for the youth which is more severe than informal action, but less harsh than laying a charge.

By far the greatest source of dissatisfaction with AM programs which was expressed by interviewees is their unavailability. In many communities, the range of programs is inadequate; in many others, there are no programs at all.

A second deficiency of alternative measures which many officers identified is the lack of mechanisms to provide them with feedback on the outcomes of their recommendations – whether they were accepted, and whether the resulting placement was effective. In the absence of information, they can only speculate about the appropriateness and effectiveness of their past and future recommendations.

Although many officers were interested in discussing pre-charge diversion with us, and many had definite opinions on this subject, very few showed any such interest in discussing post-charge AM. Apparently, this is largely foreign territory for police officers: many said that this is entirely a matter for the Crown, and they did not offer input to the Crown on a decision which is entirely out of their hands.

In summary, pre-charge diversion and alternative measures seem to have been accepted by the great majority of police officers and police services as a very useful method of dealing with certain kinds of offending youth in certain circumstances. However, according to police whom we interviewed, the available facilities and programs are woefully inadequate.

5.0 Discretion with offences against the administration of justice

The great majority of offences against the administration of justice by young offenders are failure to appear for court and breach of probation (usually prosecuted as the offence under the YOA of “failure to comply with a disposition”), but this category also includes violations of bail conditions (both JIR and OIC undertakings), escaping from a facility (“escape custody”), or leaving a facility without permission (“unlawfully at large”, or, colloquially, “going AWOL”), and rare instances of other offences.

Offences against the administration of justice differ from other offences in that (i) they rarely involve harm to a victim, other than to the justice system itself; (ii) they do not involve behaviour that is popularly considered “criminal”: rather they involve disobeying orders of the court or other system actors; (iii) they can be committed only after a another offence has already been committed, or alleged; i.e. they are “secondary” offences; for this reason, they are particularly at risk of contributing to the “revolving door” syndrome.

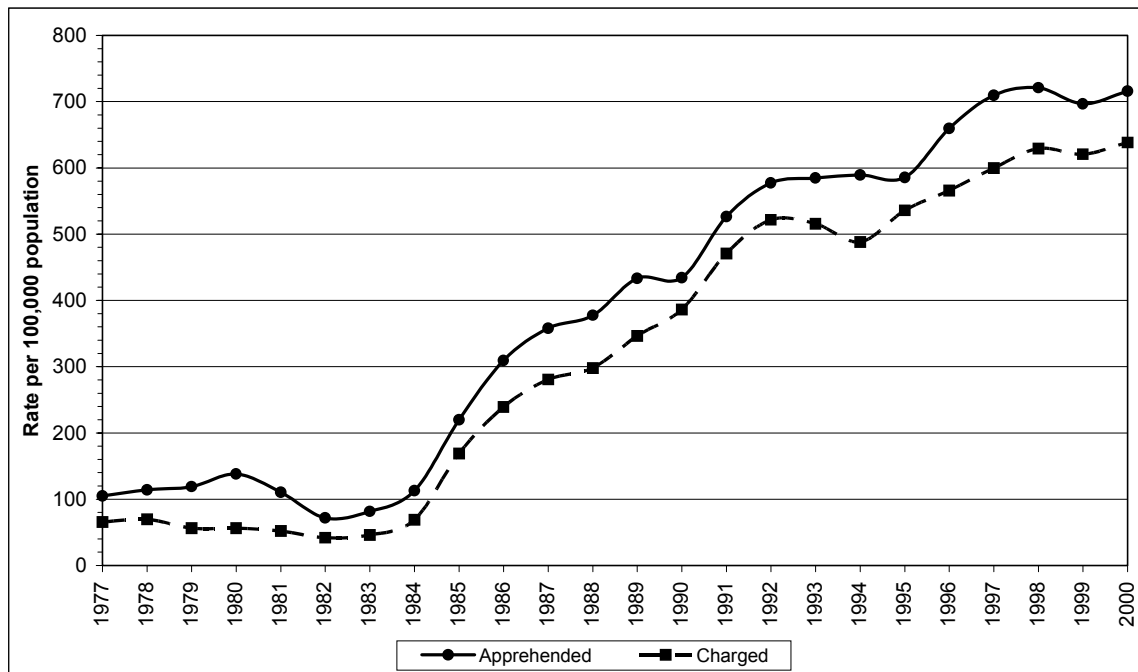
There has been a very large increase in the reported incidence of offences against the administration of justice by young persons since the inception of the YOA. Since very high proportions of these offences are subject to charging, prosecution, conviction, and custodial dispositions, the increase in their reported incidence has resulted in their becoming a substantial and growing proportion of the caseloads of police, prosecution, youth courts, and custodial facilities – a development viewed with alarm by some commentators (Bell, 2002; Schissel, 1987; Task Force, 1996).

Per capita rates of young persons apprehended for offences against the administration of justice, which were declining under the Juvenile Delinquents Act, have climbed very rapidly under the YOA from 115 per 100,000 youth population in 1984 to 734 in 2000 (Figure II.14).¹⁴ Rates of young persons charged have followed this trend closely, since approximately 90% of these offences result in charges being laid: that is, they are subject to lower levels of police discretion than any other type of offence except murder (Carrington 1998a). As indexed by the proportion of apprehended young persons

¹⁴ The UCR Survey does not distinguish between offences under the YOA and offences under miscellaneous federal statutes, such as the Bankruptcy Act, the Income Tax Act, etc. However, almost all *young persons* apprehended and charged since 1984 under the UCR category ‘Other Federal Statutes’ were in fact implicated in the offence under the YOA of “failure to comply with a disposition”. According to Canadian Centre for Justice Statistics (2003), approximately 93% of young persons recorded in the 2001 UCR as charged under “Other Federal Statutes” were charged with an offence under the YOA – and, according to the Youth Court Survey, 98% of cases of offences under the YOA heard in Youth Court in 1999/2000 were failure to comply with a disposition under the YOA (Canadian Centre for Justice Statistics, 2001b). Therefore, in computing rates of young persons apprehended and charged from 1984-2000 for Figures II.14 and II.16, we have used 93% of the total number of young persons apprehended and charged for “Other Federal Statute” offences as an estimate of the number apprehended and charged with administration of justice offences under the YOA. For 1977-1983, we have used the total number of young persons apprehended and charged in the UCR category ‘offences under the Juvenile Delinquents Act’ as an estimate of breaches of probation under the JDA.

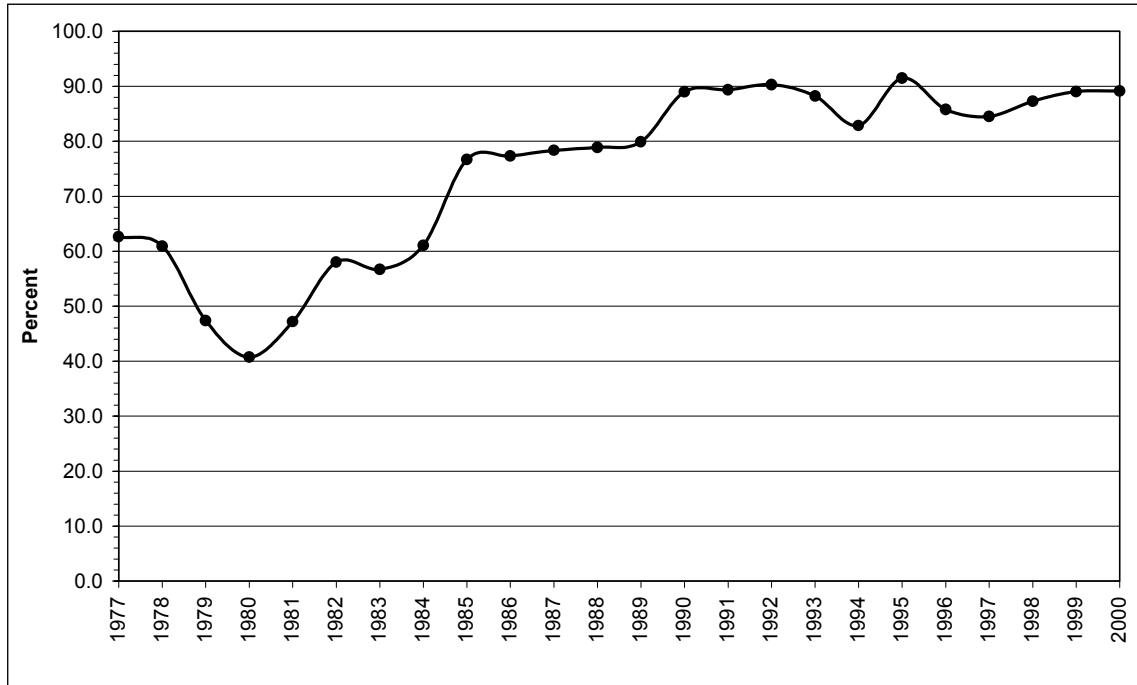
charged, the *non*-use of police discretion with administration of justice offences leapt from about 40% in 1980 to almost 80% in 1985, and stabilized at about 90% in the 1990's (Figure II.15).

Figure II.14 Rates of young persons apprehended and charged for offences against the administration of justice, Canada, 1977-2000



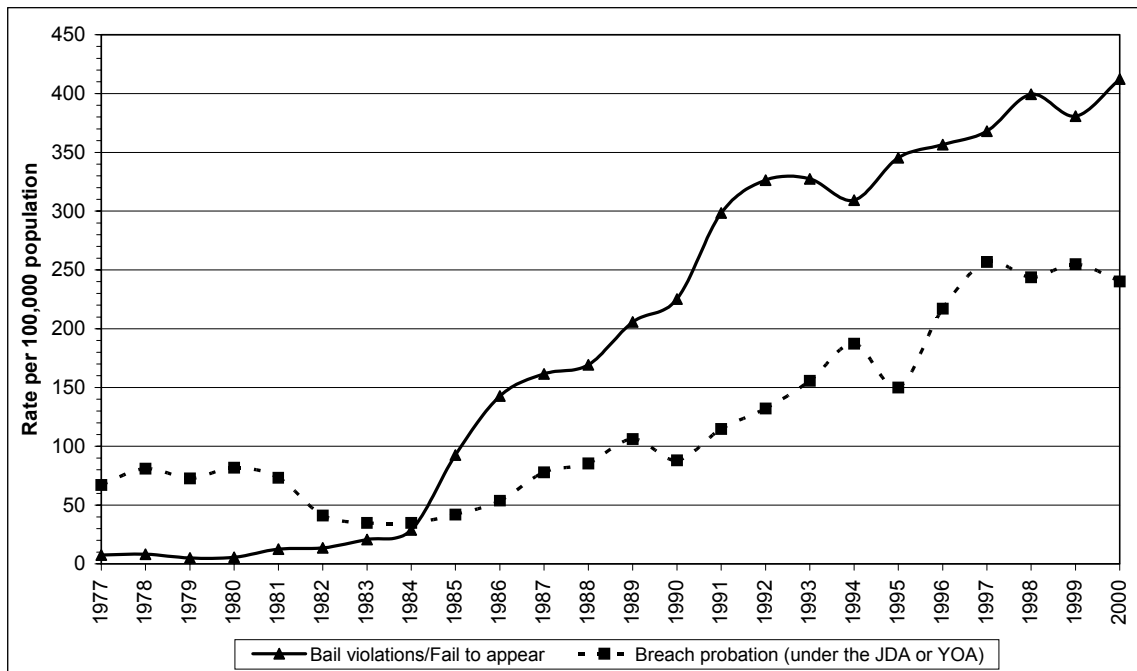
Source: UCR Survey; see note 15.

Figure II.15 Proportion of young persons apprehended for offences against the administration of justice who were charged, Canada, 1977-2000



Source: UCR Survey; see note 15 above.

Figure II.16 Rates of young persons apprehended for common offences against the administration of justice, Canada, 1977-2000



Source: UCR Survey; see note 13 above.

About 90% of offences against the administration of justice committed by young persons are bail violations and failures to appear for court, and breaches of probation conditions (which is usually charged under S. 26 of the YOA, failure to comply with disposition, rather than under S. 733.1 the Criminal Code, failure to comply with a probation order). Both offences have increased sharply under the YOA, but the increase in bail violations and failures to appear has been most spectacular, from 20 juveniles per 100,000 in 1983 to 412 per 100,000 in 2000 (Figure II.16). In 2000, over 9,000 young persons were charged with bail violations or fail to appear, and more than 4,800 were charged with failure to comply with a disposition. Altogether, approximately 16,000 young persons were charged with offences against the administration of justice in 2000: they made up approximately 16% of youth charged for all crimes.

Per capita rates of young persons appearing in youth court for offences against the administration of justice almost doubled between 1987 and 1992, and increased steadily after that (Bell, 2002: 89). By fiscal 1999/2000, cases in which the most serious charge was an offence against the administration of justice accounted for 27% of all youth court cases in Canada (Canadian Centre for Justice Statistics, 2001b: Table 3). Because of high rates of conviction and of custodial dispositions for these offences, they also accounted for a very high proportion of custodial sentences: 40% of custodial dispositions in youth court in fiscal 1999/2000 were for cases in which the most significant charge was an offence against the administration of justice – whereas, only 18% of custodial dispositions handed down in 1999/2000 were for cases involving violent offences (Canadian Centre for Justice Statistics, 2001b: Table 8).

However, to our knowledge, there is almost no published Canadian research on the processes generating these remarkable and alarming numbers (the few extant studies are reviewed below). Accordingly, we made a point of asking police about the processes by which they became aware of this type of offence, to what extent and in what circumstances they exercised their discretion not to lay charges, and what kinds of considerations affected their decision-making.

Officers become aware of administration of justice offences in one of three ways:

- the police service is notified by another system agent; typically, when a youth fails to appear for court and the judge issues a bench warrant, or when the probation service notifies the police of a breach of probation or community service order, or when an open or secure custodial facility in the area notifies police of an escape or a resident “going AWOL”; in the case of fail to appear, the charge (i.e. the information) is often laid by an officer assigned to this and other administrative duties, or by the Court Liaison Officer, if there is one;
- a police officer apprehends a youth for another offence and learns of an outstanding bench warrant, bail violation, breach of probation condition, etc., through a records check;

II. A Descriptive Profile

- a police officer discovers a violation of a condition of bail or probation in the course of a proactive sweep for such offences, e.g. curfew violations discovered during curfew checks done as part of a monitoring program such as SHOP (Serious Habitual Offender Program) or SHOCAP (Serious Habitual Offender Comprehensive Action Program) (see below).

Why, then, are so few cases of offences against the administration of justice dealt with informally or diverted by police? On the face of it, they would appear to be excellent candidates for informal action or diversion, since they are not indictable offences (fail to comply with a disposition is a summary offence; fail to appear is a hybrid offence), and involve no harm to a victim.

In interviews, we were told that officers are much less likely to use their discretion not to charge when they are notified of the offence by a system agent, because the notification is understood as, in effect, a request to charge. This is often explicit when a request comes from a probation officer or official of a custodial facility. However, we were unable to determine precisely the process by which the failure of a youth to appear in court, and subsequent issuance of a warrant to arrest (“bench warrant”) on the original charge by the judge, leads to the police laying a fresh charge of failure to appear. Typically this charge is laid as a matter of course by the court liaison officer, after being informed by a court clerk of the issuance of the bench warrant; or the court liaison officer may be present in court when the warrant is issued. The few court liaison officers with whom we discussed this process treated it as one in which police discretion was inapplicable, since, in their view, the judge had indicated that s/he wanted the charge laid, and they would not want to disappoint or disagree with a judge. It is unclear to us whether judges actually communicate such a wish, explicitly or implicitly, or whether this is an unwarranted assumption on the part of police. If judges are indeed initiating the laying of charges by police, is this an appropriate activity for them to be performing in their judicial role? Since charges of failure to appear constitute a substantial proportion of all administrative offences, it would be worthwhile to investigate this process more closely than we were able to do.

A second factor that appears to play a large role in the decision whether to charge is whether the youth is a “known” repeat offender. Many officers told us about youths apprehended for bail or probation violations who were simultaneously on bail and/or probation orders in multiple cases. In these fairly common cases, laying a charge for a bail or probation violation is seen as a response not just to the particular violation, but to a pattern of flagrant disregard for the orders of the justice system.

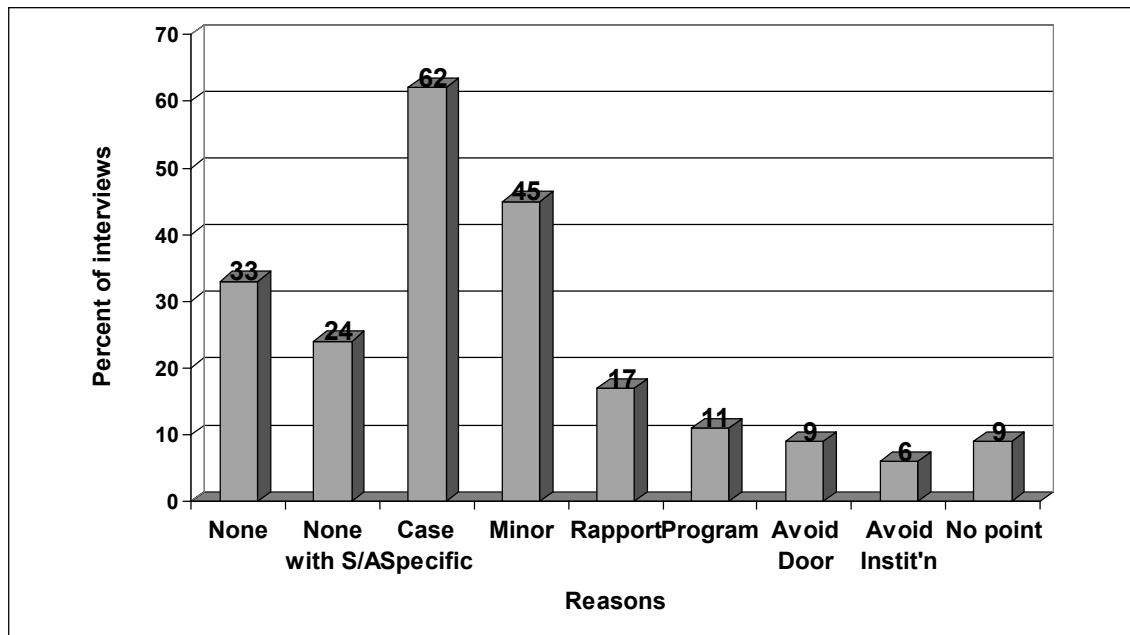
A factor that can mitigate *against* laying charges might be described as “absence of wilfulness”: just the opposite of the wilful disregard described above. This appears to be more prevalent in rural/small town jurisdictions. As one officer described it:

You have to go back to the socio-economic description of the citizenry, there’s an awful lot, quite a few who aren’t very educated and quite a few that I’ve come across, an

inordinate amount, that are absolutely illiterate and have no clue of what a promise to appear says. You just about have to stick it on a post and whack it on their forehead if you've got a court date that's coming Friday, you write it and stick it on their forehead, and then they'll be there. So when it comes to reading a probation order, you watch these people when they sit in court [...] and he hasn't got a clue what the guy [judge] is talking about. And then it gets explained to him afterwards, he signs it all up, yeah, no problem and then you catch them out after 7 o'clock at night [...] they tell you] I didn't know that. In their mind they didn't. So in those kinds of cases you might cut him a bit of slack.

We asked officers to describe in detail the factors which influence their use of discretion with offences against the administration of justice. Figure II.17 outlines the responses (percentages add to more than 100% since multiple answers were permitted).

Figure II.17 Discretion with Administration of Justice Incidents



One-third (33%) reported that they use no discretion at any time with offences against the administration of justice. When probed for further clarification, three distinct themes emerged. First, the officers reported that there was either departmental policy¹⁵ or an

¹⁵ Despite officers indicating the existence of departmental policy, we did not find any specific directives within the documentation collected which instructs officers to use “no discretion” with administration of justice offences.

understanding within the department that no discretion should be used with these types of offences. Second, officers reported feeling uncomfortable using their discretion when a judge has ordered this young person to adhere to conditions. The fact that the young person is in breach is seen by the officer as evidence of a lack of respect for the criminal justice system. Officers who fell in this category generally told us that these young persons are not new to law-breaking and they had already been “given a break” by receiving conditions. In several instances, officers reported young persons laughing because “probation means nothing to them”. Finally, some felt that the youth justice system provides so few consequences for a young person’s behaviour that to “give them a break” would further enforce this perception.

Approximately one-quarter (24%) of our interviewees indicated that if they found out about the administration of justice offence from another system agent they would not exercise their discretion. Officers who indicated they use no discretion when reported to them by system agents were more likely to work in metropolitan police forces (37%), compared to only 21% of respondents in suburban/exurban areas and 18% of respondents in rural/small town jurisdictions. They are also more likely to work in the Prairie provinces (53%) or the Atlantic region (55%). Finally, officers with 5 or less years of experience were much more likely to say they would not exercise discretion with cases referred by other system agents (36%) than officers with 6 or more years experience (10%).

Almost two-thirds of the interviewees (62%) responded that their exercise of discretion in cases of offences against the administration of justice is case-specific. When asked to clarify, responses ranged from the circumstances of the offence to characteristics of the young person. For example, if the offence against the administration of justice was committed at the same time as another offence they would probably charge the young person. Or, if they looked on their records management system (RMS) and saw that the young person had been “given a break” already, they would proceed by way of charge. Conversely, if a records check showed the young person did not have a lengthy prior record, they might consider using informal action. On the other hand, if the breach is serious or the young person has a lengthy record, officers suggest they are more inclined to proceed by way of charge and arrest the young person. Respondents’ answers also differed by type of police force, province, and whether they police aboriginal persons. 87% of respondents from provincial police forces (including RCMP and OPP) would view each incident on a case-by-case basis, compared to 47% of the independent municipal police agencies surveyed. 100% of the detachments interviewed in the Territories and 87% of the agencies in Ontario indicated they use their discretion differently, depending on the unique circumstances of each case. Finally, 78% of those agencies that police on or off reserve aboriginals said that they use their discretion on a case-by-case basis, compared to 51% of those agencies that do not police aboriginals.

Almost half (45%) of the officers told us that they use their discretion not to charge when the incident involves a minor breach of release conditions or probation. For example, if a young person has a curfew of 10:00 pm and was found on his or her way home at 10:15, the likelihood of charges being laid would be low. Or, if there is a condition not to

consume alcohol and the young person had had a few drinks, but was clearly not intoxicated, the officer would also consider using informal action. If the condition was not to associate with certain individuals and it was conceivable that the young person, although associating, did not intend to breach that condition, the officers might exercise discretion. However, several officers indicated when a young person has a lengthy record or has committed another offence (in conjunction with even a minor breach) they will more than likely charge the young person. Certain types of police agencies were more likely to say they would not charge in the case of a minor breach. 74% of provincial police agencies (including RCMP and OPP) indicated they would use their discretion with a minor breach compared to only 27% of independent municipal forces. 89% of the detachments interviewed in the Territories indicated that discretion is used with minor breaches. 63% of the police agencies that police on or off reserve aboriginals indicated they used discretion with minor breaches.

Officers volunteered several other circumstances under which they exercise their discretion not to charge with offences against the administration of justice. 17% of those interviewed stated they used their discretion to build rapport: that is, by not charging when they clearly could have, they sought to build a good relationship with the youth. These agencies differed by type of policing, type of community, province, and whether they police aboriginal peoples. Of the provincial police detachments, 29% used discretion to build rapport, compared to 9% of independent municipal police forces. 23% of police forces located in rural areas or small towns mentioned rapport-building, compared to 12% located in metropolitan or suburban areas. 44% of the detachments interviewed in the Territories indicated that they used discretion to build rapport. Finally, of those agencies that police aboriginal peoples 28% indicated rapport as a reason for discretion compared to 9% of those that do not police an aboriginal population.

Several police agencies we interviewed run special programs which intensively monitor high risk youth (e.g. SHOP – Serious Habitual Offender Program and SHOCAP - Serious Habitual Offender Comprehensive Action Program). Other police agencies (e.g. Guelph Police Service) do not have an official SHOP or SHOCAP program, but officers – usually specialist youth officers – do the sort of intensive monitoring of high-risk offenders that characterizes these programs. Officers indicated that if the offence involved a youth in one of these specialized programs they would consider using discretion. During ride-alongs with officers involved in these programs, we observed that they would routinely find youth not at home in violation of their bail or probation curfew condition. They would then make a note of the violation, leave their card with a parent or other resident, ask them to tell the youth to call the officer “as soon as s/he gets in”, and take no further action. Thus, by proactively detecting, but not acting on, large numbers of violations of bail or probation conditions, they were able to remind the youth that s/he was being monitored, but also to “build rapport” by repeatedly giving the youth “a break”.

These monitoring programs tend to be run within independent municipal police forces (of which 16% said that they run such a program) and they tend to be located in metropolitan (20%) or suburban/exurban areas (16%). Only 2% of the agencies located in rural/small

town agencies had a program of this type in effect. Officers indicated that a lack of resources is the most salient factor in determining the programs they are able to provide.

9% of officers indicated that they used their discretion to avoid the ‘revolving door’ syndrome, 6% responded that they used discretion to avoid institutionalization of the youth and another 9% used their discretion because there was no point in processing the charge (e.g. because it would always be pled away) or it was too much work. On the whole, there were no variations in these responses by type of police force, type of community, officer characteristics or province/territory. However, those that policed an aboriginal population were four times more likely to use their discretion to avoid the ‘revolving door’ syndrome. Some such officers claimed that charging youth for administration of justice offences did “absolutely no good.” As one officer put it, the original offence which the youth committed might be a minor mischief, theft, or minor offence against the person, and the rest of his record is filled with 8 or 10 breaches of probation. Further, detaining youth for multiple breaches can institutionalize them. An officer explained it thus:

We try to work it out and inform, explain the whole thing, just tell them the whole process. Because once [they’re] in a jail setting they start to network. So now you’ve introduced this really young, impressionable individual to a new culture and wham-o. Guess what!

Many officers argued that charging youth for administration of justice offences is simply sending them through a revolving door without addressing the initial problem that brought the youth to police attention. An officer in British Columbia summarized “the door” thus:

So you arrest him, take him back to the institution or the youth detention centre, and they network in there. You write a really fancy report. So now you get a new separate charge for breaching conditions, so now you’ve got the original charge, new charges, revolving doors. You can see our frustration, come on [...] there must be a better way.

Some officers expressed considerable frustration concerning the processing of offences against the administration of justice by Crowns and youth court. Many officers working in metropolitan areas told us that in order for a charge to stand up in court they had to show a pattern of wilful disregard for the order. In British Columbia, one officer summed it up by saying, “quite often, just because we find a kid out past their curfew, in their no-go, doesn’t mean the JP [Justice of the Peace] is going to approve the charge, they’re going to want to see a pattern of this misbehaviour, so quite often it’s a waste of energy”. Of those officers with 6 or more years experience, 8% responded in this manner compared to none of the officers with 5 years or less experience. One officer summarized the sentiment of too much work as follows: “Take into consideration that you work an 11 hour shift, spend 4 hours at the hospital, spend 2 hours doing paperwork,

and one kid just tied you up for half your shift, and where are the rest of your service calls?” The paperwork involved for processing a charge against the administration of justice is exactly the same as any other Criminal Code offence and these officers suggested that they used their discretion not to charge, in order to concentrate on what they saw as more important and productive cases.

In summary, the volume of youth-related cases of breach of conditions of bail or probation, and failure to appear in court, has grown to alarming proportions. In the year 2000, offences against the administration of justice accounted for 16% of all youth charged. In fiscal 1999/2000, 27% of all Youth Court cases, and 40% of all custodial dispositions were in relation to offences against the administration of justice.

The police see themselves as playing only a limited role in this phenomenon because they feel that they have very little discretion in these cases. When an allegation that a youth has committed an offence against the administration of justice is made by another system agent – e.g. a bench warrant is issued by a judge for failure to appear, or a breach of probation is reported by a probation officer – police interpret this as a request to charge, and generally feel that they have little choice but to comply. On the other hand, when they discover a breach as a result of apprehending for another offence, or as part of an intensive monitoring program for high-risk youth, they exercise a great deal of discretion. When police do lay a charge in these circumstances, it is usually because there is some aggravating circumstances: the substantive offence is serious, or the youth is a known repeat offender, or is simultaneously involved in several cases, and violations of court orders.

6.0 Discretion with provincial/territorial offences

Our sample was evenly split between police services whose members said that they use the same amount of discretion with provincial/territorial offences as with Criminal Code offences, and those that said they use *more* discretion with provincial/territorial offences exceptions.

There were few differences among types or locations of police services in this respect. In Alberta and Nova Scotia, 75% of police agencies indicated they used more discretion with provincial/territorial offences. Notably, officers with 6 or more years of service were much more likely to say that they use more discretion with provincial/territorial offences (70%), compared to respondents with less than 5 years experience (30%).

7.0 Procedures used to compel appearance in court

Concern has been expressed in many quarters about the excessive reliance on incarceration of young persons in Canada, which exceeds that of many other western countries (Department of Justice Canada, n.d.). Although most of the attention is focused

on sentenced custody, young persons incarcerated on remand – that is, while awaiting trial, or during trial – constitute a substantial proportion of all youth incarcerated in Canada. In fiscal 2000/01, remand admissions of young persons accounted for 39% of custodial admissions (Marinelli, 2002; not all provinces reported to the survey on which this report is based). Due to the relatively short stays of remanded youth, they accounted for a smaller, yet still substantial, proportion (22%) of young persons held in custodial facilities on an “average day” in 2000/01 (*ibid.*).¹⁶

Studies of bail hearings in youth court have found that judges sometimes stretch the interpretation of the Criminal Code grounds in ordering detention for young people, especially for youths who come from unstable or deleterious home situations. Yet, as many writers have pointed out, detention before conviction – that is, of persons presumed innocent – is an undesirable expedient whose use should be minimized, particularly in the case of young persons, who are especially vulnerable to its ill effects (Bala et al., 1994b; Task Force, 1996; Doob and Cesaroni, 2002; Varma, 2002). Unless it is absolutely necessary, pre-trial detention of young persons would appear to be contrary to the intent of the Bail Reform Act (see Law Reform Commission of Canada, 1988), the Young Offenders Act, with its emphasis on minimal interference in the freedom of the young person (Platt, 1991: 80), and the United Nations Convention on the Rights of the Child (Task Force, 1996). Also, detention before trial in criminal court has been found by several researchers to increase the probability of conviction and a custodial sentence (Griffiths and Verdun-Jones, 1994: 226).

Attempts to explain the surprisingly high rates of pre-trial detention of young persons in Canada have been directed mainly to the bail hearing itself (e.g. Gandy, 1992 (cited in Doob and Cesaroni, 2002, pp. 139-146); Varma, 2002). However, police are the “gatekeepers” of pre-trial detention, because it is they who make the initial decision to arrest, and the subsequent decision whether to release or to hold for a JIR (Judicial Interim Release) hearing. Although we have no data on this, it seems likely that a substantial proportion of youth who are being held at any given time in pre-trial detention are in police custody, i.e. have not yet had a JIR hearing. Furthermore, only those youth who are arrested and not released by police come to the attention of bail courts: thus, police constitute the initial “screening” mechanism for pre-trial detention. Also, it seems likely (although we have no data on this) that the Crown’s position and arguments at the bail hearing are heavily influenced by input from the police.

According to Grosman:

When the Bail Reform Act was first introduced in Canada in 1972, police officers were concerned about the wide discretion given them under this new legislation. The police officer was given the task of deciding whether it was

¹⁶ Doob and Cesaroni (2002: 142-143) report that in fiscal 1998/99, remand admissions accounted for 60% of youth custody admissions, and 18% of average daily counts of youths in custody in Canada (excluding some non-reporting provinces).

“in the public interest” to take a suspect into custody....Accordingly, rather than run this risk [of misinterpreting “the public interest”], police officers refused to take suspects into custody unless they were found committing or about to commit a serious crime. They refused to exercise the broad discretion given to them. (1975: 49)

The only Canadian research which we could find on police decision-making concerning the *detention* specifically of young persons was the study done by Carrington, Moyer and Kopelman (1986; 1988), using data collected when the Juvenile Delinquents Act was still in force. They found that rates of detention at arrest in five major cities in 1981-82 varied widely, from detention of 18% of juveniles arrested in Toronto to 63% in Edmonton. Factors affecting the probability of detention included “legal” variables (the prior record of the juvenile, the seriousness of the offence, and a history of failure to appear for court); a “socio-legal” variable (“lack of community roots”), and “extra-legal” variables (the gender and age of the juvenile, whether s/he had previously been detained, and, in Winnipeg only, whether s/he was an aboriginal).

If the youth is not arrested, attendance at court can be compelled by an Appearance Notice (issued by police and later confirmed by a Justice of the Peace, when the charges are laid), or by a summons issued by a Justice of the Peace when the charges are laid.

If the youth is arrested, in considering whether the (continued) detention of a youth is appropriate, the Criminal Code requires the arresting officer (S. 497) or the Officer In Charge of the police custody facility (S. 498) to assess whether detention is required to:

- (i) establish the identity of the person,
- (ii) secure or preserve evidence of or relating to the offence,
- (iii) prevent the continuation or repetition of the offence or the commission of another offence,

or because the officer has reason to believe

- (b) that, if the person is released from custody, the person will fail to attend court....

In making this assessment, the police typically consider the personal history of the accused (any prior breaches, education, family, and employment), the circumstances of the specific charge, and the victim’s reaction (Bala et al., 1994a). One Canadian study found that an “uncooperative” accused is more likely to be held in custody by the police (Hagan & Morden, 1981). Accused persons who are not released from detention by the police are supposed to be brought before the court for a judicial interim release (“bail”) hearing within 24 hours, or “as soon as possible” thereafter. According to Bala, “in

practice, some youths may be detained for a few days before being brought before the court” (1997: 137).

As an alternative to continued detention, there are three different methods police can use to release an accused youth from custody. These methods, and the criteria for their use, are the same for young offenders as for adults. These various release methods exhibit substantial variability in the degree of intrusiveness (what Klinger (1996) calls “the amount of law applied”). First, police may release the youth on an Appearance Notice, which the youth should sign, or with the intention of having a summons issued. Second, they may release the youth by way of a Promise to Appear, which is signed by the accused. Third, the police can release on a Recognizance which requires the suspect to formally acknowledge a debt to the Crown for an amount up to \$500 which may or may not require a deposit. Both the Promise to Appear and the Recognizance can be accompanied by an Undertaking, in which the youth agrees to conditions on the release such as a curfew, limitations on movement, or parental supervision.

We questioned police in detail concerning the options available to them for compelling the attendance at court of young persons whom they had charged, and the circumstances and considerations which influenced their decision-making.

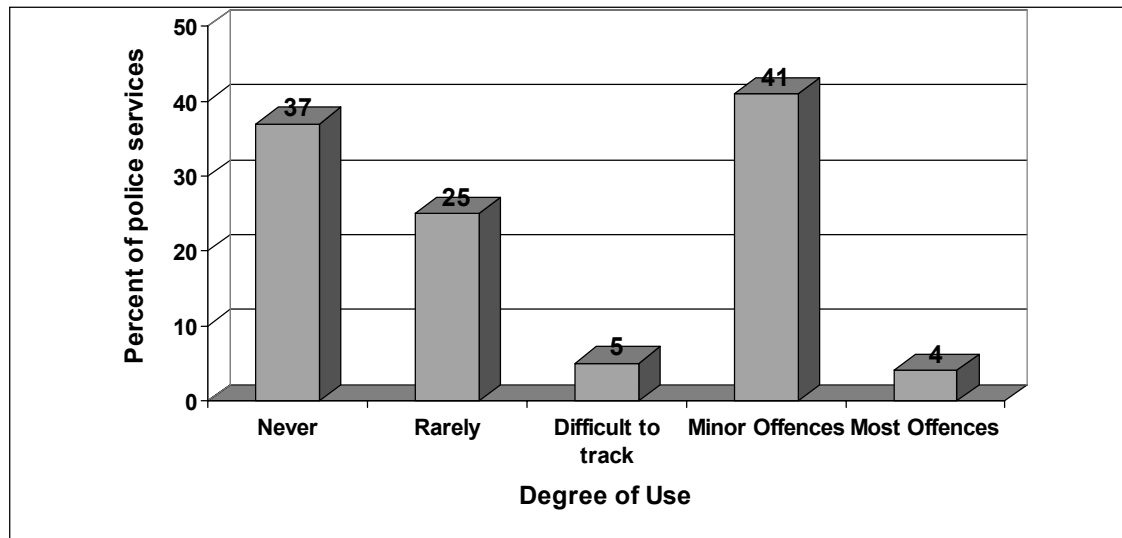
7.1 The summons and appearance notice

The summons and appearance notice are the only methods of compelling appearance that do not require arresting the young person and bringing him or her back to the police station. Therefore, their use would appear to be particularly appropriate with young persons, consistent with the YOA principle of “least possible interference with freedom.” However, according to our interviewees, they are rarely used in Canada with young offenders. Figure II.18 summarizes the answers we received when we asked officers about their use of *summonses* with young persons (percentages add to more than 100% because multiple answers were permitted).

Almost two-thirds (62%) of the police agencies interviewed never use summonses with young persons, or do so rarely. 41% said that they used summonses for minor offences. Only 4% use them with most offences.

When we asked why the summons was not used, or rarely used, with young persons, many officers offered no reason except that it was not the procedure used in their police service.

Figure II.18 Use of the summons with young persons



When reasons were given for arresting rather than using summonses with young persons, the main one cited was the need to take him or her to the police station in order to conduct a proper investigation. This would typically involve establishing identity, taking a statement, possibly fingerprinting, possibly notifying the parents, and completion of one or more forms, all of which can be done much more satisfactorily in a police station than in the street or police car.

Another reason given for not using summonses was the difficulty of tracking the youth in order to serve the summonses (which must be done by an officer in person, not by mail). This reason was cited more often in large metropolitan police services, which deal with significant numbers of transient youth. Over half (53%) of the police agencies who said that they never use a summons with young persons, came from metropolitan areas.

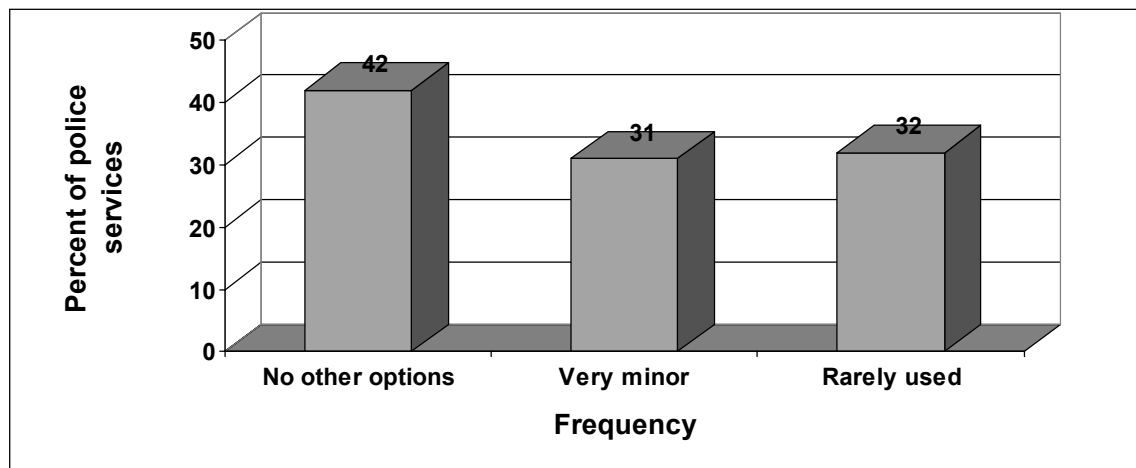
Although the majority of respondents indicated that they do not use summonses with young persons, OPP officers are much more likely to summons a young person (64%) than the other types of police forces (38%). OPP officers indicated that, for most of the crimes committed by young persons, it is the most appropriate method of compelling appearance. They do not feel they need to bring a young person to the police station for minor offences (e.g. mischief, shoplifting, offences on school property).

Summonses appear to be used with young offenders much more frequently in the Atlantic provinces and the Territories than elsewhere in Canada: only 33% of police services in the Territories, and 45% of those in the Atlantic region, said they *rarely or never* used summonses with young persons, compared with 83% in Ontario, 88% in the Prairies, and 92% in British Columbia.¹⁷

¹⁷ There were too few responses from police services in Quebec to analyze.

Responses to our questions about the use of *appearance notices* with youth fell into three groups. *Used when none of the other options apply* indicates agencies that use an appearance notice if the youth-related incident is not appropriately dealt with by detention, a Promise to Appear (PTA), an undertaking, or a summons. Police agencies whose answers fell into this category tended not to use summonses for young persons, and therefore would use an appearance notice for minor offences when there is no need to arrest and no concern about attendance in court. In provinces that have post-charge alternative measures, an appearance notice is commonly used if the officer feels the youth will probably be diverted from youth court. *For very minor offences* indicates those agencies that said they will use an appearance notice only in circumstances where they have defined the incident as very minor. The officer's classification of the offence as "very minor" may also be influenced by the youth's prior contacts with the police (interactions that did not result in formal action being taken). Finally, some police services indicated that they *rarely use* appearance notices with youth. Figure II.19 shows the distribution of answers (percentages add to more than 100% since multiple answers were permitted).

Figure II.19 Use of the Appearance Notice with young persons



It is noteworthy that *none* of the police services which we interviewed said that they use appearance notices "frequently," or "with many offences." Their answers universally exhibit a lack of enthusiasm for the appearance notice, as for the summons, as a means of compelling attendance of young persons, and vary only in the degree of disinterest.

As with the summons, the main reason given for the non-use of appearance notices is the need to arrest and bring the youth to the police station in order to investigate the incident. Another reason cited was that often a youth is apprehended in the company of peers, and it is necessary to arrest in order to separate him or her from the others in order to elicit

some degree of co-operation, since youth are generally reluctant to be seen co-operating with police.

A third reason for the preference for making the arrest was not stated explicitly, but seems to us to be implicit in officers' views that taking the youth to the police station represents a form of informal action (i.e. an alternative to diversion or charging). It seems that, in some circumstances, arresting the youth and taking him or her to the police station, then releasing without charge, is seen by some officers as more of a "consequence" than releasing at the scene but less than referring to alternative measures or laying a charge. It is, in effect, a form of "formal warning", which may impress the youth with the unacceptability of his or her conduct, without the necessity of subjecting him or her to a formal charge. (Of course, the arrest as informal action is only an option when legal grounds for arrest exist.)

Finally, officers in 31% of the police services said that they use appearance notices in "very minor" cases. To some extent, this limitation is mandated by the Criminal Code, which says (S. 496) that the Appearance Notice (unlike the summons) may be used only with summary, hybrid, and minor indictable offences (the "absolute jurisdiction" indictable offences in S. 553, such as theft, fraud, and possess stolen goods). However, offences for which the Criminal Code allows the use of the appearance notice comprise the vast majority of youth crime: theft under, most frauds, mischief, common assault, bail violations, fail to appear, and drug possession are hybrid offences, and fail to comply with a disposition under the YOA is a summary offence. Thus, the only offences committed with any substantial frequency by young persons for which the use of the appearance notice is precluded by S. 496 are break and enter (dwelling) and robbery.

Arresting the youth and taking him or her to the police station do not preclude the use of a summons or appearance notice, since they can also be used when releasing from the station; but officers usually prefer other methods of compelling appearance on release: these are discussed below.

There are some variations among police forces in their use of the appearance notice.

Police agencies in rural areas and small towns are especially unlikely to use appearance notices. They were less likely to say they used appearance notices with youth "for minor offences" (16% said this, compared with 32% of suburban/exurban, and 32% of metropolitan police services). They were also less likely to say that they use an appearance notice when no other options apply (32%, versus 51% of suburban and metropolitan services). They were more likely to say they "rarely used" appearance notices with youth (43%, compared with 22% of suburban and metropolitan police services).

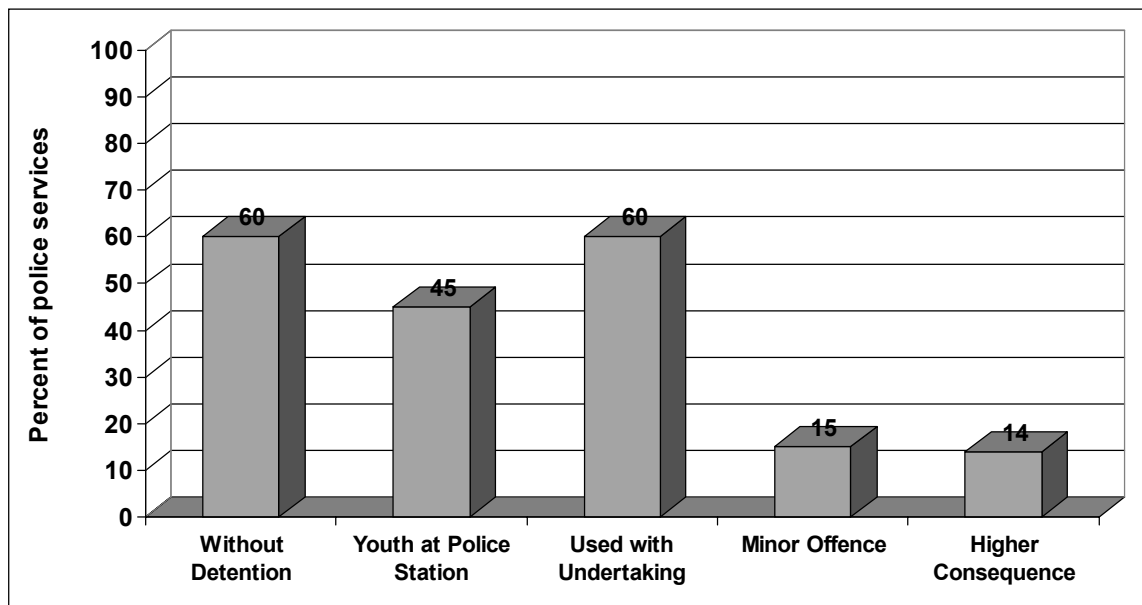
Consistent with these differences by type of community in the use of appearance notices, provincial police detachments (including the OPP and RCMP), which tend to police rural and small town jurisdictions, were much more likely to say that they use appearance notices rarely with youth (50%, versus 20% of independent municipal services); and

much less likely to say that they use appearance notices even for minor offences (23%, versus 40% of independent municipal services).

7.2 Release on a Promise to Appear (PTA)

Many police agencies rely on the Promise to Appear to compel the attendance at court of young persons who have been arrested and taken to the police station. Explanations which were offered for the use of the PTA are summarized in Figure II.20 (percentages add to more than 100% because multiple answers were given).

Figure II.20 Reasons for release on a Promise to Appear



A majority (60%) of police agencies said that they release on a PTA whenever they have taken a youth into custody temporarily, but continued detention is unnecessary. Officers in 45% of the police agencies gave a similar explanation: that the PTA was the usual method of release from the police station. This confirms the finding reported above, that summonses and appearance notices are rarely used as a method of release at the police station. A major reason for this is suggested by the 60% of officers who said that the PTA is used in conjunction with an Officer In Charge (OIC) Undertaking (discussed below), which imposes conditions on the accused, and which cannot be used with release on a summons or appearance notice.

Small numbers of interviewees (15%) indicated that the PTA is appropriate for “minor offences” – the implication presumably being that detention for a JIR hearing was more appropriate for major offences.

Small numbers (14%) identified release on a PTA, especially with an Undertaking, as a “higher consequence” than release on a summons or appearance notice. This is reminiscent of the view (discussed above) that arresting the youth, taking him or her to the station, then releasing without charge is, in itself, a form of “consequence”: a useful element of the police officer’s repertoire of dispositions. In effect, the arrest/release process becomes a form of sanction, or consequence, in its own right, independent of any subsequent action by the court.

Provincial police detachments (including RCMP and OPP) were more likely to say that they use a PTA to release without detention (73%) than independent municipal agencies (54%). This occurs more frequently with detachments and agencies located in the Prairies (82%) and Ontario (83%), compared to the Atlantic provinces (27%), where the summons is used more often to compel appearance (see above). Finally, officers with 5 years or less experience were more likely to say that they release young persons on a PTA (71%) than officers with 6 years or more experience (44%).

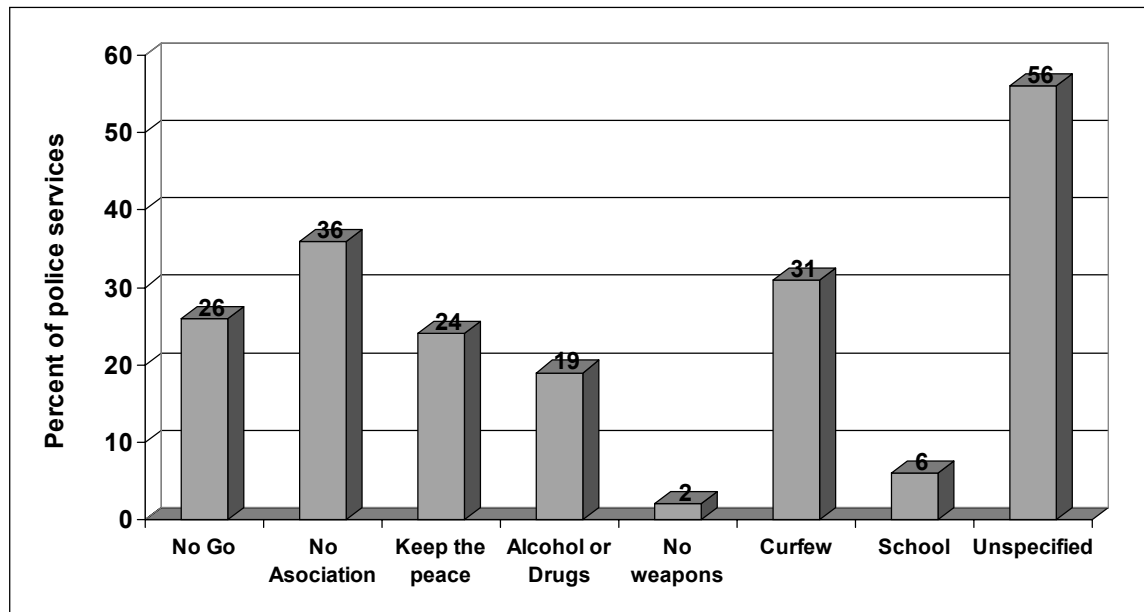
Agencies located in metropolitan areas (23%) were the most likely to say that they use a PTA as a “higher consequence”, compared with rural and small town agencies (9%) and those located in suburban/exurban jurisdictions (11%).

7.3 Release on an Officer In Charge undertaking

Sixty percent of the agencies in our sample said that they use a Promise to Appear with an OIC undertaking. This led us to explore the types of conditions that are attached and how frequently they are used. Interviewees’ responses are summarized in Figure II.21 (percentages add to more than 100% because multiple answers were permitted).

The *no go* condition refers to a youth being restricted from going to a certain place or area. This could include places such as donut shops, schools, neighbourhoods, or shopping malls. About one-quarter (26%) of those agencies that use undertakings told us they commonly attach a “no go” clause. Further, provincial police detachments (including the RCMP and OPP) are twice as likely (40%) to attach a “no go” clause as independent municipal agencies (18%). Not surprisingly, only 9% of the police agencies in the Atlantic provinces said that they include a “no go” clause. This is consistent with the previous finding that the police officers in the Atlantic provinces are less likely to use a PTA with an undertaking than police in other regions in Canada.

Figure II.21 Conditions of OIC Undertakings



The condition of *no association* refers to the youth being restricted from coming in contact with certain specified individuals. For example, this clause may be added in cases of assault (to stay away from the victim), gang-related crime (to stay away from fellow gang members), or crimes committed in groups (to separate the co-accused). Just over one-third (36%) of police agencies indicated they commonly attach a “no association” clause to the undertaking. Again, provincial police detachments (including the RCMP and OPP) are more likely (45%) to attach this condition than independent municipal agencies (32%). This clause is also used more often in the Prairies (47%) and Ontario (53%) than in the other regions in Canada.

Undertakings commonly include the clause, *keep the peace and be of good behaviour*. Our data suggest the precise meaning is somewhat contentious. Many officers indicated that it is a very difficult clause to enforce as it is open to almost any interpretation. About one-quarter (24%) of police agencies told us they commonly attach this condition. However, we suspect it occurs much more frequently. We speculate that it was not mentioned on a more consistent basis, due to the degree of importance officers assign to the various conditions. Since this clause can have a myriad of interpretations, in the cases where officers did reply affirmatively, it was as an afterthought. They frequently told us that this clause could mean anything. For example, if a young person did not go to school or obey their parents, they could be in breach of this clause. Most officers wanted the conditions in the undertaking to be much more offender- and offence-specific. 40% of the provincial police detachments interviewed indicated that they commonly attached this condition, compared to only 14% of independent municipal agencies. Further, agencies located in rural and small town jurisdictions were much more likely to attach this condition (32%) than other community types (18%). This may be a reflection

of the higher social cohesion characteristic of rural areas and small towns, in which the police are more likely to know the young person, their friends, and their families. Finally, as expected the agencies in the Atlantic provinces were the least likely (9%) to attach this condition to an undertaking.

Officers also attach a condition stipulating *no alcohol or drugs* to their undertakings with youth. This condition is meant to control a young person's substance abuse. It is commonly attached when the young person committed the crime under the influence of either alcohol or drugs. 19% of the agencies indicated that they commonly attach this condition to youth-related undertakings. Provincial police detachments (including the RCMP and OPP) are twice as likely (28%) to attach "no alcohol or drugs" to the undertaking than independent municipal agencies (14%). This may be a reflection of the types of youth crime and social issues in the jurisdictions that the RCMP and OPP police. This condition is attached more often in the Prairies (35%), Ontario (30%), and the Territories (22%) than in other regions of the country.

The condition referred to as *no weapons* restricts youth to not being in possession of a weapon. Only 2% of the agencies in our sample indicated they commonly attach this condition. Many officers indicated this condition is much more frequently used with adults than with youths.

The condition of *curfew* refers to a time limit set for the young person to be at home. The curfew is usually set with specific starting and stopping times, such as dawn to dusk or 7:00 pm to 7:00 am. We were repeatedly informed by officers that they do not have the legal authority to attach a curfew to an OIC undertaking - that it can only be ordered by a Justice of the Peace. Despite many of our respondents across the country indicating they were not legally empowered to attach a curfew, 31% commonly did so. Some interviewees informed us that the judges commonly uphold the curfew conditions which they have included in Undertakings.¹⁸ Others said they need to "control" the young person to ensure that the offence is not repeated prior to the first court appearance. As with the other conditions, provincial police detachments were more likely (38%) to attach the condition of a curfew than independent municipal agencies (28%), although the difference is not large. There appears to be a distinct relationship between the imposition of a curfew and the type of community. Of the metropolitan police agencies, 40% indicated that they attached curfews, compared to 32% of suburban/exurban and 25% of rural/small town agencies. This suggests that it is not necessarily the type of police force that determines the extent of use of the curfew, but the type of jurisdiction which is being policed. The condition of curfew is more commonly attached in the Prairies (47%), Ontario (43%), and the Territories (33%).

Another condition that interviewees mentioned is the requirement to *attend school*. In some cases, the youth is committing crimes during school hours, and, upon consultation with the school, officers have discovered the youth is frequently absent. In those circumstances, officers indicated they will attach a condition of attending school.

¹⁸ Cf. "bail" conditions in Section 7.6 below.

However, in most cases these are not patrol officers but School Liaison officers that also conduct investigations within their schools.

The final category of *conditions unspecified* includes those police agencies that indicated they did use undertakings with conditions for youth-related incidents, but did not clearly specify which conditions they most commonly use. 56% of police forces in our sample fell into this category. Some of these police forces were coded under this category as well as another category, because the interviewee made it clear that they commonly attached unspecified conditions in addition to the specified one(s).

Many officers seemed to attach considerable significance to the conditions contained in an undertaking. They see these conditions as relatively precise, immediate, enforceable constraints on the young person's future behaviour, and immediate, concrete consequences (sanctions) for the youth's criminal act. These are contrasted with what they see as the remote, delayed, unpredictable, and perhaps inappropriate constraints and sanctions which may (or may not) be imposed eventually by the Youth Court and correctional system.

7.4 Release on a Recognizance

The Criminal Code provides that the arresting officer or Officer In Charge may release a young person (or adult) on the person's "entering into a recognizance...in an amount not exceeding \$500" (S. 498). Unless the person lives more than 200 km. from the place of custody, no deposit can be required. Like the Promise to Appear, the Recognizance may be accompanied by an Undertaking specifying conditions.

When we asked interviewees about the use of the recognizance with young persons, every one said that they are not used with young persons. No reasons were offered – that is simply "how things are done here" – but we would speculate that the use of the financial condition is seen as inappropriate with young persons. This mirrors the apparent views of Youth Court judges, who rarely assess a fine as a disposition. Perhaps also, there would be a legal impediment to enforcing a recognizance, since it is a debt instrument, with a person under 16 years of age.¹⁹

7.5 Summary: Methods of compelling appearance without detaining

Before embarking on a discussion of the use of detention, we will summarize our findings concerning the various other methods used by police to compel attendance at court. These include: the summons and appearance notice, which can be used either instead of arrest, or as a method of release after arrest; and release on a Promise to Appear (PTA), with or without an Undertaking involving conditions. Theoretically,

¹⁹ For the enforcement of debts against children, see Bala and Clarke (1981: 223-225).

police can also release a young person on a Recognizance, but this is apparently never done.

Although the use of the summons or appearance notice without arrest would seem to be particularly desirable with young offenders, because of the non-intrusiveness of these measures, they are in fact rarely used. There are several reasons. The main reason appears to be that when an officer contemplates laying a charge or referring to pre-charge Alternative Measures, s/he needs to obtain enough evidence to support a prosecution (whether or not a prosecution actually takes place). This would typically involve establishing identity, taking a statement, possibly fingerprinting, possibly notifying the parents, and completion of one or more forms, all of which can be done much more satisfactorily in a police station than in the street or police car. Another reason is that arresting the youth and taking him or her to the police station prior to laying a charge are seen as ways of impressing the seriousness of the situation upon the youth, who might not take a summons or appearance notice as seriously. Related to this is the necessity, in some circumstances, of establishing control of the situation, and of separating the youth from his or her peers, in order to elicit cooperation. A final reason is the difficulty, in some circumstances and jurisdictions, of serving a summons.

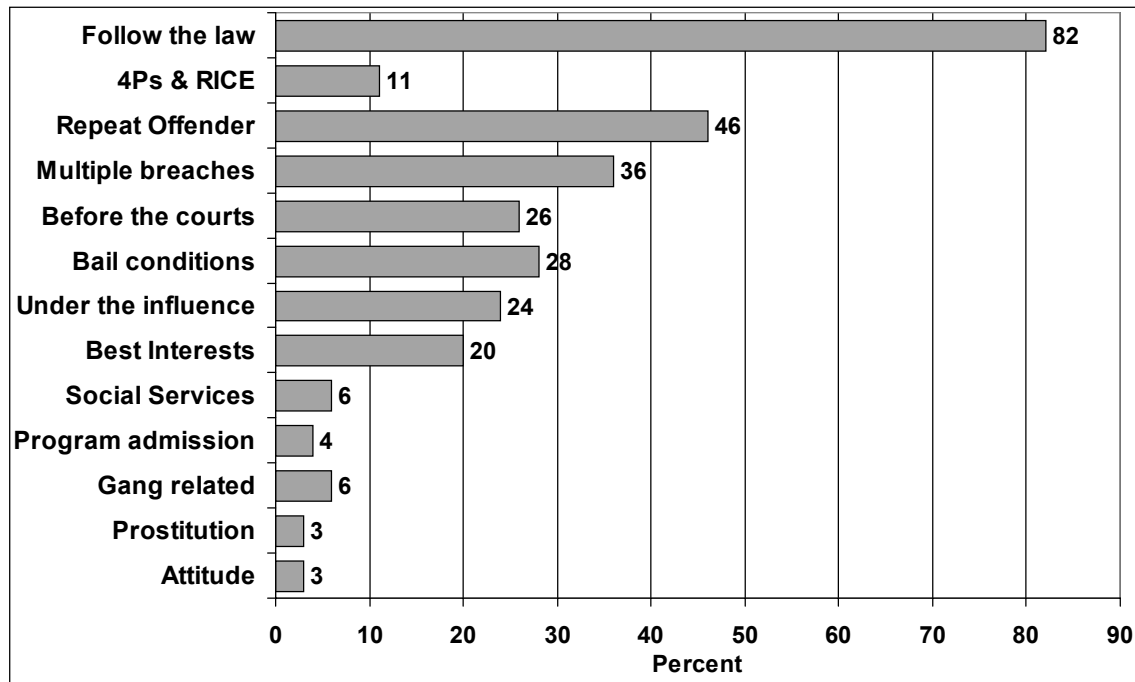
Following arrest and temporary custody, most officers prefer the Promise to Appear to the summons or appearance notice as a method of release. The main reason is that the PTA can be accompanied by an Undertaking which specifies conditions of release. Many officers seem to attach considerable significance to the conditions contained in an undertaking. They see these conditions as relatively precise, immediate, enforceable constraints on the young person's future behaviour, and immediate, concrete consequences (sanctions) for the youth's criminal act. These are contrasted with what are seen as the remote, delayed, unpredictable, and perhaps inappropriate constraints and sanctions which may (or may not) be imposed eventually by the Youth Court and correctional system.

7.6 Detention for a judicial interim release hearing

The final, and most intrusive, option for compelling appearance is detention for a Judicial Interim Release (JIR) hearing. The explanations given by police for the use of continued detention are summarized in Figure II.22 (percentages add to more than 100% since multiple answers were permitted).

A large majority of police agencies (82%) indicated that they *follow the law* when determining whether a young person will be detained or released. This category captured all of those interviewees who answered by saying that they do not detain a young person unless the law gives them the authority to do so. They tended to characterize the decision to detain or release as relatively non-discretionary, determined by the provisions of the Criminal Code. However, further discussion of the issue often elicited additional considerations, and the decision began to appear more complex.

Figure II.22 Reasons for detention for a JIR hearing



The *4 Ps and R.I.C.E.* is an acronym commonly referred to by police officers in Ontario. The acronym itself is not listed in the Criminal Code; however, the content originates from Criminal Code Sections 497 (1.1) and 498 (1.1). The “4 Ps” are used to teach new recruits when they cannot release an adult or young offender. They represent: (1) Protection of the public interest, (2) Protection of the accused,²⁰ (3) Protection of property, and (4) Prevent a breach of the peace. The acronym “R.I.C.E.” represents:

- R = Repetition (of the offence)
- I = Identity (of the accused)
- C = Court (likelihood of appearing for)
- E = Evidence (protection of).

If there is no concern about the accused repeating the offence, the identity of the accused, whether s/he will appear in court, or destroy the evidence, then the police officer must release the young person. 11% of police agencies indicated the “4Ps and R.I.C.E.” as one of the reasons they use to detain young persons. These agencies were predominantly independent municipal services, which suggests that the training programs for the RCMP and the OPP do not use these acronyms.

²⁰ This is what we were told, and the example was given of a notorious (alleged) criminal such as Paul Bernardo, who would not be safe from public vengeance if he were released; however, Sections 497 and 498 do not mention protection of the accused; only protection of any victim or witnesses.

Almost half of the police agencies (46%) consider detaining a young person who is a repeat offender. Some officers indicated this consideration would come into play if the youth had committed the *same* crime previously. However, the clear majority suggested that any lengthy prior record would make them more likely to detain. Although this was not mentioned explicitly, the implicit rationale here seems to be that there is an indication of a propensity to re-offend if released. However, some officers took the rather different view that it was a necessary measure, since the young person *obviously* did not understand the seriousness of his or her actions and perhaps spending a night in jail might impress this upon them. As in the discussion of other measures, we see here the use of detention by police as a practical, immediate sanction or “consequence” for the youth’s illegal behaviour, or in response to the youth’s apparent lack of respect for the law. RCMP officers were more likely to suggest that they will detain a repeat young offender (65%) than other types of police services (42%). Police agencies in metropolitan areas were much more likely to cite repeat offending as a reason for detention (63%) than suburban/exurban (37%) and rural/small town jurisdictions (41%).

A special type of repeat offender is one who has a record of *multiple breaches* which can include breaches of probation, undertakings, or bail conditions. 36% of the police agencies indicated that they considered this as a reason to detain a young person. Similar rationales were provided to those given for detaining a repeat offender. Provincial police detachments (including the RCMP and OPP) are slightly more likely to detain a young person for multiple breaches (45%) than independent municipal agencies (32%). As with detention of repeat offenders, police agencies in metropolitan areas are more likely to detain for multiple breaches (50%) than those in other types of communities (30%).

The category *if they are before the courts* refers to youths who are detained because they still have charges before the courts. In other words, they were released on a prior offence and have committed another offence before their first court appearance, or during their trial, for the previous offence. 26% of the police agencies indicated they would detain a young person for this reason. Police agencies in metropolitan and suburban/exurban jurisdictions (35%) are much more likely than those agencies policing rural and small town jurisdictions (18%) to indicate that they detain for this reason. Police agencies working in Ontario are much more likely (43%) than those in any of the other regions in Canada to detain because a youth is before the courts.

Some police agencies indicated that they would detain a young person in order to get *bail conditions* at the JIR hearing: that is, in expectation that the youth will be released on conditions by the judge or JP. Agencies which detain for this reason tend not to use OIC undertakings. 28% of the police agencies in our sample indicated getting “bail conditions” as one of the reasons they detain a youth for a JIR hearing. Some other officers indicated that the conditions assigned by a judge or JP are much more “binding” than those given under an OIC undertaking. They also added that a judge or JP can assign an enforceable curfew for high-risk offenders. It should be noted that organizations with a high-risk offender monitoring program (e.g. SHOP, SHOCAP) rely on bail conditions and probation conditions to monitor their clients. Almost all of these programs occur in independent municipal police forces, which is probably why

independent municipal agencies are more likely to detain to get bail conditions (38%) than other types of police agencies (20%). Similarly, agencies in metropolitan areas are much more likely (50%) than suburban/exurban (37%) and rural/small town jurisdictions (11%) to detain for bail conditions.

Almost one-quarter of the police agencies indicated they would detain a young person who was intoxicated or under the influence of drugs (*under the influence*). In several instances, officers indicated they did not have any other place to put the young person, as the parents could not take care and control of the young person, since they were themselves intoxicated, and/or that there were no detoxification facilities for youth in their jurisdiction. This scenario was cited by police in all types of community and in virtually all provinces and territories. In many cases, police expressed great concern about releasing a young person who was intoxicated, on grounds of the youth's own safety. In jurisdictions that have high rates of adolescent drug and alcohol consumption, officers also expressed concern about their own legal liability in releasing an intoxicated young person without parental supervision. They suggested that they put the young person in danger of victimization as well as an increased likelihood of committing an offence. Agencies in metropolitan areas are much more likely to detain a young person because of intoxication (37%) than in other types of communities (19%). Further, 55% of agencies in the Atlantic provinces indicated they detain young persons for this reason. This was considerably higher than the other regions in Canada which ranged from 0% to 30%.

A rationale for detaining a young person which is closely related to intoxication is the *best interests of the youth (no responsible adult)*. Officers in 20% of police agencies gave this as a reason for detention. Other circumstances (than intoxication) that would fall under this category would be an officer unable to find a responsible adult, or to make arrangements with social services, to take care and control of a young person. In some provinces and territories, once a young person reaches the age of 14, it can be difficult for the police to have social services place the young person in a foster home if s/he has never been previously placed. Several officers indicated that social services will not take a young person into custody who is over the age of 14. This was mentioned more often by police in metropolitan areas (40%) than in other types of communities (11%). As with intoxication, police agencies in the Atlantic provinces are much more likely (55%) to detain young persons for their own good (other areas range from 0% to 27%). This is clearly, as with the previous category, a social welfare issue, and raises the question of the adequacy of social services coverage in many jurisdictions. 6% of police agencies explicitly cited the *lack of social services support* (e.g. foster care) as a reason for detaining young persons. Similarly, 4% of police agencies indicated they had to detain a young person *in order to get them admitted to a program* (e.g. substance abuse program). One officer stated that, unless he detains them first to "dry out," he is unable to refer youths to any of the substance abuse programs operating in the big city in which he works, because youths had to be sober and substance-free for at least 72 hours to be accepted – a condition which is next to impossible for youths who are addicted to heroin and living on the streets.

Several other kinds of reasons for detention of youth were given less frequently. 3% of police agencies indicated they detained a young person *to remove them from prostitution*. These agencies were all in metropolitan areas. Another 3% indicated they detained young persons due to their *attitude*. Finally, 6% of agencies indicated they would detain a young person if the incident was *gang-related*. These agencies are almost entirely in big cities in the Prairies and Ontario.

The reasons given by police officers for detaining youth fall into three broad categories. The first includes reasons related to law enforcement, narrowly defined, and are exemplified by “the 4 P’s and RICE”. The second group of reasons could be summarized as “detention for the good of the youth”. These include detaining youth who are intoxicated, who do not have a safe or secure home to be released to, and whom social services will not or cannot accommodate, or who are prostitutes. In these circumstances, police find themselves acting, not as law enforcement officials, but as staff of the “only 24-hour emergency service in town”.²¹

The third type of rationale treats detention as another kind of police disposition – that is, as another in the repertoire of measures which police can take in order to administer a sanction or “meaningful consequence” for a youth’s illegal behaviour. This view seems to underlie some officers’ statements that they will detain a repeat offender or a youth with multiple breaches, or a youth with a “bad attitude”, or a youth in a gang-related incident. A variant of this is the use of detention and the JIR hearing to get judicial bail conditions, in order to impose immediate control on the young person, and, in some cases, to facilitate the work of monitoring programs for high-risk youth, such as SHOP and SHOCAP.

7.7 Offences that almost always result in arrest and detention

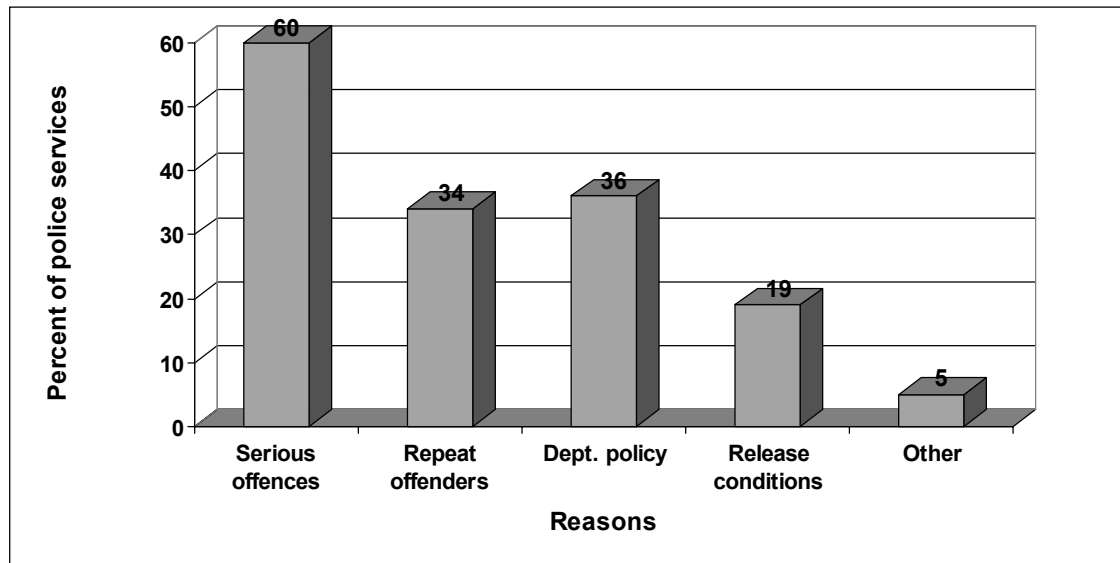
We attempted to simplify the complexity of the reasoning behind the detention/release decision by asking if there were any offences which would *almost always* result in detaining the young person for a judicial interim release hearing. We met considerable resistance to this question, as many of our interviewees insisted that these decisions are case-specific: that is, they are made on the basis of a constellation of factors which are specific to each case. Figure II.23 summarizes the responses we received.

Over half (60%) of the police agencies in our sample indicated that they almost always arrest and detain young persons for serious offences. However, it was extremely difficult to elicit a succinct definition of “serious offence”. The example that officers gave most often involved assault causing bodily harm and most offences that involve a weapon. Police agencies in metropolitan areas are more likely (73%) to say that they almost always arrest and detain for serious offences than those in suburban/exurban (63%) and rural/small town areas (52%). In the Territories, the police are the least likely (22%) to

²¹ Similar considerations arise at judicial interim release hearings; research on this is reviewed in Doob and Cesaroni, 2002, pp. 139-146.

say that they almost always arrest and detain for serious offences. We speculate that this is due to the lack of custodial facilities within reasonable travel distance, as a significant proportion of the detachments in the Territories are remote and isolated.

Figure II.23 Offences for which police almost always arrest and detain



Almost one-third (34%) of the agencies indicated they would almost always arrest and detain repeat offenders. Most officers indicated that these types of offenders are what they consider their “regular clientele”. In most circumstances, these repeat offenders are detained because of both the nature of the offence and their prior record.

Over one-third (36%) of the police agencies indicated that they almost always arrest and detain *due to departmental policy*, as set out in departmental guidelines. For example, the OPP lists fifteen Criminal Code offences as “benchmark” crimes, for which the accused is always arrested and detained (e.g. murder). 93% of the OPP detachments which we interviewed indicated that they “almost always” arrest and detain young persons *only* in cases of benchmark crimes.

A reason provided by 19% of our respondents for “almost always” arresting and detaining was *to get release conditions*. As noted above, the majority of these respondents do not routinely use OIC undertakings. The remainder would detain for release conditions if the youth had previously breached an OIC undertaking. Independent municipal police agencies are more likely (26%) to say that they almost always arrest and detain to get conditions than other types of police agencies (12%).

Finally, a small proportion (5%) of police agencies indicated that they would almost always arrest and detain young persons for alcohol- or drug-related offences.

8.0 Summary

Our discussions with police concerning their use of discretion in decisions whether to arrest, whether to charge, use informal action, or divert, and how to compel appearance at court when a charge is laid, suggest to us that police officers (and police services) tend to see their powers as providing, in combination, a multidimensional repertoire of options for “resolving”, or disposing of, an incident. Within the limitations imposed by the law and provincial policy, police choose among these options on the basis of a myriad of case-related factors, which are so complex as to defy analysis. During interviews, officers repeatedly resisted our attempts to induce them to disentangle their decision-making process into discrete, prioritized, factors, and instead insisted that their disposition of each case depended on its own, unique, set of circumstances.

Police officers appear to have two main objectives in deciding upon a disposition for an incident. One is to satisfy the requirements of traditional law enforcement: to investigate the incident, identify and apprehend the perpetrator(s), and assemble the necessary evidence if there is to be a prosecution. Their other, less explicit, objective appears to be to deliver an appropriate sanction, or “consequence”, semi-independently of the Youth Court and correctional system. Officers repeatedly stressed the importance of youths’ experiencing appropriate consequences for their illegal actions, and many, but by no means all, expressed scepticism about the ability of the courts and correctional system to do so; and therefore, the necessity of their dispensing street-level justice. This is not to suggest any impropriety or illegality in the actions of police, but rather to suggest that their own view of the police function in preventing, responding to, and suppressing youth crime is somewhat more expansive than the traditional view of police merely as law enforcement agents.

Particularly in metropolitan jurisdictions, police officers tended to contrast unfavourably the perceived remoteness of the Crown and Youth Court, and the cumbersome and slow nature of their proceedings, with their own proximity to the reality of street crime, their own ability to deliver swift sanctions, and their familiarity with the circumstances and needs of individual young offenders. In rural areas and small towns, officers were more likely to have closer working relationships with the Crown and court officials, and therefore more confidence in the ability of these agencies to resolve youth crime satisfactorily; and officers in rural/small town RCMP detachments in particular were more likely to have confidence in the ability of the local community and/or local diversion agencies to deal with young offenders, thus reducing their own felt need to resolve the situation entirely themselves.²²

On the basis of our discussions with police, it is possible to construct a list of the consequences, or sanctions, usually applied by police in dealing with a young person who they believe on reasonable grounds has committed an offence. From least to most severe, these are:

²² This contrast between policing youth crime in metropolitan and rural/small town jurisdictions is explored in Chapter III, Section 4.1.

1. Take no further action.
2. Give an informal warning.
3. Involve the parents.
- 4a Give a formal warning; and/or
- 4b. Arrest, take to the police station, and release without charge.
- 5a. Arrest, take to the police station, and refer to pre-charge alternative measures; or
- 5b. Lay a charge without arrest by way of an appearance notice or summons, then recommend for post-charge alternative measures.
6. Arrest, charge, and release on an appearance notice, a summons, or (more commonly) a PTA without conditions.
7. Arrest, charge, and release on a PTA with conditions on an OIC Undertaking.
8. Arrest, charge, and detain for a JIR hearing.

(The severity of options 6, 7, and 8 could be mitigated by recommending post-charge alternative measures.)

Apart from these two main objectives – law enforcement and informal sanctioning – a third objective of police action arises from what police see as their crime prevention and social welfare responsibilities – responsibilities which in some cases they would prefer not to assume, but feel that they are forced to do so by the inadequacy of existing social services. On some occasions, police will refer a youth to a diversion program, not as a sanction, but in order to address the youth’s perceived needs – whether these needs are directly related to the crime, or are seen as problems with which the youth needs assistance. Furthermore, when a youth has been arrested, an officer may feel, in some circumstances, that it would be irresponsible to release the youth back “out on the street”, but is unable to contact the parents, or the parents are unable, unwilling or unsuitable to take custody, and no agency can be found that will take the youth in. Circumstances which are seen as involving a risk to the youth’s well-being include intoxication, involvement in prostitution, or a dangerous home environment. In these circumstances, the officer feels constrained to detain the youth; and research on bail hearings suggests that the judge may then approve continued detention, also for welfare reasons (Doob & Cesaroni, 2002: 139-146). In many jurisdictions, police said that this expedient is forced on them by the lack of suitable facilities and agencies for youth.

III. Environmental Factors Affecting Police Discretion

Chapters III to V of this report explore the reasons for variations in the exercise of police discretion which were identified in Chapter II. Chapter III considers aspects of the environment in which police agencies work. We draw from information provided to us by police agencies in interviews and documentation, and statistical data from the UCR and UCR2 Surveys.

Since this report was commissioned by the Department of Justice in support of the implementation and evaluation of the Youth Criminal Justice Act (YCJA), it is worth considering the relevance to that initiative of the policing environment. The police have little or no control over the environment in which they work. Nor can any federal or provincial government agency expect to have much immediate impact on some salient aspects of the policing environment, such as the degree of urbanization, socio-demographic characteristics, or the level and type of crime of the communities which police serve. However, it is certainly within the power of provincial governments to affect other aspects of the policing environment which affect the exercise of police discretion, namely the relationship of Crown prosecutors with the police (Section 2.2), and, above all, the availability of programs to which youth can be referred as an alternative to being charged (and, on occasion, held in police detention) (Sections 2.1 and 3).

In Chapters III, IV and V, variations in the exercise of police discretion are the “dependent” variables - phenomena to be explained - and environment and organizational characteristics of police agencies are the “independent” variables, which provide the explanation. Some of the dependent variables used in this part of the report are measured at the level of the individual officer¹ because we felt that they represented the views of the persons interviewed, rather than “facts” about the police agency in which they worked. These individual-level variables include answers to our questions about offences which “almost always” involve informal action, whether the use of alternative measures is seen as effective, whether feedback on alternative measures is seen as useful, and whether there are any offences that “almost always” involve alternative measures or laying charges. Analyses of these variables have the officer, or interview, as the unit of analysis.

Most of the dependent variables were measured at the level of police agency. These include the use of informal action in general, and specific forms such as informal warnings, formal warnings, parental involvement, taking the youth home or to the police station, questioning the youth at home or at the police station, referrals to external

¹ Actually, the unit of analysis is the individual interview, which, in some cases, was conducted with two officers, or even a small group of officers (see Methodological Appendix).

agencies, internal referrals, tracking of informal warnings, use of pre-charge and post-charge alternative measures, and the various means of compelling appearance. These are normally analysed with the police agency as the unit of analysis. Occasionally, they are analysed at the level of the individual officer (interview), because the independent variable was measured at the level of the officer.

The way in which any organization functions is strongly influenced by its environment. According to Terreberry,

...environments are becoming more “turbulent,” in that there are accelerating rates and new directions of change. In order to survive, organizations must be able to adapt to this turbulence...(cited in Hall, 1972: 297-298).

Most police officers – from patrol constable to upper management – would probably agree with this assessment. As Grosman put it, in his study of police leadership in Canada,

The police organization today finds itself located in a dynamic and changing environment. The growth of the police role in society is closely related to increasing problems of adapting to and managing change. (1975: 139)

Police agencies operate within a complex environment, consisting of, among other things, the nature of the local community, federal and provincial legislation, policies, procedures, and programs, local public and private resources, and public opinion. The impact of these factors on police decision-making with young offenders is analysed in this chapter.

1.0 The legal environment²

Decision-making by Canadian police in individual cases is governed by common law, statutes, and case law. In common law, Canadian police have a duty to enforce the law, but the authority not to charge in any particular case - even the most serious cases (Hornick et al., 1996). However, this original authority is conditioned by certain statutes. For example, each jurisdiction in Canada has its own statute that defines the obligations, structure and governance of police services, in some of which there is specific reference to a police officer's common law duty to enforce the law (e.g. Police Act of British Columbia Section 26(2); Police Act of Nova Scotia Section 10(b)) (Hornick et al., 1996: 32).

² The authors are not legal scholars and we have therefore tried to avoid venturing legal interpretations or opinions of our own. Rather, we attempt in this section to summarize the views of the authorities which we consulted: primarily Bala (1997), Bala et al. (1994a), Hornick et al. (1996), and Platt (1991).

The main legal principles and constraints relevant to the arrest, questioning, charging, and pre-trial detention of a suspected young offender are stipulated in the Charter of Rights and Freedoms, the Criminal Code, and the Young Offenders Act (Bala, 1997).

The applicability of the Canadian Charter of Rights and Freedoms to criminal proceedings with young persons is explicitly noted by Section 3(1)(e) of the Young Offenders Act. The sections of the Charter which are most directly relevant to police work with young persons (and with adults) are:

7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.
8. Everyone has the right to be secure against unreasonable search or seizure.
9. Everyone has the right not to be arbitrarily detained or imprisoned.
10. Everyone has the right on arrest or detention
 - (a) to be informed promptly of the reason therefore;
 - (b) to retain and instruct counsel without delay and to be informed of that right; and
 - (c) to have the validity of the detention determined by way of *habeas corpus* and to be released if the detention is not lawful.

These Charter rights put considerable limits on the discretion which police may exercise with suspects or accused persons, whether youth or adults (Greenspan and Rosenberg, 2001: CH/4-CH/39).

The main sections of the Criminal Code which constrain the police use of discretion with young persons – as with adults – are the rather tortuous provisions governing arrest, detention and release in Part XVI (Criminal Code Ss. 493-529; for interpretations, see, e.g., Bala, 1997: Chap. 4; Greenspan and Rosenberg, 2001; Platt, 1991: Chap. 10). In general, the effect of these provisions, which were created by the Bail Reform Act in 1972, is to establish a presumption that young persons (or adults) should not be arrested or held in police custody or detention unless this is necessary in order to conduct a legitimate criminal investigation, to ensure attendance of an accused in court, or to protect the public – and then, for no longer than is necessary. This presumption is in sharp contrast to the presumption which existed prior to the enactment of the Bail Reform Act, that the onus was on the accused to demonstrate why s/he should not be held until trial (Hagan and Morden, 1981: 11).

The Young Offenders Act “establishes a philosophical, procedural, and dispositional framework” for handling youth crime (Bala et al., 1994a). The principles underlying the YOA include the accountability of youth, the protection of society, the recognition of special needs of youth, the use of no action or diversion from formal proceedings in appropriate cases, protection of legal rights of youth, the least interference possible by the criminal justice system and the involvement of parents (ibid.).

The parts of the YOA most pertinent to police use of discretion are Sections 3(1), 4, 56, and 69, dealing, respectively, with the principles of the legislation, Alternative Measures, the admissibility of statements from young persons, and the legal basis for community-based youth justice committees.

The Declaration of Principle [Section 3(1)] focuses on the accountability (subsections a, b, c, d, f, and h) and the rights of accused young persons (subsections e and g). Section 3(1)(a) was added in 1995:

Crime prevention is essential to the long-term protection of society and requires addressing the underlying causes of crime by young persons and developing multi-disciplinary approaches to identifying and effectively responding to children and young persons at risk of committing offending behaviour in the future (Bala, 1997: 35).

This amendment emphasizes the need to adopt multi-agency approaches in order to prevent youth crime and rehabilitate young persons. This section has been interpreted to include programs that reduce an individual’s inclination to commit crimes (crime prevention through social development), measures to reduce the opportunity to commit crime (situational crime prevention), and programs that aim to prevent future crime either by deterrence or incapacitation (Bala, 1997; Hornick et al., 1996). Thus, the interpretation of “crime prevention” has varied (Doob & Beaulieu, 1991); however, this amendment has been interpreted to mean, among other things, that the rehabilitation of the young offender takes precedence in any dispositional decision (Bala, 1997). Evidently, this subsection allows considerable discretion in dispositional decisions, the exercise of which may partly reflect the police officer’s or judge’s personal values; this, in turn, may be a contributing factor to Canada’s relatively high rates of youth custody (Bala, 1997).

Section 3(1)(a.1) states that:

While young persons should not in all instances be held accountable in the same manner or suffer the same consequence for their behaviour as adults, young persons who commit offences should nonetheless bear responsibility for their contraventions (Bala, 1997: 36).

This provision has been applied not only to court dispositions following a finding of guilt, but also to decisions involving pre-trial detention and transfer hearings (Platt, 1991). This section also has consequences for any type of informal disposition decided

upon by the police. In virtually all circumstances, informal action is predicated on the young person's accepting responsibility for his or her actions. This accountability may vary according to the type of case. For example, it appears that youths are held much more accountable in cases involving offences against the administration of justice (see Chapter II, Section 5, above). Particularly important to note is the provision for leniency where offences may be the product of immaturity instead of malice (e.g. vandalism).

Sections 3(1)(c) and (f) provide for a variety of levels of formality and intrusiveness in responding to youth crime:

3(1)(c): young persons who commit offences require supervision, discipline and control, but, because of their state of dependency and level of development and maturity, they also have special needs and require guidance and assistance;

3(1)(f): in the application of this Act, the rights and freedoms of young persons include a right to the least possible interference with freedom that is consistent with the protection of society, having regard to the needs of young persons and the interests of their families (Bala, 1997: 36).

These subsections form an integral part of the legal framework influencing police work. Subsection 3(1)(c) leans heavily towards the "welfare" model which was implicit in the Juvenile Delinquents Act. For example, some police forces have adopted a multi-agency approach to make more informed decisions that account for a youth's special needs (e.g., home situation, or disabilities such as Attention Deficit Disorder) (Hornick et al., 1996). The term "special needs" has also been interpreted as referring to the "root causes" of a young person's behaviour in support of a recommendation to the appropriate diversion program, or in deciding whether to deal with the incident formally or informally.

Subsection 3(1)(f) is premised on the notion that "official intervention has the potential to be disruptive or even harmful to a youth's development" (Bala, 1997: 49). Police officers may consider this subsection when considering whether to lay charges or use informal methods, and whether to detain or release. Subsection 3(1)(f) does not apply only to youths who are believed to have committed an offence (Platt, 1991), and has been a factor in the development of primary, secondary and tertiary prevention programs (either internal to the police department or involving community resources).

Subsection 3(1)(b) acknowledges that a rehabilitative response to youth crime is not always appropriate, and allows for the protection of society:

Society must, although it has the responsibility to take reasonable measures to prevent criminal conduct by young persons, be afforded the necessary protection from illegal behaviour (Bala, 1997: 36).

This subsection has been interpreted in support of the pre-trial detention of youth suspects and for dispositions involving incarceration. However, the efficacy of

incarceration is questioned as “the literature on the size of sanction suggests that this is likely to be irrelevant to whether or not a young person commits an offence...[as] changing levels of punishment will not change youth crime” (Doob et al., 1995: 81).

The recognition of police discretion concerning non-enforcement practices is explicit in Section 3(1)(d):

Where it is not inconsistent with the protection of society, taking no measures or taking measures other than judicial proceedings under this Act should be considered for dealing with young persons who have committed offences (Bala, 1997: 36).

This subsection has particular relevance to police and Crown prosecutors, who are responsible for the decision to charge. It provides a reaffirmation of the common law right of police officers not to charge. This is particularly important in view of the fact that each jurisdiction in Canada has its own statute that defines the obligations, structure and governance of police services, in some of which there is specific reference to a police officer’s common law duty to *enforce* the law (e.g. Police Act of British Columbia Section 26(2); Police Act of Nova Scotia Section 10(b)), but in none of which is there an explicit provision for non-enforcement (Hornick et al., 1996: 32).

This subsection promotes either alternative measures or “no measures in circumstances where societal interests do not demand judicial proceedings” (Hornick et al., 1996: 33). This provision has also been used as the basis for provincial legislation to create diversion programs (Platt, 1991). However, substantial variation exists in terms of the amount of funding diversion programs receive and the types of cases referred (Bala, 1997). The actions of police officers may reflect this subsection, as they balance the “protection of society” against the desirability of non-intrusiveness when making decisions concerning formal, informal or no action, and whether to detain. Police understandings of the concept of the protection of society may reflect the values of the community in which they work, and can result in jurisdictional variations in charging.

Subsections 3(e) and 3(g) recognize the same rights and freedoms for young persons as for adults, and accord them additional rights. These subsections acknowledge the vulnerability of young people within the context of criminal process. For example, under the Charter of Rights and Freedoms, adults have the right to retain counsel in relation to certain criminal proceedings. The YOA guarantees this right, as well as the payment for legal services if the youth is unable to obtain or afford legal representation (Bala, 1997). These sections serve as a preface to some more specific provisions contained in the YOA, such as Section 56 that pertains to the taking of statements by police.

Section 4 allows a youth to be diverted from formal processing to alternative measures programs, provided that he or she accepts responsibility for commission of the offence and freely consents to waive the right to a trial, and that there is sufficient evidence to prosecute. The nature of these programs varies across jurisdictions in terms of

application (pre-charge, post-charge), eligibility (types of offences, prior record), the degree of record-keeping, and availability (scope).

Under Section 56(2), the YOA makes unique provisions for taking oral and written statements by police above and beyond those articulated in the Charter of Rights and Freedoms. The extensive provisions include:

- A full explanation of the youth's rights in language appropriate to the youth's age and understanding
- A confirmation that the youth has understood his or her rights orally, in writing, or by videotape
- A youth may consult with a parent or other adult relative in private prior to giving a statement
- A youth may consult with a lawyer prior to giving a statement
- If a youth waives his or her right to prior consultation with a lawyer the police must make him or her aware of the consequences of their actions
- A youth must be warned of the possibility and consequence of transfer to adult court when the youth is over 14 and charged with an indictable or hybrid offence
- The police must ensure the statement is voluntary and not given under duress
- A statement is not admissible if given while the youth is under the influence of drugs or alcohol
- A youth can have parents or an adult relative present while giving a statement
- If the youth consulted with a parent or adult relative prior to giving the statement, he or she must be given a reasonable opportunity to be present while the youth is giving the statement unless the youth specifies otherwise
- If a youth is re-questioned, the police must re-caution and re-advise him or her of all of these rights
- If the admissibility of the first statement is questionable, the police must inform the youth that he or she is under no obligation to make another statement
(Bala et al., 1994; Bala, 1997)

Spontaneous oral statements are considered admissible only when the person in authority does not have the opportunity to advise the youth of his or her rights (Section 56(2)) and the statement was voluntary (Section 53(3)). This may occur when a young person simply blurts out a statement at the scene.

Sections 56(2) and (3) pose various difficulties for police officers. For example, it could be argued that section 56(3) does not apply when a young person, who is not a potential suspect or when arrest is not anticipated, makes a statement (Platt, 1991). Since the statement is not anticipated by officers it is questionable whether the provisions under Section 56(2) apply. Or, the admissibility of a statement may be questioned under Section 3(1)(f) if a youth is held at the police station for an unreasonable amount of time (Platt, 1991).

The impacts of the relevant provisions of the Charter, the Criminal Code, and the Young Offenders Act, on police work with young persons have probably been immense, but are difficult to assess within the framework of the present study. We rely, in assessing the impact of various environmental conditions, on the *comparative* approach: we compare, or correlate, the approaches used by different police services operating under different environmental conditions, and impute differences in approach to differences in environment. In the case of federal law, this methodology cannot be applied, because all police in Canada are subject to these provisions, so there is no comparison group. Ideally, one would have comparative data on police handling of youth crime and young offenders from the period prior to the Charter, the Bail Reform Act, and the YOA, but little systematic information is available. An analysis in Chapter II of rates of young persons charged since 1977 sheds some light on changes in charging practices due to the YOA, but such data are not available for years prior to 1977. No systematic national data are available on arrests, detention, and release of young persons, for any period.

We did ask officers about changes which had taken place in their police agency's approach to youth crime, but few had begun their policing careers prior to 1984, let alone 1972; and the memories of the few long-serving officers were hazy. Therefore, other than the time series analysis of charge rates in Chapter II, we can provide no systematic analysis of the *impacts* of these pieces of legislation on the exercise of police discretion with youth. However, in Chapter II, we describe in some detail the current procedures used, and the rationales given, by police across Canada for the arrest, detention, and release of young persons, and for laying charges against them; and some idea of the impact of federal legislation may be inferred from these descriptions.

2.0 Provincial policies and procedures

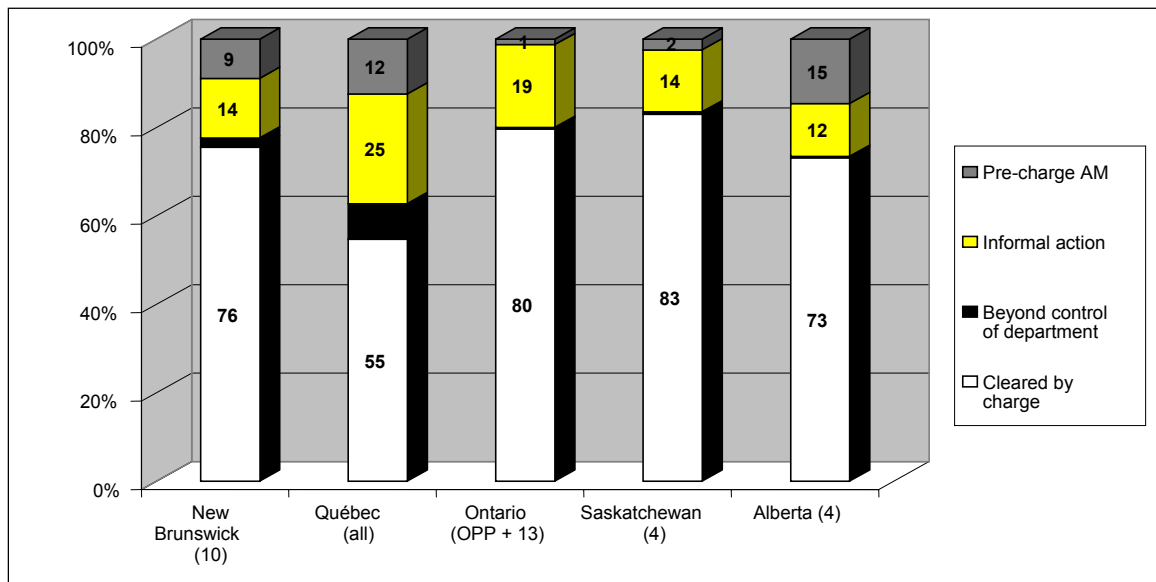
2.1 Modalities of delivery of Alternative Measures: Pre-charge, post-charge, and mixed models

According to reports based on the Canadian Centre for Justice Statistics Alternative Measures Survey (MacKillop, 1999; Engler and Crowe, 2000), authorized Alternative Measures programs for young persons in Ontario and the Yukon are exclusively post-charge, those in New Brunswick, Manitoba, and Alberta, are exclusively pre-charge, and the other provinces and territories have both types of programs ("mixed" model); however, programs in Quebec are predominantly pre-charge, and those in Saskatchewan are predominantly post-charge (MacKillop, 1999).

These decisions by the provincial authorities concerning the modalities of delivery of Alternative Measures have an obvious impact on decision-making by police in youth-related cases, because they define the available alternatives to charging or informal action.

In provinces with exclusively, or almost exclusively post-charge programs, police must lay a charge against a youth whom they consider suitable for alternative measures. This represents a form of net-widening if these youth would otherwise have been dealt with informally or by pre-charge alternative measures; since the laying of a charge, even if it is subsequently withdrawn or stayed, represents a greater penetration of the formal youth justice system by the young person than if s/he had been dealt with informally or by pre-charge alternative measures. The issue of net-widening in relation to *post-charge* AM is, then: Would (some of) the youth who are referred to post-charge alternative measures have been dealt with by informal action - or by pre-charge alternative measures, if that option had been available?³

Figure III.1 Clearance status of youth-related incidents, all UCR2 respondents, by province, 2001



Source: Incident-Based UCR Survey, 2001.

Note: So few police services in Newfoundland, Nova Scotia, Manitoba, and British Columbia reported to the UCR2 in 2001 that it would be misleading to include them in this analysis.

A partial answer can be gleaned from UCR2 data on the clearance status of youth-related incidents in 2001 (Figure III.1). These data are rather incomplete, since the number of police services which reported to the UCR2 in 2001 was sufficient to support an analysis of clearance statuses in only five provinces; and in two of those five, only four (municipal) police services reported. Also, some police services under-report their use of informal action, to an unknown extent. With these limitations in mind, we can still see that in Ontario, which has an exclusively, or almost exclusively, post-charge model, and

³ The net-widening potential of pre-charge AM is assessed later in this section.

in Saskatchewan, which depends heavily on post-charge alternative measures (MacKillop, 1999: 9.32, Table 1), the proportions of youth-related incidents resulting in charges being laid are considerably higher than in the other provinces (80% and 83%, compared with 55% - 76% in the other provinces, and 70% for all respondents in the UCR2 Trend Database – see Figure II.6, above). This is strong evidence that the cases in these two provinces which were referred to post-charge alternative measures via a charge were additional to those which would in any case have resulted in a charge; i.e., of net-widening. Since the proportions of youth-related incidents resulting in informal action in these two provinces are not too different from those in the other three provinces, it appears that the cases which resulted in charges and then post-charge alternative measures were those which in other provinces would have been dealt with by pre-charge alternative measures.

We can use the data in Figure III.1 also to assess the argument that pre-charge alternative measures also represent a form of net-widening, because cases referred to pre-charge alternative measures would, in the absence of such programs, have been dealt with by the less intrusive means of informal action by police. Figure III.1 does not support this argument, although it does not clearly refute it either, due to the incomplete nature of the data. In Quebec, pre-charge alternative measures does not appear to cause net-widening (relative to the other provinces), since it has a higher proportion of youth-related incidents (25%) cleared by informal action than either of the provinces which have no, or very few, pre-charge programs (Ontario and Saskatchewan). New Brunswick and Alberta, the two other exclusively pre-charge provinces, have approximately the same proportions of incidents cleared by informal action as mixed-model Saskatchewan, and somewhat lower proportions than Ontario, with its post-charge model. Thus, the three provinces with exclusively, or almost exclusively, pre-charge alternative measures, include the one with the highest level of use by police of informal action (Quebec), the one with the lowest level of use (Alberta), and one which is intermediate (New Brunswick). Thus, the limited statistical evidence available to us neither supports nor refutes the argument that pre-charge alternative measures have resulted in net-widening.

2.2 Crown screening versus police authority to charge

In two provinces – Quebec and British Columbia – it is the Crown, not the police, which makes the decision whether to charge a young person.⁴ In these provinces, police make a recommendation to charge, but Crown approval is needed before a charge may be laid. However, crucially, it is only the decision to charge which requires Crown approval: a police decision to resolve the incident by informal action is not reviewed by the Crown. Almost one-third (31%) of the police agencies in our sample, and slightly more than one-

⁴ According to some published sources (e.g. Canadian Centre for Justice Statistics, 2001a: 73), New Brunswick is also a “Crown screening” province. However, in all four New Brunswick police services in our sample, officers whom we interviewed said that police, not the Crown, made the decision to charge. Since any impact of Crown versus police authority on the exercise of police discretion would be by virtue of police perceptions of their authority, we have respected their views and classified New Brunswick as a “police charging” province.

third of the population of Canada, are in these two “Crown screening” provinces. In this section, we examine whether the location of the authority to lay a charge (with the Crown or with the police) affects police decision-making with youth-related incidents.

In most aspects which we examined, the location of the authority to charge did not appear to influence the decision-making with young offenders of our respondents. However, differences were evident in the responses to two questions: whether there are any offences which “almost always” result in using informal action, and whether alternative measures are effective.

The responses which we received concerning the use of informal action were somewhat contradictory. On the one hand, almost half (45%) of the officers interviewed in provinces where they have the authority to charge said that there are *no* offences that “almost always” result in the use of informal action, compared to only 11% of officers in the Crown-approval provinces. This suggests that requiring Crown approval increases the likelihood that officers will use informal action. On the other hand, officers that have the authority to charge were more likely to say that they use informal action for “minor” and provincial offences than those in the Crown screening provinces. When asked for further clarification, officers in police-charging provinces suggested that they have more flexibility and do not look at each case solely on the basis of the type of offence when determining whether to use informal action.

Officers in provinces that require Crown approval appear to feel much more distanced from the process of charging. They offered two explanations for their difficulties with this regime. First, repeat young offenders know that the likelihood of a charge or prosecution for a breach of probation or failure to appear has become remote, and they do not hesitate to let these officers know. One officer succinctly stated, “by moving the process of charging away from the public [sic], the process is no longer accountable and it’s open to unchecked bias”. In other words, in his view, the Crown Attorney has determined the form and content of the charge, the sufficiency of the evidence, and approves the laying of a charge only if a good likelihood of conviction exists. One police chief in British Columbia informed us that he had sent a Report to Crown Counsel (RTCC)⁵ back three times because the Crown refused to lay the charge. This particular young person had an extensive prior record and committed a new offence “virtually every day from theft to breaches”. However, the Crown Attorney didn’t want to proceed, as the offence was minor (theft under). Each time the RTCC was sent back, more information was added to try to present the case better, so that the Crown would realize that this young person was victimizing the same person and stealing small things repeatedly. A month and a half later, the charge was still not approved. As a result, many officers in British Columbia indicated that they try *to use informal action and pre-charge diversion wherever possible*, in order to ensure that the young person will receive at least *some* “consequence” for his or her wrongdoing.

⁵ I.e. a recommendation to charge.

Differences also emerged when officers were asked if they found alternative measures effective. Over half of the officers who have the authority to charge (60%) find alternative measures “usually” effective compared to only 17% of officers who require Crown charge approval. The majority of officers whom we spoke to in Crown screening jurisdictions find alternative measures only “occasionally” effective with young persons. When we asked these officers to elaborate, it became clear that the police in Crown approval jurisdictions are not usually aware of the outcome of referrals, or even necessarily which cases that are referred to alternative measures. Thus, they have difficulty assessing the effectiveness of alternative measures. Officers in both types of jurisdictions suggested that alternative measures are not right for everyone; however, officers without the authority to charge tended to feel that if a young person is to be referred out of the court process, the officer should have some input, since s/he initiated the case.

The analysis of UCR data which was reported in Chapter II (Section 1.2.1) found that the two Crown screening provinces have the lowest rate of charging of apprehended youth in Canada (Figure II.3). It is difficult to know if this is the result of Crown screening, or other attributes of the youth justice systems of these two provinces. Until the early 1990’s, the charge rate in Quebec was *higher* than the national average, and the rate in British Columbia was approximately equal to the national average (Figure II.4). It is only in the past decade that charge rates in these two provinces have declined substantially; whereas the Crown screening regime has been in place much longer.

3.0 External resources

Research has identified a range of circumstances unrelated to the police service, the incident, or the offender that influence the officer’s decision to divert or charge (Caputo & Kelly, 1997; Task Force, 1996). One major factor appears to be the range and diversity of public and private resources available as alternatives to formal processing. The availability of informal alternatives influences a police officer’s decision to rely on discretion rather than youth court (Gottfredson & Gottfredson, 1988). If a police force has a comprehensive crime prevention strategy in place, based on adequate community resources, the short term effect is the lowering of the number of youth that are processed formally (Hornick et al., 1996). More importantly, the long term effect is a more proactive police role, which tends to reduce the rate of crime and victimization (Hornick et al, 1996).

Our data suggested four types of external resources that are seen by police officers as affecting their decision to charge, and increasing their use of discretion. First, S.69 of the YOA allows for the formation of youth justice committees (YJCs). Many officers indicated that the absence of these committees reduced their options for dealing with youth-related incidents. In some jurisdictions which have YJCs, they have adopted a restorative justice approach. Officers often refer first- or second-time offenders to the committee. These officers deal with youth on a “sliding scale” if possible (depending on the seriousness of the offence). If the young person has no prior contacts with the police,

they may consider using informal action (e.g. cases where there is parental involvement, or very minor offences). If the youth has had a prior contact with police, but not with youth court, an officer may make a pre-charge referral to alternative measures or to a youth justice committee, if one exists. In general, officers will take each circumstance into consideration, but upon subsequent offences will usually make a recommendation for post-charge alternative measures or court (depending on the seriousness of the offence). Yet, officers were also willing to use informal action or a YJC, even in cases where the youth had a prior record. It is the availability of a YJC which makes this option viable for them. Thus, they suggested that the presence of a youth justice committee allowed “meaningful consequences” for the young person, without the necessity of exposure to the youth court. These sentiments were often expressed in British Columbia, where it appears that police often refer youths to YJCs instead of filing a RTCC (recommendation to charge) for a minor first or second offence.

A small proportion of the police agencies in our sample (16%) provided documentation for external resources that use a restorative justice approach. One-third of metropolitan police agencies have access to these programs, compared to 16% of suburban/exurban agencies, and 5% of rural/small town police services. The majority of these programs are located in British Columbia (33%) and in the Atlantic provinces (36%). As a province, Nova Scotia has adopted restorative justice as the official alternative measure program for youths and adults. In British Columbia, most of the restorative justice programs are in jurisdictions policed by the RCMP. Our data also suggest that medium-sized police services (with 100-499 officers) are more likely (35%) to have the internal and external resources to facilitate restorative justice practices. Our interview data suggest that virtually all of these programs are facilitated by the existence of YJCs staffed by community volunteers who have received the requisite training. Further, most of these YJCs have a coordinator whose salary is funded by the municipal government.

Officers told us that the availability of appropriate pre- and post-charge alternative measures programs plays a role in their decision-making. The type of community appears to have an effect on the availability of external pre-charge programs. Just over one-third (37%) of the police agencies located in metropolitan areas provided documentation for pre-charge programming, compared to 5% in suburban/exurban jurisdictions, and none in rural/small town areas. Similarly, large police services (with 500 or more officers) were more likely (50%) to have the option of referring youth to pre-charge diversion, compared to 4-18% of smaller services. 66% of police officers in rural and small town areas said they had no pre-charge programs available. In comparison, more than half of the officers in metropolitan and suburban areas stated that pre-charge diversion programs existed within their area. Jurisdictions that do not have the option to refer youth prior to laying a charge often mentioned that this was detrimental to dealing effectively with the youth-related incidents they encounter. They felt this would be an appropriate response in many circumstances, in relation to the type of incident as well as the particular offender. Several officers in Ontario told us that they felt compelled at times to deal with a case which did not warrant simple informal action by laying a charge in order for the youth be eligible for alternative measures, thereby experiencing a

“consequence” for his or her actions⁶. These officers in Ontario told us that even in jurisdictions that have pre-charge programs in place, the majority are still referrals made by the Crown Attorney or a representative of the provincial Attorney General’s office, not the responding police officer.

It was quite common for officers to voice their frustration about inadequate sanctions given by alternative measures. For example, we were told about “flimsily written” apology letters being sent to the complainant or victim, which were ultimately more upsetting than the offence itself. In this example, the complainants took the time to call these officers and leave messages for them expressing their dismay and the lack of remorse exhibited in the letters. Other examples cited were Crown Attorneys sending a caution letter instead of forwarding the case to alternative measures, even though the young person and the offence were eligible for AM. In these circumstances, the officers pointed out that nine times out of ten these youth have already been dealt with informally several times. Thus, they felt the young person “got away with it *again*”. Also, some officers expressed concerns about the quality of pre-charge programming available. They suggested that one location or agency process all pre-charge referrals, instead of having several to choose from that had no regulatory control or stipulations to provide feedback to officers and the Crown.

Appropriate programming for social problems commonly experienced by young people appears to be uniformly lacking across Canada. In all provinces and territories, officers felt that they did not have the appropriate external resources for the effective handling of youths with alcohol or drug addiction, anger management issues, or mental illness (including Fetal Alcohol Syndrome/Fetal Alcohol Effect). Officers in many police agencies said that there were absolutely no programs available for these young people.

Finally, officers were concerned about the coverage provided by Children’s Services. In some provinces, youth over the age of 14 do not necessarily have access to their services. One officer explains that this becomes a problem when he has charged a young person for an offence but has no social service agency to call. It is the middle of the night and the safety of the young person is the most important consideration. For example, Mom and Dad might be drunk themselves and cannot take care and control over the youth (or don’t want to). In this case, the officer feels that s/he has no choice but to hold the young person for a judicial interim release hearing so that the judge or JP can order the social service agency to investigate.

Several police agencies across the country have undertaken to improve the referral options for their officers, in order to facilitate the use of discretion with youth. In Ontario, official alternative measures programs are practically all post-charge. However, the Windsor Police Service and the Ottawa Police Service have both developed innovative systems for dealing with young offenders. Both organizations have a youth

⁶ As a result, net widening occurs in two ways. On the one hand, more youths are charged and brought into the system in order to participate in alternative measures. On the other hand, the record of the charge, even if it is withdrawn for alternative measures, influences officers to be more likely to charge these youths on subsequent offences.

bureau. The Ottawa Youth Intervention Section handles all interventions and diversion referrals, the School Resource Officer program, missing/runaway youth, and street gangs. The Windsor Youth Section deals with all youth-related incidents.

Since 1978, a pre-charge alternative measures program called Project Intervention has been available to police officers in Windsor. A young person becomes eligible for pre-charge diversion if there is sufficient evidence for prosecution. A meeting is held with the investigating officer from the Youth Section, the young person, and the family, at the police station. If Project Intervention is chosen, the youth and the parents sign a referral form which includes the date of the offence, name of the officer, school, grade, address, telephone number, date of birth and the following caption:

I realize that my behaviour has interfered with the rights of other persons. I am prepared to meet with a project worker, share information about myself and make a plan to undo any harm I caused to others. I understand that assuming responsibility for my behaviour and undoing harm is a way of staying out of youth court. You may be charged at the discretion of the police should you not comply with conditions imposed by Project Intervention.

This form and the occurrence report are given to the Project Intervention co-ordinator and a letter is sent to the family within 24 hours with instructions on how to set up an appointment. The meeting is held in the young person's home. If appropriate, the worker calls the victim and attempts to set up a further appointment with the young person, the victim, and the worker. Resulting from the home visit or the meeting with the victim, a compensatory contract is drafted and signed by all parties. Some of the sanctions imposed are:

- One to fifty hours of community service
- A written apology to the victim for the offence
- Partial or complete restitution for damage
- Donation to charity
- Write an anti-shoplifting assignment or essay
- Attend and complete anger management sessions
- Attend and complete victim awareness sessions
- Other sanctions which are appropriate given the nature of the offence (e.g. TAPP-C Program⁷)

⁷ TAPP-C is an arson prevention program for children aged 2 to 17. It is designed to reduce fire-setting behaviour through an assessment protocol and fire safety education sessions. The educational component is delivered by the Windsor Fire and Rescue Department. The assessment protocol is conducted by mental health professionals. All of the TAPP-C programs which we became aware of were located in metropolitan areas.

Referrals are also made to other social service agencies if further help is required for the young person and/or the family (e.g. family counselling)⁸. If the young person fails to complete the compensatory tasks or comes to the attention of the police again during this time period he or she may be dismissed from the program. Finally, a letter is sent to the police officer and the family informing them that the young person has completed the agreed-upon sanctions. A youth can only be referred to Project Intervention once. On subsequent offences, other actions are taken by the youth officer (i.e. other informal action or charging).

Similarly, the Youth Intervention/Diversion Section of the Ottawa Police Service developed a “hot sheet” entitled “Police Options in Resolving Youth Issues”. The Hot Sheet includes referral contacts for prevention, offenders under 12, pre-charge diversion, alternatives to justice, shoplifters under 12, shoplifters over 12, drug and alcohol related, aggressive behaviour, and psychiatric problems. The Youth Section coordinates all referrals within the agency. Project Intervention at the Pre-Court Level (P.I.P.) is used as the primary referral for pre-charge diversion.

4.0 The nature of the community

According to Grosman, “...Variations in police policies and priorities depend to a large extent on the nature of the community policed and the subtle pressures placed upon the force and its leadership” (1975: 7). Taking the community into consideration is important when analyzing police decision-making, as officers “are boundary personnel who are utterly immersed in the environment of the districts they patrol” (Klinger, 1997: 287). To understand the police reaction to youth crime, one must take into account the nature of a patrol district, as the maintenance of public order and law enforcement are affected by community-level characteristics and crime patterns (Hale, 1992; Klinger, 1997; Werthman & Piliavin, 1967). Thus, the stance which a police officer adopts is, to some extent, a function of the area policed. However, the police are not passive actors within an environment; rather, they adapt their exercise of authority, based on their perceptions and understandings of the areas they patrol (Meehan, 1993; Sampson, 1986).

A predominant feature of Canadian policing is the variety of environments in which departments operate and the distinct community divisions within each jurisdiction. These attributes can place differential demands on police that vary between divisions in a police force and between police jurisdictions, which may account for a portion of the regional variation in formal and informal processing of young persons. However, there is very little research that explores the social context of discretion and police behaviour across physical space (Klinger, 1997) within a Canadian context.⁹

⁸ The John Howard Society operates a program for youth under 12 called “Kids 1st Program”. Referrals are accepted from the Windsor Police Service Youth Section officers (not patrol officers), school boards, community agencies, and parents.

⁹ The few Canadian studies are reviewed below.

Most American research indicates that community-level variables are significant predictors of the police arrest decision (Cohen & Felson, 1979; Crank, 1990, 1992; Hale, 1992; Klinger, 1997; McCarthy, 1991; Riksheim & Chermak, 1993). Werthman & Piliavin argue that “residence in a *neighbourhood* is the most general indicator used by police to select a sample of potential law violators” (1967: 76; emphasis in original). Communities characterized by low socio-economic status tend to have higher crime rates and higher arrest rates (Hale, 1992). As the level of deviance in a neighbourhood increases, a higher proportion of deviant individuals are encountered by police officers (Klinger, 1997; Skolnick, 1967; Stark, 1987), and police become more likely to arrest them (Klinger, 1997; Morash, 1984; Sampson, 1986; Stark, 1987).

Typical ecological research involves an examination of the percentage of suspects charged, the crime rate, the unemployment rate, residential stability (moving rates, home ownership/rental rate), economic variables (unemployment rate, low income family rate), and the population (or population density). However, deriving conclusions concerning police behaviour based only on ecological variables from individual police forces does not allow for the consideration of variation in the composition of areas being policed (Leonard, 1997). Thus, it is important also to incorporate qualitative data to understand police perceptions of the neighbourhoods within their jurisdiction, as the use of an entire police jurisdiction, such as Toronto, as the unit of analysis does not capture the variety of distinct communities (e.g. wealthy and poor neighbourhoods, youth hangouts, and areas with high crime rates) that might elicit different types of police response.

4.1 Degree of urbanization

A great deal of theoretical work and empirical research has been done on the relationships among urbanization, crime, and the police response to crime. Much of this work was motivated by concern about very high rates of crime in the inner-city areas of large American cities.¹⁰ Ecological theories of crime attempt to explain this observed positive relationship between the size of a community and its crime. *Urbanization theory* characterizes life in big cities as culturally heterogeneous, anonymous, impersonal, and uncaring, in contrast with life in villages and small towns, which have close-knit relations, common values, and high social cohesion. Deviance and crime are constrained in small communities by various forms of informal social control exerted by family, friends, and neighbours; whereas, in the big city, deviance and crime flourish unchecked, and there is more demand for formal social control of the type exemplified by the police, and for the more formal modes of police intervention, such as arrest and charging.

Social disorganization theory elaborates on urbanization theory by specifying the circumstances in which, and the processes by which, urbanization leads to an attenuation of informal social control, and resultant higher crime rates. Urbanization is said to lead to *social disorganization* – a state in which the residents of neighbourhoods are unable to police themselves through informal social control because neighbourhood relationships

¹⁰ This and the following 3 paragraphs are based on Schulenberg (2003).

have become dis-organized. The networks of relationships which are characteristic of small communities, and through which informal social control is exerted, do not exist, or are much more attenuated, in city neighbourhoods (Lyerly & Skipper, 1981; Gardner & Shoemaker, 1989, Weisheit, et al., 1999). Indicators of social disorganization include any social problems which inhibit the formation or activation of neighbourly social networks: poverty, unemployment, ethnic or racial heterogeneity, non-conventional family structures, and residential instability manifested by high rates of geographic mobility, the presence of transients, and high proportions of rental housing.

The basic premise of the urbanization and social disorganization theories of crime and social control – a positive relationship between the size of the municipality and the crime rate – does not hold in Canada. As Leonard put it:

Many Canadians believe that there is more crime in a large city than in a small city or rural community. However, statistics do not support this perception.....In 1995, 61% of Canadians lived in 24 major metropolitan areas...and 61% of Canada's 2.6 million *Criminal Code* violations occurred within these metropolitan areas. Thus, a proportionate amount of crime occurred within these big cities...Another commonly held perception is that violent crime, in particular, tends to occur in major metropolitan areas...in fact, in 1995, 58% of violent crime occurred in the 24 biggest cities, which accounted for 61% of the population...of the 18 million Canadians living within a CMA [Census Metropolitan Area, or city of 100,000 or more and its periphery], 80% lived in the nine largest CMAs...[and]...these CMAs accounted for nearly 80% of all crime. Thus, crime occurred in larger and smaller CMAs [i.e. urban areas] in equal proportions.” (1997: 2)

Why does Canada differ from the United States in this regard? According to Ouimet, the high crime rates characteristic of big American cities are the result of social conditions which are specific to that nation, namely inner-city slums and ghettos characterized by extremes of poverty and social decay. In Canada, “there are no real ghettos...although some areas of major cities have become more and more disorganized over the past few years” (1999: 402-404). In this respect,

...most important is the fact that the majority of social services...are administered at the provincial or federal [and not the municipal] level...Therefore, there are no pressures toward a centralization of the poor within the limits of a central city...Also, the solution adopted by many American cities has been to group welfare recipients in contiguous areas, often in high-rise buildings. This solution has been disastrous...In Canada, many jurisdictions have instead

dispersed welfare apartments across much of the city's territory. (1999: 404-405)

Several researchers have found differences between urban and rural communities in crime rates and policing patterns, particularly in the degree of formal police action employed; however, research results on this topic are mixed (Jackson, 1984; Ouimet, 2000¹¹). In relatively homogenous communities or where there is a stable community power structure (as in most rural areas), the police have been found consistently to enforce the law more informally (Cain, 1973; Conly, 1978); whereas, within cities that are more heterogeneous, the police rely on a more formal approach to crime (Cain, 1973). Research has also indicated that an area with a large number of young people seems to have a lower crime rate (Jackson, 1984). This is consistent with the notion that in suburban areas with higher levels of socio-cultural homogeneity and social cohesion, there is a higher probability of using informal means to handle youth crime. In rural areas, increases in the per capita income were associated with increases in arrest rates while the percentage unemployed had no significant relationship (Crank, 1990). In contrast, increases in per capita income *and* unemployment were positively associated with an increase in the charge rate for urban areas (Crank, 1990). Yet, Riksheim & Chermak (1993) found that decreases in the average per capita income increase the likelihood of arrest¹² and Hartnagel & Lee (1990) found a strong negative relationship between poverty and violent crime rates.¹³

To some extent, differences in these findings may be the result of rural areas having unique characteristics. Features such as geographic isolation, economic factors, and a distinctive social climate (Weisheit, Falcone & Wells, 1999) can influence both the types of crime and the operation of the criminal justice system. Informal social control is facilitated by the "density of acquaintanceship" (Weisheit et al., 1999), which refers to the degree to which people in a geographic area are familiar with one another. Freudenburg (1986) found that communities where there were high levels of density of acquaintanceship reported being victims of crime much less frequently.

The degree of urbanization has also been found to be associated with official modes of response to crime in Canada. Caputo and Kelly (1997: 9) interviewed representatives of 150 police forces, and found that police in larger communities are more likely to say that they use warnings and pre-charge diversion. This could be the result of a larger number of community-based programs available to police for informal dispositions.¹⁴ However, Schulenberg's (2003) ecological analysis of UCR data found that the probability of police laying charges against young persons rather than using informal action *increased* with population of the municipality. She also found that the probability of laying charges increased with the unemployment rate and the proportion of rental dwellings, both of which increase with municipal population.

¹¹ Ouimet (2000) compared youth crime rates in neighbourhoods in Montreal.

¹² However, when differentiated by type of offence, the relationship held for property but not for violent crimes.

¹³ Hartnagel & Lee (1990) examined ecological variables from 88 Canadian cities.

¹⁴ See Section 3.0 External Resources, above.

However, ecological relationships – whether positive or negative - between formal action by police and municipal population may be spurious. It is possible that rural areas which are close to urban centres might exhibit higher charge rates as a result of youth traveling between jurisdictions (Osgood & Chambers, 2000). Also, suburban areas have lower crime rates than the urban centres and “any differences in the mix of urban/suburban areas policed by various police forces can result in artificial differences” (Leonard, 1997). Since low crime rates have been found in areas of high and low population density, (Neuman & Berger, 1988), it is possible that population is a contextual variable that might condition the effect of other variables.

Variations in style of policing among different types of communities have not been adequately addressed within the Canadian context. Treating everything outside metropolitan areas as rural can distort or conceal important patterns. It has been suggested that the differences in policing conditions among rural communities are larger than most differences between metropolitan and rural communities (Weisheit et al., 1999). This may be particularly true in Canada, because of its unique arrangements for providing police services to rural areas and small towns. Each province is responsible for providing police services to its rural areas (i.e. areas outside municipal boundaries); and, in addition, establishes a threshold municipal population, below which the provincial government undertakes responsibility for municipal policing. This threshold varies between 500 and 50,000, depending on the province (Seagrave, 1997: 32).¹⁵ All provinces except Ontario and Québec contract with the RCMP to fulfill their provincial policing responsibilities.¹⁶ The RCMP also provides both territorial and municipal police services in the three Territories. In addition, the Ontario Provincial Police, and the RCMP, in the eight provinces in which the RCMP provides provincial policing, provide police services under contract with “mid-sized” municipalities which are not entitled to provincial policing because they are over the threshold size. In Québec, many mid-sized municipalities are also policed by the provincial police, the Sécurité du Québec, though as a provincial responsibility, not under municipal contract. In 1995, the RCMP alone provided contract municipal police services to 201 municipalities, or 32% of all municipal police jurisdictions in Canada. Everywhere in Canada except Ontario and Québec, the RCMP provides police services to all but a handful of the largest municipalities, as well as to all rural areas (see, e.g., Dunphy & Shankarraman, 2000: 32-63). The result is that all of the vast expanse of rural Canada,¹⁷ and many small and mid-sized towns, are policed, not by small, local agencies staffed by local residents, but by three very large, modern, professional, and bureaucratic police agencies.

¹⁵ Seagrave gives 5,000 as the largest threshold value, but the Province of Québec has recently raised its municipal threshold population to 50,000 (Ministère de la Sécurité publique du Québec, 2002b.).

¹⁶ In Newfoundland, as in other provinces, the RCMP does rural and municipal policing under contract; the “provincial” police force – the Royal Newfoundland Constabulary (RNC) – does only municipal policing, in the three largest towns in Newfoundland (Dunphy & Shankarraman, 2000).

¹⁷ Except rural areas which fall within the boundaries of municipalities which have an independent police service; many larger municipalities, particularly “regional” municipalities, have incorporated rural fringe areas.

Inevitably, this calls into question the applicability of much of the literature on rural and small town policing, which is based mainly on research done in the U.S.A., where small, local police agencies are the rule. For example, the authors of one text on rural and small town policing in the U.S.A. describe the policing environment thus:

...The major difference between rural and urban [policing] settings is the far greater importance of the county sheriff's office in the administration of rural policing and law enforcement...all unincorporated areas outside of municipal units...are by statute the primary jurisdiction of the county sheriff...even incorporated places in rural areas may depend on the county sheriff for basic policing services...the sheriff is an *elected* official in all but two states...[this] means that the sheriff is directly subject to the community and to the power of public opinion...but this does not mean that small-town municipal chiefs are free of political influences...those pressures can often be more intense and less predictable...For [small-town] municipal chiefs, the pressure is less from the electorate than from local political and business leaders...(Weisheit et al., 1999: 98-100).

The contrast between the situation of one of these county sheriffs or local municipal police chiefs in the U.S.A., and a detachment commander of the RCMP, OPP, or SQ could not be greater. Both the RCMP and OPP make explicit attempts to insulate members of their detachments from local affiliations or pressures.¹⁸ According to Murphy, detachment police are intended to be “detached” from the community; the RCMP, OPP, and SQ do not allow members to police in their home community, and rotate them regularly from place to place in order to maintain their “detachment” from local conditions (1991: 335-336). Seagrave points out that RCMP detachment commanders see themselves as accountable primarily to their superiors in the RCMP, and, ultimately to Headquarters in Ottawa, rather than to local or provincial residents or officials; and that the official policy with respect to contract policing of the RCMP is that “...control remains with the government of Canada” (1997: 198).

To the authors' knowledge, no systematic research has been done on the conditions and style of rural and small town policing in Canada.

In order to investigate the relationship, if any, between urbanization and the use of discretion by police in dealing with youth, we classified our sample into three types of communities. A *metropolitan area* refers to either the core of a Census Metropolitan Area (CMA) or the equivalent urban core which has insufficient population (100,000+) to qualify as a CMA (e.g. Charlottetown, P.E.I.). A *suburban/exurban* area includes all other places in a CMA or the equivalent areas surrounding a non-CMA metropolitan area.

¹⁸ We were unable to obtain information about the approach of the SQ to this issue.

A *rural/small town* area is any other police jurisdiction: that is, an area which is neither an urban centre nor an area peripheral to one.

Several principles motivated this classification. First, we freely acknowledge that there are many “valid” ways of defining the level of urbanization of a community (Weisheit et al., 1999: 179-196). Second, we did not want to categorize the communities in our sample simply by population. To do so would be to exclude cities such as Whitehorse or Charlottetown from being classified as urban centres, since their populations are well below 100,000. Similarly, to classify communities by population *density* could also be misleading, since some metropolitan areas have low population densities due to their incorporation of large rural fringe areas; and rural policing jurisdictions vary enormously in their geographic size. Third, our classification is oriented toward what we take to be a community’s relationship with policing conditions. We presume that if the “degree of urbanization” affects the style of policing, it is due to differing ways of life in communities with different levels of urbanization, and our expectation is that these different ways of life are captured at least as well by this classification into urban centres, their peripheries, and rural areas and small towns which are relatively remote from urban centres, as by other typologies. Finally, although population data are readily available for municipal police jurisdictions, systematic data on the populations of rural jurisdictions are difficult to obtain. The Canadian Centre for Justice Statistics cannot supply them, because CCJS relies on population data from the Census, and is not able to match the boundaries of rural police jurisdictions with Census subdivision boundaries, as it does with municipal jurisdictions. Also, the populations of many rural jurisdictions vary substantially on a seasonal basis, due to tourism.

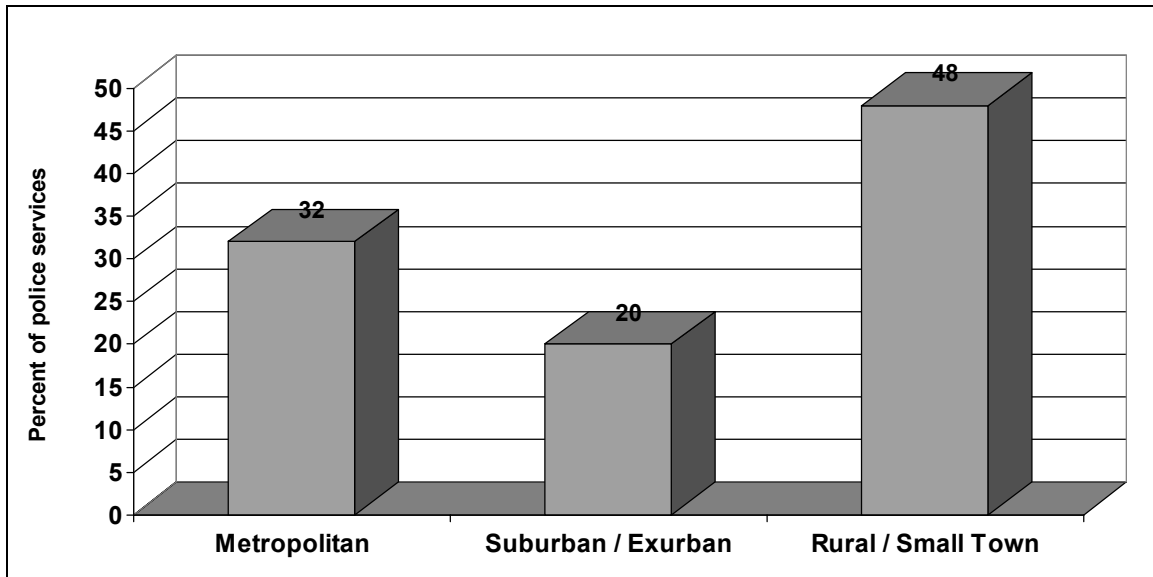
Before ruling out the use of community population or population density as indicators of urbanization, we calculated correlations between the proportion of apprehended youth who were charged, and municipal population and population density.¹⁹ No relationships were found; thus confirming that simple population or population density may not be the best indicators of urbanization, when analyzing its relationship with police practices.

Figure III.2 shows the distribution of the three types of community in our sample. We tried to sample as evenly as possible between metropolitan, suburban/exurban, and rural/small town police agencies.²⁰ The actual sample is divided almost evenly between rural and urban/suburban jurisdictions, with 52% of the agencies and detachments located in metropolitan or suburban/exurban areas, and 48% located in rural or small town jurisdictions.

¹⁹ This information was not available for 31 rural police agencies in the sample; see previous paragraph.

²⁰ See the Methodological Appendix for details of the sampling procedures.

Figure III.2 Types of communities served by police agencies in the sample



During the interviews, we raised the issue of differences between rural, suburban, and urban policing conditions and styles. The answers were inconsistent: rural officers say that they use either (1) less discretion, or (2) the same amount or more discretion, than urban and suburban police. All of our rural and small town respondents agreed that policing in an urban area would be like “night and day,” compared to their experiences. Rural and small town officers suggested that police in metropolitan areas may be able to divert more youth as their use of police discretion is not as visible. In smaller communities, there is a higher density of acquaintanceship (the extent to which members of a community know each other). Rural and small town police officers said that they face a high degree of accountability to their community as they also interact with citizens socially. An officer stationed in the Northwest Territories said “even my private life is scrutinized against their moral ideas of what I should be like”. It appears that in metropolitan and suburban areas, a police officer could expect respect by virtue of his or her official position; whereas, respect is earned (or not) by a rural or small town police officer on the basis of his or her character and “record”. When a rural or small town officer wishes to use informal action, s/he must anticipate that members of the community will learn about, and remember, his or her handling of the incident. Thus, we found that rural officers tended to be focused on being responsive to the young person and to the anticipated responses of the members of the community, although they are, in many cases, employed by non-local police agencies, such as the RCMP or OPP.

We are not suggesting that our data portray rural and small town officers as using less discretion with young offenders. We found rural and small town officers were more likely to say that they “almost always” use informal action “with minor offences”. Middle and upper management in rural and small town jurisdictions hinted at the notion that more arrests and more tickets are indicative of poor policing. It appears that making

too many arrests may reflect the junior officer's inability to handle youth-related incidents informally. Respondents in rural and small town police agencies commonly referred to shoplifting and drinking offences as examples of minor offences that should be dealt with informally or sent to alternative measures. This corresponds with our findings concerning the recording of informal action. About one-half of the officers in metropolitan and suburban areas indicated that they always record their informal actions; whereas, only one-third of rural and small town officers said that they usually record their informal dealings with youth. In some of these smaller jurisdictions, officers said that recording informal action turned it into a formal action since a permanent record is created. Thus, when dealing with youth on very minor offences they would only make notations in their notebooks and notify other officers informally. This approach does not appear to inhibit the distribution of intelligence, due to the ease of communication in small police services, and the high level of knowledge these officers had about the youths in the area. However, it does suggest that the amount of informal action reported in rural and small town police agencies is underestimated by the statistics.

Suburban/exurban and rural/small town police agencies do share one characteristic in terms of using informal action with young offenders. In both of these community types, almost half of the officers indicated that they are never able to make referrals to external agencies; whereas, only about one-quarter of the officers in metropolitan areas felt they had the same limitations. This raises the issue of how local economic factors can influence the exercise of police discretion. In some cases, exurban areas can be as isolated as rural or small town jurisdictions. An exurban area does not operate in the same manner as a metropolitan or suburban area, which is more likely to have its own resources and sufficient tax base to pay for them. In many cases, the human and financial resources are minimal or nonexistent. Thus, officers in these jurisdictions must do their job in a different way.

Some writers suggest that "the larger the community the more likely citizens were to believe that police should limit their role to enforcing criminal laws" (Weisheit et al., 1999: 110). Our data support this assertion. Our respondents in smaller communities suggested that traditional law enforcement is by no means the only service their community expects of them. On the contrary, many of these communities do not have the resources to cope with many social problems, and the responsibility for compensating for this deficit falls upon the police service. We found that exurban and rural/small town police agencies showed much more concern for non-crime-related services than agencies in metropolitan areas.

Metropolitan and suburban/exurban areas also differ in how police officers decide to use informal action. These differences originate with how police become aware of youth-related incidents. Officers in suburban/exurban areas were the least likely of the three types of police to find out about youth-related incidents by a call from a parent or guardian. One of the defining criteria for a suburban/exurban jurisdiction is the concept of a "bedroom community". This implies that a significant proportion of the population commutes to a metropolitan area to work for the day. Whereas over one-half of the police officers in both metropolitan and rural/small town areas indicated that parents call

them about youth-related incidents, the nature of a suburban/exurban bedroom community appears to change police-community relations. Suburban/exurban officers told us that they commonly have difficulty reaching the parents when they have arrested a young person. They also gave examples of a youth having to wait at the police station all day for one of their parents to finish work to come and get him. For minor offences, these officers may bring the youth back to school and have the principal take care and control of the young person. However, for more serious offences, this is not an option.

Officers in the different types of communities also differ in how often they become aware of youth-related incidents from another system agent. Over three-quarters of police officers in metropolitan areas indicated that they find out about youth crime through other system agents, compared to less than half of the officers in suburban/exurban and rural/small town agencies. This finding suggests differing levels of communication between organizations in the criminal justice system. As respondents generally felt that they have little or no discretion with offences referred to them by other system agents, awareness of youth-related incidents from system agents would tend to play a larger role as a factor in the proportion of youth charged in metropolitan areas. Similarly, suburban/exurban officers were the least likely to receive feedback about alternative measures dispositions.

Among the various methods used to compel appearance, clear distinctions arose between metropolitan and rural/small town police officers. Officers in metropolitan areas were the least likely to use a summons to compel the appearance of a young person. More officers in suburban/exurban and rural/small town agencies considered a summons to be a viable method of compelling appearance for youth-related incidents. They tended not to see a problem in locating the youth for service after the fact. Many metropolitan officers (e.g. in the Toronto Police Service) indicated that they deal with quite a few transient and out-of-town youth. This presents unique problems in serving process (e.g. a summons or a Notice to Parent). These officers tend to release a young person on an appearance notice or PTA whenever possible. In contrast, officers in rural/small town areas were much more likely to use a summons to compel appearance. Just under one-half of rural/small town police officers said that they rarely use appearance notices. Suburban/exurban officers fell in the middle of this continuum. This suggests that the density of acquaintanceship plays a role in the method of compelling the appearance of a young person. Compared to metropolitan areas, “rural life is characterized by greater levels of *physical* distance among citizens but lower levels of *social distance*” (Weisheit et al., 1999: 164; emphasis in original). The density of acquaintanceship varies inversely with community population (or population density), as does the feasibility of using a summons to compel the appearance of a young person.

Differences between types of community also arise in the use of conditions with an Officer in Charge Undertaking. Rural and small town officers in our sample are more likely to attach the condition of *keep the peace and be of good behaviour*. Officers in metropolitan and suburban areas generally told us that this clause was meaningless and had very little impact on the young person. In contrast, officers in rural and small town areas tended to feel that this condition is meaningful and enforceable. An officer in a

small town in the Atlantic region gave the example of having lunch and watching a youth on this condition through the window. The young person should have been in school and was hanging around a “questionable establishment”. The officer did not charge the youth with a breach but used his discretion. He was pleased to report that the youth did not get into any further trouble with the law. Granted, this is an ambiguous example, but it does shed some light on how officers view the use of this condition in smaller jurisdictions.

Officers in metropolitan areas do not seem to have the same expectation that they will come across a young person who is on release conditions in the course of an ordinary day’s activities. In contrast, officers in metropolitan areas are more likely to attach a *curfew* to an undertaking. They said that a curfew condition is imperative to control youths who commit crimes at night. Rural officers did not feel this condition was as necessary since they tended to see “listening to your parents” (i.e. abiding by a parental curfew) as part of “keeping the peace and being of good behaviour”. Again, the likelihood that an urban officer would know the parents of a young offender is much smaller.

When we asked under what circumstances an officer would detain a young person for a judicial interim release hearing, rural and small town police officers were less likely than others to cite “serious” offences, repeat offending, multiple breaches, the youth being before the courts, getting judicial bail conditions, intoxication, or the youth’s best interests. Several factors appear to contribute to this finding.

First, the remote location of many rural/small town police agencies makes it difficult to detain young offenders (cf. Canadian Criminal Justice Association, 2000). Many rural and small town detachments and police agencies in our sample were more than three hours’ drive away from the nearest juvenile detention facility. Thus, transportation of a juvenile would require at least six hours and two police officers. In some cases, this would constitute the entire complement on duty at that time. Sometimes they have used one officer to transport a youth; however, this occurs infrequently. Coupled with the cost of transporting the youth is the distance which the family will have to travel in order to visit their son or daughter. Officers frequently cited the family as a reason for not detaining a youth in these jurisdictions. In some cases, the family does not own a vehicle and the youth is then completely isolated from his or her family for an unpredictable period of time (as s/he may be held until trial). These officers consider it undesirable to separate a youth from his or her family in this way. As a result, rural and small town officers tend only to detain youth if they feel that they have no choice, given the nature of the offence and the circumstances of the offender.

Second, rural and small town police agencies in our sample were more likely to have written policy and protocols for handling youth (30%) than suburban/exurban (21%) and metropolitan police agencies (17%). Even though the majority of the policies and procedures for youth are not extremely detailed, they do include the sections of the Criminal Code pertaining to arrest, detention, and release of both adults and youth. Junior officers told us that they found these aids helpful in their decision-making.

Further, in cases where a youth could be released on a PTA or be held for a judicial interim release hearing, a senior officer or watch supervisor might help with the decision.

In larger forces, the average patrol officer does not usually make the final decision to detain for a JIR hearing. In most cases, an officer (the “Officer in Charge”), usually a sergeant, has been assigned to the cell blocks and reviews all incoming prisoners. It is the cell block sergeant who makes the final determination concerning detention. Thus, the existence of written policy and protocol regarding detention and release is not as pivotal in the decision-making process of suburban and metropolitan patrol officers, as it would be for those in rural and small town agencies.

Officers in rural and small town areas also expressed different views from police in larger communities of the role which the nature of the offence and the characteristics of the offender play in their decision-making. These officers were more likely to say that they consider the presence of a weapon, the extent of harm done, victim/complainant preference, the relation between the offender and the victim, and the age of the offender in deciding how to deal with youth-related incidents. Suburban/exurban and metropolitan officers were more likely to cite the location and time of day of the incident, the demeanour of the accused youth,²¹ and the involvement of peer groups and gangs.

In summary, analysis of the interviews suggests that rural and small town police are the most likely of the three types to use informal action to resolve youth-related incidents, and the least likely to use pre-charge diversion, due to the unavailability of programs. They also appear to be the least likely to detain youth for a JIR hearing. Police in suburban and exurban jurisdictions appear to fall somewhere between rural and metropolitan police on these dimensions of police discretion.

These findings from the interview data can be verified by analysis of UCR data on the proportion of apprehended youth who were charged. The problem with the UCR data is that they classify an apprehended youth as either charged or not charged, and do not distinguish between informal action and pre-charge diversion to a program. Thus, the higher use by rural and small town police agencies of informal action and lower use of diversion to a program which are suggested by the interview data may cancel each other out in the UCR statistics. Also, we have some suggestions from rural and small town police that they often do not record the use of informal action, which would cause the UCR to underestimate their use of it. Nevertheless, of the 85 police agencies which reported less than 95% charging of apprehended youths,²² 40 were in rural areas and small towns, and reported charging an average of 61% of apprehended youth; whereas, the 27 metropolitan police services charged, on average, 66% of apprehended youth. Suburban/exurban police services reported charging the lowest proportion – 57% - perhaps because they are able to combine the more informal style of rural and small town agencies with the access to diversion programs characteristic of big city police agencies.

²¹ In turn, metropolitan officers were much more likely (63%) than officers in suburban/exurban areas (39%) to say that they take demeanour into account.

²² We omitted police services which reported charging 95% or more of apprehended youth; see Chapter II, Section 1.2.2.

We also tried to test the applicability of social disorganization theory, which suggests that police respond to higher levels of “social disorganization” in more urban areas by relying more on formal methods of control such as arrests and laying charges. We were able to obtain data at the level of the police jurisdiction (municipality) on indicators of social disorganization for 61 non-rural communities in the sample: the mean household income of residents of the municipality, the proportion of adults with incomes below various poverty cut-off lines, proportion of households living in owned, versus rented, homes, and an index of ethnic heterogeneity.²³ None of these had any relationship with the proportion of apprehended young persons who were charged during 1998-2000 in that jurisdiction. This is not surprising, since social disorganization theory assumes a relationship between urbanization, social disorganization, and the crime rate; and it was shown above that in Canada, larger urban areas are not characterized by higher levels of crime.

The findings from the interview data suggest a different style of policing in rural and small town areas, and also some differences between policing in urban centres and their suburban and exurban fringes. Rural and small town communities have a distinctive social climate that appears also to influence this aspect of police decision-making. With a higher density of acquaintanceship, rural and small town officers feel more accountable to the community. On the other hand, detachment commanders in the RCMP and OPP are accountable to their superiors, and, ultimately, to headquarters in Ottawa or Orillia. American research has found that, in rural areas, characteristics of the community are better predictors of police style than organizational factors (Crank, 1990). As a result, individual officers are held accountable to the community for their actions to a much larger extent than in other types of communities. Rural and small town officers whom we interviewed – whether in independent municipal agencies, or RCMP or OPP detachments - suggested that the communities they police want the police to be tough on youth crime but not to incarcerate their youth. Each jurisdiction handles these pressures differently. However, to some degree it affected all of our respondents in rural and small town areas. This topic has been studied by American criminologists, but has received practically no attention in Canada, although there is enormous variation in the types of communities served by Canadian police agencies. Further research is needed that focuses exclusively on the impact of these differences.

4.2 Socio-demographic characteristics

Research on police suggests that - like most people - they believe that lower socio-economic status individuals commit more crimes (Morash, 1984; Sampson, 1986; Wilson, 1968). This belief may be partly a result of middle class crime being less evident, as it frequently occurs within private space. According to Sampson (1986), the higher vulnerability to arrest within perceived high crime rate areas is independent of the

²³ These data were kindly provided by Joanna Fein-Jacob. She took them from the 1996 Census; for details of the variable definitions, see Fein (2002).

area's actual crime rate. In other words, "ecological contamination" occurs, as the type of community (based on public and police perceptions) where police-juvenile encounters take place will influence the actions taken by police (Bittner, 1970; Sampson, 1986: 884, 887; Werthman & Piliavin, 1967: 75-85). Thornberry (1973) found that lower-class youth were treated more severely regardless of their offence and prior record; however, the class differences were the largest with more serious offences.

Some Canadian research has found that police attitudes toward, or perceptions of, crime prone areas, coupled with citizen complaints, were strong predictors of official delinquency rates. Hagan et al. (1978: 100) argue that "actual class differences in the experience of juvenile crime are amplified by underclass housing conditions and complaint practices, and in turn, even more so by police perceptions", suggesting a community-specific bias in police departments (Bursik, 1988). These findings are based on neighbourhood characteristics, independent of individual level factors such as the sex, race, or demeanour of the accused, the type of crime, etc. Overall, the literature suggests that the probability of police-juvenile encounters ending in arrest declines in neighbourhoods that have a higher perceived socio-economic status.

Variations in the degree of formal police response in any given area may be partly determined by the tolerance of crime by the adults within the community. When a community has high levels of crime and deviance, only the more serious acts may be punished (Klinger, 1997; Stark, 1987). Thus, areas with high levels of crime will see a *decrease* in the arrest rate (relative to the number of incidents), as only the more serious offences will elicit formal action. The implication is that "variation in levels of deviance across patrol districts means that...officers will have different approaches to the police mandate to regulate deviance and different work to do and that ultimately work group negotiations will occur in different structural contexts" (Klinger, 1997: 287).²⁴ For example, although police officers were more likely to file official reports in high crime communities, they were less apt to file victimization reports (Smith, 1986; Worden, 1989).

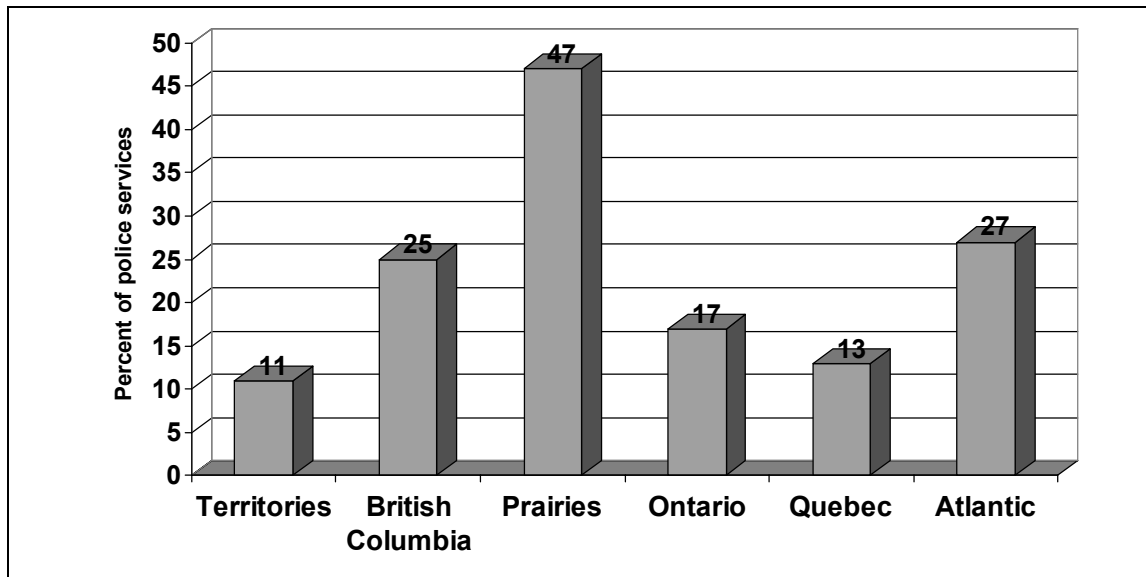
We asked respondents to describe their communities in terms of level of wealth, age profile, ethnic or racial diversity or homogeneity of the residents, and whether they considered the population to be predominantly stable or to include a substantial number of transients. We then attempted to relate their characterizations of their communities with the ways in which they exercise their discretion with youth. Although interviewees' descriptions of their communities might be considered "subjective", they are, in our view, at least as relevant as "objective" indicators of community characteristics, because it is surely officers' *perceptions* of their environment, regardless of their accuracy, which condition their attitudes and decision-making. However, we also did statistical analysis of the correlations between the proportion of apprehended youth who were charged by a police service during 1998-2000, and indicators of socio-demographic characteristics of the community.

²⁴ "Negotiations" refers here to the way in which police define and structure their work.

4.2.1 Level of wealth

Because our respondents police entire towns, cities, and even regional municipalities, our queries about the overall “level of wealth” and income in the community elicited rather vague answers. How can one characterize the level of wealth of a heterogeneous area like Toronto, or even Kelowna? However, we also asked whether there is an area in their jurisdiction that presents a policing problem due to low income or poverty. Almost one-quarter (23%) of the sample answered in the affirmative. This was much more common in metropolitan areas: 50% of metropolitan police services identified a poverty problem area, compared with only 16% of suburban/exurban services, and 9% of rural and small town services. Poverty problem areas were identified most often by police in the Prairies and least often by police in the Territories and Quebec (Figure III.3).

Figure III.3 Police services in communities with poverty problem areas, by region



Analysis of UCR data on the proportion of apprehended young persons who were charged showed that police services which identified a poverty problem area were *slightly* more likely to charge: on average, 65% of apprehended young persons were charged in these areas, versus 61% in areas with no identified poverty problem.

Officers in agencies and detachments which police poverty problem areas were slightly more likely (100%) than others (90%) to say that they use informal warnings. Similarly, they are more likely (45%) to use formal warnings than agencies with no identified poverty problem area (27%). This suggests, contrary to the findings from analysis of UCR data (above), that formal action (laying charges) is used less by police agencies which serve “problematic” areas, corresponding with the theory discussed above that in communities with high levels of crime and deviance, only the more serious acts are

punished. However, this does not necessarily contradict the opposing theory that the use of arrest in police-juvenile encounters is lower in neighbourhoods that have a higher perceived socio-economic status, since our data on formal and informal action pertain to entire towns and cities.

Police in agencies with an identified problem poverty area in their jurisdiction were less likely to say that they would resolve an incident by questioning a youth at home or at the police station (18%) than police in other jurisdictions (30%). We can only speculate as to the reasoning behind this trend. It appears that officers policing these types of areas are more likely either to deal with a young person informally at the scene, or to charge him or her. They appear to be less inclined to bring a youth back to the station unless they are going to process a charge.

We found no significant differences between police services which do or do not have poverty problem areas in relation to their use of pre- or post-charge alternative measures.

Police services with poverty problem areas also tend to differ from the others concerning the method of compelling appearance. They are less likely to use a summons (45%) than other police services (19%), and more likely to say that they use an appearance notice for “minor offences” (55%) than other police services (23%). This may be due to the mobility of youth and the difficulty of serving process in metropolitan areas.

Agencies policing poverty problem areas are also more likely to attach certain conditions to OIC undertakings. Figure III.4 (below) shows the frequency of use of various conditions with young persons by police services with and without poverty problem areas.

Police services that police low-income and problem areas are more likely to attach the condition of no go, no association, keep the peace and be of good behaviour, no alcohol or drugs, no weapons, and attend school.

Similarly, police agencies that police these areas will tend to detain young persons more often for specific reasons. Figure III.5 (below) shows the frequency of reasons given to detain young offenders.

Police agencies that police poverty problem areas are more likely to detain for repeat offenders, if they are before the courts, multiple breaches, intoxication (alcohol or drugs), bail conditions, in the best interests of the young person and to say that they “follow the law” in detention and release decisions. Similarly, these police agencies are also more likely to “almost always” detain a young person for a serious offence (77%), repeat offenders (50%), and to get judicial release conditions (45%), compared to agencies that did not identify a poverty problem area (55%, 29%, and 11% respectively).

Figure III.4 Conditions of OIC Undertakings by low-income/poverty area

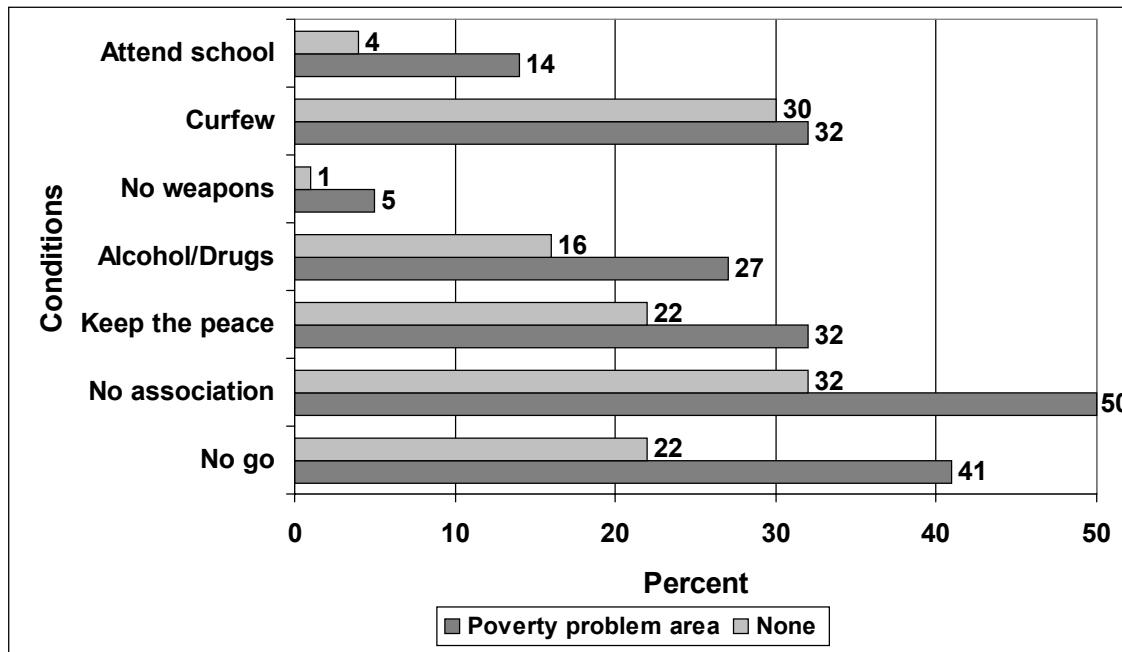
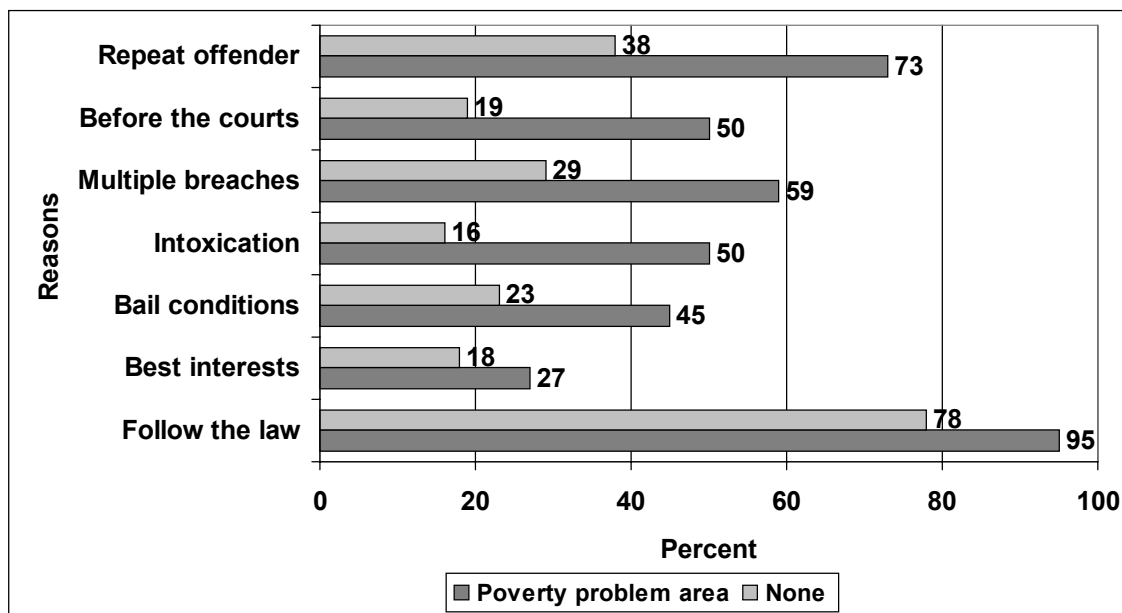


Figure III.5 Reasons to detain for a JIR hearing, by poverty problem area



We also calculated correlations between the proportion of apprehended youth charged during 1998-2000 in each jurisdiction, and indicators of its level of wealth: the mean income of adults in that municipality, the proportion of adults living below a certain level

of income (using several different cut-off points), and the proportion of households living in owned, versus rented, homes. None of these had any relationship with the proportion of apprehended youth who were charged.²⁵

Overall, the existence of an identified area of poverty appears to affect police decision-making to a certain degree, in relation to the use of informal action, laying charges, and compelling appearance. We cannot be sure, however, because most of these police services are located in metropolitan areas, so the differences could be due more to the conditions of metropolitan policing than to the existence of the poverty problem area per se.

4.2.2 Residential instability

Since the literature suggests that police are more likely to use formal action in areas characterized by “residential instability”, we calculated correlations between the proportion of apprehended youth who were charged during 1998-2000 in each jurisdiction and two indicators of instability: the proportion of rented homes in the municipality, and the proportion of the population who had moved in the past 5 years.²⁶ No relationships were found.

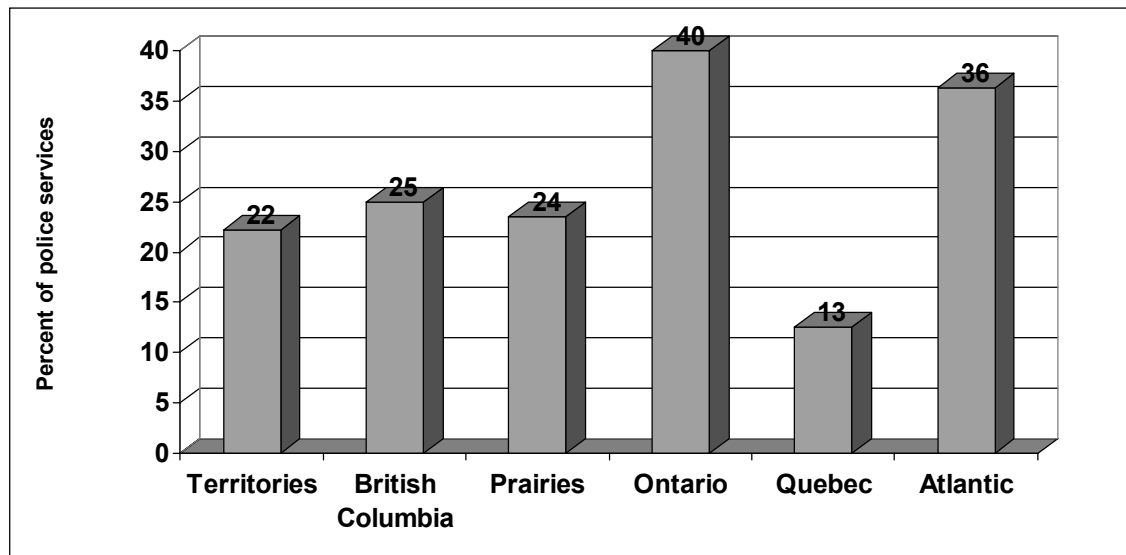
We also asked officers whether the population which they served tended to be stable or to experience significant geographic mobility. Officers in 28% of our sample answered this question by identifying a problem with young persons who were “transients”.

The distribution across Canada of police services which identified a significant population of transients is shown in Figure III.6. Police services in metropolitan areas were much more likely (60%) to identify a problem with transient youth than rural and small town (18%) or suburban/exurban agencies (5%). One would expect, then, that it would be mainly independent municipal agencies that deal with transients, but, in fact, 42% of the OPP detachments in the sample mentioned transient youth, compared with 32% of independent municipal agencies, 19% of RCMP detachments, and none of the three First Nations police services. Many of the transients identified by these OPP officers in our sample, who were stationed predominantly in small Northern Ontario municipalities, are “passing through” areas which straddle major highways, such as the Trans-Canada Highway; and do not fit the stereotype of the urban, homeless, skid-row transient.

²⁵ The lack of a relationship could be due to the omission of 31 rural jurisdictions, for which these data were not available; see note 42 above for details.

²⁶ See preceding note.

Figure III.6 Police services in communities with significant transient youth, by region



Analysis of UCR data showed that police services which identified transients were no more or less likely to lay charges against apprehended youth.

Officers in police services that have a significant transient population were more likely (89%) than those which do not (71%) to say that they use informal action with young persons. They were also more likely to say that they use each individual type of informal action (informal warning, formal warning, parental involvement, taking the youth home or to the police station, questioning the youth at home or at the police station, or referring a youth to an internal or external program). Thus, it appears that police officers that have transients within their jurisdictions are on the whole more likely to use informal action in all types of cases. There were no significant differences in the use of pre- and post-charge alternative measures between police agencies which did and did not mention significant transient populations.

Differences also emerge in the methods that are used by police services who police transients to compel appearance in court. Over one-half (52%) of police agencies that police transients said that they will use an appearance notice when no other options are available compared to 39% of the agencies that do not police transients. This is not surprising since over one-half of these police agencies (56%) said that they do not use a summons to compel attendance, compared to 29% of the agencies which do not police transients. Another 37% of agencies policing transients “rarely” use a summons.

If the youth is arrested and brought back to the police station, police agencies that police transients are slightly more likely to use a Promise to Appear with an attached OIC undertaking (70%) than other agencies (56%).

The various reasons which were given for detaining a youth for a JIR hearing were all offered more frequently by officers in police services with significant transient populations. They are twice as likely to say that they detain “in the best interests of the youth” (30%) as agencies that do not police transients (16%). They are considerably more likely (41%) than agencies which do not police transients (24%) to say that they will detain a youth in order to get bail conditions. They are twice as likely (41% versus 18%) to detain a youth because s/he is under the influence of alcohol or drugs. More than half (59%) of the police agencies with transients in their community will detain a youth for multiple breaches compared to only just over one-quarter (26%) of the agencies without significant transient populations. Almost three-quarters (70%) of police agencies with a transient population will detain a repeat young offender compared to just over one-third (37%) of the agencies without transients. Finally, *all* of the responding agencies that indicated they would detain a youth in order to get them admitted to a program have a significant proportion of transients. Thus, it is not surprising that agencies that police a transient population are more likely to say that they “almost always” detain young offenders for serious offences, repeat young offenders, due to departmental policy, to get release conditions, and for offences committed under the influence of alcohol or drugs. It is striking that 81% of these police agencies will “almost always” detain for serious offences, compared to just over half (51%) of those agencies who do not police a transient population.

Thus, police agencies which police a significant transient population have different patterns in their use of informal action and methods of compelling appearance. Our data suggest that transient youth present a different type of problem to the police, which they see as requiring a different type of response. Officers in all types of communities agreed that transient youth are usually youth in crisis as a result of alcohol and/or drug addictions, abusive home situations, or prostitution. Respondents emphasized that these youth are the ones that require the most intervention and are at the highest risk of re-offending.

4.2.3 Tourists

When we asked police officers about residential instability in relation to crime and law enforcement, many referred to “tourists” rather than “transients”. The distinction is that “tourists” refers to people who make the area their destination for recreational activity, or who are seasonal visitors, such as cottagers; whereas “transients” was used to denote people who are merely “passing through” the area and/or are homeless.

32% of police agencies and detachments said that their communities experience a significant amount of tourist traffic. As a result, their populations fluctuate seasonally. For example, the North East Region of the OPP, which has its headquarters in North Bay, serves a “permanent” population of 285,000, which “increases to 400,000 in the summer months” (Ontario Provincial Police, 2003).

We found no significant differences in the use of police discretion with young persons between police agencies with, and without, a significant tourist population.

4.2.4 Aboriginal population

One of the major areas of concern for Canadian criminologists and criminal justice policy-makers has been the relationship of aboriginal Canadians to the criminal justice system (Canadian Criminal Justice Association, 2000; Normandeau and Leighton, 1990).²⁷ Aboriginals are greatly over-represented in the courts and prisons (Canadian Criminal Justice Association, 2000; LaPrairie, 1993, 1995; Nielson, 1992). According to Forcese (1992) and Harding (1991), it is likely that aboriginals are disproportionately apprehended and charged by police, although this is difficult to determine with any certainty, since many Canadian police services do not provide breakdowns by race of persons charged to Statistics Canada (Gabor, 1994; Roberts, 1994; cf. American Sociological Association, 2002). One study, using UCR2 data for parts of Canada for 1992-1993, found that aboriginal youth who were apprehended by police were much more likely to be charged, even when other aspects of the case, such as the seriousness of the offence and use of alcohol or drugs, were controlled (Carrington, 1998a).²⁸

According to a review of the literature by Griffiths & Verdun-Jones (1994: 641-642),

...relations between the police and Aboriginals are often characterized by mutual hostility and distrust, increasing the likelihood of conflict and high arrest rates...[relations are] seriously deficient...there are strong feelings of mistrust, if not hatred, directed towards RCMP members in some areas...[many officers have] a lack of knowledge of Aboriginal culture...[there are] a lack of communication and misperceptions...police officers place too much emphasis on law enforcement and do not spend enough time on other activities that would better address community needs...the transfer policy of the RCMP, which often results in officers spending only two or three years in a community, has been identified as a major obstacle to the development of positive police-community relations.

It should be noted that this characterization is based on public inquiries conducted more than 10 years ago, and that the philosophy of the RCMP has changed dramatically in the intervening period (e.g. the adoption of the National Youth Strategy). Furthermore,

²⁷ The role of the race (aboriginal status) of the *individual* offender in police decision-making is discussed in Chapter V below; here, we are interested in the effect, if any, on police decision-making of working in a *community* with a significant aboriginal population.

²⁸ However, that study was unable to control for prior record, demeanour and victim preference, which might explain part or all of the elevated charge rates.

Griffiths & Verdun-Jones point out that mistrust and conflict might well have arisen from lack of knowledge, miscommunication, and misunderstanding, rather than from any “conscious bias” on the part of officers (1994: 642). As will be seen in Chapter V, our own research found no evidence of racial bias on the part of the officers whom we interviewed.²⁹

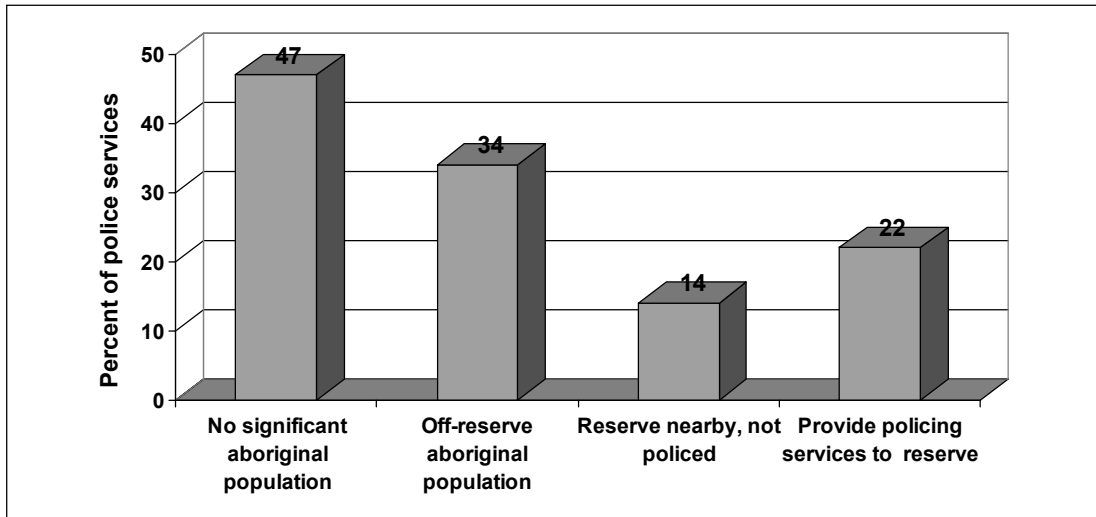
Many aboriginal Canadians live in areas of poverty and social exclusion which might well be described as “socially disorganized” (Canadian Criminal Justice Association, 2000; Griffiths & Verdun-Jones, 1994: 635-637; LaPrairie, 1988, 1995; Léonard & Trevethan, 2003). Therefore, according to social disorganization theory (see Section 4.1 above), the communities in which they live could be expected to be subject to higher levels of crime and of formal action by police. There is evidence of higher crime rates among aboriginals, especially assaults and alcohol-related crime (Griffiths & Verdun-Jones, 1994: 638-639).

On the other hand, some of the key ideas associated with informal social control and alternatives to formal court processing of offenders are derived from traditional aboriginal practices which rely on the community, rather than officials, to respond to deviant and criminal behaviour (Depew, 1992; Jobson, 1993; LaPrairie, 1992); and Canadian law and judicial practice have afforded some recognition to the unique circumstances and culture of aboriginal Canadians. Therefore, there is reason to expect, at least in principle, that police who work in communities with significant aboriginal populations, whether on- or off-reserve, might use *more* informal action to resolve incidents involving aboriginal youth (Griffiths & Verdun-Jones, 1994: 652-653).

We asked officers (a) whether their police service was responsible for policing a First Nations reserve, (b) whether there was a reserve nearby which they did not police, and (c) whether there were substantial numbers of aboriginal Canadians living off-reserve in their jurisdiction. The distribution of answers is shown in Figure III.7 (percentages add to more than 100%, since multiple answers were possible). We then combined these answers into two mutually exclusive categories: agencies which have jurisdiction over a significant number of aboriginals (i.e. who answered that they policed a reserve and/or that there were significant numbers of aboriginals living off-reserve in the community), and those which do not.

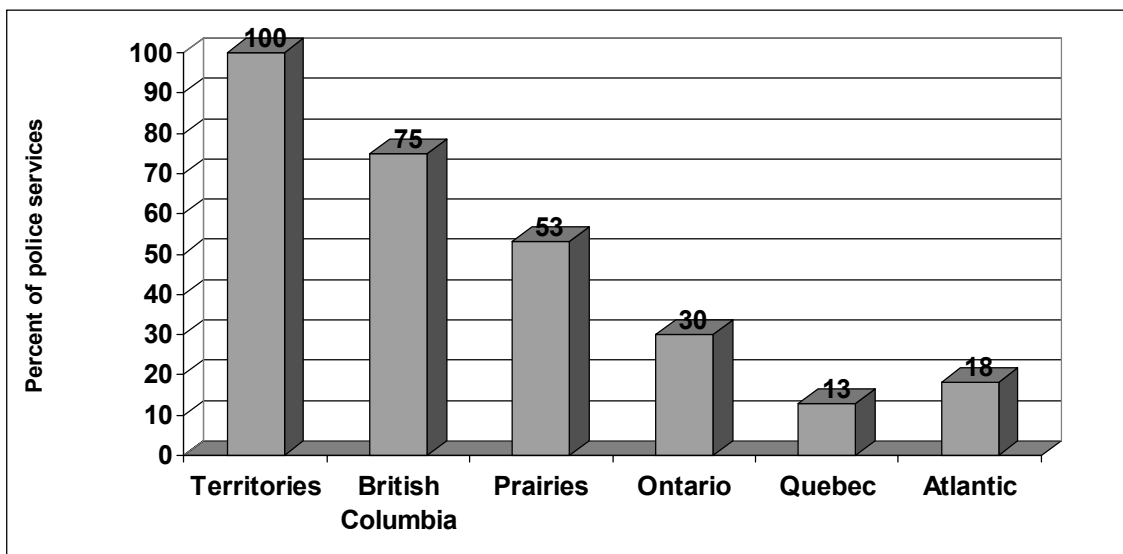
²⁹ However, our findings are limited by the fact that we interviewed only police officers and not the members of the communities which they police.

Figure III.7 Aboriginal populations served by police services



42% of the police agencies in our sample police an aboriginal population: 24% of the independent municipal services, 43% of the provincial police detachments, 73% of the RCMP detachments, and, of course, all 3 First Nations police services. Exactly half of the police services in metropolitan areas said that they had significant numbers of aboriginals Canadians in their jurisdiction; as did exactly half of the rural and small town police services; whereas, only 16% of suburban/exurban police services identified an aboriginal population in their jurisdictions. The regional distribution is shown in Figure III.8.

Figure III.8 Regional distribution of police agencies which serve aboriginal populations



The police services which have jurisdiction over aboriginal populations differ from other police services in their use of informal action, alternative measures, and methods of compelling appearance. Some of these differences are slight; however, in some cases the difference is substantial, suggesting a different style of policing.

According to UCR statistics on the proportion of apprehended youth who were charged, police services in our sample which police aboriginals are slightly more likely to lay charges (64% of apprehended youth charged) than those which do not (60%). This difference is entirely due to the police services which police off-reserve aboriginals (65% of apprehended youth charged), since those 17 police services which police a First Nations reserve are slightly *less* likely than average to charge an apprehended youth (60% of apprehended youth charged).

Police services that police aboriginal populations are slightly more likely to say that they use various forms of informal action. Virtually all (98%) of the agencies which police aboriginals use informal warnings, compared to 89% of other police services. These agencies are also slightly more likely to employ formal warnings (38%) than agencies in communities with no aboriginal youth (27%). Agencies policing aboriginals are less likely to bring a young offender home or to the police station for questioning (20%) than other agencies (33%). When asked whether there are any offences with which officers would almost always consider using informal action, officers in services which police aboriginals are more likely to consider informal action in all circumstances (minor offences, serious offences, provincial offences, and shoplifting). Furthermore, 23% of these officers said that they would almost always consider informal action with provincial offences compared to 10% of those officers who do not police an aboriginal population.

Agencies which police on- and off-reserve aboriginals are almost twice as likely (35% vs. 18%) to use a community based pre-charge restorative justice program to divert youth prior rather than laying a charge. These agencies are also less likely to use post-charge alternative measures (78%) than other police services (100% of which use post-charge alternative measures). Thus, the net-widening which is associated with the use of post-charge alternative measures may apply less in communities with aboriginal populations.

Agencies which police aboriginals are less likely to use a summons to compel the appearance of a young person (31%) than agencies that do not police aboriginals (45%). Further, 43% of the agencies policing aboriginals “rarely” use an appearance notice (compared to 24% of other police agencies). Thus, it is not surprising that agencies policing aboriginals are more likely to use a Promise to Appear with minor offences (25%) than other agencies (7%). They are also more likely (65%) to use a PTA with an attached OIC undertaking. There were no differences between agencies for the conditions of a curfew or attend school. However, agencies policing aboriginals were more likely to attach the conditions of no go, no association, keep the peace and be of good behaviour, no alcohol or drugs, and no weapons; however, there was no difference between the two types of police agencies in the use of a curfew or school attendance as conditions of an OIC undertaking.

Some differences are evident in the reasons given for detention. Agencies policing aboriginals are slightly more likely to detain because the youth is a repeat offender (53%) than other agencies (42%). They are also slightly more likely to detain “in the best interests of the youth” or if the youth is under the influence of alcohol or drugs. Officers suggested that alcohol and drug abuse are rampant in aboriginal communities; and, in many cases, the entire family has a substance abuse problem. As a result, in many more cases than they would prefer, they detain a young person for his or her “own safety”. These agencies are also more likely to detain a young person for a judicial interim release hearing for multiple breaches (45%) than agencies that do not police aboriginals (29%).

In general, officers told us that policing aboriginals can be quite different from policing other types of youth. First, they have found high levels of substance abuse within aboriginal communities. This is a phenomenon that they say occurs not only on reserves or in big cities but also in isolated detachments and “dry” communities. Police officers stationed in the Territories related stories about the increasing levels of solvent abuse in the North. Coupled with alcohol and drug addictions is the lack of social services and programming for these high-risk youth. Second, officers suggested that the aboriginal communities they police tend to be relatively poor. The youth do not have as many opportunities as non-aboriginal youth whom the officers encounter. Finally, officers said that they commonly see low levels of school attendance among aboriginal youth. One officer in Alberta suggested that the youth from the reserve he polices go to school for “maybe a month or two” out of the whole academic year. An RCMP officer stationed in Nunavut described an experience he had with an aboriginal male. His story contains the typical elements of many such stories which we were told: the criminogenic conditions in which many aboriginal youth live, the remarkable extent of the “informal action” used by officers dealing with aboriginal youth, and the ambiguous outcome.

[This was a] real sad situation. It was a guy, [called] *John*³⁰ in *Nunavut*³¹, [who] I was arresting 2-3 times a week, for sniffing hair spray, propane, [and] everything else. I sat down with him, spoke to him, basically his parents were from *Nunavut*, alcohol, sexual abuse, drugs, you name it. Basically he was a lost lamb. I worked with him, checked up on him regularly, I spoke, got him into the school program, he was on community service work, but we followed up on it, checked on it, gave him lots of support. How you doing? Made sure he wasn't left alone. He joined the drama department in *Nunavut*, he passed his courses, he wasn't stellar, he passed, he travelled with the drama show in *Nunavut*, made a video of it as well. Sense of pride, sense of belonging. Then, because of his community service work he got a job with the hamlet part-time, and

³⁰ The youth's name has been changed to protect his identity.

³¹ The names of specific locations have been changed to *Nunavut* to protect the youth's identity.

they liked him so much they wanted him to go to Inuvik, as a recreational counsellor. Raised funds, got sponsorship, spoke with the airlines to get him to Outward Bound in Thunder Bay, that was all paid for. Half these people have never been out of their settlement. He came back, I sent an itinerary, he travelled all by himself, he was alone in Ottawa in a hotel, 16, 17, maybe 18. I phoned him every day, checked up on him, told him exactly what to do, phone the front desk, tell them you want a wake up call, I will phone you at 5 am. By the end of the Outward Bound program it was all good. He came back, he had a spark of life in his eyes, you could see the change, rather than [that] lost glaze. Everything was going great, he went to Inuvik, except his girlfriend was 15 years old, she got pregnant, their family environment was not motivated and their motivation was on substances, getting a lot of pressure, why should you seek a goal, why should you seek aspirations, I'm having a child, we can collect welfare. According to the story I heard, all of a sudden he went to speak to a counsellor in Inuvik, and the counsellor went, relax, gave up and came back, started slipping again. At least he got a job in *Nunavut*, he still had problems, but, and was dragged down again, but he was at least employed, he got his drivers licence, now he's a garbage collector, [...] But, that's the support a lot of these kids need, structure, support all the way along, self worth. In the programs or whatever for success, that needs to be incorporated. And it's not a temporary basis, it needs to be, something they can realize a difference, sending them out to Frog Lake for a treatment, that's the magic word, treatment, treatment.

Despite these dismal observations, some of the RCMP officers stationed in the Territories and members of the Winnipeg Police Service have developed innovative programming specifically for aboriginal youth. One RCMP officer described a program he developed in Nunavut called the "Miss School Miss Out" program.

What I did, I phoned all across the country, went to Yellowknife and [...] got prizes, as many prizes, anything, I got the airlines to fly it in, I got [a local company] to take a 45 gallon drum, cut it in half and make a BBQ, donated charcoal, and what we're going to do is basically bribe the kids to stay in school. The schools, it was 76 people in the school, kindergarten to grade 11. What had happened, if you had perfect attendance every month, you'd win a prize. We gave away jackets, Polaroid cameras, and [it] worked,

If there were bigger prizes, for the kindergartens they would get candies, baseball caps, toys, something, so the kids now wanted to go to school, they wanted perfect attendance. And I'd get Pizza Hut Pizza flown in from Yellowknife, it was frozen, donated, then those people with perfect attendance, we watched a movie, had pizza and pop and we got pop from the co-op, the rest that didn't have perfect attendance had to work for that afternoon. [With these kids], we had the BBQ, we went and shot a musk ox and caribou and we had boom burgers and musk ox burgers, we made them. We'd go out sliding for the afternoon, while the other kids had to stay in. So now what you had is people wanting to come to school. They don't want to miss out, they need to sleep, you didn't have half the violence anymore – why? It became structured. At the end of the year we gave away a computer, a mustang jacket, every month they'd receive something, they'd have some activity, we'd put them in the plane, fly them over Polaris mine where they'd go swimming, have a meal there, [and] fly back. It worked wonders in the sense, the first year, they had their first ever graduate and the next year they had 5 graduates.

Unfortunately, only some aspects of the program are still in operation at that detachment. A commonly occurring problem is that an officer is dedicated to a program, and then is transferred elsewhere. The incoming officer is not as interested and does not continue to put as much effort into the program, and it founders. Police officers in all types of police forces agree that innovative programming will last if the police get the program up and running and then the community takes over the supervisory role. The police are still involved but in a secondary way. Officers in Winnipeg have designed diversion programs geared specifically to aboriginal youth. They established links with the local aboriginal elders and, as a result, primary, secondary, and tertiary programs are delivered to aboriginal youth (including many healing circles for all types of offences).

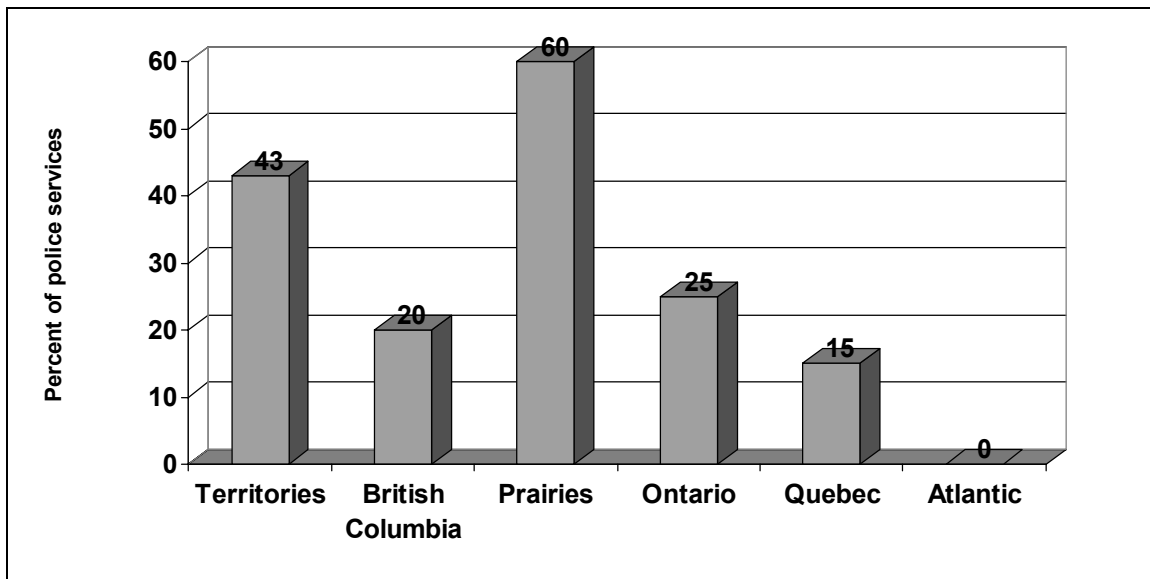
4.3 Level and type of crime in the community

The literature suggests that decision-making by police can be influenced by their perceptions of the level of crime in their jurisdiction (Sampson, 1986). We asked our respondents how much youth crime existed in the area which they policed. 55% of the police agencies and detachments suggested they had a “normal amount” of youth crime; 29% had “a lot” of youth crime, and 17% answered “not very much”.

Although crime statistics show no relationship between the size of communities in Canada and their crime rates (see Section 4.1 above), officers perceived a relationship: 40% of officers in metropolitan agencies perceived “a lot” of youth crime in their

jurisdiction, compared to 31% in suburban/exurban services, and only 19% in rural and small town police services. Similarly, 22% of officers in rural and small town agencies identified “not very much” youth crime in their jurisdiction, compared to 19% of officers in suburban/exurban, and only 8% of those in metropolitan police services. The regional distribution is shown in Figure III.9.

Figure III.9 Regional distribution of police agencies which perceive “a lot” of youth crime



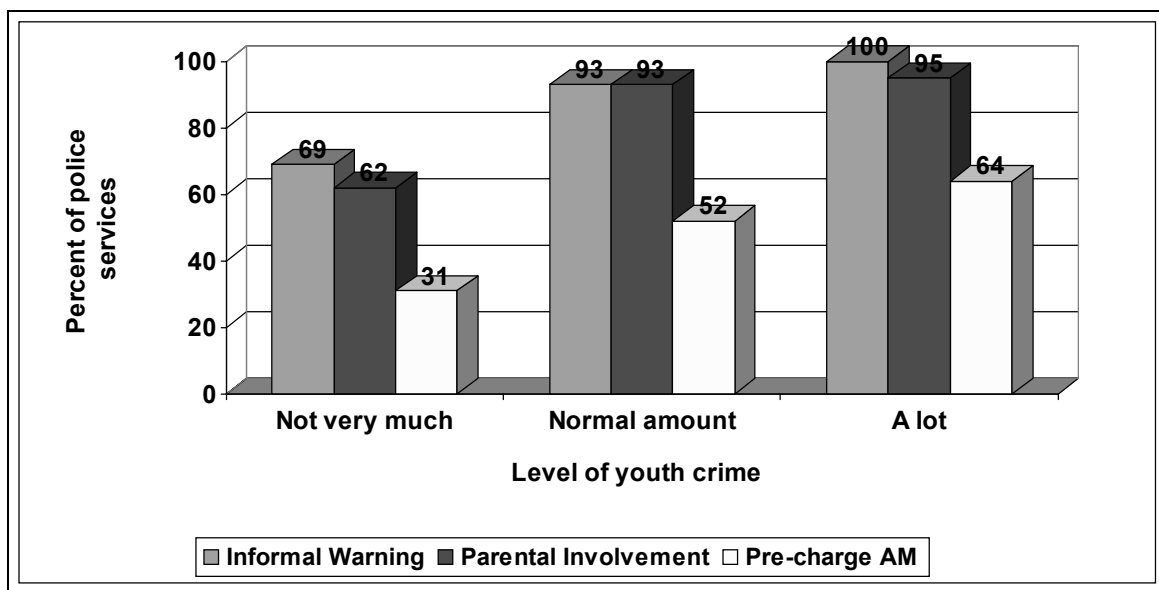
Urbanization and social disorganization theories of social control propose that, in urban areas, which suffer from higher rates of social disorganization and perceived deviance and crime, police will compensate for the breakdown of informal social control in the community by using more formal social control themselves, in the form of more arrests and more charging. On the other hand, the “overload hypothesis” proposes that police in urban areas are “overloaded” with crime, and respond by only arresting or laying charges in more serious cases; with the result of a relatively low charge rate.

Analysis of UCR data on the proportion of apprehended youth who were charged produces a surprising result. Police agencies in our sample which work in communities in which officers perceive “not very much” youth crime have the highest average rate of charging (on average, during 1998-2000, they charged 66% of apprehended youth); those in communities with “a normal amount” of youth crime have the lowest charge rate (59%), and those with “a lot” of youth crime are intermediate in their use of discretion (62%). This is particularly surprising because officers who perceive “not very much” youth crime tend to work in rural areas and small towns, in which there is a tendency for police to charge less; and those who perceive “a lot” of youth crime tend to work in metropolitan areas, in which police tend to charge more (Section 4.1, above).

Apparently, police in perceived high crime jurisdictions respond by using neither more discretion, as the overload hypothesis would suggest, nor less discretion, as urbanization and social disorganization theories predict. The relatively high rate of charging in communities where police perceive “not very much” youth crime may be explained by the overload hypothesis: in communities where police are *not* overloaded with a great deal of crime, they are able to make *more* use of formal measures such as laying charges. Alternatively, they may be under-reporting (to their own RMS and to the UCR) the number of youth apprehended but not charged, thus artificially inflating their statistical charge rate statistics (cf. Section 4.1, above)

Figure III.10 shows the use of three kinds of informal action, broken down by the perceived level of youth crime in the community. (The other types of informal action are unrelated to the level of crime.) The use of each type of informal action *increases* with the perceived level of youth crime, consistent with the overload hypothesis, and with the findings from analysis of UCR data (above).

Figure III.10 Types of informal action used, by the perceived level of youth crime in the community



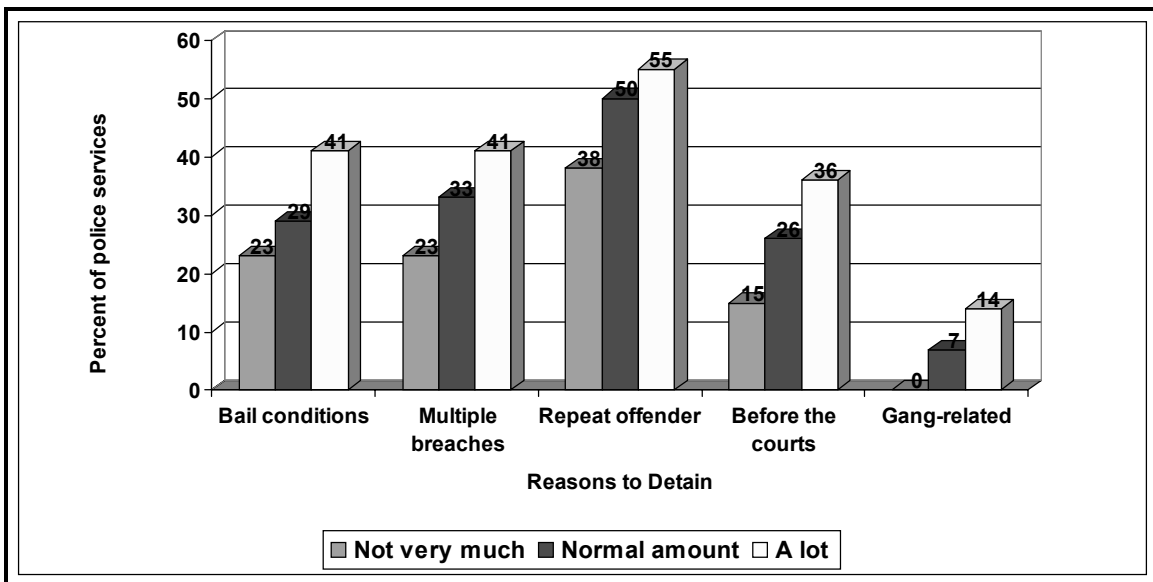
Whether police agencies find feedback on alternative measures dispositions helpful is also related to their perception of the level of youth crime in the community. Police agencies that perceive a lot of youth crime are slightly more likely to find feedback useful (74%) than those who perceive a normal amount (69%) or not very much youth crime (60%). There were no differences for post-charge alternative measures.

A few differences also emerge in the methods which police officers use to compel the attendance of young person in court. Police agencies that perceive a lot of youth crime

are more likely *not* to use a summons (55%) than agencies perceiving a normal amount (36%) or not very much youth crime (8%). This suggests that police officers in these areas rely on other means, such as an appearance notice, or a promise to appear. However, there were no noticeable differences in the use of an appearance notice or PTA between agencies which perceived different levels of youth crime. Thus, we speculate that the increased use of informal action in areas where officers perceive “a lot” of youth crime may decrease the number of minor offences that result in a charge. This is consistent with the hypothesis that only the more serious offences are formally processed in (perceived) high crime areas.

In cases where the young person is arrested and detained, a clear relationship appears between perceived levels of youth crime and the reasons for detention. Figure III.11 shows the differences in the reasons given for detaining a young offender. Each of these five reasons is more likely to be cited with increasing levels of perceived youth crime.

Figure III.11 Reasons to detain a young person for a JIR hearing, by perceived level of youth crime in the community

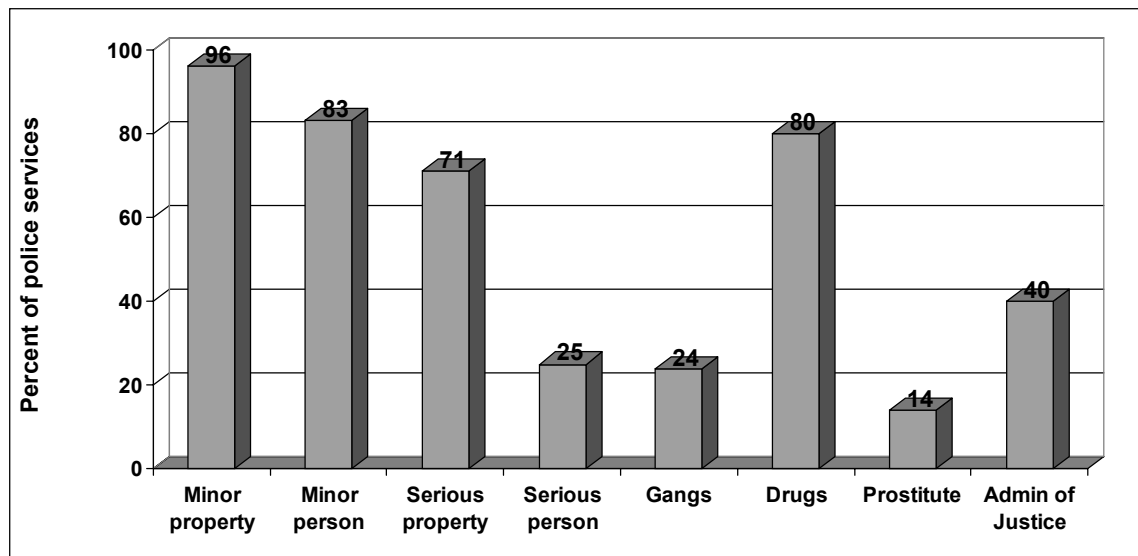


A similar pattern exists in the answers to our question about offences that would “almost always” result in arrest and detention. Police agencies with high levels of youth crime are more likely almost always to detain for serious offences (73%) than agencies in areas with a normal amount (64%) or not very much of youth crime (54%). These agencies are also more likely almost always to detain repeat offenders (45%) than police services with a normal amount (33%) or not very much youth crime (23%). Interestingly, agencies that perceive high levels of youth crime are more likely to almost always detain due to departmental policy (50%) than agencies with other levels of perceived youth crime (29%).

In the decision-making areas discussed above, the interview data suggest that police officers tend to use more discretion if they identified their jurisdiction as having a lot of youth crime. They are more likely to use various forms of informal action, and they are more likely to cite the “legalistic” reasons for detention: a serious offence, multiple breaches (of probation orders, OIC undertakings, or bail conditions), if the youth is already before the courts, or repeat offenders.

We also asked respondents about the types of youth crime they were dealing with on a regular basis. Figure III.12 shows the responses.

Figure III.12 Types of youth crime which are prevalent in the community



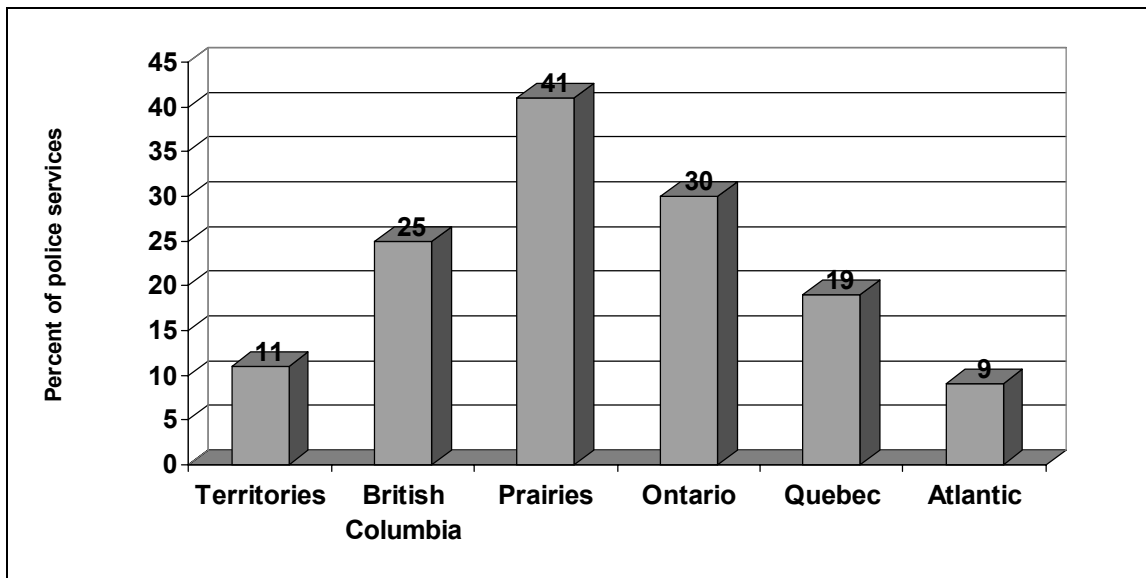
Virtually every police agency and detachment (96%) indicated that youth commit minor property crimes (e.g. theft under, shoplifting). Over three-quarters (83%) also mentioned many minor crimes against the person, such as minor assaults.

Almost three-quarters of the sample (71%) mentioned serious property offences (e.g. break and enter). This was more prevalent in metropolitan jurisdictions (87%), and less in rural areas and small towns (61%). These agencies were spread fairly evenly across the provinces and Territories, with higher proportions in the Prairies (82%), and lower proportions in Quebec (56%) and British Columbia (58%).

Not surprisingly, only one-quarter (25%) of the police agencies and detachments cited a significant amount of serious violent crime (e.g. assault causing bodily harm). Once again, this was cited more frequently by metropolitan police services (43%) than suburban/exurban (32%) or rural/small town agencies (11%). The higher prevalence of

serious personal and property crimes reported by our respondents in larger centres is consistent with the statistics on recorded crime (by persons of all ages): Leonard reports higher recorded per capita rates of serious violent and property crime in Census Metropolitan Areas (CMAs) than in non-CMAs, and higher rates of minor assaults and weapons offences in non-CMAs (1997: 3). The regional distribution of agencies reporting serious violent youth crime as prevent in their jurisdiction is shown in Figure III.13.

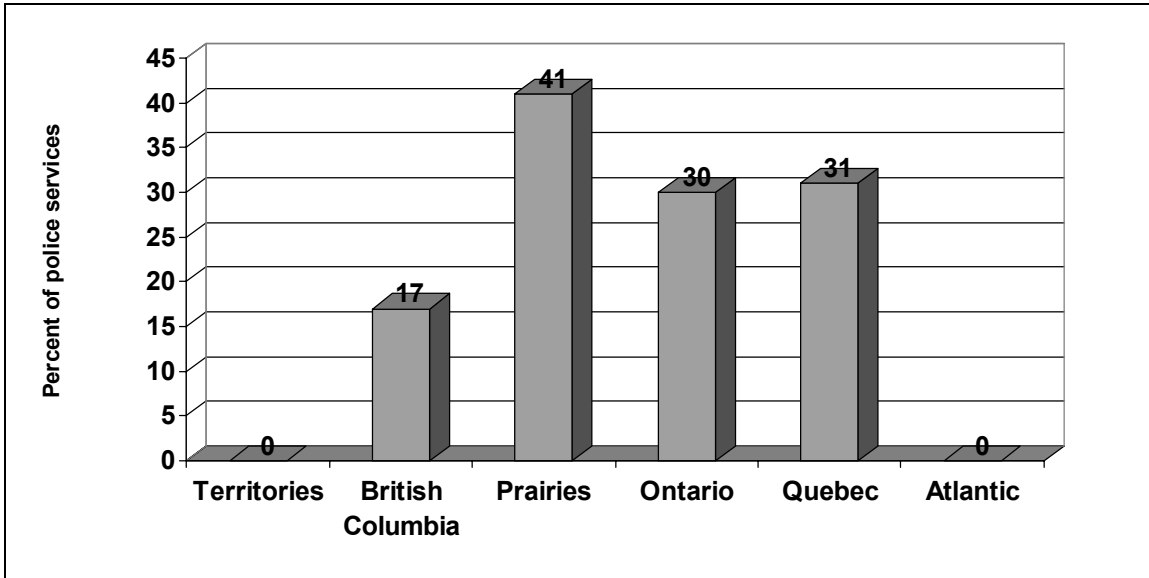
Figure III.13 Regional distribution of police agencies which report dealing with a significant amount of serious violent youth crime



Some results were unexpected. 80% of the police agencies and detachments indicated that they deal with a significant number of drug offences and drug addiction with youth. These include 90% of metropolitan agencies, 84% of rural/small town agencies, and 63% of suburban/exurban police services. These are spread evenly across the regions of Canada, with the exception of the Territories, where 100% of agencies in the sample reported drug problems among youth in their jurisdiction.

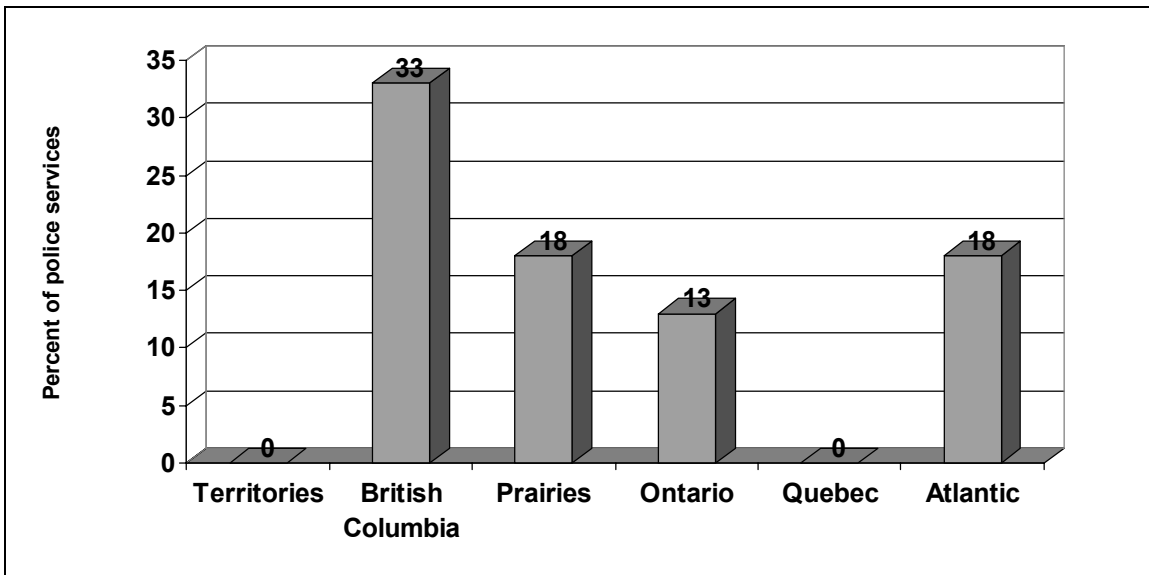
Almost one-quarter of the sample of police services (24%) indicated that they have youth gangs in their jurisdiction. Once again, gangs were cited more often by metropolitan agencies (43%) than by suburban/exurban (32%) or rural/small town agencies (9%). The regional distribution is shown in Figure III.14, and underlines the extent of the youth crime problem in the Prairie provinces.

Figure III.14 Regional distribution of police agencies reporting youth gang problems



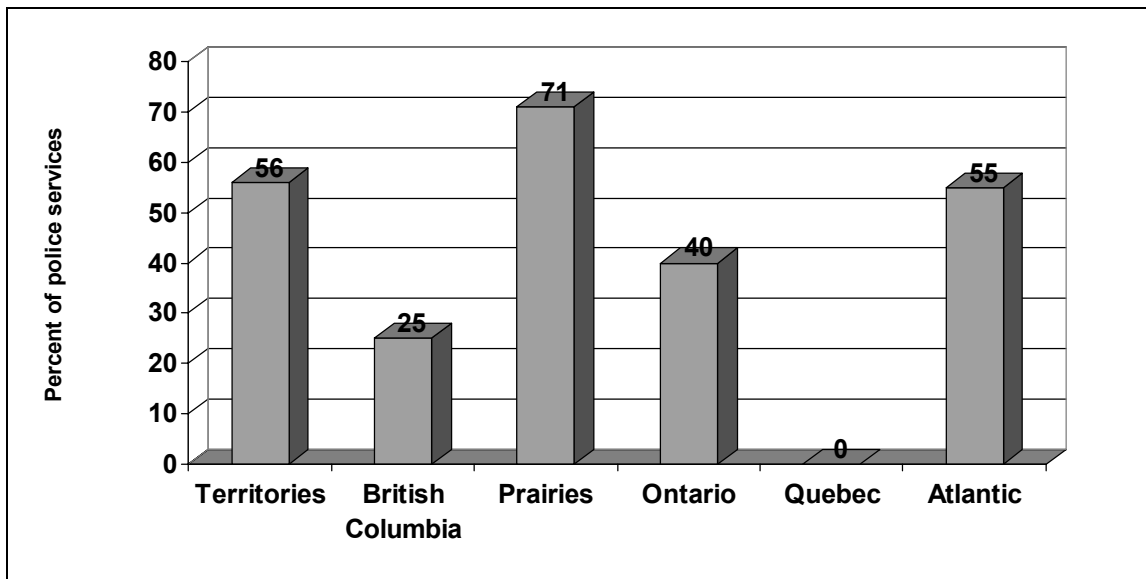
Similarly, 14% of the sample (13 police agencies) indicated they have a “kiddie stroll” where youths under the age of eighteen are involved in prostitution. Twelve were in metropolitan areas, and one in a rural or small town jurisdiction. This concentration in large cities is also consistent with Leonard’s findings: the rate of recorded prostitution-related incidents (by persons of all ages) in CMA’s was more than 12 times as high in CMA’s as in non-CMA jurisdictions (1997: Table 1). The regional distribution is shown in Figure III.15.

Figure III.15 Regional distribution of police agencies reporting teenage prostitution



40% of police services identified offences against the administration of justice (e.g. breach of conditions) as a problem.³² These were somewhat more prevalent in metropolitan areas (53%) than in suburban/exurban (32%) or rural/small town jurisdictions (36%). The regional distribution is shown in Figure III.16.

Figure III.16 Regional distribution of police agencies reporting significant numbers of administration of justice offences involving young persons



In summary, the overall numbers of police agencies in the sample which reported significant amounts of minor and major property and violent crime by young persons is consistent with statistical reports based on the UCR Survey. However, surprisingly high numbers of police agencies reported significant problems involving young people and drugs, gangs, and prostitution. All types of youth crime problems except minor property offences and minor assaults were cited most often by metropolitan police officers, and least by rural and small town police. This is consistent with statistics on crime by persons of all ages (Leonard, 1997). Just as agencies in the Prairies were most likely to report “a lot” of youth crime in their jurisdictions, so they were the most likely to cite significant problems with serious violent and property crime, youth gang problems, and administration of justice offences. The exception is teenage prostitution, which was most likely to be cited by agencies in British Columbia. Just as police agencies in the Atlantic region were most likely to say that they had “not very much” youth crime, so they were least likely to identify significant amounts of youth-related serious violent crime, or youth gangs. However, it was in Quebec that police agencies in our sample were least

³² This issue is discussed in detail in Chapter II above.

likely to mention problems with teenage prostitution and administration of justice offences.

There were no significant relationships between officers' perceptions of the types of crimes that were problems in their communities and their exercise of discretion with young offenders.

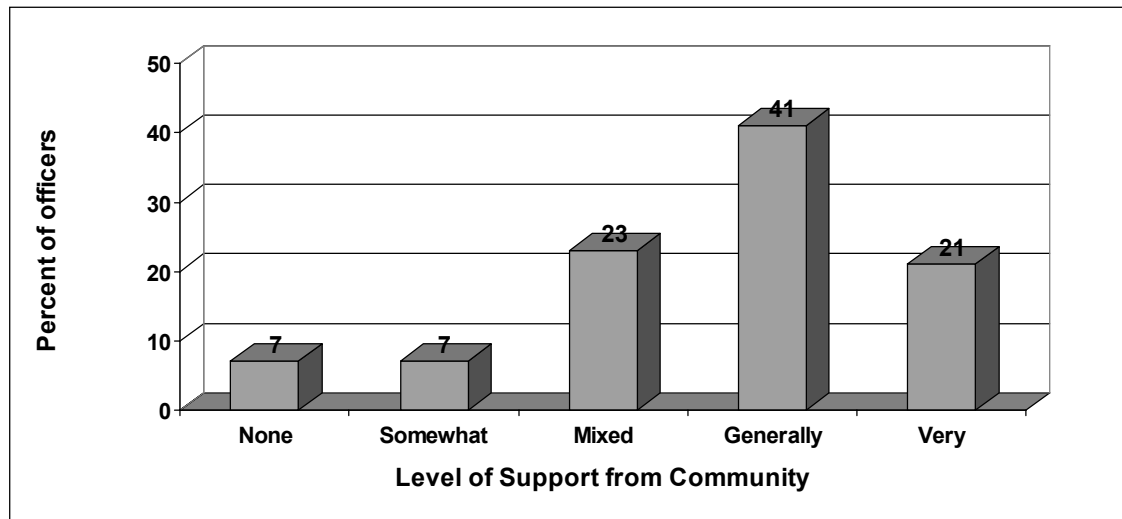
4.4 Community-police relations

Because of the importance of the community as the immediate environment of police work, and its likely impact on the ways in which officers do their work, we expected that the tone of the relationship between officers and the community would have an impact on their use of discretion. Policing has experienced a shift in philosophy over the past 15 years towards a "community policing" model, which fosters good relations between police and the community which they serve (Trojanowicz et al., 2002). According to Horne (1992), "By the 1990's, virtually every police force [in Canada] had incorporated the term 'community policing' in their written mandates." Therefore, we felt it was important to try to gauge how officers perceived the relationship between their agency and the community, and how, if at all, this affected the way in which they exercised their discretion with young persons.

We asked officers about the relationship between their agency and the community, and, in particular, if they found the community "supportive" of their work. We coded their responses into five categories. *Very supportive* includes responses where officers indicated they have strong relationships with the community and receive regular feedback as well as provide feedback. *Generally supportive* refers to relations that on average are supportive. There may be areas where the community is "not pleased"; but, on the whole, they are happy with the level and type of policing provided. *Mixed* refers to those respondents who said that the community was either neutral, or both unsupportive and supportive. *Somewhat supportive* refers to relations of lukewarm support: not hostile but definitely not overly supportive. *Not supportive* indicates answers ranging from a terse "not supportive" to that of one patrol officer, who said: "the community... they hate us".

In order to classify each police agency, we had to combine answers from more than one officer in the agency. This necessitated creating a new category - *multiple answers* - denoting police agencies in which the officers who were interviewed disagreed on the quality of community-police relations. 54% of the agencies and detachments in our sample fell into this category, indicating a great deal of disagreement (which was not evident in most of the other interview topics). Therefore, we explored this topic using the individual police officer, rather than the police agency, as the unit of analysis. Only 56 of the 194 officers in the sample answered this question. Figure III.17 shows the distribution of responses.

Figure III.17 Officers' perceptions of community-police relations



The results are generally consistent with other Canadian research.³³ 62% of the respondents indicated that the relationship with the community is either “generally supportive” or “very supportive”. Almost one-quarter (23%) suggested the relations are neither supportive nor unsupportive. Only a minority of respondents (14%) reported the relations with the community as “somewhat supportive” or “not supportive”.

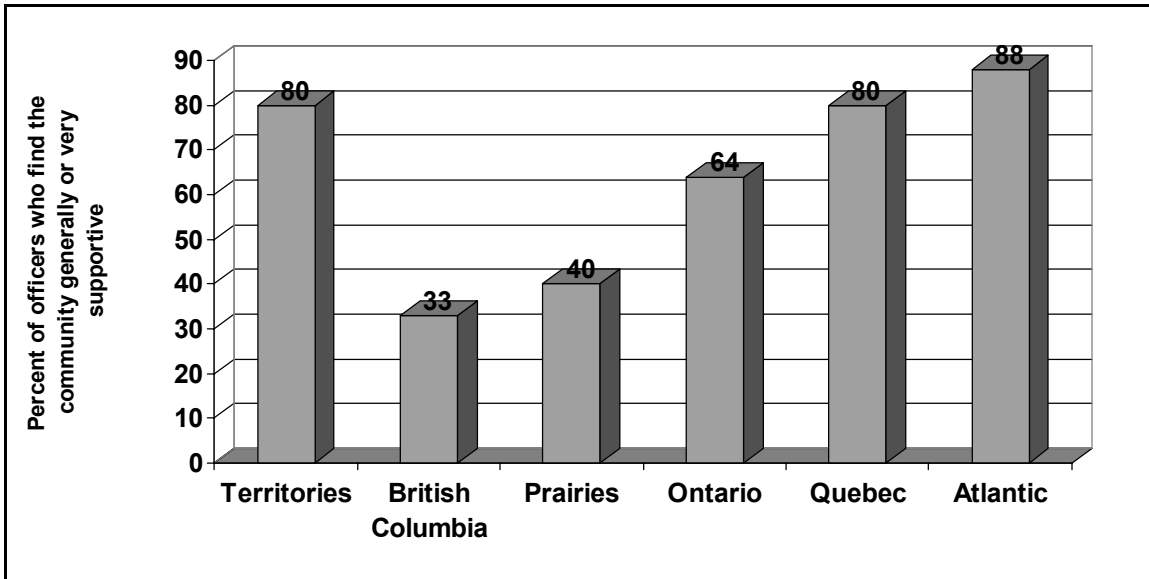
Police in suburban and exurban jurisdictions tended to perceive more support from the community than those in metropolitan or rural/small town jurisdictions. 83% of suburban/exurban officers found the community generally or very supportive, compared with 63% of rural/small town, and 56% of metropolitan officers. Similarly, no suburban/exurban officers found the community not supportive or only somewhat supportive, versus 6% of rural/small town officers and 33% of those in metropolitan police services. The regional distribution of responses is shown in Figure III.18.

Some previous research has found “mutual distrust and suspicion” between aboriginal Canadians and police (Griffiths and Verdun-Jones, 1994: 92). Although we did not ask directly about relations with aboriginals, the answers to our question about police-community relations provide some support, though it is not strong, for this view. Officers in agencies which have jurisdiction over a First Nations reserve are less likely to find the community generally or very supportive than other respondents (46% versus 67%). Those in agencies which have a reserve nearby, which they do not police, are also less likely than other officers to find the community generally or very supportive (50% versus 65%). Those in agencies which have significant numbers of off-reserve aboriginals in the community which they police are also less likely to find the community generally or very

³³ Reviewed by Griffiths and Verdun-Jones (1994: 89-92).

supportive (56% versus 66%), and are also twice as likely as other officers to find the community not supportive or only somewhat supportive (22% versus 11%).

Figure III.18 Regional distribution of police officers' perceptions of community support



There were no systematic relationships between different levels of supportiveness in community-police relations and the exercise of discretion with young offenders. One minor exception is that officers who perceive the community to be generally or very supportive are more likely (28%) than officers in less supportive communities (0%) to work in an agency which uses an appearance notice with very minor offences.

Generally, officers seemed to feel that good community-police relations facilitate their work but do not influence how they exercise their discretion in youth-related incidents. Looked at from another perspective, the absence of relationships between perceived community-police relations and the exercise of police discretion suggests that the community's support for their police is rarely affected by the way in which the police do their job.

5.0 Summary

The nature of the environment in which an organization functions has a strong effect on the way in which its members do their work. Members of an organization who are in close and regular contact with the environment – “boundary personnel” – are particularly susceptible to its influence. Front-line officers and supervisors whose positions require them to exercise discretion with apprehended youth certainly fit the description of

boundary personnel. However, police in management positions are also boundary personnel, because their decision-making is subjected to scrutiny and comment by the community and its representatives. Therefore, police at all levels of the organization may be expected to be sensitive to the influences of environmental variables.

In this chapter we examined several aspects of the policing environment and attempted to assess the extent to which they affect police decision-making with young persons. We began by reviewing the provisions of the most relevant **federal legislation** and concluded that - apart from the analysis in Chapter II of UCR data on changes over time in charge rates - we were unable to assess the impact of federal legislation on the exercise of police discretion. However, this report, in its entirety, can be seen as the first half of a possible assessment of the impact on police decision-making of the Youth Criminal Justice Act, because it depicts the exercise of police discretion just prior to that Act's coming into force. Thus, the information in this report can be used as baseline data, against which the exercise of police discretion under the new Act can be compared.

We reviewed two aspects of provincial policies and procedures: the delivery of Alternative Measures programs, and the locus of the decision to lay a charge – whether the decision is made by police or by the Crown. By comparing data on provincial charging levels from the UCR2 Survey, we inferred that the use by a province of **post-charge Alternative Measures**, whether exclusively or predominantly, appears to result in net-widening; that is, the laying of charges against youth who would, in other provinces, have been dealt with by pre-charge alternative measures. We found no evidence that **pre-charge Alternative Measures** results in net-widening; that is, no evidence that youth who are referred to pre-charge AM would, in its absence, have been dealt with by informal action. However, the UCR2 data are incomplete, and the reasoning from provincially aggregated data is necessarily indirect, so these conclusions must be somewhat tentative.

Police in two provinces – Quebec and British Columbia – told us that their decisions are subject to **Crown screening**: that is, police submit a recommendation to charge, and the Crown makes the final decision. However, crucially, it is police who make the decision to use informal action, as in the other provinces. It is difficult to assess the impact on police decision-making of Crown screening in Quebec, because Crown screening is only one aspect of a unique system of youth justice in that province. However, many police officers in British Columbia told us that they prefer to use informal action and pre-charge diversion (e.g. to a Youth Justice Committee; see below) wherever possible with apprehended youth, because these represent immediate and certain consequences; whereas, the response of the Crown to a recommendation to charge is unpredictable. UCR data show that the two Crown screening provinces currently have the lowest rate of charging of apprehended youth in Canada; however, this is a relatively recent phenomenon, and is therefore not necessarily due to Crown screening itself.

The availability of **external resources** to which apprehended youth can be diverted is seen by many police officers as crucial to their ability to avoid laying a charge. This availability varies widely. They are much more common in metropolitan jurisdictions

than in suburban/exurban or, especially, rural communities and small towns. However, they are seen by officers as inadequate in all types of communities and all parts of Canada. In all provinces and territories, officers felt that they did not have the appropriate external resources for the effective handling of youths with alcohol or drug addiction, anger management issues, or mental illness (including Fetal Alcohol Syndrome/Fetal Alcohol Effect). Officers in many police agencies said that there were absolutely no programs available for young people with these problems. Lack of suitable diversion programs is associated with increased use of charging, and with increased use of detention. When there is no available agency to which police can release a youth in need of immediate supervision or intervention, then they sometimes feel constrained to hold the youth for a bail hearing (Chapter II, Section 7.5).

We looked at several characteristics of the community in which the police work. Some research, especially in the U.S.A., has found that **urbanization** is associated with higher crime rates and higher levels of formal action by police; whereas, there is less crime and a more neighbourly atmosphere in rural areas and small towns, and a corresponding less formal policing style. In Canada, there is no relationship between urbanization and the crime rate. Crime rates in small places are as high as those in the largest cities. However, youths commit more serious violent crime and property crime, and more gang-related crime, in metropolitan areas. Another major difference between the Canadian and American situations is that most rural areas and small towns in Canada are policed by detachments of three very large, professional, and bureaucratic police services – the RCMP, OPP, and Sûreté du Québec; whereas, in the U.S.A., small towns and rural areas are often policed by elected sheriffs or small-town police forces recruited locally. The findings from the interview data suggest a different style of policing in rural and small town areas, and also some differences between policing in urban centres and their suburban and exurban fringes. Rural and small town communities have a distinctive social climate that appears also to influence police decision-making. With a higher density of acquaintanceship, rural and small town officers feel more accountable to the community. On the other hand, detachment commanders in the RCMP and OPP are accountable to their superiors, and, ultimately, to headquarters in Ottawa or Orillia. Rural and small town officers whom we interviewed – whether in independent municipal agencies, or RCMP or OPP detachments - suggested that the communities they police want the police to be tough on youth crime but not to incarcerate their youth. Officers in rural areas and small towns appear to make more use of informal action, but less use of pre-charge diversion, than officers in metropolitan and suburban jurisdictions. Rural/small town and suburban/exurban jurisdictions are particularly likely to have no external agencies to which police can divert youth: almost half of the officers whom we interviewed in non-metropolitan communities said that they are *never* able to make referrals to external agencies. Officers in rural/small town communities and in suburban/exurban communities are more likely to use a summons to compel appearance, because they do not face the same problems of serving it as do officers in larger centres; and officers in rural areas and small towns are less likely to detain a youth for a JIR hearing, because the distance to the nearest youth detention facility makes access problematic, both for the police and for the youth's family. There are also some

differences between metropolitan and rural/small town police in the types of conditions used in OIC Undertakings when releasing on a Promise to Appear.

The criminological literature suggests that crime and formal policing methods are more prevalent in poor neighbourhoods. One-quarter of the police services in the sample said that there was a **poverty problem area** in their jurisdiction: an area characterized by extreme poverty, in which youth crime was a particular problem. There were more prevalent in the Prairies and in metropolitan jurisdictions. However, there were only small differences in the use of discretion between these police services and those which did not identify such an area in their jurisdiction – perhaps because we measured the use of discretion by entire police services (or detachments), rather than in particular neighbourhoods. Police services which identified a poverty problem area are slightly more likely to charge apprehended youth, according to UCR data; they are slightly less likely to use informal action, according to the interviews. They are more likely to use an appearance notice than a summons, less likely to arrest a youth and take him or her to the police station, more likely to attach certain conditions to a release Undertaking; and more likely to detain for a JIR hearing. It is possible that some or all of these differences may be due to the prevalence of this type of problem area in metropolitan areas.

Significant numbers of **transient youth** were mentioned by officers in 28% of the police services, particularly in Ontario and the Atlantic provinces. UCR data indicate no difference in charge rates between these and other police services. According to the interview data, officers in police agencies dealing with transient youth are more likely to use informal action, more likely to use an appearance notice than a summons, and more likely to detain for a JIR hearing, than officers in other communities.

Officers in 32% of the police services mentioned significant numbers of **tourists** in their jurisdiction. No differences in the use of discretion with youth were evident between these and the other police services in the sample.

The literature on the history of police-aboriginal relations in Canada suggests that they have been characterized by conflict and mutual distrust. 42% of the agencies in the sample said that they have jurisdiction over significant populations of **aboriginal peoples**, living either on- or off-reserve. They are more prevalent in the Territories, British Columbia, and the Prairies. The UCR data indicate that police services which police *off-reserve* aboriginals have rates of charging apprehended youth which are a little higher than other police agencies. The interview data indicate that police agencies with jurisdiction over aboriginal populations are slightly more likely than other police services to use informal action, twice as likely to refer youth to a Restorative Justice program, less likely to use summonses or appearance notices, more likely to use a Promise to Appear and an OIC Undertaking, and more likely to detain for a JIR hearing because the youth is a repeat offender, is intoxicated, or for the youth's safety.

Concerning the **level of youth crime** in the community, 29% of police services said they had “a lot”, 17% said “not very much”, and the others indicated “a normal amount”. Perceived high levels of youth crime are more common in the Prairies and the Territories,

and in metropolitan areas. UCR data indicate that police agencies in communities with “not very much” youth crime have higher rates of charging apprehended youth than others. These are confirmed by data from the interviews, which suggest that police officers tend to use more discretion if they identified their jurisdiction as having a lot of youth crime. They are more likely to use various forms of informal action and pre-charge diversion, and they are more likely to detain for a JIR hearing and to cite “legalistic” rather than social welfare reasons for detention: a serious offence, multiple breaches (of probation orders, OIC undertakings, or bail conditions), if the youth is already before the courts, or repeat offenders.

When we asked about the **types of youth crime** which are characteristic of their jurisdictions, officers in most police services reported, not unexpectedly, that they deal with high levels of minor property crime and minor assaults. Three-quarters of the police agencies also perceive high levels of serious property crime by youth, especially break and enter. One-quarter identified a problem of serious violent youth crime. These were more prevalent in metropolitan areas and in the Prairie provinces. One-quarter identified a problem of youth gangs; these were also more common in metropolitan areas and the Prairies. Surprisingly, 80% of the police services in the sample perceive a serious problem of drug-related crime among youth in their jurisdictions. These are spread across all the provinces and territories, and in all types of communities, although they are slightly more prevalent in the Territories, and in metropolitan jurisdictions. 14% of the police services, all but one in metropolitan jurisdictions, and many in British Columbia, identified a problem of teenage prostitution. We found no significant relationship between the types of youth crime identified in a jurisdiction, and the exercise of discretion with young persons in that jurisdiction.

The characterizations by respondents of **police-community relations** in their jurisdictions are consistent with the results of previous research. About two-thirds of respondents found the community to be generally or very supportive of the police; one-quarter offered fairly neutral or mixed assessments, and 14% found the community to be only “somewhat” or “not” supportive. Police in suburban/exurban jurisdictions were most likely to find the community generally or very supportive; those in rural/small town agencies were slightly more likely to find the community generally or very supportive than those in metropolitan agencies. Police in British Columbia and the Prairies, and those which have jurisdiction over a significant aboriginal population, are less likely than other officers to find the community generally or very supportive. We found no relationship between the exercise of police discretion with youth and the perceived level of community support.

IV. Organizational Factors Affecting Police Discretion

In this chapter, we discuss factors related to the police force as an organization, drawing on organizational theory in general, and, in particular, its application to police organizations. We have deliberately avoided applying broad classificatory schemes such as Wilson's (1968) classic typology of watchman, legalistic, and service styles of policing. Our purpose in this report is not to develop a scheme for classifying Canadian police forces, but to identify specific aspects of their structure, operations, and orientation which affect the ways in which their members exercise their discretion in dealing with youth crime. Therefore, we present a list of organizational characteristics and discuss to what extent each of these appears to influence police decision-making.

This report was commissioned by the Department of Justice in support of the implementation and evaluation of the Youth Criminal Justice Act (YCJA). An understanding of the organizational factors affecting police discretion with youth is relevant to the implementation of the YCJA because almost all of these aspects of police organization are mutable. Police forces which want to modify the ways in which their members exercise their discretion with young offenders, in order to conform to the specific provisions and general intent of the YCJA, can effect change to most of the aspects of police organization and culture which are identified here as affecting the exercise of discretion – although organizational change can be difficult and fraught with risks and unanticipated consequences (Cordner & Sheehan, 1999; Grosman, 1975). Presumably, federal and provincial policy-makers in the areas of policing and youth justice can play a role in encouraging such changes.

The internal structure, processes, and orientation of an organization have a large effect on the behaviour of its members (Hall, 2002). In relation to the exercise of individual discretion, it is generally (though not universally) accepted that the more formalized, or *bureaucratic*, an organization is, the less opportunity, and perhaps motivation, its members will have to use their own judgment in carrying out their duties. Indeed, bureaucracy – by which we mean the application of rationality to organizational design and action through the formalization, standardization, and depersonalization of organizational roles and decision-making (Weber, 1947) – can be seen as a mechanism by which the organization exerts coordination and control over the decision-making of its members (Perrow, 1972: 56). In relation to policing, Grosman characterizes bureaucracy as:

...a refined organizational mechanism for the most efficient implementation of goals and the provision of services.
(1975: 31)

In the extreme case, bureaucratization can eliminate individual discretion and initiative:

...Impersonal rules delimit, in great detail, all the functions of every individual within the organization. They prescribe the behaviour to be followed in all possible events.
(Crozier, quoted in Hall, 2002: 168).

Bureaucratization is seen as one aspect of the modernization of policing (Murphy, 1991). The formal structures of police organizations, and their relationships with the performance of individual officers, have been studied by several researchers (Alpert & Dunham, 1992; Crank, 1990; Fisk, 1974; Franz & Jones, 1987; Harrison & Pelletier, 1987; Klinger, 1997; Morash, 1984; Riksheim & Chermak, 1993; Walker, 1992). Research has demonstrated that organizational factors do influence arrest rates for all offence categories to varying degrees (Crank, 1990, 1992; Slovak, 1986; Wilson, 1968). Aspects of police organizational structure which have been associated by researchers with police behaviour include: bureaucracy, professionalization, size, stability of assignment, and supervisor's span of control (Seagrave, 1997: 143-144).

In addition to the structure of the police service, officers are influenced by its orientation. The emerging role of the front-line officer involves prevention, diversion, and enforcement (Hornick et al., 1996). The basic organizational structure of a police department is built with these duties or functions as the cornerstones. Reiss (1974) contends that the exercise of discretion depends upon the task organization of law enforcement agencies. One concern is the minimization of organizationally induced role conflict. The organization can apply differential levels of stress, depending on the types of activities that management supports and encourages within the occupational environment (Skolnick, 1967). The management style of a police force may support or discourage the use of police discretion. If there is a lack of congruency between what police officers are officially supposed to do (use their discretion) and what they are in fact rewarded for, then there will be a high degree of role conflict, and the possibility of a higher reliance on formal action.

Wilson (1968) began the investigations into the jurisdictional variations in arrest rates from an organizational standpoint. He attributed policy style to the characteristics of the organization in relation to discretion. His research indicated three models of management styles: legalistic, service, and watchman. These, in turn, are strongly related to the structure of the police force, and to the environment in which it operates. In the legalistic model, there is an emphasis on the strict enforcement of laws, resulting in a limited use of discretion by officers. Under this law enforcement approach, universal standards are applied to all communities within a given jurisdiction. Further, departments that operate under this model lean towards a highly specialized division of labour involving a high supervision of front-line officers. Departments that exhibit high arrest rates are seen as using a more aggressive 'legalistic' police style (Crank, 1990; Slovak, 1986). Departments that adopt a 'service' management style are characterized by a decentralization of authority, a high emphasis on community relations, and front-line officers taking a broad view of their role through the exercise of initiative, independence and discretion (Wilson, 1968). Within the service orientation, community-based interventions are seen as viable alternatives to charging with less serious offences (Conly,

1978). Finally, departments who have adopted a 'watchman' model emphasize the maintenance of order and the status quo thereby limiting opportunities of initiative and the decentralization of authority and responsibility (Wilson, 1968). These organizational distinctions are determined by one or more factors that include either internal departmental policy, municipal government police policy, provincial child welfare and juvenile justice legislation, federal juvenile justice legislation, and resource allocations from these sources (Conly, 1978).

The distinction in management style appears most frequently when comparing urban and rural police forces. Crank suggested that the legalistic management and policing style is "a latent function of organizational survival in turbulent urban environments" (1992: 403) and that rural communities are in a better position to adopt a service model.

Organizational variables consistently explained more variance than environmental variables within urban departments (Crank, 1990; Swanson, 1978). Research conducted in British Columbia compared RCMP and municipal police officers and found differences in the constraints which their respective organizations place on the individual officer - with the RCMP being more bureaucratic and hierarchical (Seagrave, 1997). In short, these authors suggest that structural variation and its influence on police behaviour are likely to emanate from the organizational dynamics inherent within the management styles adopted.

According to Seagrave (1997: 144), there is practically no Canadian research on the relationship between organizational aspects of police services and the exercise of police discretion. In this chapter, we discuss the aspects of the police organization which emerged in the course of the interviews as possible influences on the exercise of discretion with young persons. Structural attributes include: the size of the police service, indexed by the number of officers; the degree of centralization, or horizontal differentiation into semi-autonomous divisions; the degree of hierarchy, or vertical differentiation into ranks and positions; the extent of functional specialization related to youth crime, and the locus of authority and responsibility to lay a charge against a young person – or to recommend charging, if the decision is made outside the police service. Aspects of the police agency's orientation which we examine are: the degree of proactive versus reactive policing; the level of support for community policing; the adoption of problem-oriented policing; and the level and types of involvement in crime prevention initiatives.

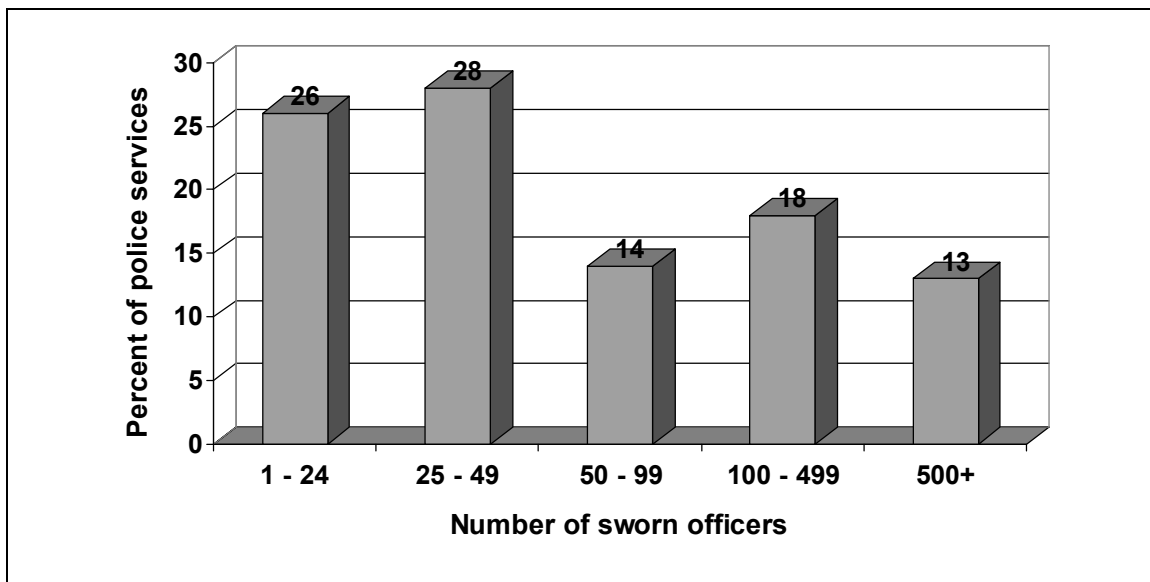
1.0 Size

The size of an organization – usually measured by the number of employees or members – is seen by some organizational theorists as its most fundamental characteristic, since so much else about the organization is determined by its size. The larger the organization, the more complex and bureaucratic it becomes, as those at the top struggle to coordinate and control the activities of more and more people (Blau & Schoenherr, 1971; Caplow, 1965; Grusky, 1961; Meyer, 1968). On the other hand, some organizational researchers

have found that organization size is not necessarily a crucial determinant of other organizational characteristics and behaviour (Hall et al., 1967).

The police services and detachments in the sample vary enormously in size. The smallest has 2 sworn officers, and the largest has 5,028. The average size is 274 officers, but the median size – i.e. the size of the police service which is midway between the smallest and largest in the sample – is 40 officers. The distribution of the size of the police organizations in our sample – measured by the number of officers – is shown in Figure IV.1.

Figure IV.1 Distribution of the sizes of police services in the sample

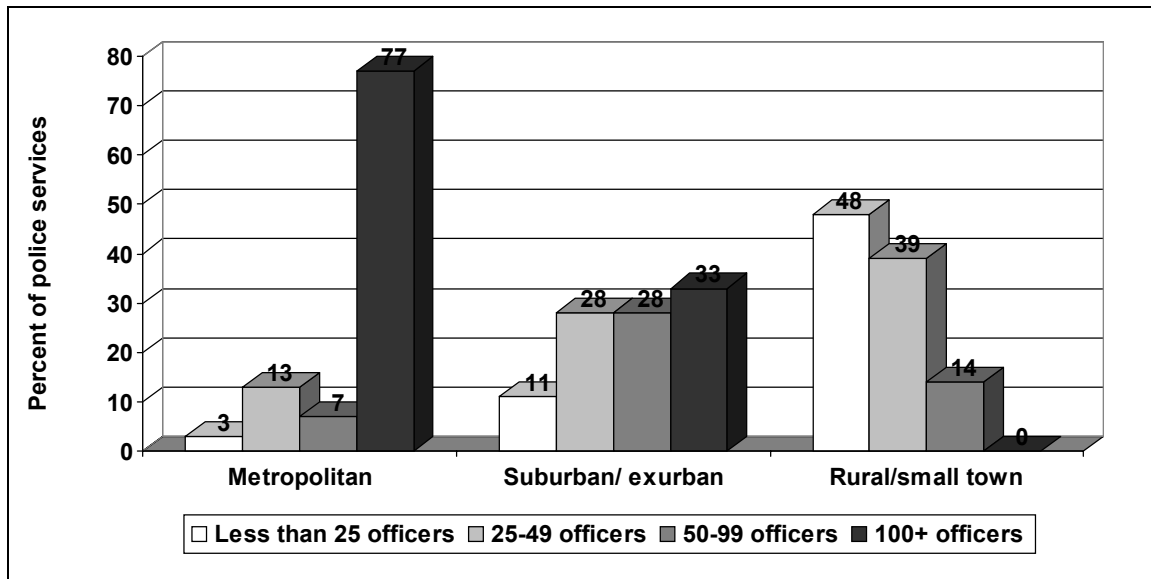


We did explore the relationship between the size of the police organizations in the sample and aspects of their exercise of discretion. However, we were unable to draw any conclusions from the interview data about the *impact* of organization size on police discretion, because of the confounding effect of community size. The size of a police service – unlike that of most other organizations – is very strongly determined by the size of the community which it serves (Figure IV.2). The ratio of community population to officers (“Pop to Cop” in police jargon) varies within only a narrow range in Canadian police services; rarely less than 500 or more than 1,000 (see, e.g., Dunphy & Shankarraman, 2000). Thus, all the aspects of police decision-making which are associated with the size of the community are related in just the same way with the size of the police service, and the impact of agency size cannot be distinguished from that of community size.¹ Since the size of the community is antecedent to the size of the police agency which serves it, we have treated the aspects of police decision-making from the

¹ This is true although, in our study, communities were not classified strictly by population (see Chapter III, Section 4.1).

interview data which are associated with both of them as effects of community size, and discussed them in Chapter III, Section 4.1, above; and will not repeat the discussion here.

Figure IV.2 Size of police services, by type of community



In Chapter III, Section 4.1, we found that rates of apprehended youth who were charged by police during 1998-2000, according to the UCR Survey, varied with the type of community: metropolitan police services charged, on average, 66% of apprehended youth, suburban/exurban services charged 57%, and rural and small town agencies charged 61%. There is no simple relationship between the size of the police service and its propensity to charge: the smallest agencies (1-24 officers) had the highest average rate of charging of apprehended youth (69%), followed by agencies with 100-499 officers (67%), 500 or more officers (66%), 25-49 officers (63%), and agencies with 50-99 officers (56%).

2.0 Centralization

In organizational theory, the terms *centralization* and *decentralization* refer both to function and to decision-making authority. Functional decentralization refers to the allocation of tasks among subunits in such a way that each subunit carries out all, or almost all, of the functions of the organization, but within a restricted domain. For example, a manufacturing business which has geographically dispersed units may be decentralized, so that each unit operates like an independent manufacturer, subject only to the control and coordination of the headquarters. Or it may be functionally centralized, with each geographical unit doing only one part of the business, and therefore unable to carry on business without the integrated cooperation of the other subunits. Decentralized

decision-making refers to the delegation of decision-making authority to subunits, under the overall coordination of headquarters; whereas centralized authority denotes the retention of decision-making authority in the hands of headquarters. Local discretion is increased, by definition, by decentralization of decision-making; and may also be increased by functional decentralization, since the necessity for headquarters to coordinate the operations of subunits is drastically reduced in a functionally decentralized organization (Hall, 2002: 73-74; Mackenzie, 1978: 195-242; Weber, 1947: 404). No organization of any appreciable size is perfectly centralized or decentralized: the key question is the “choice of which functions or activities are to be performed or controlled by a ‘headquarters’ unit” and which are to be delegated to subunits (Mackenzie, 1978: 201).

The concepts of centralization and decentralization can be applied at different levels to policing in Canada. At the national level, policing in Canada can be seen as relatively decentralized, since responsibility for policing is dispersed among ten provincial and a large number of municipal governments, with some participation by the federal government. Thus, there are a large number of entirely independent units, or police agencies, each providing a complete policing service to its geographical jurisdiction. This can be contrasted with the much more centralized form in Europe, where the national government exerts close control over policing (Grosman, 1975: 56). On the other hand, there is considerable centralization, in the form of the provision of policing services to many jurisdictions in Canada by three large police agencies: the Royal Canadian Mounted Police, Ontario Provincial Police, and the Sûreté du Québec. These three agencies offer the interesting paradox that although their involvement in municipal and rural policing represents a centralizing tendency, nevertheless they themselves have adopted, probably by necessity, a relatively decentralized approach to municipal and rural policing (see below).

However, under the pressures of modernization and professionalization, and the trend toward amalgamation of municipal services and municipalities in general, the broad structure of Canadian policing is becoming more centralized, as small, local police services are replaced by regional or provincial police agencies (Grosman, 1975; Murphy, 1991).²

At the municipal or regional level, the majority of Canadian metropolitan areas have one police force, which is responsible for the entire geographical area of that city or region (e.g. Toronto Police Service, Niagara Regional Police Service). Within its jurisdiction, the police force is organized into geographical divisions that have jurisdiction over a particular area of the city. However, other metropolitan areas have several autonomous police departments within the larger geographical city or region (e.g. Vancouver). It is difficult to determine the effect of this kind of geographical or jurisdictional centralization/decentralization on the use of discretion, although Conly suggests the

² This is particularly true in the Province of Québec; see Ministère de la Sécurité publique du Québec, 2002a, 2002b.

possibility of a shift from one model to another having a “significant implication for youth policing” (1978: 56).

Our own research suggests that Conly’s use of geographical jurisdiction as the criterion of centralization is less useful than a consideration of the internal structure of *individual police services*. Internally centralized and decentralized police agencies are responsible for entire geographic areas of a city or region, and for parts of a metropolitan area. We define a centralized police service as one which is characterized by close control exerted by headquarters over all policing activities within that agency’s jurisdiction. A centralized service may have several geographic divisions within its region; however, they are not autonomous, and all operations, policy, procedure, and programming are closely controlled by the central administration. In a decentralized police service, the geographic divisions, and even the neighbourhood sub-units, have considerably more autonomy (Seagrave, 1997: 208). Our hypothesis, derived from the organizational literature, is that decentralization increases the exercise of discretion by police officers. For example, Brown (1981b: 259) argues that decentralization has the effect of placing “...decision-making processes at the lowest possible or optimum levels,” while freeing top management to concentrate on setting objectives, defining strategies, and allocating resources.

Although police agencies in Canada, like most other organizations, fall along a continuum with respect to their degree of centralization, we classified our sample into two categories – centralized and decentralized - in order to analyze the impact, if any, of the degree of centralization on the exercise of discretion with youth. For example, we consider the RCMP contract provincial and municipal policing services to be a decentralized police agency. General direction is issued from Ottawa and the regional and provincial Divisional headquarters; however, much of the day-to-day procedure and crime prevention programming is determined at the detachment level. Similarly, the Toronto Police Service, which was classified as a centralized department by Conly (1978), is now decentralized under our definition, since our information suggests that each geographic division currently has considerable autonomy. In contrast, the Vancouver Police Department (classified as decentralized by Conly) is centralized in our classification, as the various divisions are all under fairly close control by head office.

Using this classification scheme, 48% of the police agencies in our sample are centralized and 52% are decentralized. However, 100% of RCMP and OPP detachments are classified as decentralized; whereas, only 20% of independent municipal forces are so classified. The relationship between the size of the police service and decentralization is curvilinear (Figure IV.3). The reason for this is that the smaller police services tend to be detachments of the RCMP and OPP, which are all classified as decentralized; and presumably the largest police services (with 500 or more officers) tend to decentralize because it is not feasible for headquarters to manage the volume of information and decision-making generated in such large organizations (Mackenzie, 1978: 213). Leaving aside the RCMP and OPP, *no* independent municipal services with less than 100 officers, and only 7% of those with 100 to 499 officers, are decentralized. Decentralized police agencies are found in all types of communities, as is shown in Figure IV.4.

Figure IV.3 Proportion of decentralized police agencies, by size of police service

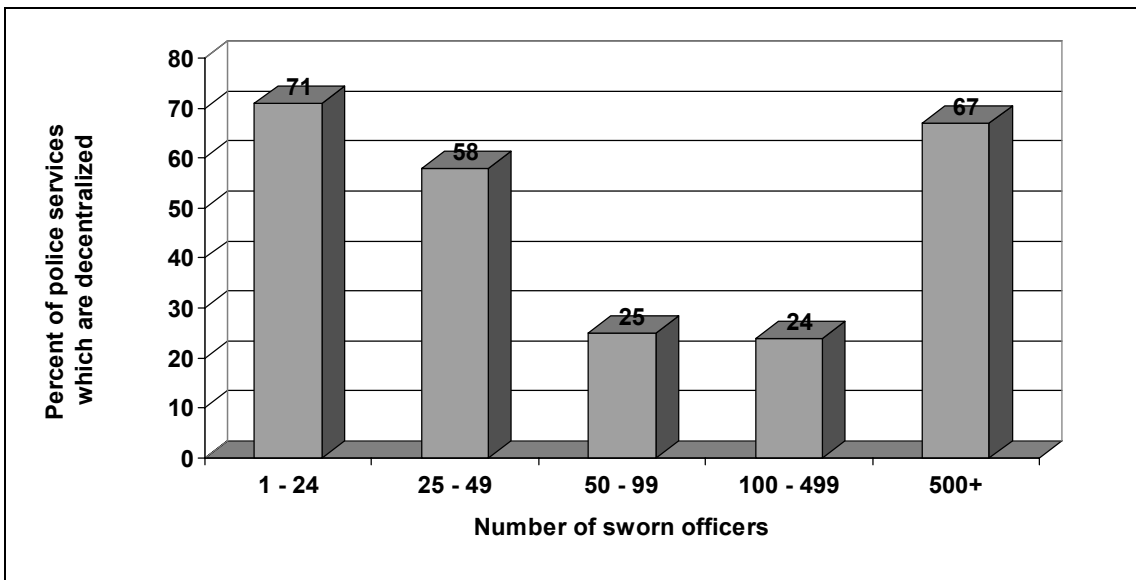
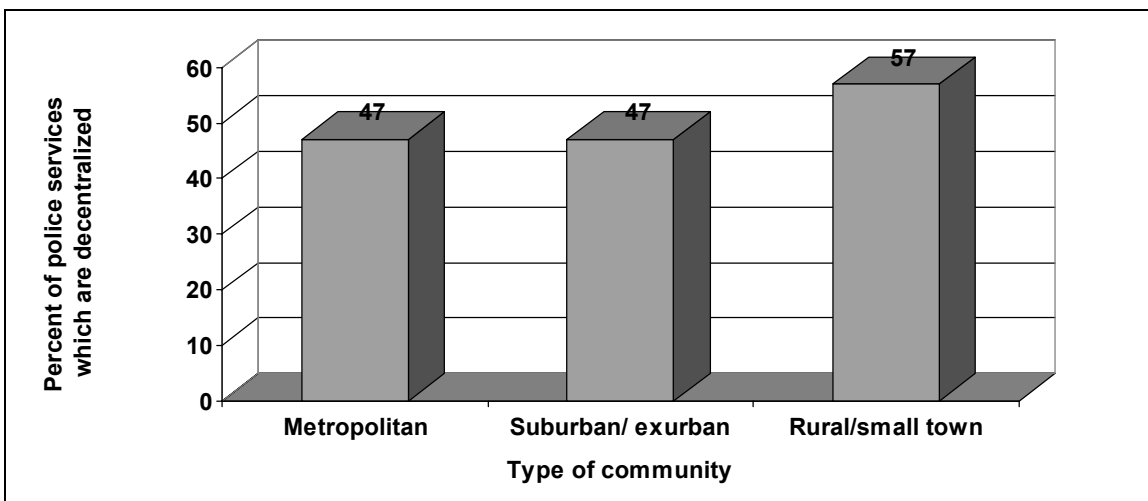


Figure IV.4 Proportion of decentralized police agencies, by type of community



These two groups do differ somewhat in their decision-making processes with young offenders.

Decentralized police agencies are more likely to say that they use informal action (89%) than centralized ones (64%). In choosing modes of informal action, decentralized agencies are also more likely to take a young person home (85%) than centralized agencies (64%). No differences were evident for other forms of informal action.

No difference was found between the proportion of apprehended young persons who were charged (according to UCR data for 1998-2000) by centralized and decentralized agencies, when other related factors, such as the type of policing and type of community were controlled. Due to small numbers, the only comparison which could be made using UCR2 data was between centralized and decentralized *municipal* police services in Ontario – and even this must be interpreted with caution, since only four of each type of agency reported to the UCR2 in 2001. The four centralized agencies charged, on average, 80% of apprehended youth and used informal action with 18%. The four decentralized agencies charged 72%, and used informal action with 26%, of apprehended youth.

According to the interviews, the use of pre-charge alternative measures involving community based restorative justice is more prevalent among decentralized agencies (35%) than centralized ones (16%).

Differences in methods of compelling appearance are also evident. Decentralized police services are twice as likely to say that they “rarely” use an appearance notice (42% versus 20%) but are more likely to say that they use a summons with minor offences (50% versus 30%).

When officers arrest and bring a youth back to the police station, those in decentralized agencies are more likely to release the young person on a promise to appear (56%) than centralized services (36%). Similarly, 75% of the decentralized agencies gave “release without detention” as a reason to use a PTA, compared to 45% of the centralized police services. Decentralized agencies are also more likely to mention using a PTA “with a minor offence” (21% versus 9%) and/or with an OIC undertaking (71% versus 50%). Decentralized agencies are twice as likely as centralized ones to attach the conditions of no go, no association, keep the peace and be of good behaviour, no alcohol or drugs, and a curfew.

These findings are not due to a systematic difference in the type of community in which these two types of agencies work, as decentralized agencies exist in all types of communities (see Figure IV.4). What these findings, and our discussions with officers, suggest is that decentralization may permit decision-making which is informed by the nature and “needs” of the community (cf. Normandeau & Leighton, 1990). In a decentralized agency, officers on the street have more influence on the formulation and interpretation of policies and protocol. This can result in decision-making processes that reflect the types of youth-related incidents these officers encounter and not a prescribed formula for the use of formal action.

Therefore, it is at first puzzling that 42% of the decentralized agencies in our sample “almost always” arrest and detain “due to departmental policy” compared to one-quarter (27%) of the centralized agencies. The reason for this anomaly is that a substantial number of the police services which we have classified as decentralized are detachments of the OPP (see above). The OPP presents an interesting combination of centralization and decentralization, which to some extent defies our simple dichotomous classification.

Policy and protocol are developed by, and implemented from, OPP Headquarters in Orillia. However, OPP detachments police rural areas and small towns across the province, and each detachment tends to develop programming in response to the nature of the local community. Our interviews with OPP officers (who came mainly from detachments in Northern Ontario) suggest that, on the whole, OPP detachments have enough operating autonomy and responsiveness to the community in their decision-making with young offenders to be classified as “decentralized” agencies. Nevertheless, in the particular matter of which youth-related offences “almost always” result in arrest and detention, their decisions are determined by policy issued by Headquarters.

There are some small differences between centralized and decentralized agencies in the reasons given for detention for a JIR hearing. Decentralized police agencies are more likely to say that they “follow the law” when detaining young offenders (92% versus 73%). Similarly, they are also more likely to say that they will detain a youth who has multiple breaches of probation, OIC undertakings, and bail conditions (46% versus 27%). They are twice as likely as centralized agencies to say that they will detain a repeat offender (63% versus 32%).

These findings suggest that this aspect of organizational structure does have an influence on police decision-making with young offenders. However, the *degree* of influence cannot be measured precisely with these data. What we concluded from discussions of this issue with police is that centralization may limit the opportunities for adaptation to local conditions, and the exercise of police discretion with youth. This is consistent with the organizational literature: according to Mackenzie (1978: 203), writing about decentralization in business organizations, “...Each division knows its own markets and conditions better than headquarters”; and Hall (1972: 228) writes, “...delegation and decentralization...allow increased flexibility and discretion”.

3.0 Hierarchy

The degree of hierarchy in an organization can be measured in various ways (Hall, 2002). One simple approach is to count the number of vertically differentiated positions. In a police service, vertical differentiation has two manifestations: the functional position of authority, such “Officer in Charge of the GIS Division”, and the rank. These two hierarchies are so closely correlated that they can be considered together. The typical authority/rank structure has three levels: (i) Executives/Upper Management (the ranks of Chief, Deputy Chief, Superintendent), (ii) Middle Management (Inspector, Staff Sergeant, Sergeant), and (iii) Front-line (Constable). Variations depend mainly on the size of the force. For example, some Ontario police services have nine ranks, with the addition of Staff Superintendent and Staff Inspector. Smaller police forces may exclude the rank of Superintendent, Inspector and Staff Sergeant. In comparison, a very large police force such as the RCMP, has ten ranks. On May 1, 2001, the RCMP had 20,866 members, classified as follows: Commissioner (1), Deputy Commissioner (6), Assistant Commissioner (25), Chief Superintendent (46), Superintendent (106), Inspector (284), Staff Sergeant (677), Sergeant (1,499), Corporal (2,770), and Constable (9,698) (Royal

Canadian Mounted Police, 2002).³ Some police forces have eliminated the position of Inspector in order to flatten the hierarchy (e.g., Edmonton Police Service), and the RCMP has been reported to be considering reducing the numbers of officers in middle management (Seagrave, 1997: 39).

The literature on policing has drawn attention to the links between the degree of hierarchy in the department, and the exercise of police discretion. According to Brown (1981b: 259), Canadian police forces in the 1970's had too many levels of hierarchy: "...The resulting many-layered command structure precludes effective decentralization of services, and is dysfunctional from the point of view of attaining organizational goals." However, much research on this issue has been unable, or uninterested, to distinguish between the degree of hierarchy, the size of the police service, and the type (or size) of community which is being policed, all of which are highly correlated. Our own results, reported below, suffer from the same difficulty in distinguishing among these related phenomena.

Some research suggests that the probability of arrest increases as police departments become larger and more hierarchical, with increasing rank differentiation in middle and upper management (Smith & Klein, 1994).⁴ Officers in larger departments with more ranks tend to have fewer constraints on their use of discretion by supervisors, and tend to make *greater* use of arrest. This illustrates the interesting anomaly that "the police department has the special property...that within it discretion increases as one moves down the hierarchy" (Wilson, 1968, cited in Reiner, 1997: 1009). On the other hand, in smaller departments with fewer ranks, officers spend more time on routine patrol in the community and are likely to be more lenient in their enforcement practices of charging (Brown, 1981a; Mastroski, 1981). None of these studies examined the effects of rank structure specifically on the processing of youth.

In classifying our sample of police services by the number of ranks, we classified detachments of the RCMP and OPP according to the number of ranks present in that detachment, not in the overall organization. The number of ranks in police agencies in the sample varies between 1 and 12, with an average of 4.8 ranks, and a median number of 4 ranks. However, the most common number of ranks in the agencies in the sample is 3. The sample is distributed fairly evenly: 36% of agencies and detachments have one to three ranks, 37% have four to six ranks, and 27% have seven or more ranks. The amount of hierarchy is strongly related to community size and to the type of policing, as Figures IV.5 and IV.6 show.

According to the interview data, there is very little variation in the use of informal action by the number of ranks. However, agencies with one to three ranks are slightly more likely to use informal action (91%) than agencies with more vertical differentiation (81%).

³ The total 20,866 also includes 1 Corps Sergeant Major, 3 Sergeant Major, 89 Special Constables, 2,140 Civilian Members, and 3,521 Public Servants (Royal Canadian Mounted Police, 2002).

⁴ Smith & Klein (1994) used an index of bureaucratization which combined organization size, the number of ranks, and the number of occupational titles.

Figure IV.5 Degree of hierarchy in police services, by type of community

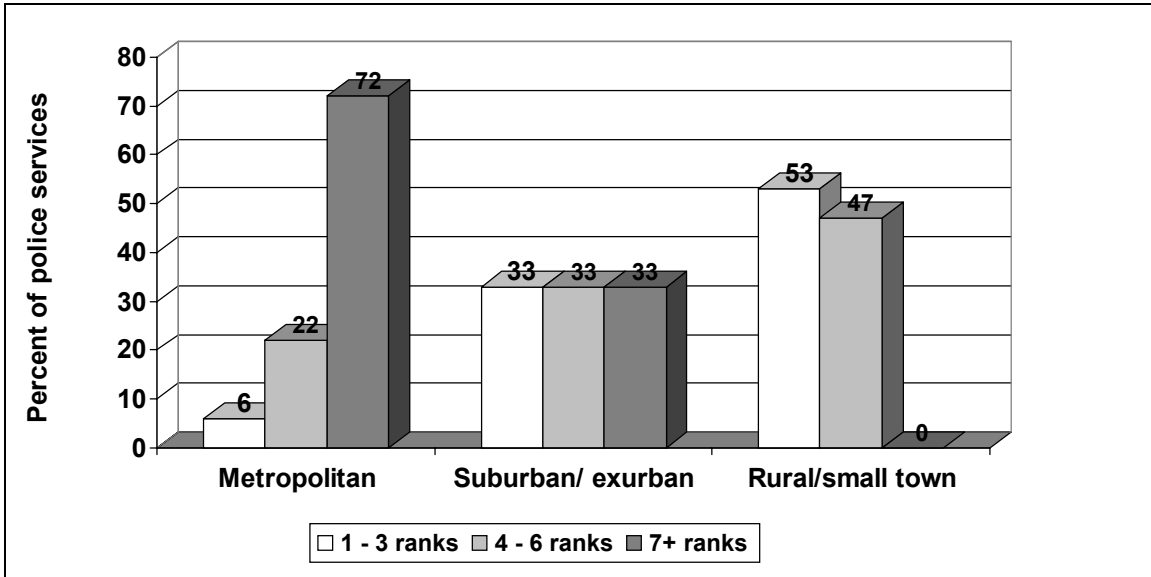
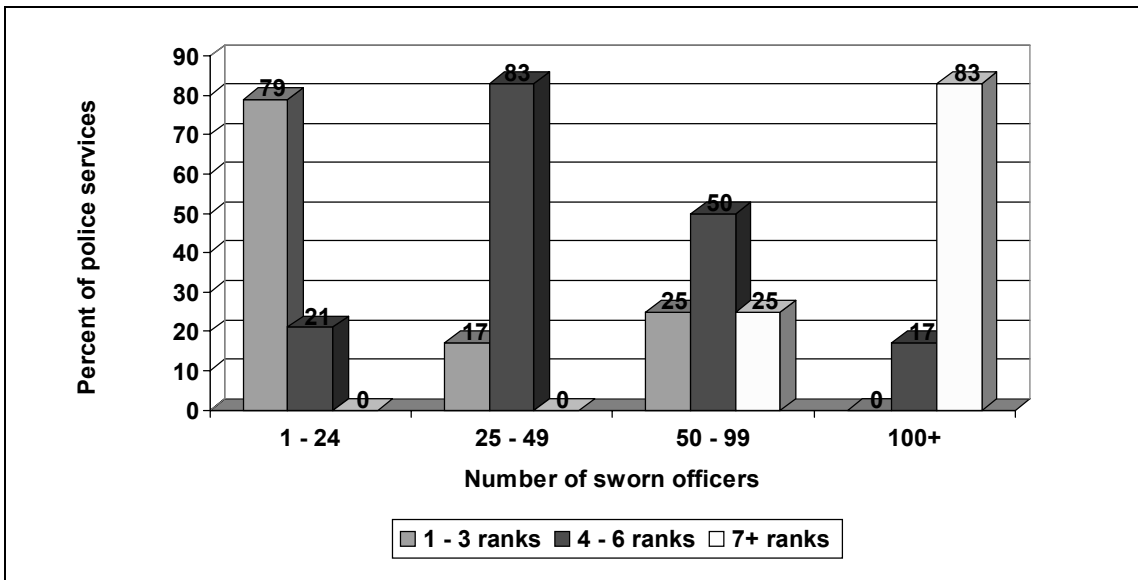


Figure IV.6 Degree of hierarchy in police services, by size of police service



Analysis of UCR data on the proportion of apprehended youth who were charged revealed no significant differences in charging related to the degree of hierarchy, but the analysis was hampered by missing data and the confounding effect of related variables, such as the type of policing and community, and the size of the police service.

Police agencies are more likely to use pre-charge diversion as the differentiation in ranks increases. 69% of agencies with seven or more ranks indicated they use pre-charge

alternative measures compared to 50% of those agencies with four to six ranks and 43% of those with one to three ranks. We suspect that this may be as a result of a higher degree of specialization (e.g. Youth officers, School Resource officers) or the greater access of larger police agencies to external resources. There were no differences in the use of post-charge alternative measures. Police agencies with four or more ranks are more likely to find alternative measures “usually” effective (69%) than agencies with one to three ranks (35%). In addition, 50% of agencies with one to three ranks find alternative measures “occasionally” effective. This is consistent with the finding that agencies with one to three ranks are less likely to use alternative measures with minor offences. Again, several confounding factors may play a role. First, our data suggest a lack of available pre-charge diversion programs in rural and small town areas, which tend to have smaller police services or detachments, with one to three ranks. Second, police services in rural and small town areas are likely to be less formal in their enforcement practices (Brown, 1981a; Mastrofski, 1981).

There are no apparent differences in the use of summonses, appearance notices, or OIC undertakings, by degree of hierarchy. However, some interesting patterns emerge concerning the use of a Promise to Appear and the reasons given for detention for a judicial interim release hearing. Agencies with seven or more ranks are more likely to use a PTA as a “higher consequence” (38% versus 12%). This does not appear to be due to the type of community. Since police services in rural and small town areas are less likely to say that they detain youth because of repeat offending, it is not surprising the same relationship occurs for agencies with one to three ranks (38%), compared to agencies with four or more (70%). Only 14% of the agencies with one to three ranks suggested that they “almost always” arrest and detain repeat offenders, compared to 58% of the agencies with four or more ranks. Agencies with seven or more ranks are twice as likely to detain a young offender “if s/he is [already] before the courts” as agencies with fewer ranks (50% versus 24%).

Overall, what these findings suggest is some distinctiveness in decision-making with youth in agencies with three or fewer ranks, versus those with four or more; and also some differences within the latter group. The degree of hierarchy does appear to have an effect on the use of informal action and the use of detention with young offenders. However, as other researchers have found, it is difficult to disentangle the effects of vertical differentiation itself from the effects of agency and community size.

4.0 Specialization

In organizational theory, the term *specialization* is used in two different ways. It can refer to a division of labour among units of the organization- i.e. the division of the organization into specialized units, each of which has a particular task to perform – or it can refer to a division of labour among the individual workers in the organization, each of whom is a specialist in a particular type of work (Hall, 2002: 52-54). We use the term primarily in the former sense, and are particularly interested in specialization in the handling of youth crime and young offenders: that is, to the existence of a unit in the

police organization which specializes in youth crime – often called a youth squad, youth section, or youth bureau. However, in smaller police agencies, this “unit” may consist of one or two officers who are assigned to handle youth-related incidents, and who may work in a larger unit – such as the GIS or patrol - which is not itself a specialist youth unit.

The decision to have a specialized youth unit or youth officers is an internal policy decision made within each police force (Conly, 1978).⁵ According to Leeson and Snyder, “during the late Fifties and early Sixties many police forces [in Canada] established specific sections within their organizations to deal with the juvenile offender” (1981: 197-198). According to Conly, in 1976, some police forces had adopted a *specialized* approach by maintaining a separate Youth Section/Bureau (e.g. Toronto, Ottawa-Carleton, and Calgary police services). In this model, incidents with youths were referred to the Youth Bureau for further investigation. The underlying philosophy in specialized forces is that police work with youths is a separate function that requires special investigatory skills (e.g. interviewing parents, social workers, teachers, etc.). Other police forces (e.g. Vancouver⁶) adopted a *generalist* approach, in which all front-line officers handled youth crime. Some respondents in 1976 suggested that in order to reflect the degree of youth crime, the personnel requirements for a specialized unit would be too high, and that specialization can lead in the end to “bureaucratic inefficiencies, communication problems, delays”, and unnecessary referrals (Conly, 1978: 45).

Conly identified three procedural models for investigating cases with a suspected young person. Within a *non-specialization* model, procedures are essentially identical to those involving adult suspects. This model is generally found in police forces that do not maintain a specialized Youth Section to respond to incidents involving youth. A *partial specialization* model is used predominantly by forces which have a Youth Section. This model involves using regular front-line officers to conduct the initial investigation (first-contact) and Youth Officers are asked to assist or take over the investigation in subsequent stages. For example, a front-line officer would make the initial decision whether the incident is founded or unfounded, and, if founded, would then call in a Youth Officer to continue with the case. Finally, a *complete specialization* model entails Youth Officers handling all aspects of police-juvenile encounters.

In contrast to specialized youth bureau work, patrol work is territorially defined (Klinger, 1997). Patrol officers, like members of other occupations who work with people, may develop theories about the neighbourhoods and people which they police, that are used as “recipes for interpreting and labelling their daily activities” (Cicourel, 1968: 105; Meehan, 1993). Police administrators can try to establish guidelines for discretion but an officer’s predispositions are affected by a range of formal and informal rules, guidelines, and procedures that are shaped by the nature of patrol work (Brown, 1981a; Klinger, 1997). The work of general patrol officers and specialized youth and school liaison

⁵ This and the following paragraph rely mainly on Conly (1978), whose characterizations of many specific police forces is out of date.

⁶ Vancouver moved from a specialized to a generalized approach when the Youth Section was disbanded in 1973 (Conly, 1978) (but has more recently returned to a specialist approach).

officers have differences and similarities, which depend on how their duties have been defined within each organization.

Conly (1978) suggested that Youth Bureaus have two characteristics which lead to a higher recorded rate of contact with juveniles. First, specialized Youth Officers take a more proactive approach to policing youth through the primary and secondary crime prevention programs that are developed internally (e.g. D.A.R.E. in Peterborough, S.H.O.P. in Calgary; Hornick et al., 1996). These programs lead to a higher familiarity with local area “hang-outs” and periodic checks on youths previously contacted (informally or formally). Second, there appears to be a stronger emphasis on recording police-youth encounters within specialized forces. Conly (1978) reported that the use of diversion (no charges laid) was 63% in police forces with a Youth Section compared to 45% in those departments adopting the generalist approach. For example, in 1976, Toronto had the largest number of total contacts coupled with one of the lowest charge rates (Conly, 1978).

Although police agencies with youth sections tend to have higher rates of recorded contacts, they also tend to make more use of informal action and referrals to social agencies, and less use of charges, than generalist agencies. This observation is consistent with general organization theory, which proposes that personnel in specialized units tend to have more scope for individual discretion, or “decentralized decision making” (Hall, 1972: 170). According to Grosman, “...The Chief also engages in important enforcement policy-making when, for example, he decides to create a juvenile program by setting up a juvenile unit...[which]...may ultimately involve a higher diversion of juvenile offenders out of the criminal process” (1975: 79). Leeson and Snyder characterize the Ottawa Police juvenile section in the 1970’s as an “information and referral centre” (1981: 203): its impact on the handling of youth-related incidents can be inferred from the fact that of 1,831 chargeable offences involving youth in 1977, 1,432 were diverted (1981: 206).

Similarly, Gandy’s (1970) study of the handling of youth-related incidents by the Toronto Police Service in the 1960’s found that members of the youth bureau were more likely to use discretion with juveniles, and much more likely than non-youth bureau officers to make referrals to social agencies. Doob came to a similar conclusion from a study of the youth bureau of a “southern Ontario regional police force”. He found that officers in the youth bureau were charging only about 13% of apprehended juveniles, and concluded: “a Youth Bureau can do an effective job of screening many juveniles out of the formal system...” (1983: 161).

4.1 Youth squads and dedicated youth officers

81% of the police services in our sample do not have a youth section or a dedicated youth officer,⁷ and therefore operate under the generalist, or non-specialization, model.

⁷ By “dedicated”, we refer to the assignment of the officer exclusively to youth-related duties, not to the quality of his or her commitment.

According to officers in many agencies, this reflects the widespread disbandment of youth sections and other specialized units during the 1990's, under the pressure of financial retrenchment. Youth-related incidents are handled by generalists, or by specialists for certain types of crime (e.g. break and enter, whether involving youth or adult suspects, would be assigned to GIS). Of the 17 police services in our sample which have youth sections or dedicated youth officers,⁸ 15 have a youth squad that performs follow-up on youth-related incidents (partial specialization model), and 2 have youth squads which actively patrol and also do follow-up on patrol initiated investigations (complete specialization model).

Another dimension of variation concerns police agencies which are accredited by the Commission on Accreditation for Law Enforcement Agencies (CALEA). To the best of our knowledge, Edmonton Police Service, Winnipeg Police Service, Niagara Regional Police Service, and Peel Regional Police are the only services in our sample which are accredited by CALEA⁹. This has implications for the effect of the presence of youth squads on police decision-making with youth. CALEA stipulates the following in regards to juvenile operations:

Standard 44.1.1 A written directive establishes the agency's juvenile operations function, and includes, at a minimum, the following:

- a. a statement that the agency is committed to the development and perpetuation of programs designed to prevent and control juvenile delinquency; and
- b. a statement that the responsibility for participating in or supporting the agency's juvenile operations function is shared by all agency components and personnel (Cordner & Sheehan, 1999: 78).

All CALEA-accredited police services in Canada have youth policy and protocol that clearly affirms these two stipulations and defines the operating parameters of their youth officers and SLOs.

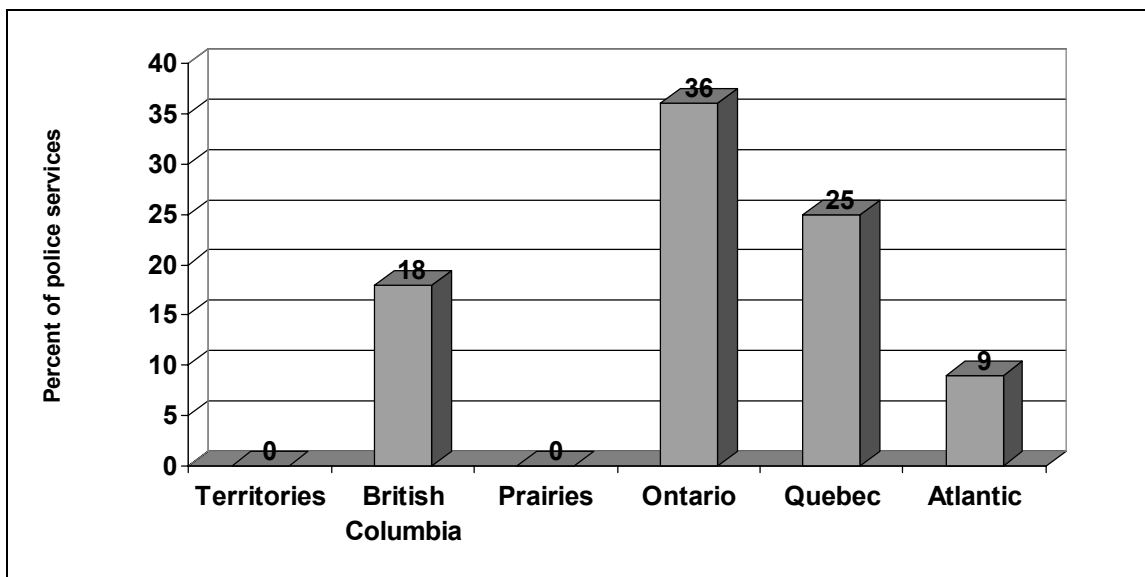
Because there were only two agencies in the sample using the *complete* specialization model, we analyzed the impact of specialization on the exercise of discretion using a simple dichotomy which combined the complete and partial specialization categories: specialization model (youth squad or dedicated youth officers: 19% of the sample), and the non-specialization, or generalist, model (no youth squad: 81%).

⁸ In some cases (e.g. some smaller RCMP detachments, having only a few officers), a Community Service/Relations Officer or Crime Prevention officer may also act as the dedicated youth officer, in practice if not in name. We classified these as non-specialized, due to the many non-youth-related duties assumed by such officers.

⁹ According to CALEA Online, Camrose and Lethbridge Police Services have also received CALEA accreditation (Commission on Accreditation for Law Enforcement Agencies, 2000). Neither of these services was in our sample.

All 17 agencies in the sample which have a youth squad are independent municipal police services. This is probably primarily due to the difficulty of maintaining specialization in the smaller provincial police (and RCMP) detachments: only three of the agencies with youth squads have fewer than 100 sworn officers, seven have between 100 and 499 officers, and seven have more than 500 officers. Thus, 58% of the largest police services in the sample (those with more than 500 officers) have a youth squad, compared with 41% of the mid-sized agencies (100 to 499 officers), and only 5% of police agencies with fewer than 100 officers. Not surprisingly, 43% of police services which we classified as metropolitan have a youth squad, compared with 11% of suburban/exurban agencies, and only 5% of rural and small town agencies. The regional distribution of police services in the sample with a youth squad or dedicated youth officers is shown in Figure IV.7.

Figure IV.7 Regional distribution of police agencies with youth specialization



The maintenance of a youth squad or dedicated youth officers is not an easy option for many police agencies and detachments, due to financial and human resources constraints. Our data suggest that police services with youth sections and/or dedicated youth officers respond differently to youth-related incidents. In particular, it appears that the use of referrals to external agencies, pre-charge diversion, views on feedback from alternative measures, the use of formal charges, and the methods to compel appearance are different for agencies that have a youth squad.

Statistical data from the UCR Survey suggest that agencies with youth specialization are less likely to charge apprehended youth. Among metropolitan police agencies in the sample, those with a youth squad charge 65% of apprehended youth, versus 75% for those with no specialization. The few rural and small town agencies in our sample which

have youth specialization charge, on average, 53% of apprehended youth; those without specialization charge 57%. There is no difference in charging among suburban/exurban agencies, which charge 64% of apprehended youth, regardless of the existence of a youth squad.¹⁰ Thus, it is in the metropolitan policing environment that a youth squad appears to make the most difference in charging practices.

Some additional insight can be gained from UCR2 data on the clearance status of youth-related incidents. Of the 50 independent municipal police agencies in our sample, 31 reported to the UCR2 in 2001. There were too few suburban/exurban or rural/small town forces to analyze this variable. However, among metropolitan forces with youth specialization, the mean percentage of youth-related incidents cleared by charge was 69%, versus 77% for those without youth specialization. The mean percentage of incidents cleared by informal action was 27% for metropolitan forces with youth squads, versus 17% for generalist metropolitan police services. However, metropolitan services with youth squads cleared only 2% of incidents by pre-charge alternative measures, versus 5% for those without a youth squad. This is puzzling in view of the many claims that youth squads facilitate referrals to external agencies. There are two possible explanations. Most of the metropolitan police services with youth squads which were in our sample and reported to the UCR2 were in Ontario, where pre-charge AM is virtually non-existent. The other possible explanation is that many of the referrals to outside agencies made by specialist youth officers may be to programs which are not formally designated as alternative measures, and may be coded in the UCR2 return as informal action rather than pre-charge diversion.

The interview data suggest that police services with a youth section or a dedicated youth officer are more likely to refer youth to external agencies (76%) than police services without youth specialization (61%)¹¹. However, this percentage difference does not capture the qualitative difference between specialized and non-specialized agencies. Innovative referral systems have been developed within agencies that have youth sections (e.g. Windsor Police Service, Ottawa Police Service). Further, many of our interviewees (whether youth officers or not) suggested that a dedicated youth officer facilitates interactions between the police and youth in order to provide counselling and referrals to stem future behavioural problems. Interviews with youth officers suggest that the specialization of youth officers is crucial to adequate follow-up with youth who are in crisis. One officer stated, “without a youth section, how are we supposed to get at the root cause of their behaviour in order to use community-based resources as alternatives to youth court?”. One example of cooperation with external agencies was found at the Victoria Police Service. The primary officer involved describes the program as follows:

CRAT stands for the Capital Region Action Team, which is co-chaired by a couple of city councillors, basically to do

¹⁰ However, there were only two suburban/exurban forces with a youth squad – an inadequate number from which to generalize.

¹¹ Further, during the interviews, officers working in agencies with a youth squad or dedicated youth officer emphasized their commitment to using informal warnings, consistent with findings by Hornick et al. (1996).

with sexually exploited youth. I'm part of that. There's a health [component that includes] a CRT doctor [...]. As a part of that, this capital action team for support of youth, which is myself [...] partnered with a youth worker. The money to fund her position [...] a one-on-one worker came from the federal government crime prevention association. They gave almost \$495,000 for the project. So basically what it is, [is] someone from the social services side, a youth worker, [who] worked for the Boys and Girls Club, and myself, as a partnership, and our mandate is identification, interventions, preventions, for sexually exploited youth and referrals to housing, resources, drug and alcohol, trying to get them out of the trade, and charges, if we get charges on the pimps, stuff like that.

This partnership operated as a proactive enforcement team that interacted with young female prostitutes. Unfortunately, at the time of our interview this successful program's future was in question due to a funding uncertainty. Many of the innovative programs we encountered that involve community partnerships and external resources tend to exist within police agencies that have specific resources allocated to youth-related issues and enforcement. For example, the Vancouver Police Department runs three special cars out of the Youth Section. Each car has a youth officer who is partnered with a psychiatric nurse, a social worker, or a probation officer. The Royal Newfoundland Constabulary has created action committees that are drawn together for high risk youth. These committees contain representation from social services, the school, and police. We also found that acting as a resource to patrol and GIS officers increased the likelihood of referrals to external agencies and resources *even* if the investigating officer decided to proceed by way of charge.

The use of post-charge alternative measures did not differ for agencies that have a youth section or dedicated youth officer. However, there are systematic differences in the use of pre-charge diversion programs. Police services with youth squads are three times as likely to have established pre-charge programs with the John Howard Society, Boys and Girls Club or similar organizations (35% versus 11%). They are also more likely to use pre-charge diversion with youth-related incidents (65%) than agencies that do not have youth specialization (46%). There is also a higher likelihood that an internal pre-charge diversion program exists. Thus, it is not surprising that police services with a youth squad are slightly more likely to find feedback on alternative measures useful (83%), compared to other agencies (74%). Knowledge of "what works" is important to youth officers, as they actively promote these alternatives to all officers within the police agency.

It appears that a constellation of factors interact within the police agencies with youth squads or dedicated youth officers. For example, agencies with youth specialization are more likely to have officers available to spend more time with the youth and their parents. As a result, there are higher levels of parental involvement in youth-related

incidents in these agencies, and informal action is more feasible. We are not suggesting that general patrol officers do not also consider involving parents. We do suggest that youth officers are able to involve the parent(s) more effectively than patrol officers due to their ability to spend more time dealing with the incident.

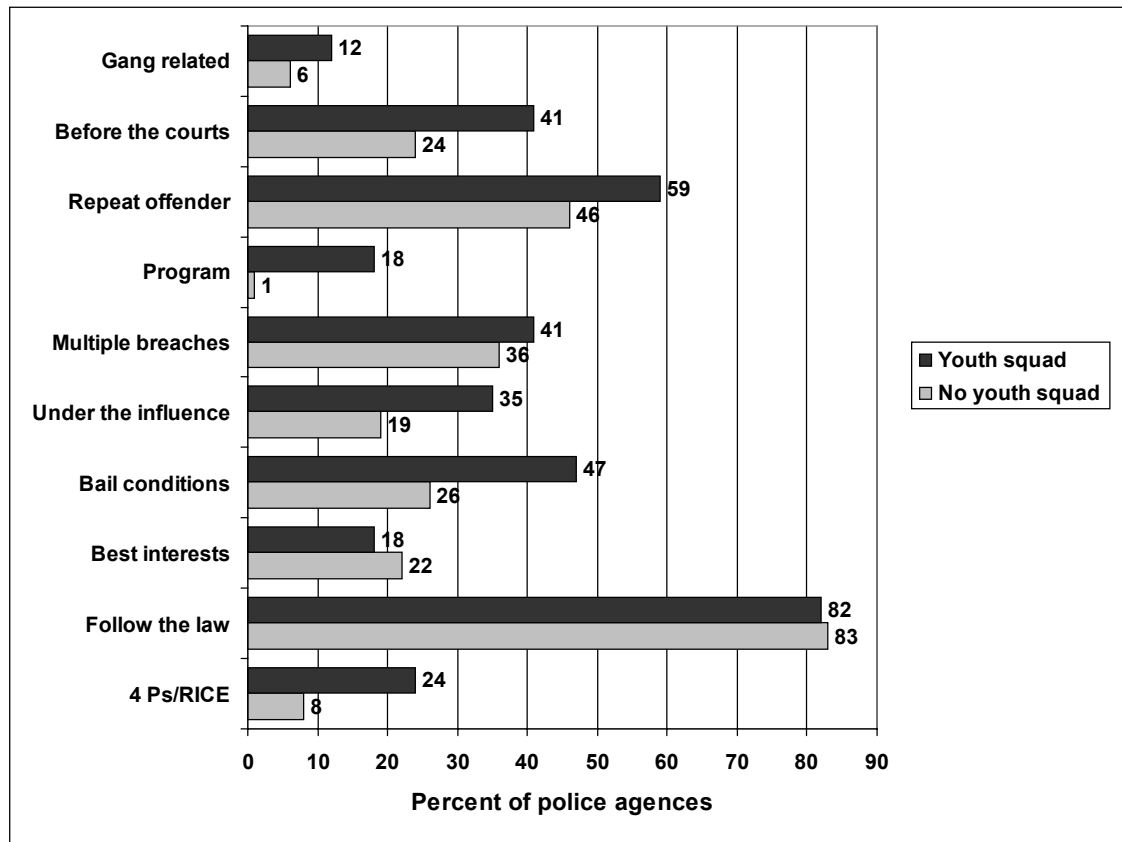
In many cases, the availability of pre-charge programming is an important part of a police officer's "toolkit". The fact that pre-charge programs are more prevalent in jurisdictions where the police service has youth specialization tends to confirm statements by youth officers suggesting that they play a large role in the development and continued utilization of such programs. Several agencies have developed laminated cards for patrol officers (similar to the caution cards used by officers to warn youth of their rights) that outline the types of offences or characteristics of the offender that make pre-charge diversion a viable option. As previously mentioned, many youth officers work only in a follow-up and resource capacity for the police service. Thus, they felt that it was important that patrol officers had a clear understanding of *all* available options to deal with youth-related incidents. Our interview data suggest that patrol officers are much less certain than youth officers of the availability of community-based resources as pre-charge alternatives to the formal court process.

The use of summonses and appearance notices as a means to compel appearance varies by degree of specialization. Agencies with youth officers are more likely to say that they use a summons with minor offences (47%) than police services with no youth division (39%). They are also less likely to say that they "rarely" use an appearance notice (24% versus 33%) and more likely to say that they use them "when no other options apply" (53% versus 40%) and "for very minor offences" (41% versus 31%).

Consistent with their greater use of summonses and appearance notices, police agencies with youth specialization are slightly less likely to use a promise to appear "for a minor offence" (6% vs. 18%). In terms of conditions attached in an OIC undertaking, agencies with youth specialization are slightly more likely to attach a clause of no association (47% vs. 35%), curfew (41% vs. 29%), no alcohol or drugs (24% vs. 19%), and attend school (12% vs. 6%). Police agencies with youth squads are less likely to use the condition of keep the peace and be of good behaviour (12% vs. 28%). Youth officers told us that they felt this condition was not specific enough to have meaningful consequences. Overall, these findings suggest that agencies with youth specialization are more likely to use the less intrusive methods of compelling appearance, except that they tend to use more restrictive conditions with OIC undertakings.

Differences between specialized and non-specialized agencies also appear in relation to the reasons given for detaining for a JIR hearing. Figure IV.8 shows the variations in responses for police agencies by degree of specialization (responses do not total 100% as multiple answers were allowed).

Figure IV.8: Reasons to detain for a JIR hearing, by specialization¹²



Police agencies with a youth section are more likely to say that they detain according to the 4 Ps and R.I.C.E., to obtain judicial bail conditions, if the youth is under the influence of alcohol or drugs, to get the youth admitted to a program, or if the young person is a repeat offender or before the courts. They are slightly more likely to detain for multiple breaches or gang-related offences, and slightly less likely to detain “in the best interests of the youth”, due to the lack of a responsible adult to take care and control of the young person. Apart from the last difference cited, it appears that agencies with youth squads are more likely to use detention, like the conditions of release by the OIC (see above), as a means of addressing what they see as the criminogenic conditions of the youth’s life.

Clearly, with over three-quarters (81%) of our sample opting not to have a youth squad or designated youth officer(s), the non-specialization model is the dominant one in Canada today. However, this figure somewhat overestimates the degree of non-specialization. In the case of smaller provincial police detachments (including the RCMP and OPP), as well as some smaller independent municipal police services, it is quite common for a Community Service Officer (CSO) to work also in a capacity similar to that of a

¹² Percentages for attitude, lack of social services and to remove from prostitution, as reasons for detention, were not included as they were too low for reliable comparisons.

dedicated youth officer. The great majority of RCMP officers who are involved in pre-charge community-based or police-run restorative justice forums are also CSO's. They are actively involved with conferencing and police sponsored youth activities in the community. The difficulty arises as these officers are not able to dedicate all of their on-duty hours to deal with youth-related incidents. The majority of these CSO's take on youth-related issues and incidents as part of their other duties or volunteer their time while off-duty. What this underlines is the importance of at least one dedicated person (regardless of organization size) to be involved with youth-related incidents. This facilitates the innovation and creativity required to establish and maintain viable alternatives to charging reflecting the unique youth crime issues in each community. Further, dedicated officers (and many CSO's) actively promote the effective use of police discretion within the organization as a whole.

There is also considerable variation within the partial and complete specialization models in the degree of involvement that youth officers have with young offenders. Within our sample, several large metropolitan police agencies have undergone restructuring that has affected the scope of duties for the youth section. In all cases, the changes involved either the disbanding of the youth section (e.g. New Westminster Police) or decreasing the amount of overall involvement of the youth squad with all youth-related incidents (e.g. Ottawa Police Service). For example, one agency in Ontario shifted from a complete specialization model to a partial specialization model in the last three years. Since these changes have taken place, everyone involved whom we interviewed agrees that they are less effective within the new arrangements and find more youth are being charged than before. Another large metropolitan agency in British Columbia moved from a non-specialization model to a partial specialization model. These officers suggested that this move has greatly improved the agency's ability to handle youth-related incidents.

In summary, we find that agencies with dedicated youth officers and/or youth squads use more discretion overall. Many innovative and effective programs are developed by dedicated youth officers and their proactive involvement with youth in the community within a primary, secondary or tertiary capacity appears to have positive overall effects in relation to young offenders. Higher levels of parental involvement and referrals to external agencies have the potential to address the underlying causes of a young person's criminal behaviour, without the necessity of bring him or her before the court. We witnessed an increased familiarity on the part of youth officers with their "clientele", even in metropolitan areas. During ride-alongs with youth officers, we observed that they knew the names of over half of the youth whom they encountered on patrol. Youth officers acting as follow-up and as a resource to patrol officers facilitate the gathering of intelligence and an increased knowledge of alternatives to formal youth court. In a sense, the existence of a youth squad – just like the existence of a homicide or armed robbery unit - is an indication that the police service recognizes the unique nature of this particular kind of crime, and places priority on dealing with it in the most appropriate way.

4.2 School liaison officers (SLO) and school resource officers (SRO)

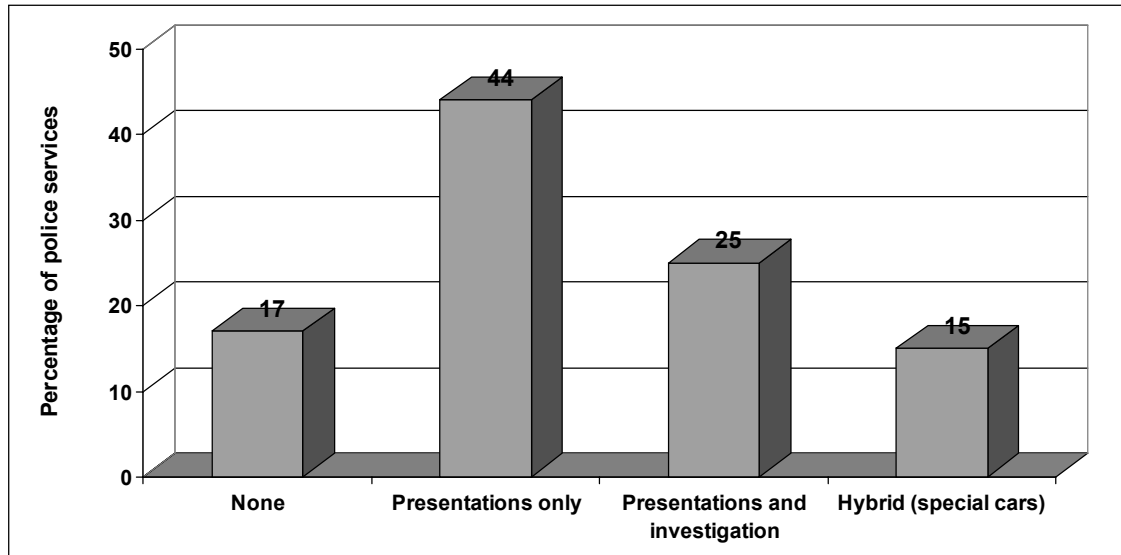
Perceptions within the police culture of certain types of work can affect police discretion and their use of informal means to handle youth crime. The police subculture has been recognized as becoming a barrier to new developments in policing, such as the philosophy behind community policing (McConnville & Shepherd, 1992). Acting as a school liaison officer may not be seen as real police work (Hornick et al., 1996). This perception is part of the crime control model, in which “real” police work is done on the streets. If the pejorative connotation of “kiddie cops” “permeates to the management level, careers suffer as a result” (Hornick et al., 1996: 93).

Our data suggest that SLOs are mixed on whether their police culture respects their positions. Some indicated that their position is a “dead end”. Others suggested that it is seen as any other posting within the organization. In general, we found that SLOs still suffer negatively in police culture more than youth officers.

Figure IV.9 shows the percentage of police services in our sample having each of four types of approach to the use of SLO/SROs.¹³ 17% of the police agencies interviewed did not have a school liaison/school resource officer. However, this figure may be an overestimate, since some of these may have Community Service officers (CSO’s), who also frequently give presentation at schools. Just under one half (44%) of the agencies have one or more SLO officers whose duties are confined to giving *crime prevention* presentations in schools (primary, elementary, and secondary). Most of the SLOs who act as crime prevention officers within schools can be responsible for as many as 25 schools. One-quarter (25%) of the police agencies have *investigative* SLOs who investigate any youth-related incidents that occur on school property, as well as giving crime prevention presentations. A fair number of these officers have permanent offices within their schools and tend to take care of one to two secondary schools as well as any feeder elementary schools. In Edmonton, the SRO program is so well accepted that the school boards pay for half of the officer’s salary. Finally, 15% of the agencies have SLO officers who are classified as *hybrids* or *special cars*. This entails the assignment of various patrol officers to make presentations at the local schools and, if on duty, to respond to school-related incidents.

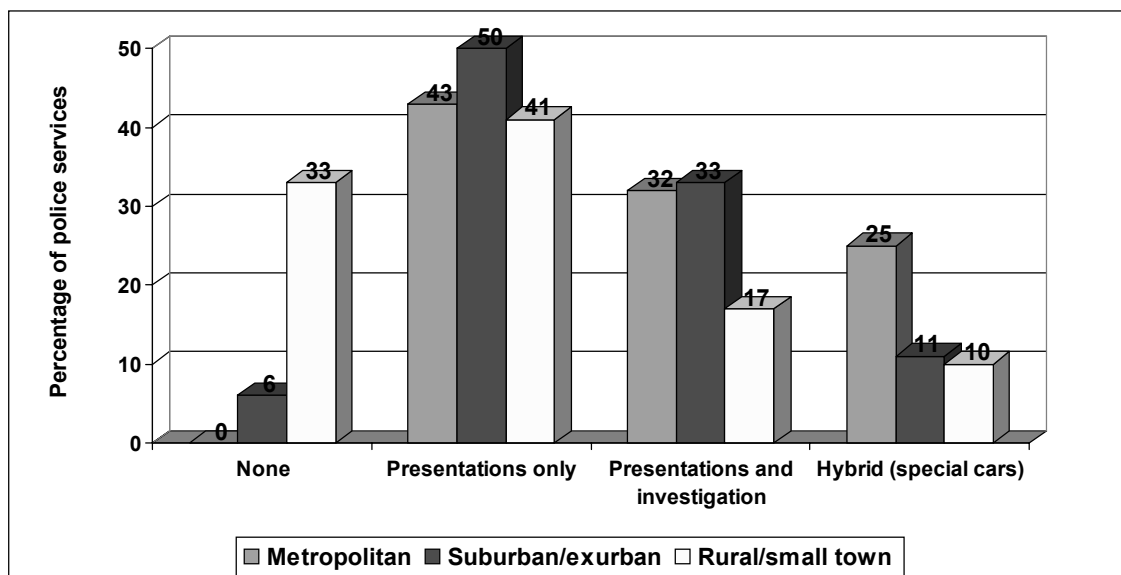
¹³ The terms School Liaison Officer (SLO) and School Resource Officer (SRO) appear to be interchangeable. We did not see any systematic differences between their respective duties, and the choice of title appears to be arbitrary.

Figure IV.9 Functions of SLOs/SROs



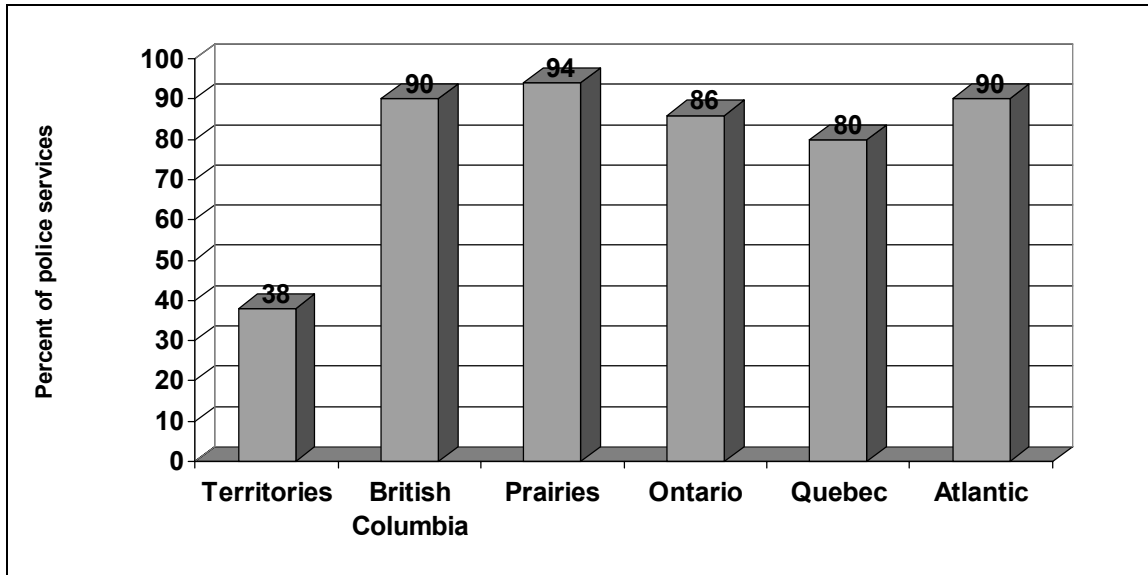
SLOs are more common, and have more responsibilities, in larger centres. Figure IV.10 shows the distribution of types of SLOs by the type of community. One-third of rural and small town police services in the sample have no SLO, and they have fewer SLOs who do investigation and/or work in special cars. There is little difference between metropolitan and suburban/exurban services in their use of investigative SLOs, but special cars are much more common in metropolitan services.

Figure IV.10 Functions of SLOs/SROs, by type of community



SLOs are also more common in independent municipal agencies, of which 90% have SLOs of any type, and 50% have investigative SLOs. Among provincial police detachments in the sample (including RCMP and OPP), 73% have SLOs, and only 25% have investigative SLOs. The regional distribution of police services with SLOs is shown in Figure IV.11.

Figure IV.11 Regional distribution of police agencies with SLOs/SROs



Police services which have a youth squad are also very likely to have school liaison officers. Of the 17 police agencies with youth squads, 16 also have SLOs. On the other hand, an additional 58 agencies in our sample have SLOs, but no youth squad or dedicated youth officer. Thus, it appears that the assignment of officers as SLOs is a distinct phenomenon – one which indicates a commitment of resources to dealing with youth crime, but much less of a commitment than the maintenance of dedicated youth officers.

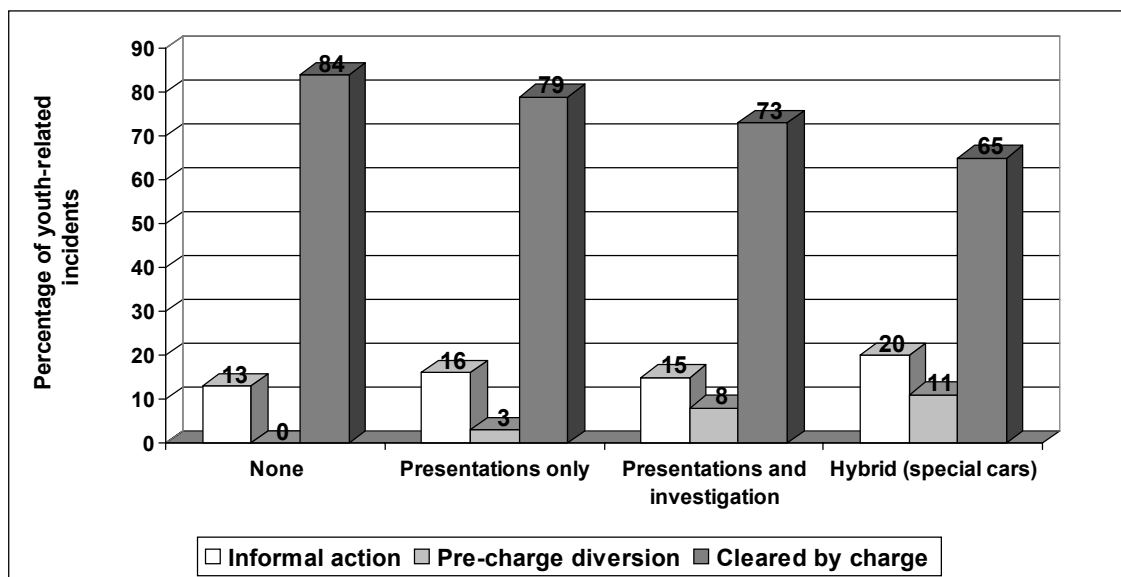
How does the presence of SLOs in a police service affect their decision-making with youth? It appears to have less effect than the presence of a youth squad or youth officers, but differences still emerge regarding certain types of informal action, pre-charge diversion, and compelling appearance.

UCR data on the proportion of apprehended youth who were charged in 1998 to 2000 suggest that the presence of SLOs, especially investigative or hybrid SLOs, slightly reduces the use of charging with young offenders. Although investigative and hybrid SLOs tend to be found in metropolitan agencies, which tend to have higher rates of charging, the average proportion of youth charged by agencies in the sample with investigative or hybrid SLOs was 62%, compared with 66% in agencies with no SLO or

crime prevention SLOs. Looking only at independent municipal forces, the proportions of apprehended youth who were charged by agencies with no SLOs, crime prevention SLOs, investigative SLOs, and hybrid SLOs, are 73%, 64%, 62%, and 62% respectively.

The same conclusion can be drawn from evidence from the 44 agencies in our sample which report to the UCR2 survey. Figure IV.12 shows the distribution of the clearance statuses of youth-related incidents reported by these agencies in 2001. Police agencies which have SLOs, and which give more responsibilities to them, tend to have lower rates of charging and higher rates of informal action and pre-charge diversion.

Figure IV.12 Clearance status of youth-related incidents, by type of SLO, 2001



Source: Incident-Based UCR Survey, 2001.

According to the interview data, there were no differences among police agencies with the four modes of deployment of SLO¹⁴ in the use of informal action in general, informal warnings, formal warnings, parental involvement, or taking the youth home. However, there were some differences in responses concerning questioning the young person at home or at the police station and referrals to external agencies. Police officers are more likely to question the youth at home or at the police station if the organization does not have an SLO (27%) or has SLOs limited to crime prevention presentations (38%) than if there are investigative SLOs or special cars (14%). An interesting relationship is evident between the type of SLOs and the use of referrals to external agencies as a form of informal action. Police services with no SLOs are less likely to make referrals (45%) than services that have SLOs who only make presentations (52%), SLOs who do investigation (68%), or hybrid SLOs (80%). It is striking that agencies with special cars reported the highest percentage of making referrals, and this confirms the conclusion

¹⁴ Including no SLO.

from UCR2 data (Figure IV.12). As in the analysis of the concomitants of youth squads, we did not find any differences related to types of SLOs in the tracking of informal warnings.

However, as with youth squads, we also find that the presence of investigative SLOs has an effect on the use of pre-charge diversion. Overall, organizations without SLOs are less likely to indicate the use of pre-charge diversion (40%) than police services with investigative SLOs (60%). Of the various types of pre-charge diversion, police agencies with SLOs who make presentations only (18%) and investigative SLOs (27%) are more likely to make referrals to pre-charge diversion programs run by John Howard Society and the Boys and Girls Club than agencies without a SLO (0%). Not surprisingly, organizations with investigative SLOs are more likely to indicate they find or would find feedback on alternative measures useful (87%) than those with SLOs that only make presentations (71%) and those without SLOs (55%).

There were no differences in the use of summonses; however, the use of appearance notices appears to be related to the type of SLOs. Police services with investigative SLOs are more likely to say that they use an appearance notice when none of the other options apply (53%) than organizations which have no SLOs, or SLOs who only give presentations (32%). Further, agencies with SLOs of any kind are more likely to use an appearance notice for very minor offences (31%) than police services with no SLOs (13%).

No differences were found in the use of PTAs, OIC undertakings or reasons to detain until a judicial interim release hearing. The only exception is the likelihood of detaining a young offender because s/he is before the courts. Organizations with any type of SLO are more likely to detain a young person for this reason (31%) than police agencies with no designated school liaison officer (7%).

In summary, police agencies which have school liaison officers, especially investigative SLOs or special cars, appear to use less intrusive means of dealing with youth crime: they are more likely to use informal action, less likely to lay charges, bring the youth home or to the police station for questioning, more likely to make referrals to external agencies, more likely to use pre-charge diversion, and more likely to use appearance notices to compel attendance at court.

4.3 Policy and protocol for handling youth-related incidents

There are three types of policy and protocol within police agencies. “Policy” itself is the most general and abstract. For example, a common police policy involves the articulation of the values and mission statement. Procedures and protocols are more specific and describe how the policies will be carried out (e.g. arrest procedures). Finally, rules and regulations are the most concrete and specific and allow for little or no discretion (e.g. wearing a uniform). Rules, regulations, and policy in general are discussed in Chapter V,

below. Here, we are concerned specifically with policy and protocol for handling youth-related incidents. We could find no literature or previous research on this subject.

We asked each police service and detachment¹⁵ to provide us with copies of any policy and procedure that dealt with young offenders. Also, during the interviews, we explored the impact of policy and procedure on decision-making with youth-related incidents.

Just under one-half (48%) of the police services and detachments (or their headquarters) supplied us with policies and/or protocols for handling youth-related incidents. Only 13% of the police officers whom we asked said that they found the policies and protocols “helpful”, and only 2% said that they were “realistic”. With this in mind, we analysed the use of discretion by those agencies that have protocol for handling youth crime. We found differences in the use of informal action, alternative measures and the methods of compelling appearance. One overall finding stands out in relation to all decision-making processes: the mere presence of policy and protocol for youth crime does not appear to have much of an effect on police decision-making; however, substantial differences are evident between police agencies in which officers find these policies and procedures helpful and/or realistic, and those in which they do not.

In terms of the overall use of informal action, there were no differences related to the existence of youth-related policy or protocol, but variations related to whether officers found it helpful and/or realistic. Police officers who find the policies helpful are more likely than others to “usually” or “always” consider informal action with young offenders (68% vs. 45%). 100% of officers who found the policies “realistic” said that they considered informal action “usually” or “always”. Table IV.1 shows the differences between police officers who find their agencies’ youth-related policies and procedures helpful and realistic and those who do not, in the use of different types of informal action.

Table IV.1 Officers’ use of specific types of informal action, by their views on youth-related policy and protocol

	Policies are “helpful”		Policies are “realistic”	
	No ¹	Yes	No ¹	Yes
Informal warning	69%	80%	70%	100%
Formal warning	18%	36%	20%	50%
Parental involvement	65%	80%	66%	100%
Youth home/police station	46%	68%	48%	75%
Questioning home/station	15%	24%	15%	50%

¹ Percentages are based on officers, not police agencies. “No” indicates that the officer explicitly identified this as either not helpful or not realistic, or offered no comment. E.g. 69% of officers who do not find youth-related policies or protocol helpful use informal action “usually” or “always”; vs. 80% of officers who do find policies helpful.

¹⁵ In the case of OPP detachments, we also made the request to the provincial Headquarters; and for the RCMP, to the provincial Divisional Headquarters.

Police officers use every category of informal action more often if they also find the policies and protocols for handling youth helpful and/or realistic; however, the mere presence of policy or protocol does not have an effect on informal action (percentages not shown). Although they are not addressing youth-related policy in particular, Skolnick and Bayley suggest that “administrators should genuinely consider the ideas and suggestions that street cops have about their work” when formulating and implementing policies regarding community policing (cited in Crank, 1997: 57). By extension, it appears that the same philosophy holds for youth-related policies. Administrators should balance the need for rules and regulations with the ability of officers to use their discretion (Cordner & Sheehan, 1999).

The relationship between finding policy or protocol helpful and/or realistic and the use of informal action is also evident with respect to referrals to external agencies, the use of alternative measures, and compelling attendance of the accused.

There was little difference in the use of referrals to external agencies if a police service did or did not have youth protocol. Yet, if policy or protocols existed and the officers find them helpful, they are twice as likely as those who do not to make referrals in connection with minor and serious youth crimes (68% vs. 34%). The same is true of officers who find youth policy realistic.

Police officers are more likely to use pre-charge diversion with youth if the police service has policies and protocols for handling youth (63% vs. 35%). This may be related to an increased need for procedural guidance, in order to ensure that youths who are eligible are diverted. Police officers who found their agencies’ youth-related policies and protocols helpful and/or realistic were also more likely to suggest that feedback on alternative measures is (or would be) useful. There was no difference related to the mere presence of policy and protocol. There were no significant differences between the two groups in their use of post-charge alternative measures, presumably because the police are not usually the referral agents for post-charge AM.

Analysis of UCR data on the percentage of apprehended youth who were charged during 1998-2000 suggests that the existence of policy and protocol for youth-related crime makes a small difference to the overall outcome of charging.¹⁶ Agencies with policy and protocol charged, on average, 64% of apprehended youth, compared to agencies with no youth-related policy or protocol, which charged 66% of apprehended youth. However, these numbers underestimate the difference, since they do not control for related variables. When we control for the overall provincial/territorial level of charging, we find that agencies with policy and protocol for youth have an average level of charging which is 3% below their provincial/territorial average level, and those without this policy

¹⁶ We were unable to analyze UCR data in relation to whether officers found the policy and protocol helpful or realistic, because these are attributes of the individual officer; whereas, the UCR data refer to an entire policy service or detachment.

and protocol have a level of charging which is, on average, 2% above their provincial/territorial levels – resulting in a difference in level of charging of 5%. With respect to the means of compelling appearance, there were no significant differences related to the existence or helpfulness of youth-related policy in officers' use of summonses. However, police agencies with policies or written procedures for handling youth are more likely to use an appearance notice "when none of the other options apply" (50%) than agencies with no such documents (35%). They are also more than twice as likely to use an appearance notice "for very minor offences" (43%) as agencies without written policy or procedures (18%); whereas agencies without written policy and protocols are twice as likely to "rarely" use an appearance notice (43%) as agencies which do have written policies and procedures for handling youth (20%). The same pattern appears in respect to officers who find the policies helpful and realistic. Apparently, written policies and procedures which stipulate the circumstances where appearance notices should or may be used increase the likelihood of their use.

If a young person is arrested, police officers who find their agencies' youth-related policies or procedures helpful and/or realistic are more likely than others to say that they use a promise to appear in order to release a youth without detention (60% vs. 36%), if the youth is at the police station (40% vs. 28%), or in conjunction with an OIC undertaking (64% vs. 40%). They are also less likely to use a PTA for a minor offence. Once again, there was no relationship based on the mere presence of policy and protocol. Police officers in agencies with policy and protocol (and, even more so, with policies that officers found helpful and/or realistic) are more likely to say "we follow the law" as a reason for detaining until a JIR hearing. They are also less likely to detain for social welfare reasons.

In summary, police services which have youth-related policies and protocols make more use of pre-charge diversion, and of appearance notices. Many differences appear between officers who do and do not find these policies and procedures helpful and/or realistic. Officers who find these policies and procedures helpful and/or realistic are more likely to use various forms of informal action, referrals to external agencies, pre-charge diversion, and appearance notices; and to "follow the law" and not to invoke social welfare considerations, in making detention and release decisions.

5.0 Authority and responsibility for the decision to charge

It seems self-evident that variations in the locus of the responsibility and authority to lay charges against a young person will have an effect on the outcome of such decisions. Since Dennis Conly's (1978) report, describing the situation in 1976, was the last national study of this topic, we begin by reviewing his findings.

One of the more striking aspects of juvenile justice in Canada under the Juvenile Delinquents Act is the remarkable variety of arrangements for deciding whether a

juvenile should be charged.¹⁷ These variations arise from two distinctions: (1) whether the police, Crown Prosecutor, or neither, made the final decision; and (2) whether the front-line officer, Youth officer, supervisor, or a committee, made the final decision (to charge, or recommend for charging) within the police force itself. In the provinces of Quebec, Manitoba, and British Columbia, the final decision to charge a youth was “not procedurally a police function” (Conly, 1978: 47). In these provinces, the police investigated the incident, referred the case to the Crown prosecutor with their recommendations, and then laid the charge(s) if the Crown so decided.¹⁸ Apart from this provincial variation, in the ultimate authority to make the decision about laying charges, each police force in the country determined who would have the authority and responsibility *within* the force to decide whether to charge (or make a recommendation to an external authority to charge) or to deal informally with the young offender. Conly included both the internal and the external (to police) allocation of responsibility and authority within one classification scheme.

According to Conly, the allocation of discretion varied from front-line and supervisory responsibility to a mixed model, to external responsibility by non-police personnel. An example of front-line responsibility in its purest form was the Toronto Police Force, where Youth Officers completed the entire investigation from beginning to end. Some other departments employed a partial specialization model, in which Youth Officers might be called in to conduct a follow-up investigation and decision if the front-line officer felt more information was needed than could be collected using regular investigatory techniques. In some jurisdictions, the final police decision lay with the supervisor, “based on the reports of field officers” (Conly, 1978: 47).¹⁹ In a slightly different model, the supervisor based his or her decision on reports from the investigating officer and either confirmed the recommendation or amended it, in consultation with the field officer.²⁰ However, as with the majority of factors that influence police charging, supervisory responsibility can be viewed on a continuum. For example, in London, Ontario, the decisions of regular investigating officers were rarely changed by supervisors.

Alternatively, a mixed responsibility model (e.g. Quebec) involved the distribution of authority being case-specific. In other words, in cases in which police did not wish to lay charges, the decision rested with the front-line officer or supervisor. In those cases that involved a strong probability of a charge, the case was referred outside the police department.

A final model involved final authority and responsibility which were external to the police. In these circumstances, the police responsibilities included the investigation of the case and a recommendation to non-police personnel. For example, in St. John’s, members of the provincial Justice Department made the final dispositional decision, and

¹⁷ This and the following paragraphs rely on Conly (1978).

¹⁸ Regardless of whether the police or the Crown made the decision, it was the police who laid the information (charge(s)) with the court.

¹⁹ Conly found this to be the case in Halifax, Gloucester, Nepean and Calgary.

²⁰ He found this the pattern in Dartmouth, Ottawa, Hamilton, Windsor, Regina, and Edmonton.

in British Columbia the reports were “generally sent first to the Crown for a substantiation of the sufficiency of the evidence and then forwarded to the Probation Office of the Family Court where a final decision in respect to charging the juvenile is made” (Conly, 1978: 47).

In addressing this issue, we felt that clarity could better be achieved if we examined the two dimensions – the internal police decision, and whether or not police have the “last word” – separately. At least in 2002, under the more legalistic regime of the Young Offenders Act, they seem to be two entirely distinct questions. The question of whether the police or the Crown make the decision concerning laying a charge against a young person, and its impact on the exercise of police discretion, are discussed in Chapter III. In this section, we look the various approaches used by the police services in our sample to the internal allocation of the authority and responsibility to lay a charge, or to recommend a charge, if the final decision is made by the Crown.

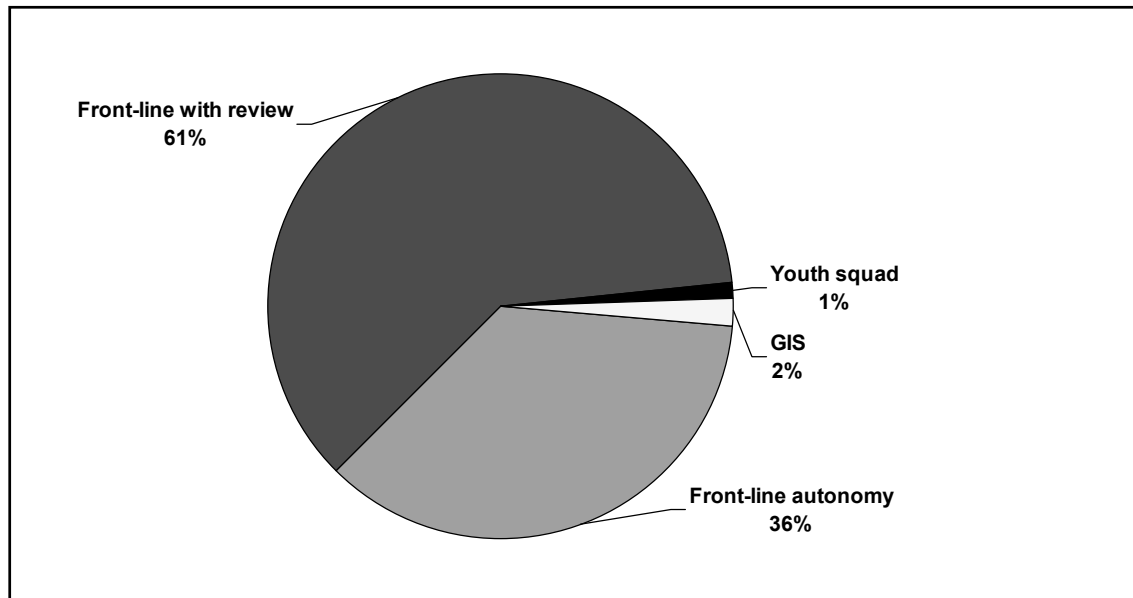
Our findings suggest a re-conceptualization of Conly’s (1978) models of the authority to charge, with four categories: (1) *front-line autonomy*, in which front-line (patrol) officers have the authority to make the decision without review by other officers; (2) *front-line with review*, in which front-line officers make the decision, or a recommendation, which is then reviewed by another officer, such as a patrol supervisor, a member of GIS, or a member of the youth squad, if there is one; (3) *youth squad*, in which the youth section, or a dedicated youth officer, is responsible for handling youth-related cases and making the decision to charge youth suspects, without input from patrol officers; and (4) *GIS*, in which a member of the GIS (General Investigation Section, i.e. a detective) makes the decision without input from patrol officers.

No doubt these bald categories oversimplify a complex reality. In any organization, few decisions are made by one person acting entirely alone and without consultation; nor is “review by a supervisor” necessarily any more than a rubber stamp procedure. Nevertheless, our informants – whether patrol, investigator, or management – seemed unequivocal in their views on whether the front-line officer had the *authority* to lay a charge, or whether the decision lay ultimately with another officer. Figure IV.13 shows the distribution of our sample into these categories.²¹

Because so few police services fit into the last two of the categories described above, the analysis which follows includes the 97% of our sample which fell into the first two categories.

²¹ Percentages are based on the 85 police agencies for which we could obtain this information.

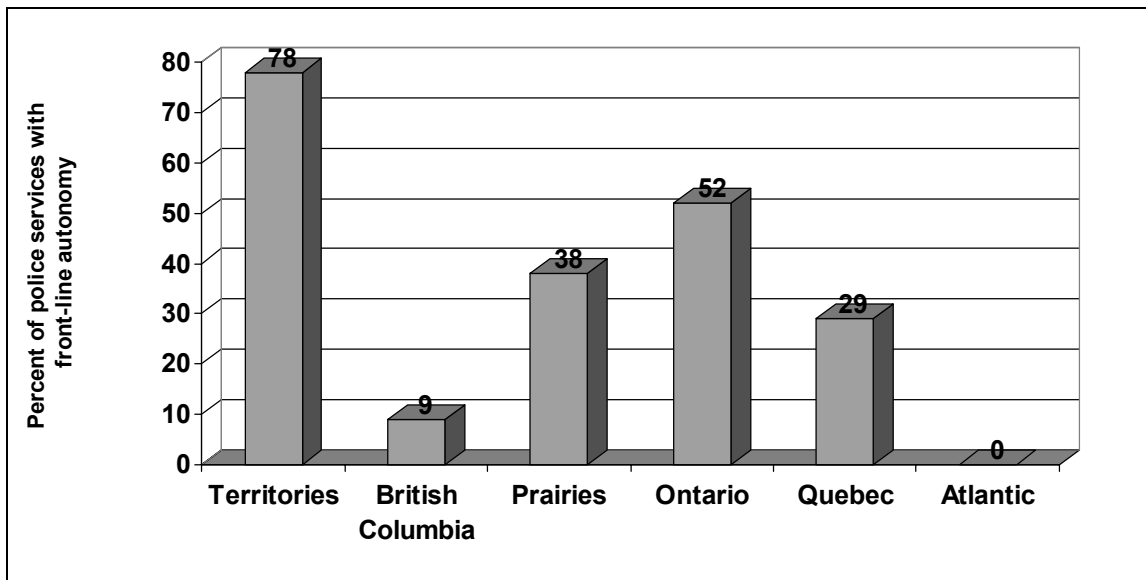
Figure IV.13 Procedural models for the authority to charge young persons



Front-line autonomy is much more common in smaller police services and communities: 54% of the rural and small town agencies in the sample said that the authority to charge rests with the front-line officer, compared with 25% of suburban/exurban forces, and only 19% of metropolitan forces. Front-line officers have the authority to charge in 65% of police services with less than 25 officers, 39% of services with 25 to 99 officers, and 8% of those with 100 or more officers. They have authority to charge in 76% of agencies with 1 to 3 ranks, 18% of agencies with 4 to 6 ranks, and 7% of those with 7 or more ranks. 92% of the OPP detachments in our sample said that front-line officers have the authority to charge, compared with 46% of the RCMP detachments, and 18% of the independent municipal forces. The regional distribution of procedural models is shown in Figure IV.14.

Agencies in which front-line officers have the authority to charge without review are slightly more likely to say that they use informal action in general, and informal warnings, parental involvement, and questioning the youth at home or the station in particular. Front-line police officers are twice as likely to view minor offences as incidents that should “almost always” be dealt with informally if they have sole decision-making power (24% vs. 12%). These findings suggest that front-line officers are more likely to use discretion with youth if their decisions are *not* subject to review.

Figure IV.14 Regional distribution of procedural models for the authority to charge young persons



Agencies in which front-line police officers do *not* have sole discretion with youth-related incidents are *more* likely to make referrals to external agencies (69% vs. 39%), and to use pre-charge diversion (61% vs. 35%), than agencies with no review of front-line decisions. This is consistent with the comments made by patrol officers during interviews. In agencies where there is no youth section or dedicated youth officer, many front-line personnel indicated that: (1) a pre-charge program does not exist, or (2) they do not have the authority to refer to pre-charge diversion, or (3) they are not entirely sure when it is appropriate to refer a youth to pre-charge diversion. Although patrol officers seem confident of their ability to choose between informal action or laying a charge, they tend to know less about available external resources and about alternative measures programs than a supervisor or youth specialist. Similarly, officers in police agencies where front-line decisions to charge are reviewed are more likely to say that they find alternative measures effective (73% vs. 50%). This supports previous findings which suggested that most patrol officers do not receive feedback about the outcome of alternative measures referrals, and are not entirely sure if alternative measures are effective with the youth whom they have encountered.

Statistical data from the UCR2 Survey on the clearance status of youth-related incidents could, in principle, clarify the extent to which agencies with front-line autonomy and with review use informal action and referral to pre-charge diversion. Unfortunately, UCR2 data are available for too few police agencies in our sample to draw any conclusions with confidence. We can analyse data from the UCR Survey to determine the proportion of apprehended youths who are charged by police agencies with these two types of charging procedure, but the UCR data do not distinguish between informal

action and pre-charge diversion – and the interviews lead us to expect that agencies with front-line autonomy will use more informal action but less diversion.

In fact, the UCR data suggest that agencies with front-line autonomy tend to have *higher* charge rates than those with review. Among independent municipal services, those with front-line autonomy charged 74% of apprehended youth during 1998 to 2000; whereas those with review of front-line decisions charged 68% of apprehended youth. Among RCMP detachments, those with front-line autonomy charged 61% of apprehended youth, versus a charge rate of 51% for detachments with review.²²

However, these statistics are misleading, because they do not distinguish between agencies with and without youth squads. Table IV.2 shows the charge rates for police services, broken down by procedural model for charging, and whether or not there is youth specialization. The analysis is done for three groups of police agencies: all agencies for which data were available (78); agencies in metropolitan areas only (27), and independent municipal agencies only (45). There were too few cases in other categories to analyse with confidence.

Table IV.2 Proportion of apprehended young persons charged, 1998-2000, by the procedural model for charging and youth specialization

	All agencies	Metropolitan agencies	Independent municipal agencies
	% charged	% charged	% charged
Autonomy, with youth specialization	60%	59%	60%
Review, generalist model	62%	70%	68%
Review, with youth specialization	69%	70%	69%
Autonomy, generalist model	76%	80%	79%

In each case, the model which is associated with the lowest charge rates is front-line autonomy in a police service which has youth specialists. The model associated with the highest charge rate is front-line autonomy with no youth specialization. The other two models produce intermediate results. The implication is that front-line autonomy results in greater use of discretion not to charge young persons *if* the front-line officer has training to deal with youth, or if the police service is committed to using discretion with youth, as indicated by its establishment of a youth squad. If there is no youth specialization, or commitment to special treatment for youth, then autonomy appears to result in front-line officers using their discretion *to lay charges* against youth. Thus, in a police agency without youth specialization, it is the review by another officer, whether supervisor or GIS, which appears to moderate the tendency of front-line officers to lay charges.

²² The comparison could not be made for OPP detachments, since all but one have front-line autonomy.

There were no systematic differences between agencies with front-line autonomy, and those with review, in the use of the various methods of compelling appearance or in most of the reasons given to detain a young person until a judicial interim release hearing. However, officers in agencies with review of front-line decision-making are more likely to say that they detain in order to get judicial bail conditions (43% vs. 6%), if the young person is before the courts (33% vs. 19%), or if the offence is gang-related (13% vs. 0%). Also, officers in agencies with review of front-line decision-making are more likely to say that they “almost always” charge and detain youth who are repeat offenders (43% vs. 26%) and to get release conditions (26% vs. 13%). Our data suggest that front-line officers *do* refer to departmental policies regarding compelling appearance, since officers in agencies where the front-line officer has sole discretion are twice as likely (56% vs. 26%) to cite “departmental policy” as the criterion for deciding when to charge and detain.

Our findings concerning the impact of front-line autonomy suggest three themes. First, the likelihood of police officers using informal action with young offenders is higher in police services where front-line officers are autonomous, and where there is a commitment to the use of discretion with youth. Second, agencies in which there are no dedicated youth officers, and front-line officers decide alone on the disposition of youth-related cases, tend to use referrals to external agencies and pre-charge diversion less, and lay charges more, than agencies in which a supervisor or youth specialist is involved in the decision. Finally, autonomous patrol officers appear to use less intrusive measures to compel the attendance of a young person in court. In cases where they *do* detain a young person they tend to do so as a result of stipulations within departmental policy.

These findings support arguments raised by writers on the principles of problem solving by police, and community policing. Crank (1997) suggests that administrators should allow the rank and file more discretion by relaxing the traditional requirement of requesting permission and the rigid guidelines for accountability. Patrol officers, who handle the vast majority of youth-related crime, appear to feel more free to resolve incidents informally if they are not concerned about their decisions being overruled, or about suffering adverse consequences because another officer felt that another action would have been more appropriate. However, this autonomy must be accompanied by a commitment on the part of the police service to the use of discretion with young offenders, or patrol officers may make *more* use of charging than if they were subject to review.

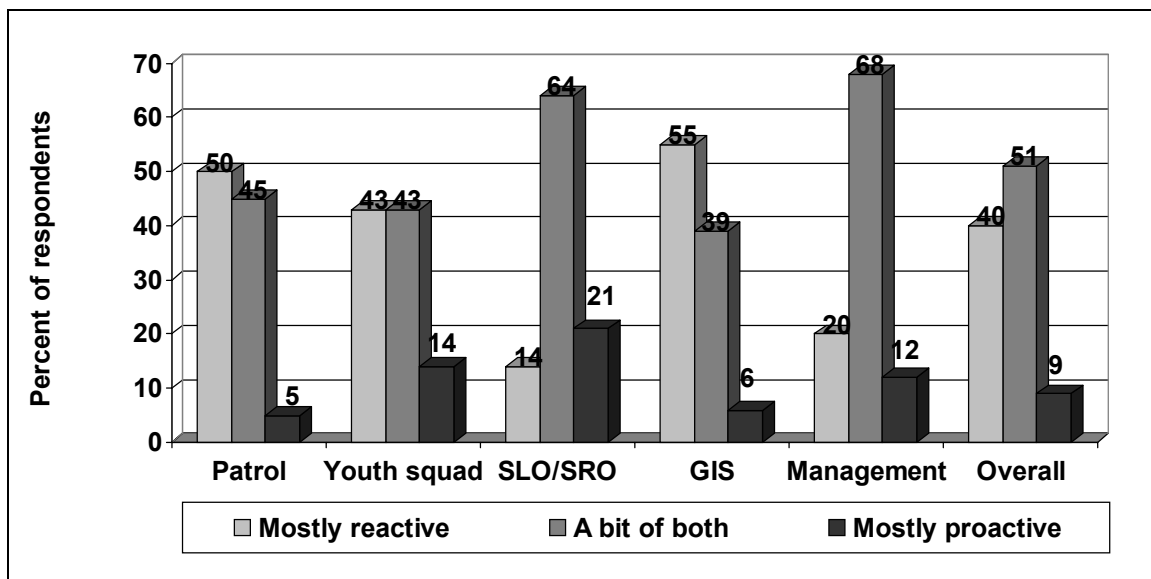
6.0 Policing styles: Reactive versus proactive policing

The three main patrol functions within traditional reactive policing are routine patrol, immediate response to calls, and follow-up investigations (Cordner & Sheehan, 1999: 385-394). Reactive policing can be defined as the police responding to specific requests from individuals or groups in the community which encompasses “immediate response to calls” and “follow-up investigations”. However, the rationale for routine patrol is not as

straightforward. Traditional thinking suggests that the mere presence of a police vehicle will act as a deterrent to crime (Trojanowicz et al., 2002). According to Crank (1998), routine or random preventative patrol is by definition reactive policing. There is no initiative on the part of the officer or the organization to target a specific area or problem within the geographical patrol district. However, it can also be argued that routine patrol is required in order to facilitate response in a timely manner to dispatch calls.

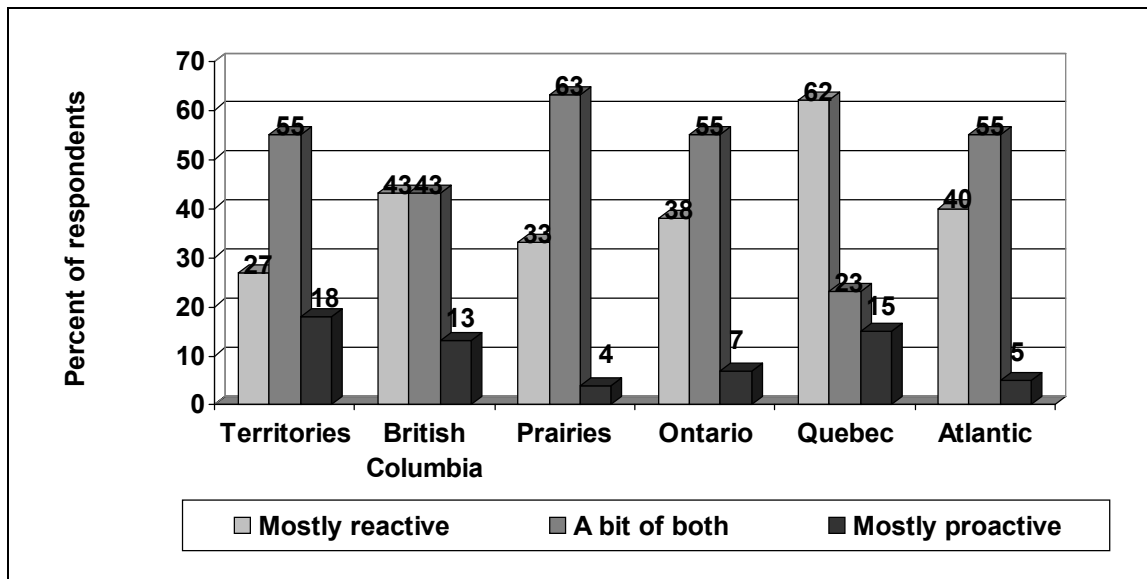
In contrast, proactive policing involves the “police, acting on their own initiative, [to] develop information about crime and strategies for its suppression” (Crank, 1998: 244-245). This can also be interpreted in a myriad of ways. For example, an officer responding reactively to a dispatched call could, nonetheless, resolve the issue proactively by mediating between the parties or using informal action. Similarly, in contrast to routine patrol, directed patrol involves police officers being instructed to monitor specific areas that are identified through problem or crime analysis when they are not responding to dispatch calls (McKenna, 1998). Directed patrol is more proactive than random preventative patrol; however, it still lacks the component of problem oriented policing which engages the community in resolving crime issues. One American study found that proactive policing resulted in more arrests, detention and filing of reports than reactive policing (Seagrave, 1997). Possible reasons suggested were the need for more forceful action to gain “legitimacy and control” as well as officers having made a decision beforehand which prompted a proactive mobilization (Seagrave, 1997: 148). This finding appears to be counterintuitive to what one would expect when officers employ problem-oriented policing. Thus, these findings suggest a need to distinguish clearly between proactive mobilization and problem-oriented policing practices (Section 7.3 below).

Figure IV.15 Style of policing by location of service



We attempted to ascertain where on the continuum of “reactive” and “proactive” police officers perceive their work in relation to youth crime. Officers’ responses fell into three broadly defined categories: *mostly reactive*, *mostly proactive*, and *a bit of both* - which includes officers who felt their work was both reactive and proactive on a fairly regular basis. The distributions of answers given by officers serving in different assignments is shown in Figure IV.15.

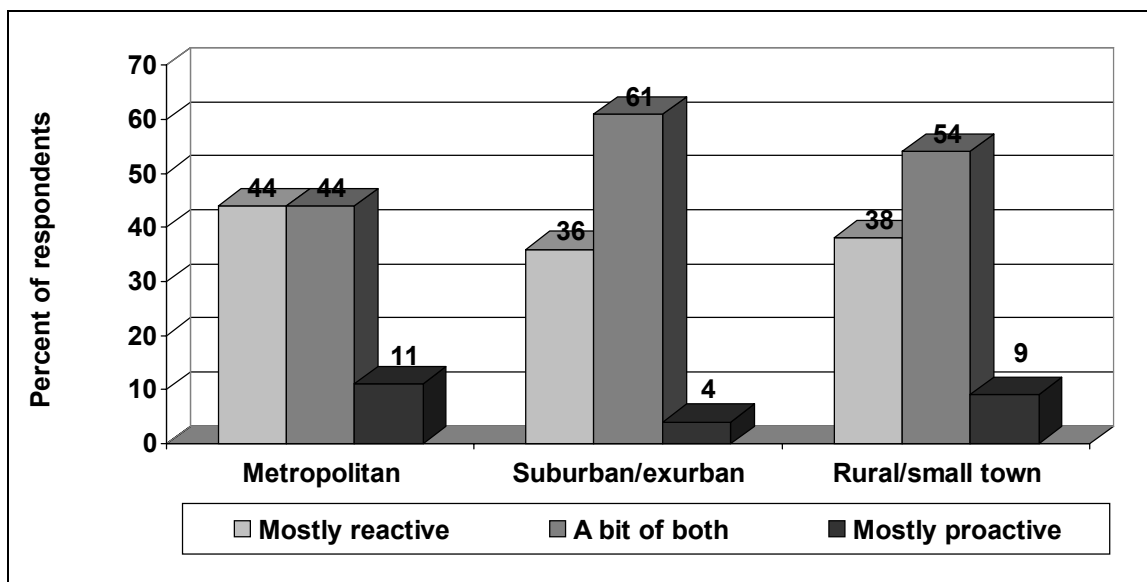
Figure IV.16 Regional distribution of styles of policing



Just over one-half (51%) of the police officers in our sample indicated their job duties are “a bit of both” (reactive and proactive). Many patrol officers in this category mentioned that they may respond reactively to a call from dispatch, but wherever possible, they try to resolve the incident in a proactive manner. They felt that, in spite of the notion that their jobs in patrol are purely reactive, they actually do both types of policing. 39% of GIS officers also fell into this category. They indicated that they usually lay charges; however, they may make referrals to external agencies and they see this as a proactive activity. 40% of the police officers indicated they are mostly reactive in their duties. These were most likely to be in patrol or GIS. It is not the case that these officers do not engage in proactive activities; it merely reflects the fact that they feel the majority of their actions is reactive. Finally, 9% of the officers in our sample suggested they are mostly proactive in the scope of their duties. As expected, these tended to be school liaison, community service, or youth squad officers. As with those officers who characterized their work as mostly reactive, the “mostly proactive” officers also respond reactively to calls for service but the majority of their time is spent in proactive work.

Proactive policing is more common among officers working in the Territories, Quebec, and British Columbia (Figure IV.16).²³ It is also more common in metropolitan and in rural and small town agencies (Figure IV.17). The relatively high proportion of officers in rural and small town police agencies who said that their work is mostly proactive is surprising, in view of the limited resources of these agencies, and may reflect the lesser pressure on these officers to deal with a high volume of calls for service in relation to serious crime, or a more community-oriented style of policing. Proactive policing is also much more common among police officers working in agencies whose jurisdiction includes a First Nations reserve (Figure IV.18).

Figure IV.17 Styles of policing by type of community



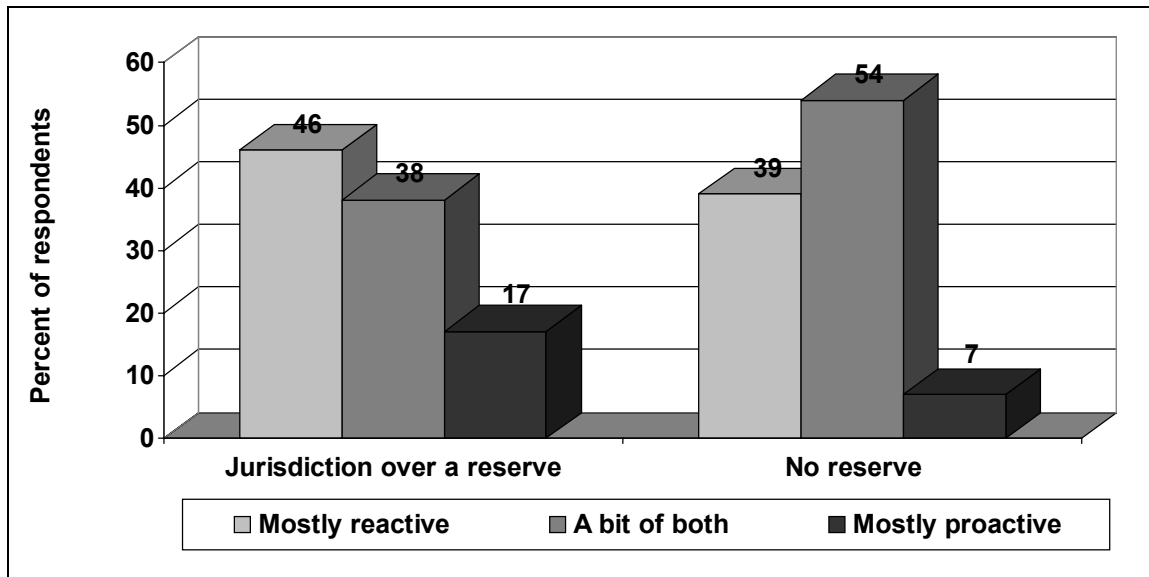
Officers who identify themselves as mostly proactive are three times as likely to almost always consider informal action with minor offences (54% vs. 13%) and almost twice as likely to do so with provincial offences (38% vs. 17%). This may be due to the higher proportion of CSO and SLO officers identifying their work as mostly proactive; whereas patrol work was characterized generally as mostly reactive or a bit of both. However, there were quite a few patrol officers who would “almost always” consider using informal action with minor and provincial offences. In these circumstances, they suggested that it is an integral component of exercising their discretion with youth-related incidents.

With respect to almost all types of informal action, there are no apparent differences among officers whose work falls into the three types of policing style. One exception is in the use of formal warnings. Almost half of the officers who identified their work as

²³ The percentages of police services with ‘mostly proactive’ policing in Figures IV.16 to IV.18 should be interpreted with caution, since they are based on relatively small numbers.

mostly proactive use formal warnings (46%) compared to about one-quarter (27%) of those who said a bit of both or 19% who said mostly reactive. Thus, the data suggest an incremental increase in the use of formal warnings as officers identify their work as progressively more proactive – or as police services encourage proactive policing.

Figure IV.18 Styles of policing by whether a First Nations reserve is in the police agency's jurisdiction



Surprisingly, we did not find any significant differences among officers identifying the three policing styles in the overall use of alternative measures or pre-charge diversion. However, officers who perceive their work as mostly proactive are less likely to use post-charge alternative measures (54%), compared to those whose work is mostly reactive (86%) or a bit of both (80%). This suggests to us that officers may conceptually separate pre-charge and post-charge alternative measures and classify the latter as a reactive response. This may be due to the fact that officers generally do not have much of a say in whether a young person is diverted post-charge to an alternative measures program. An officer lays the charge, and the outcome is not under his/her control; whereas, they are more likely to view as proactive those actions which they can control (e.g. pre-charge diversion).

There are significant difference among officers in the three categories of work style in their identification of any offences for which they would almost always lay a charge. 31% of police officers who identify their work as mostly proactive suggest that there are *no* offences which will almost always result in a charge, compared to 9% of those that are mostly reactive or 4% that are a bit of both. This suggests that officers doing mostly proactive work are less likely to base their decision-making simply on the nature of the offence.

We were unable to use data from the UCR on the proportion of apprehended youth who were charged to assess the impact of policing style on the propensity to charge, because the UCR data are measured at the level of the overall police service, and our indicator of policing style is measured for individual officers. There was no reasonable way to combine individual officers' answers concerning whether their work was mostly proactive or reactive or a bit of both, in order to characterize the overall degree to which an entire police service uses a proactive or reactive style.

There are very few significant differences among officers in the three categories of work style in the methods used to compel attendance in court. Police officers are just as likely to use a summons, an appearance notice or a promise to appear regardless of how they define their duties. However, there are differences in the conditions which they are likely to attach to an OIC undertaking, and the reasons which they give to detain for a JIR hearing. Police officers who suggest their work is mostly proactive are more likely to attach the conditions of no association or no alcohol or drugs. They were also more likely to specify clearly the conditions which they commonly attach to undertakings. Further, officers doing mostly proactive work are twice as likely *not* to detain a young person for multiple breaches (15% vs. 30%) and not as likely to detain if the young person is a repeat offender (15%) compared to officers whose work is a bit of both (36%) or mostly reactive (47%). Similarly, proactive officers are less likely to "almost always" detain a repeat young offender (8%) than those whose work is both reactive and proactive (23%) or mostly reactive (33%). *No* officers whose work is mostly proactive cited "if the youth is before the courts" as a reason to detain, compared to 17% of the officers whose work is a bit of both and 22% whose work is mostly reactive.

Our interview data indicate that officers involved in proactive enforcement practices within programs such as SHOP generally classify their work as mostly proactive. Thus, the findings described above imply that these proactive programs do not necessarily result in more charges; and tend to result in *less* use of detention, but *more* use of conditions on release undertakings.

7.0 Support for community policing

One major shift in the orientation of policing in Canada has been the shift from traditional to community policing. By the 1990's, virtually every police force in Canada had incorporated the term 'community policing' in their written mandates (Horne, 1992). This is not to say that every police department in Canada has necessarily adopted the entire philosophy behind community policing. This philosophy of policing entails an expanded role of the police within the community, and significant internal organizational change. There is considerable variation in practices across Canada (Hornick et al., 1996). The variations are not only a question of whether a few new programs were adopted but also one of confusion concerning the application and implementation of the concept of community policing (Horne, 1992; Leighton, 1991). In short, most departments

understand *what* community policing is but there is little agreement as to *how* it should be executed (Hornick et al., 1996).

A shift from traditional to community policing involves a change in a department's orientation, emphasis, community relations, geographical organization, power base, and recruitment and training (Wood, 1996). Traditional policing adopts the crime control model as its primary orientation. Community policing incorporates a mixture of order maintenance and community service (Wood, 1996). The responsibility for community relations is on every officer, instead of the traditional approach of specialized units. The emphasis shifts from one of bureaucratic process to concrete results, and the power base shifts from complete police control to a shared power with the community. The jurisdictional organization (discussed in Section 2.0 above), moves from centralized to decentralized. Most importantly, recruitment and training must be geared towards human relations and problem solving instead of an exclusive focus on crime control (Wood, 1996). A problem-oriented policing style adopts methods such as SARA (Scanning Analysis Response Assessment) and CAPRA²⁴ (Clients Analysis Partnerships Response Assessment) (Himelfarb, 1997; Hornick et al., 1996). In both cases, officers incorporate the actions of relevant actors (victims, offenders), consider the characteristics of the incident (social context, physical setting, and actions taken before, during, and after the events) as well as the responses and perceptions of citizens and private/public institutions as they apply to the problem (Bala et al., 1994). Thus, community policing has two major components: (i) community partnerships, and (ii) problem solving (Hornick et al., 1996). Canadian police leaders have strongly endorsed community policing as the most progressive approach (Leighton, 1991); however, the available literature does not identify which Canadian police agencies have made a complete transition to community policing.

In order to adopt a community policing approach, a police department must create its own community policing style, which reflects the needs of the citizens in the communities that it serves. Normandeau & Leighton (1990) have identified the following characteristics as essential for the success of any community policing effort:

- The mission of police officers as peace officers
- Community consultation
- A proactive approach to policing
- A problem-oriented strategy
- Crime prevention activities
- Interagency cooperation
- Interactive policing
- A reduction of the fear of victimization
- Development of police officers as generalists
- Decentralized police management
- Development of flatter organizational structures and accountability to the community.

²⁴ CAPRA, as a problem solving method, is part of every RCMP officer's initial training program (Hornick et al., 1996).

In short, adoption of the philosophy of community policing involves a radical change in *all elements* of organizational structure and process. Finding viable alternatives to formal processing involves focusing on the causes of the behaviour and using proactive problem solving which finds meaningful responses that are best tailored and balanced to the youth and his or her situation (Hornick et al, 1996). The employment of a multi-agency approach stresses the use of community-level resources, a sharing of knowledge and a pooling of resources and expertise in a cost-effective manner (ibid.). These elements are all facilitated by a complete adoption of community policing philosophy. Thus, the degree to which a police agency adopts community policing is likely to have a profound influence on its use of informal means to handle youth crime.

Since community policing focuses on the needs of a specific community, there is no blanket schematic approach. An approach that works in one jurisdiction may not be applicable in another. Police officers have indicated that they lack general knowledge of what works in given situations. In some jurisdictions, the police are very innovative in their approaches to handling youth crime; whereas, in others they appear overwhelmed with their workload, stating that the YOA inhibits their abilities to develop proactive crime prevention strategies.

A recent study found that police strongly favour community policing objectives and 97% felt that community-based alternatives to formal processing were a viable method to impart meaningful consequences (Caputo & Kelly, 1997). However, drawbacks included a lack of direction and meaning regarding the concept of community policing, variation in the informal nature between jurisdictions, availability, reluctance by administrators to reallocate resources away from traditional reactive policing functions,²⁵ and a lack of recognition by peers and superiors²⁶ for crime prevention initiatives such as school-based programming (ibid.). In short, police officers are asking for guidance on how and when to use police discretion within a community policing policy.

7.1 The philosophical dimension: mission statements and documented mandates and objectives

There are four dimensions of community policing: philosophical, strategic, tactical, and organizational (Cordner & Scarborough, 1997). The philosophical aspect involves incorporating community policing ideals (as discussed above) within the organization. The philosophical dimension is commonly found within a mission statement and/or a department's mandates and objectives. Just under one-half (46%) of the police agencies in our sample provided us with a copy of their mission statement, and one-third provided copies of their mandates and objectives. Agencies in metropolitan areas are much more likely to have a mission statement (70%) than those in suburban/exurban (42%) or rural/small town jurisdictions (34%). Documentation of mandates and objectives is less

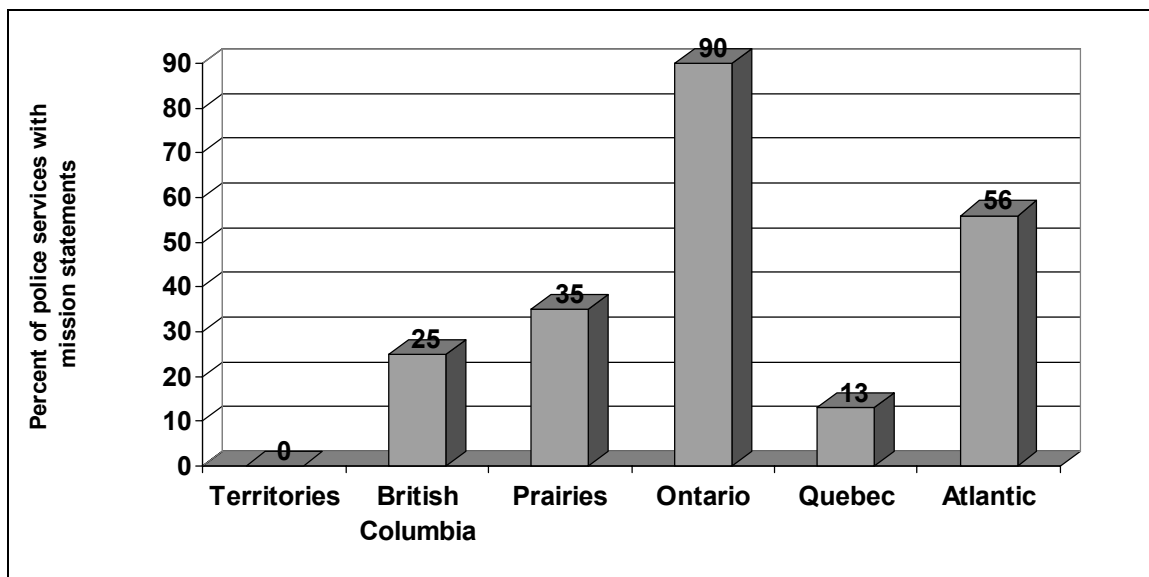
²⁵ This may be facilitated in agencies which have redefined police roles and job descriptions.

²⁶ Common indicators of productivity for police officers are arrest and clearance rates (Ericson, 1982).

common: 47% of metropolitan police agencies were able to provide this type of documentation, as were 26% of suburban/exurban agencies and 26% of rural and small town agencies.

There are striking regional differences in the availability of documentation (Figure IV.19). Almost all of the police agencies in Ontario and over one-half in the Atlantic currently have mission statements, compared to much lower proportions elsewhere. The great majority of agencies in Ontario (70%) also have clearly stipulated mandates and objectives, compared to lower proportions in the other regions (0% - 27%)²⁷. Virtually all of these documents contain the terminology “community policing”. However, it is only in the other dimensions that the degree to which an agency has adopted community policing can be identified.

Figure IV.19 Regional distribution of adoption of the philosophical dimension of community policing

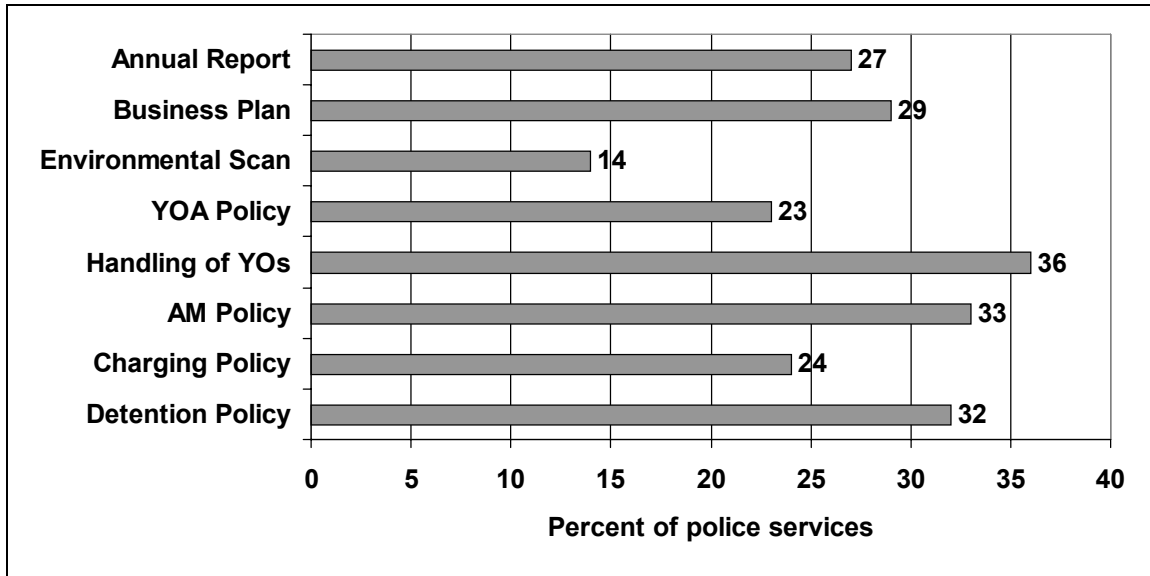


7.2 The strategic dimension: policies, protocols, and allocation of resources

The strategic dimension denotes incorporation of the ideals of community policing into policies and protocols, as well as - crucially - the allocation of adequate resources. There are several aspects that can be examined to assess the degree to which a police agency has adopted the strategic component of community policing. Figure IV.20 shows the percentage of police agencies that provided us with documentation concerning these various aspects.

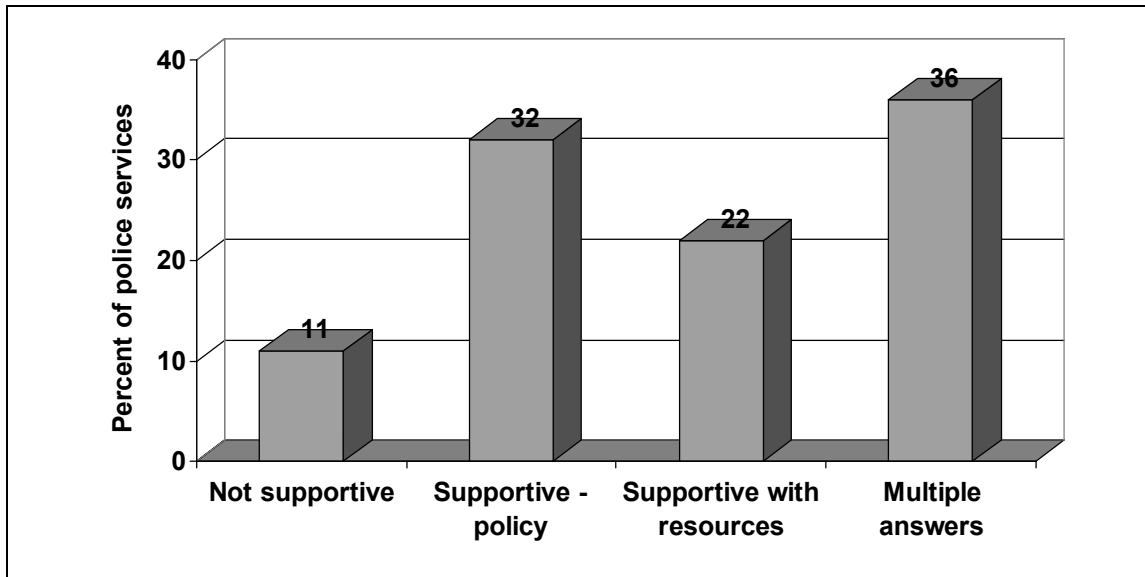
²⁷ These stark differences are probably the result of Ontario’s Policing Standards Act.

Figure IV.20: Police services which provided documentation on the strategic dimension of community policing



These percentages provide insight into the extent to which policies and protocols have been adopted. Yet, even within those agencies that have established relevant policies, protocols, and reports to the public (e.g. an Annual Report) the question remains whether they have supported the rhetoric with adequate resources. We asked our interviewees whether they felt that their police agency was supportive of community policing. Answers were coded into three categories. *Not supportive* indicates that the police agency does not have any community policing policy, does not provide resources for officers to implement community policing initiatives, and management does not reward any of these types of initiatives. *Supportive - policy* means that the agency has drafted policies, protocols, and reports to the public that indicate a commitment to community policing (for details, see Figure IV.20 above). Finally, the category *supportive with resources* indicates the allocation of significant resources to community policing. Agencies in this category have not only written down their initiatives but have also provided adequate resources and support for the implementation and continuation of community policing within all ranks. In a substantial number of police services, officers whom we interviewed disagreed with one another as to the level of support for community policing. These police services were coded *multiple answers*. Figure IV.21 shows the distribution of police services.

Figure IV.21: Level of commitment by police agencies to community policing

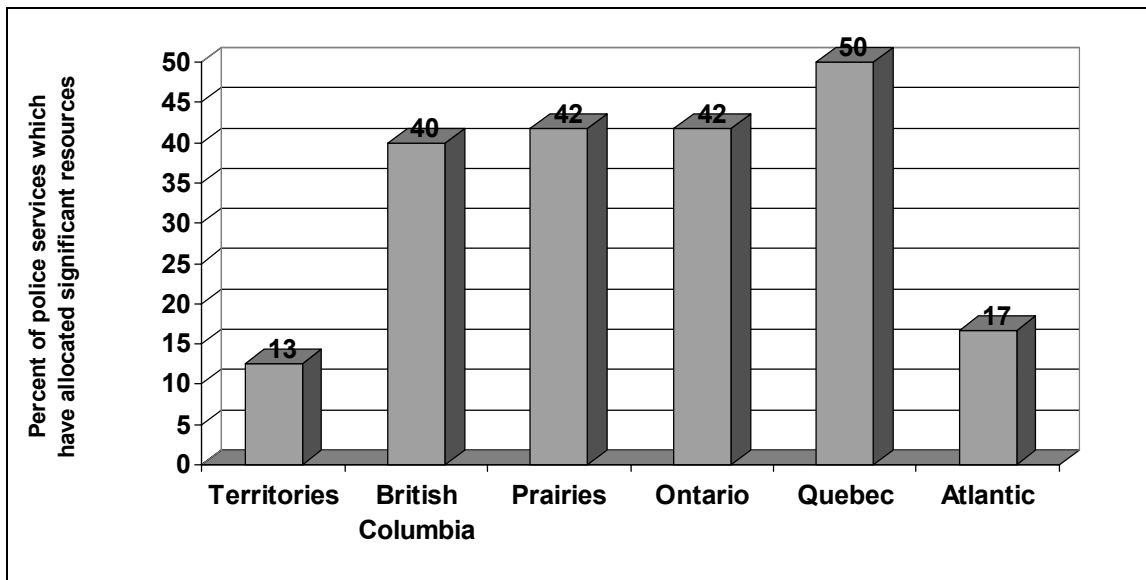


The data suggest that less than one-quarter of the police agencies in our sample have implemented the strategic component of community policing. The fact that more than one-third of the agencies fell under the category of *multiple answers* suggests two things to us. First, the philosophical dimension has not been clearly articulated within all ranks to ensure that officers have a clear idea of the mandates and goals with respect to the implementation of community policing. Second, the assignment of dedicated community service officers (CSO's) in some police services increases the likelihood of conflicting views among members of the police agency, since other officers (e.g. patrol) do not see themselves as engaged in community policing per se.

The regional distribution of police agencies' support for community policing is shown in Figure IV.22.²⁸ The strongest form of commitment to community policing – allocation of significant resources to it – is spread fairly evenly across the regions of Canada, except for the low levels in the Atlantic region and the Territories. Allocation of resources to community policing is more common among metropolitan (42%) and suburban/exurban agencies (40%), but lower, as expected, in rural and small town police agencies (26%).

²⁸ The substantial number of police services in which officers disagreed about the level of support – coded “multiple answers” in Figure IV.21 – are omitted from the percentages in Figure IV.22.

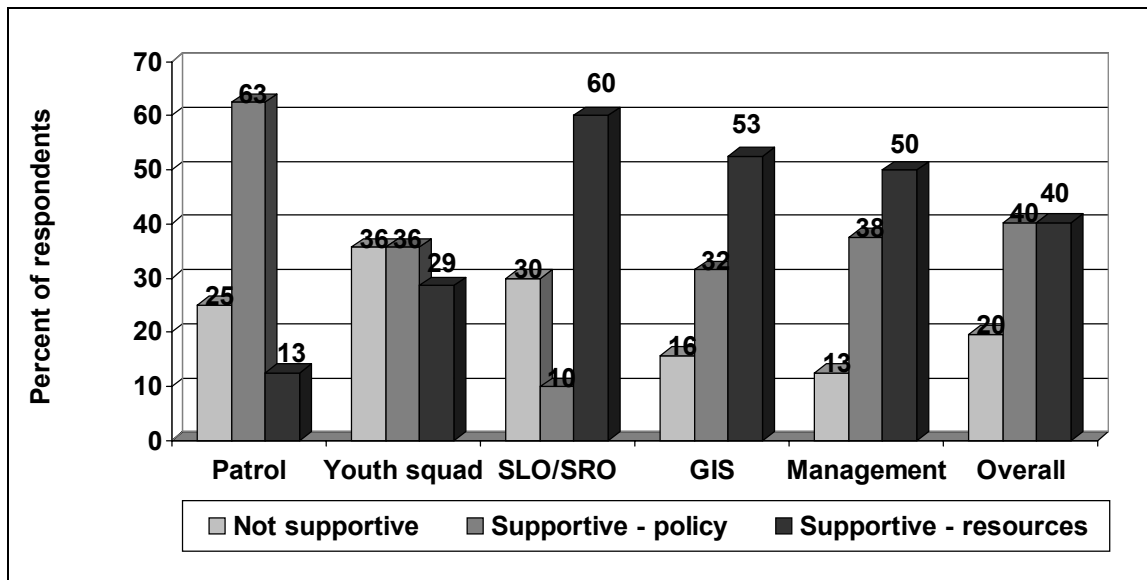
Figure IV.22 Regional distribution of the level of commitment by police agencies to community policing



Looking at the views of individual officers, rather than treating the police service as a unit, we find that 40% of the respondents said their organization had allocated significant resources to community policing, another 40% said it was supportive in policy only, and 20% said it was not supportive. Many of the officers who said that their organization was supportive in policy only made it very clear that they considered this form of commitment to be “lip service” only, which was not backed up with tangible action. Thus, only 40% of the officers whom we interviewed felt that their organization had made a serious commitment to community policing, in the form of the allocation of resources. This rather undermines the claim at the beginning of this section that Canada has witnessed a major shift from traditional to community policing.

Views of officers concerning their organization’s commitment to community policing differ by the functional assignment of the respondent. Figure IV.23 shows that School Liaison Officers and youth squad officers are the most likely to say that their organization is *not* supportive of community policing, but SLO’s are also the most likely to say that their agency is supportive with resources. Evidently, they have more clearly defined views than other officers, presumably because it is the SLO’s who are most directly involved in community policing. Youth squad officers are also less likely than others to view their organization as supportive with resources; however, it is the patrol officers who take the most jaundiced view of their organization’s commitment to community policing: only 13% said there was support including resources.

Figure IV.23 Views on agency’s support for community policing, by location of service



Our findings do suggest the implementation of the strategic component of community policing affects police decision-making with young offenders. If an agency has relevant policy and resources dedicated to community policing its members are more likely “usually” or “always” to use informal action. No differences are apparent in the use of informal warnings; however, agencies which are supportive with resources are more likely to use formal warnings (44%) than those that are supportive only with policy (30%) or agencies that are not supportive of community policing (0%). Police agencies which have allocated resources to community policing are also less likely to question a youth at home or the police station as a form of informal action (23% vs. 50% of other agencies). Further, officers in these agencies are almost twice as likely to make referrals to external agencies if the police force is supportive with the allocation of resources (80% versus 44% of other agencies).

The level of commitment to community policing is positively related to the use of alternative measures as a method to deal with youth-related incidents. One-quarter (25%) of agencies that are not supportive of community policing use pre-charge diversion, compared to almost one-half (43%) that have incorporated community policing policy, and three-quarters (75%) of those agencies with dedicated resources. There is a similar relationship with the likelihood that a police agency uses community based pre-charge restorative justice programs. None of the agencies that were not supportive of community policing used community based restorative justice diversion programs, compared to 22% of those with supportive policy and over one-half (56%) with dedicated resources. No differences were evident in the use of post-charge alternative measures.

Table IV.3 shows the proportions of apprehended youth who were charged during 1998-2000, according to the UCR Survey, broken down by the degree of support of the police service for community policing. The table is further broken down by region, in order to control for overall regional variations in charging practices. In five of the six regions (the Prairie provinces being the exception), the propensity to charge decreases as the level of support for community policing increases.

Table IV.3 Proportion of apprehended young persons charged, 1998-2000, by the level of support for community policing and region

	Not supportive	Supportive - policy	Supportive with resources
	% charged	% charged	% charged
Territories	n/a	61%	43%
British Columbia	56%	49%	35%
Prairies	n/a	71%	75%
Ontario	73%	75%	66%
Quebec	n/a	47%	45%
Atlantic	78%	60%	60%

There is no relationship between the level of commitment to community policing and the use of appearance notices or summonses. However, there is a relationship with the reasons which respondents gave us for the use of the promise to appear. Agencies with dedicated community policing resources are more likely to use a promise to appear “to release a young person without detention” (75%) than those agencies that have only policy or are not supportive (53%). They are also more likely to use a PTA “as a higher consequence than releasing with an appearance notice” (18% vs. 0%), or “in conjunction with an OIC undertaking” (64% vs. 25%). There is no relationship between the degree to which an agency has implemented the strategic dimension of community policing, and the types of conditions which its members commonly attach to an OIC undertaking.

With one exception, we found no differences in reasons given to detain a youth for a judicial interim release hearing. Agencies with dedicated community policing resources are only half as likely to indicate that they detain young offenders “for multiple breaches” (19% vs. 41%).

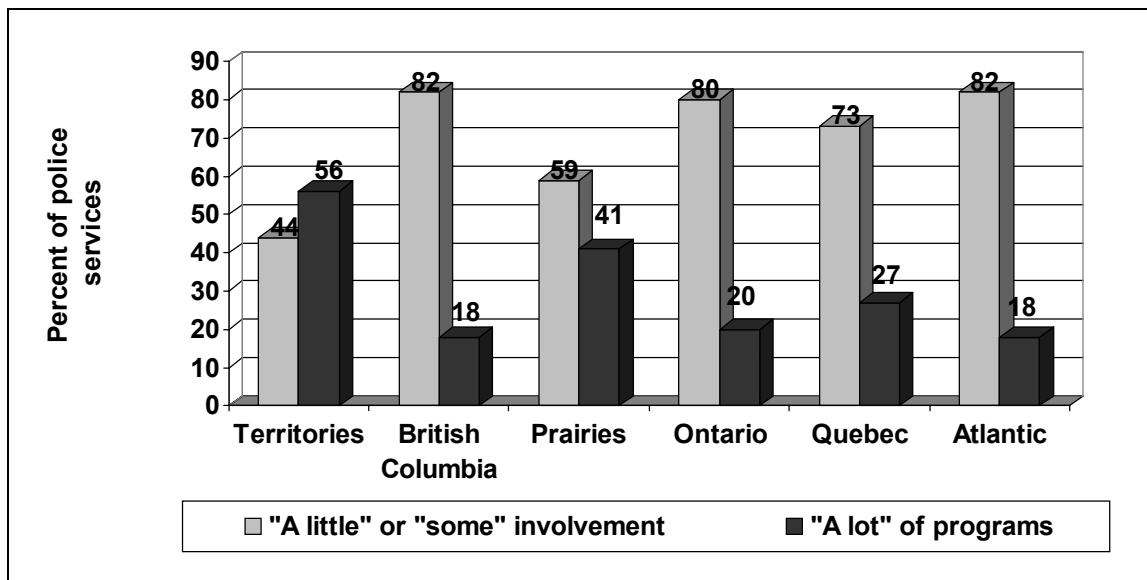
7.3 The tactical dimension: crime prevention programs and problem-oriented policing (POP)

The tactical dimension in the implementation of community policing is the establishment “on the ground” of crime prevention programs and problem-oriented policing. We asked

respondents about the degree of involvement of their agency in crime prevention, and coded the answers into three categories. *Every* police service and detachment in our sample has one or more crime prevention programs that are delivered on a relatively consistent basis. Officers in 28% of the agencies said that their agency delivers *a lot* of crime prevention programs; 34% of agencies deliver *some* programs, and 38% of agencies have *a little* involvement in delivering crime prevention programs.

Figure IV.24 shows the regional distribution of involvement. This mirrors the regional distribution of levels of youth crime (Figure III.9), with high levels in the Prairies and Territories and lower levels elsewhere.

Figure IV.24 Regional distribution of the level of involvement of police services in crime prevention programs



Metropolitan (33%) and suburban/exurban (29%) police agencies are more likely than agencies in rural areas and small towns (20%) to be involved in “a lot” of crime prevention programs; and agencies in rural areas and small towns are more likely (48%) to have only “a little” involvement in crime prevention than metropolitan (30%) and suburban/exurban agencies (29%). These patterns suggest a relationship between the perceived level of youth crime in the community and the level of involvement of the police service in crime prevention programs. At the high end of the spectrum, however, the relationship is actually very weak: 32% of police services in communities with “a lot” of youth crime are involved in “a lot” of crime prevention programs, versus 26% of services in communities with “a normal amount” of youth crime and 25% of services in communities with “not very much” youth crime. A much stronger relationship is evident at the other end of the continuum of involvement: 67% of police agencies in communities with “not very much” youth crime have only “a little” involvement in crime prevention

programs, versus 38% of agencies in communities with “a normal amount” of youth crime, and 18% of agencies in communities with “a lot” of youth crime.

Only 11% of the agencies in the sample provided us with documentation concerning their crime prevention programs – apparently because only the larger agencies have the financial and personnel resources to produce this kind of documentation. A small percentage of agencies provided documentation concerning their specialized programs such as SHOCAP/SHOP (9%), G.R.I.T. (Gang Resistance Intervention Team) (2%), and TAPP-C (5%). 16% of our sample provided documentation outlining community mobilization projects and ongoing problem-oriented initiatives involving community partners. It was evident from the interviews that these figures are not indicative of the extent that the police agencies in our sample are engaged in innovative youth programs, and do not capture the depth of involvement in their communities of many of the agencies in our sample.

There is considerable variation in the type of crime prevention programs in which police services participate. The type of programs delivered may change periodically over the years to better reflect the perceived needs of the community. For example, our interviewees suggested that the prevalence of programs geared towards the prevention of bullying has increased over the past three to four years. Similarly, in many organizations officers are becoming much more involved in volunteer activities that bring them in contact with youth (e.g. baseball games, community events). Figure IV.25 shows the main categories of crime prevention programs which are currently being delivered by agencies in our sample, either in schools or at other venues.

Figure IV.25: Types of crime prevention programs

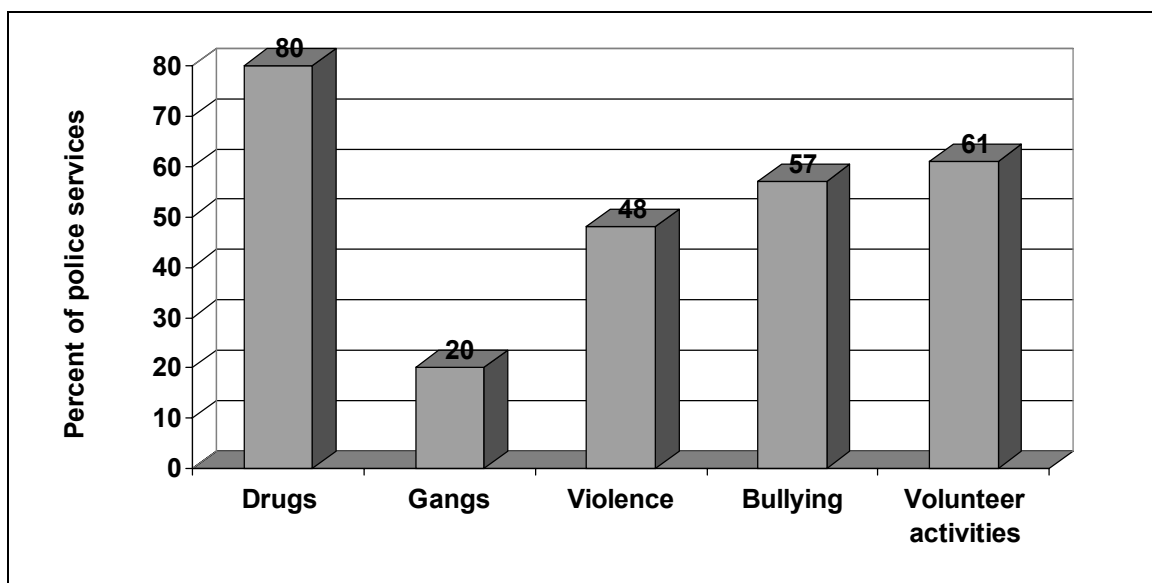
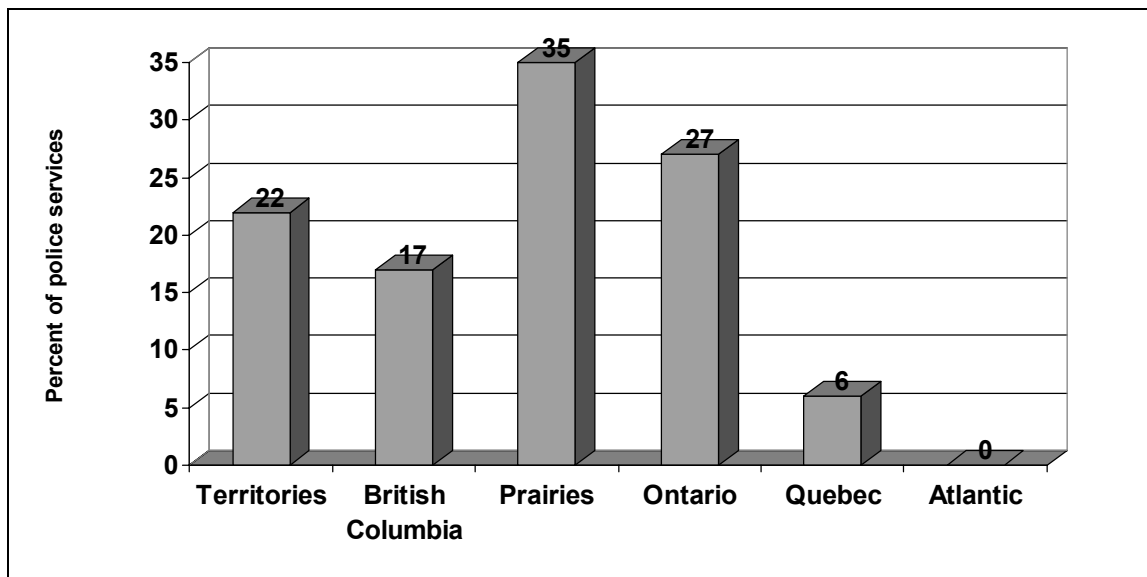


Figure IV.26 shows the regional distribution of police services involved in crime prevention programs related to youth gangs. Involvement is higher in the Prairies and Ontario, and very low in Quebec and the Atlantic provinces. Except for Quebec, this distribution mirrors the regional distribution of identified youth gang problems: higher levels in the Prairies, Ontario, and Quebec (Figure III.14). Indeed, police agencies in communities with identified youth gang problems are much more likely (52%) to be involved in gang-related programs than other police agencies (10%). Involvement in youth gang-related crime prevention programming is also strongly related to the perceived level of youth crime in the community: 50% of police services in communities with “a lot” of youth crime are involved in anti-gang programs, compared with 14% in communities with “a normal amount” of youth crime, and only 8% in communities with “not very much” youth crime. These relationships probably explain why police services in metropolitan areas are much more likely (40%) to be involved in gang-related programs than agencies in suburban/exurban communities (21%) or police services in rural areas and small towns (7%). Police services in communities with a significant population of aboriginals living off-reserve are also much more likely (31%) to be involved in gang-related programs than other police services (14%). However, there is no relationship between policing a First Nations reserve and being involved in gang-related programs: 19% of police agencies which include a reserve in their jurisdiction are involved in such programs, compared with 20% of other police agencies.

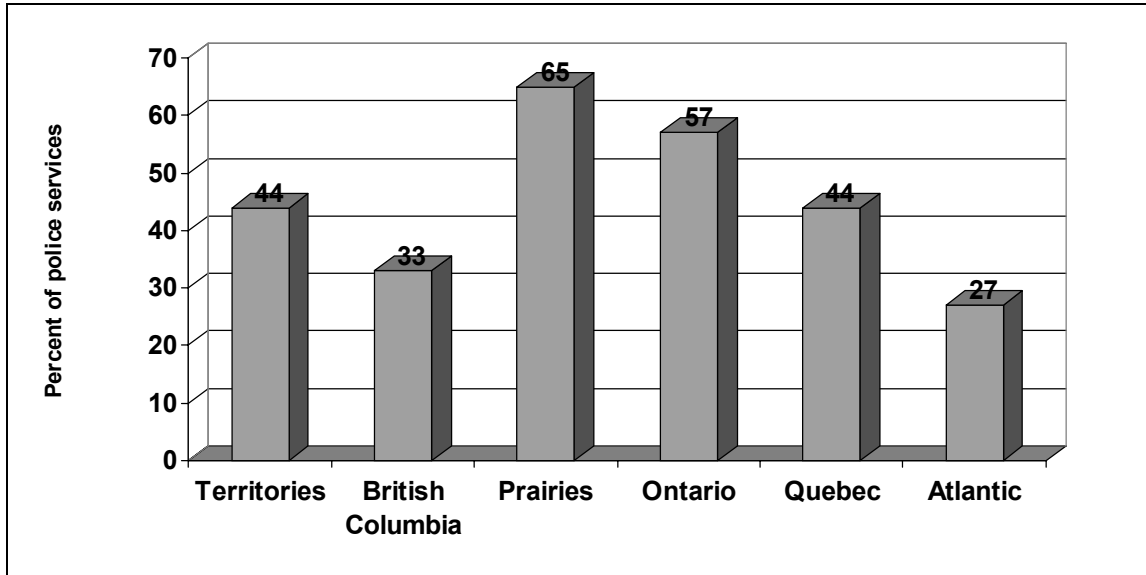
Figure IV.26 Regional distribution of involvement by police agencies in youth gang related crime prevention programs



A somewhat similar pattern can be seen for police involvement in anti-violence programs. The regional distribution of police services involved in such programs is shown in Figure IV.27. It mirrors, approximately, the regional distribution of police

services reporting a significant problem of youth violence in their communities, with higher levels in the Prairies and Ontario, and low levels in the Atlantic provinces (Figure III.13). However, police services in the Territories reported relatively low levels of serious youth violent crime (Figure III.13), but are heavily involved in violence-related crime prevention programs. Police involvement in programs related to youth violence is much more prevalent in communities where police have identified a problem of serious violent youth crime: 79% of police services in such communities are involved in anti-violence programs, compared with 38% of police services in other communities. Similarly, 73% of police services in communities with “a lot” of youth crime are involved in anti-violence programs, compared with 52% in communities with “a normal amount” of youth crime, and 23% in communities with “not very much” youth crime. These relationships probably explain why metropolitan police services are much more likely (70%) to be involved in anti-violence programs than suburban/exurban (42%) or rural and small town police services (36%). There is no relationship between policing aboriginal populations, either on- or off-reserve, and involvement in anti-violence programs, which is a little surprising in view of the problem of violent crime which has been identified in aboriginal communities (Griffiths & Verdun-Jones, 1994: 638-639; cf. Chapter III, Section 4.2.4 above).

Figure IV.27 Regional distribution of involvement by police agencies in youth violence related crime prevention programs



Does the level of involvement in crime prevention programs have an effect on police decision-making with young offenders? The data suggest that this involvement is related to the use of informal action, but that there are no systematic relationships between the level of involvement in crime prevention and the use of pre- and post-charge alternative measures or the methods used to compel attendance at court.

As the level of involvement by a police agency in crime prevention programs increases, the likelihood that officers “usually” or “always” consider using informal action also rises. 93% of the agencies with “a lot” of crime prevention programs “usually” or “always” consider informal action with youth-related incidents compared to 80% of those with “some” involvement and 66% of those with “a little” involvement. The same pattern occurs for the use of informal warnings: 100% of the agencies with “a lot” of involvement in crime prevention programs use informal warnings compared to 94% of those with “some” involvement and 89% of those agencies with “a little” involvement. Officers are almost twice as likely (50%) to use formal warnings in agencies with “a lot” of involvement in crime prevention as officers in those with “some” or “a little” involvement (26%). Similarly, if there is “a lot” of (100%) or “some” (97%) involvement, officers are more likely to use parental involvement as a form of informal action than officers in agencies with only “a little” involvement in crime prevention programs (80%). Further, the likelihood that officers will make referrals to external agencies is also higher in agencies with “a lot” of involvement in crime prevention (75%) than in those with “some” (61%) or “a little” involvement (52%). Not surprisingly, officers are more likely to say that they “almost always” use informal action with minor (22% vs. 10%) and provincial offences (24% vs. 12%) in agencies with “a lot” of involvement in crime prevention programs than in agencies with less involvement.

The more involved a police agency is in delivering crime prevention programs, the less likely its members are to “almost always” charge for minor or for serious offences. Agencies which are involved in “a lot” of or “some” programs are less likely to charge for minor offences (2%) than those with only “a little” involvement in crime prevention programs (14%). Similarly, agencies with “a lot” of or “some” crime prevention programs are less likely to “almost always” charge in serious offences (39%, compared with 61% of agencies with only “a little” involvement).

Table IV.4 shows percentages of apprehended youth who were charged in 1998-2000, according to the UCR Survey, broken down by the level of involvement of police services in crime prevention initiatives. The percentages are also broken down by the level of crime in the community, to control for the confounding effect of that variable. Since levels of charging vary substantially by province, it is also desirable to control for the individual province, but that was impossible, due to the small numbers of police services in the resulting cross-classification. The solution which we adopted was to calculate, for each police service, the percentage of apprehended youth who were charged, relative to the provincial average. For example, in British Columbia, the overall percentage of apprehended youth who were charged during 1998-2000 (in our sample) is 56% (Table II.1). Thus, if a police service in British Columbia charged 70% of apprehended youth, it would receive a score of +14%; if it charged 60% of apprehended youth, it would be scored as -10%.

Table IV.4 Proportion of apprehended young persons charged, 1998-2000, relative to the overall provincial level of charging, by the level of involvement of police in crime prevention initiatives, and by the perceived level of youth crime in the community

	Level of involvement in crime prevention		
	“A little”	“Some”	“A lot”
Perceived level of youth crime in the community	% charged	% charged	% charged
“Not very much”	-1%	n/a	+5%
“A normal amount”	±0%	-4%	-5%
“A lot”	+4%	+2%	-6%

Thus, in Table IV.4, in communities with “not very much” perceived youth crime, police services with only a little involvement in crime prevention initiatives have a rate of charging apprehended youth which is slightly (1%) below the provincial average, and those which are involved in “a lot” of initiatives have an average level of charging which is 5% above the provincial average.²⁹ This suggests that, in this type of community, involvement in crime prevention initiatives is associated with an *increase* in the propensity to charge, contrary to expectations. In communities with “a normal amount” of youth crime, police services with “a lot” of involvement have an average level of charging which is 5% below that of services with “a little” involvement; and in communities with “a lot” of youth crime, agencies with “a lot” of involvement have, on average, a level of charging which is 10% lower than those with “a little” involvement. Thus, the relationship between the level of involvement in crime prevention initiatives and the level of charging of apprehended youth becomes greater as the perceived amount of youth crime in the community increases.

We also asked respondents about the use of problem-oriented policing (POP) in their police service or detachment. When discussing problem-oriented policing, we were told by some officers that it is an outdated concept. Some of the alternatives they suggested are “solution-oriented policing” or “intelligence-led policing”. One officer suggested that “policing has changed from enforcement, to POP, now to community-based policing”. We were able to obtain information about the use of POP from 85 of the 92 police services and detachments in the sample. The answers were coded into four categories. *Front-line only* refers to those agencies where front-line officers are the only individuals who actively employ the POP model in the everyday execution of their duties. *Community policing officer only* refers to those agencies in which, when respondents were asked about POP projects, they either referred us to the CSO or indicated that only the CSO is actively involved in using the POP model on a day-to-day basis. *Front-line and Community policing officer only* refers to agencies where all front-line and the

²⁹ There were too few agencies in the “some involvement” category to calculate a reliable percentage.

community policing officer(s) are utilizing the POP model regularly. Finally, *all ranks* refers to agencies where front-line personnel, community policing officers, GIS, and management are all involved in POP to some degree. The sample is fairly evenly divided among the four categories (Figure IV.28).

Figure IV.28: Type of involvement in problem-oriented policing

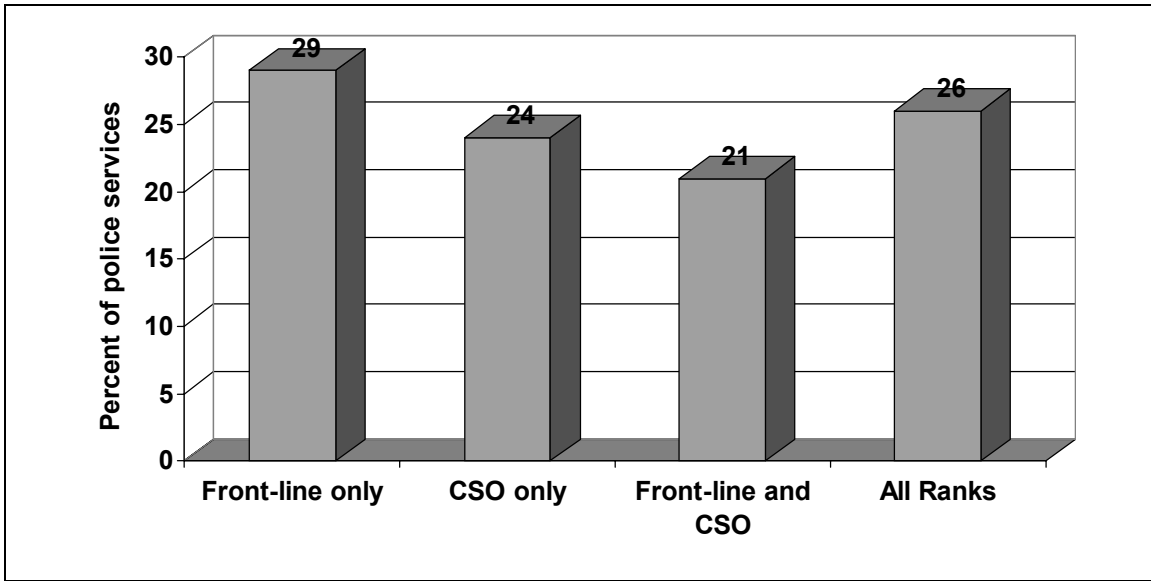


Figure IV.29 Regional distribution of the extent of adoption of the POP model

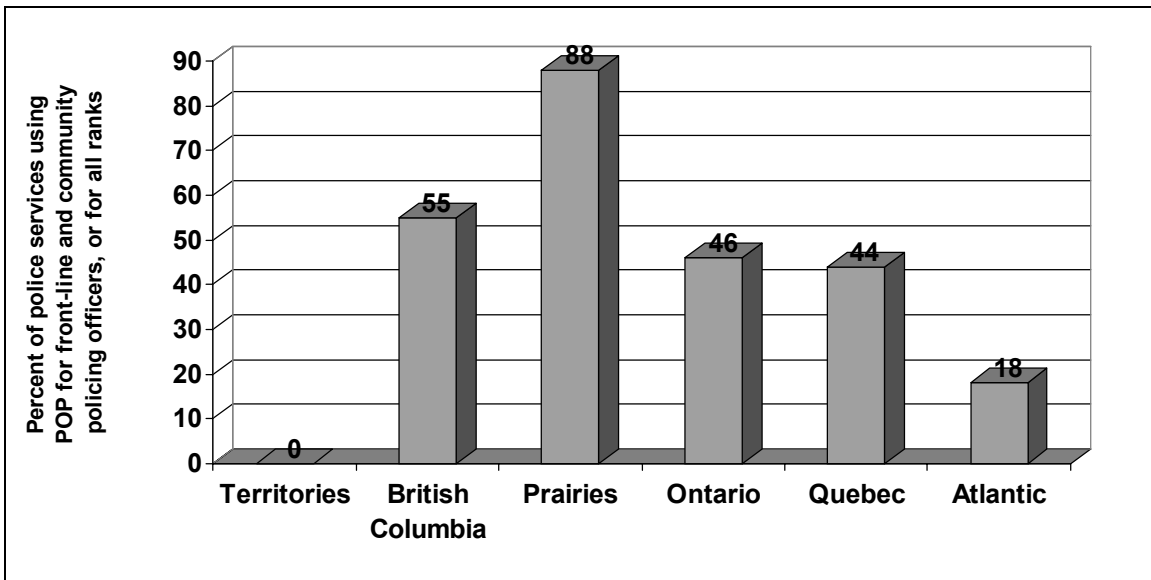


Figure IV.29 shows the regional distribution of the extent of use of the POP model by police services. In order to simplify the presentation, we have combined the categories “Front-line and Community policing officer” and “all ranks” to identify police services in which the use of the POP model is fairly widespread throughout the organization. Evidently, adoption of the POP model is well advanced in the Prairies, and not in the Territories or Atlantic provinces. Using the same combined grouping of police services, in which the POP model is used by all ranks or at least by front-line and CSO officers, we find that suburban/exurban police services are the most likely (65%) to have reached this level of adoption of POP, compared with metropolitan (54%) and rural and small town agencies (32%).

Police officers are more likely to “usually” or “always” consider informal action in agencies where the front-line officers actively incorporate POP into their everyday enforcement activities. In 92% of agencies where the use of POP is restricted to front-line officers, the use of informal action is “usually” or “always” considered, compared with 78% of those where both CSO’s and front-line officers use POP, 77% of those in which all ranks use POP, and 74% of agencies where its use is restricted to the CSO’s. Similarly, if front-line officers are the only agents active in applying the POP model, they are also more likely to “almost always” consider informal action with minor (32% vs. 11% of agencies with the other 3 models) and provincial offences (29% vs. 13% of other agencies). They are also more likely to “almost always” consider informal action for all offence types (45%) than those agencies where only a CSO uses POP (40%), front-line and CSO’s (31%), or all ranks (26%). This suggests that POP has more impact when it is used by front-line officers at the street level than in connection with specifically targeted community projects.

The relationship between the extent of an agency’s use of POP and its use of informal action (above) is reversed when we examine differences in the use of pre-charge alternative measures. Agencies whose front-line officers are the only officers applying the POP model are *less* likely to use pre-charge diversion (36%) than agencies in which only CSO’s use POP (55%), front-line and CSO’s use POP (50%), or agencies where all ranks are involved in using POP (59%). Once again, this suggests the relevance to diversion and referral decisions of the relationship between the police service and the community, as indicated by the involvement of CSO’s and other ranks, in contrast to the predominant role of front-line offices in decisions concerning informal action.

Table IV.5 shows the relationship between the police service’s adoption of POP and the proportion of apprehended youth which were charged during 1998-2000, according to the UCR Survey. As in Table IV.4, percentages are relative to the average provincial percentage charged. Police services in which POP is used by all ranks have a level of charging of apprehended youth which is, on average, 4% below their provincial averages; however, those in which POP is used by front-line officers only, or by front-line officers and CSO’s have levels of charging which are *higher* than their provincial averages. Applying controls for the level of youth crime in the community, etc., did not change the relationship. We speculate that this unexpected result is due to the inability to differentiate informal action from pre-charge diversion using UCR data. We noted above

that agencies whose front-line officers are the only officers applying the POP model are less likely to use pre-charge diversion; presumably this more than offsets the hypothesized increase in the use of informal action by these agencies.

Table IV.5 Proportion of apprehended young persons charged, 1998-2000, relative to the overall provincial level of charging, by the extent of adoption of the POP model

Extent of adoption of POP	% charged
Front-line only	+4%
CSO's only	-9%
Front-line and CSO's	+3%
All ranks	-4%

7.4 The organizational dimension : organizational redesign

Finally, the organizational dimension involves a restructuring of the organization to implement community policing. This in turn requires a philosophical reorientation which is easier to state than to describe. Many organizations have flattened their rank hierarchy, implemented new promotion evaluation criteria, and dedicated officers to focus solely on community policing issues. In our discussions with police officers we came to realize that the organizational dimension of community policing is much more complex than the others, and perhaps the most problematic to implement. Organizational redesign requires that management consult with all ranks in order to implement community policing in a manner which best suits the particular community. In several cases, police agencies had implemented most of the components of the philosophical, tactical, and strategic dimensions but had not (yet) revamped the organization or its underlying philosophy to deliver community policing effectively. Organizational redesign presupposes a genuine commitment to community policing on the part of the senior management team, which is then translated into a wide range of organizational innovations. We judged that to measure the extent to which this had happened in our sample of police services was beyond the capabilities of our chosen methodology.

8.0 Summary

In this chapter, we have examined several aspects of the organizational structure and orientation of police services, and attempted to ascertain to what extent they affect the exercise of discretion by officers. Therefore, the findings from this chapter may shed some light on what kinds of organizational change might produce results that are consistent with the intent of the YCJA.

Table IV.6 Summary of relationships between organizational variables and the proportion of apprehended young persons who were charged

Factor	% charged
Size (number of officers)	
1-24	69%
25-49	63%
50-99	56%
100-499	67%
500+	66%
Specialization	
Youth squad	65%
No youth squad	75%
SLO's – special cars	62%
SLO's - investigative	62%
SLO's – crime prevention presentations only	64%
No SLO's	73%
Policy and protocols for youth-related incidents	
Yes	-3%
No	+2%
Authority and responsibility to decide re laying a charge	
Autonomy, with youth specialization	60%
Review, generalist model	62%
Review, with youth specialization	69%
Autonomy, generalist model	76%
Support for community policing	
Not supportive	56-78%
Supportive – policy only	47-75%
Supportive with resources	35-75%
Involvement in crime prevention programs (in high crime communities)	
A little	+4%
Some	±0%
A lot	-6%
Adoption of POP	
Front-line officers only	+4%
CSO's only	-9%
Front-line officers and CSO's	+3%
All ranks	-4%

We have correlated information about the organization from the interviews with officers, and from documentation which was supplied to us, with information about the use of informal action, diversion, charging, and methods of compelling appearance. We have also, where possible, correlated organizational variables with statistical data on the charging of apprehended youth, taken from the UCR and UCR2 Surveys. Table IV.6 summarizes the findings from the analyses of UCR data. It is difficult to determine from

the available data the precise strength of the effect of each of these organizational variables on police decision-making – partly because of the limitations of the data, and partly because the variables are all interrelated. Nevertheless, we have found relationships, of varying degrees of strength, between each of these variables (except the size of the organization) and aspects of officers' decision-making with youth-related incidents.

The **size** of police services in the sample varied from 2 to 5,028 officers. It is difficult to isolate its effect on aspects of organizational functioning, because it is so strongly correlated with the size of the community which the police agency serves. Thus, any aspects of the police service which are related to its size are equally related to the size of its community, and are more plausibly attributed to the nature of the policing environment than to the size of the organization itself. Furthermore, there is no straightforward relationship between the size of the police service and the proportion of apprehended youth which it charges, according to the UCR Survey. Fortunately, size is the one aspect of the police organization over which management has little or no control, so its salience in a plan of organization redesign to accommodate the requirements of the YCJA is low.

The degree of **centralization** of a police organization refers to the extent to which central management retains control of day-to-day decision-making by its divisions. In principle, decentralization should increase the opportunities for the exercise of discretion by individual officers. Our interview data suggest that decentralized police agencies use more informal action, more pre-charge diversion, more Promise to Appear (PTA's), more conditions on release Undertakings, and more detention for JIR hearings. Analysis of UCR data found no differences between centralized and decentralized agencies in the level of charging of apprehended youth, when other related variables, such as the type of policing and community, were controlled.

We measured the degree of **hierarchy** of a police agency by counting the number of ranks in the police service or individual detachment. This varied between 1 and 12 ranks. As with the size of the organization, it is very difficult in the case of police organizations to isolate the impact of the degree of hierarchy on organizational functioning, because it is so strongly related to the size of the organization, and, ultimately, to the size of the community being served. Analysis of UCR data revealed no significant differences in charging related to the degree of hierarchy, but the analysis was hampered by missing data and the confounding effects of correlated variables. The only finding from the interview data is that agencies with more ranks tend to use more pre-charge diversion and more PTA's "as a higher consequence" for the youth, but both of these findings could be due to the type of community rather than the degree of hierarchy per se.

We examined three aspects of youth-related **specialization** in police forces: whether there is a youth squad, whether there are School Liaison Officers (SLO's), and if so, what duties they have, and whether the organization has written policies and protocols for handling youth-related incidents.

Only 17 of the 92 police agencies in the sample have **youth squads** or dedicated youth officers. These are all independent municipal police services, and 14 of them have more than 100 officers. They are mainly located in metropolitan areas, especially in Ontario, Quebec, and British Columbia. It is difficult for smaller police services and detachments to dedicate one or more officers exclusively to handling youth crime. Some of these smaller agencies have officers who specialize in youth-related incidents, but who also do other kinds of police work. It appears that the use of youth squads and dedicated youth officers by Canadian police services has diminished considerably since their heyday in the 1970's, and that this is probably largely due to financial stringencies during the 1990's.

Our data suggest that police services with youth sections and/or dedicated youth officers respond differently to youth-related incidents. It appears from the interview data that police services with youth sections or dedicated youth officers make more use of parental involvement, referrals to external agencies and pre-charge diversion, and less use of formal charges. Analysis of UCR data confirms that the overall use of formal charges is lower (Table IV.6), and the limited information from the UCR2 Survey suggests that the use of informal action is greater. They are more likely to use the less intrusive methods of compelling appearance, except that they tend to use more restrictive conditions with OIC undertakings and are more likely to use detention, like the conditions of release, as a means of addressing what they see as the criminogenic conditions of the youth's life. Many innovative programs are developed by youth officers, and they are able to involve themselves proactively with youth in the community within a primary, secondary or tertiary capacity. Youth officers acting as follow-up and as a resource to patrol officers facilitate the gathering of intelligence and an increased knowledge of alternatives to formal youth court. In a sense, the existence of a youth squad – just like the existence of a homicide or armed robbery unit - is an indication that the police service recognizes the unique nature of this particular kind of crime, and places priority on developing specialist expertise in responding to it.

83% of police agencies in the sample have **School Liaison Officers (SLO's)**, but only 40% assign enforcement duties (response, investigation and disposition) to their SLO's – in the other police services, the role of the SLO is restricted to making crime prevention presentations in schools. SLO's, especially with enforcement duties, are more common in larger police services, presumably because of resource considerations. UCR data on the proportion of apprehended youth who were charged in 1998 to 2000 suggest that the presence of SLOs, especially investigative or hybrid SLOs, slightly reduces the use of charging with young offenders. The interview data suggest that police agencies which have school liaison officers, especially investigative SLOs or special cars, appear to use less intrusive means of dealing with youth crime: they are more likely to use informal action, less likely to lay charges, bring the youth home or to the police station for questioning, more likely to make referrals to external agencies, more likely to use pre-charge diversion, and more likely to use appearance notices to compel attendance at court.

About half of the sample was able to provide documentation on **policies and protocols for handling youth-related incidents and young offenders**. However, only 13% of officers found their organizations' policies and protocols "helpful", and only 2% found them to be "realistic". Analysis of UCR data shows that police services which have youth-related policies and protocols charge, on average, 5% fewer apprehended youth. The interview and documentary data indicate that police services which have youth-related policies and protocols tend to make more use of pre-charge diversion, and of appearance notices. Many differences appear between officers who do and do not find these policies and procedures helpful and/or realistic. Those who find them helpful or realistic are more likely to use various forms of informal action, referrals to external agencies, pre-charge diversion, and appearance notices; and to "follow the law" and not to invoke social welfare considerations, in making detention and release decisions.

In examining what officers had the **authority and responsibility to lay a charge** (or recommend a charge, in Crown screening provinces) against a young person, we found four models, of which only two occur with any frequency. These are: front-line autonomy, and front-line initial decision with review by another officer(s). Analysis of UCR data suggests that the impact of the procedural model for charging varies, depending on whether the police service has a youth squad or not. The model which is associated with the lowest charge rates is front-line autonomy in a police service which has youth specialists. The model associated with the highest charge rate is front-line autonomy with no youth specialization. The implication is that front-line autonomy results in greater use of discretion not to charge young persons *if* the front-line officer has training to deal with youth, or if the police service is committed to using discretion with youth, as indicated by its establishment of a youth squad. If there is no youth specialization, or commitment to special treatment for youth, then autonomy appears to result in front-line officers using their discretion *to lay charges* against youth. Thus, in a police agency without youth specialization, it is the review by another officer, whether supervisor or GIS, which appears to moderate the tendency of front-line officers to lay charges. The interview data suggest three themes. First, the likelihood of police officers using informal action with young offenders is higher in police services where front-line officers are autonomous, and where there is a commitment to the use of discretion with youth. Second, agencies in which there are no dedicated youth officers, and front-line officers decide alone on the disposition of youth-related cases, tend to use referrals to external agencies and pre-charge diversion less, and lay charges more, than agencies in which a supervisor or youth specialist is involved in the decision. Finally, autonomous patrol officers appear to use less intrusive measures to compel the attendance of a young person in court. In cases where they *do* detain a young person they tend to do so as a result of stipulations within departmental policy.

We assessed the impact of **proactive versus reactive policing** in relation to individual officers, rather than trying to characterize an entire police service. 40% of officers said their work was mostly reactive, 9% said it was mostly proactive, and 51% said that their work involved "a bit of both". Officers whose work is mostly proactive are more likely to use informal action, less likely to use formal charges, less likely to detain youth for a JIR hearing, but more likely to use more intrusive conditions on release Undertakings.

We did not analyze UCR data in connection with this variable, since the UCR data are measured only at the level of the entire police service, not the individual officer.

Community policing can be seen as having four dimensions: philosophical, strategic, tactical, and organizational. We attempted to assess the impact on decision-making of the extent of adoption of the strategic and tactical dimensions.

The strategic dimension of community policing comprises the adoption and public promulgation of **written policies and protocols** for all aspects of policing, and the **allocation of significant resources** to community policing. According to the officers whom we interviewed, 22% of the police services in the sample have implemented the strategic dimension by allocating significant resources to community policing. This is considerably less than “virtually every” police force in Canada, which, according to Horne (1992) had adopted the rhetoric of community policing. Analysis of UCR data suggests that police services which have allocated resources to community policing have lower charge rates than those which have not. Analysis of the interview data suggests that police services which have allocated resources to community policing use more informal action, make more referrals to external agencies, use more pre-charge alternative measures, and more PTA’s to avoid detaining the youth, or “as a higher consequence” for the youth.

The tactical dimension of community policing includes involvement in **crime prevention programs** and the adoption of the **problem-oriented policing (POP) model**. Every police agency in the sample is involved in crime prevention programs, but the degree of involvement varies considerably. Analysis of UCR data suggests that agencies with a higher level of involvement in crime prevention programs tend to have a lower rate of charging, especially in communities with high levels of youth crime. The interview data suggest that more involvement in crime prevention programs is associated with more use of informal action. Adoption of the problem-oriented policing (POP) model does not appear to have a large impact on decision-making with youth. Analysis of the interview data suggests that if the POP model is used by front-line officers (i.e. is not “ghettoized” by assigning it only to Community Service Officers), then there is more use of informal action; however, if POP is used only by CSO’s, then there is more use of pre-charge diversion. Results of analysis of UCR data suggest that charge rates are lower in police agencies in which the POP model is used by CSO’s only, or by all ranks; however, the UCR data are not illuminating for variables which have an effect in one direction for informal action and in the other direction for pre-charge diversion, since the UCR combines the two phenomena, and in doing so, conflates their opposite effects.

The data which we have analyzed in this chapter suggest that police services which want to increase their use of informal action and of pre-charge diversion, and to reduce the use of intrusive methods of compelling appearance, might consider any of the following measures: wholehearted adoption of the community policing model, in all its dimensions, including a fundamental organizational redesign and philosophical reorientation, the allocation of significant resources to community policing, increased involvement in crime prevention programs, especially in high-crime communities, and

IV. Organizational factors affecting police discretion

the adoption of the POP model by all ranks; creation of a youth squad, or at least one or more officers who specialize in youth crime; adoption of explicit policies and protocols for handling youth crime and young offenders; provision of training in handling youth crime to all front-line officers, and then allowing them to have autonomy in deciding how to dispose of youth-related incidents; assigning investigative and enforcement functions to SLO's who currently are limited to making presentations in schools; increasing the use of proactive policing; and decentralizing decision-making in the organization.

V. Situational Factors Affecting Police Discretion

In this chapter, we assess the impact on police decision-making with young persons of factors specific to the individual incident and the apprehended youth. Circumstances of the incident which we examine include: the seriousness of the crime, as indicated by the type of offence, the presence or use of a weapon, and the harm done to a victim; victim-related circumstances, including the expressed preference of the victim for a particular course of action by police, the type of victim (person or business), and the relationship, if any, between the victim and the offender; accomplice-related aspects, including whether there were accomplices, whether any was an adult, and whether this was apparently a gang-related crime; whether the apprehended young person was intoxicated at the time of the incident; and the location and time of day of the incident. We examine the following characteristics of the apprehended youth: his or her prior record of criminal activity, age, gender, race, demeanour, any delinquent peer group or gang affiliation, home and school situations, and the involvement of the parents.

For each of these possible influences on police decision-making, we have tried to assess its impact in two ways. First, in our interviews with police officers, we asked all officers who were currently, or had recently been, involved in decision-making with apprehended youth, to what extent each factor had an impact on their decision whether to use informal action, refer to alternative measures, or lay a charge (or recommend the latter actions, if the decision was not theirs). At least one officer from each police service in the sample was asked these questions. In smaller police services and detachments, where we interviewed only one or two officers, the current assignments of the persons who answered these questions ranged from patrol to commanding officer, but all were currently, or had recently been, directly involved in decision-making with youth. In larger police services, where we interviewed between two and seven officers, these questions were not posed to senior management, since they had generally not been involved in this kind of decision-making for several years or more.

The answers for each factor were coded on a Likert scale, ranging from “major factor” to “not a factor”. A *major factor* indicates that the officer takes this factor into consideration practically every time s/he decides whether to charge, use alternative measures, or deal with a young person informally. A *factor* indicates that this factor does play a role in decision-making, but does not carry as much weight as a major factor, and is not necessarily considered in every case. A *minor (secondary) factor* denotes an answer to the effect that the factor sometimes plays a role; however, its impact is case-specific. We also coded a factor as *minor (secondary)* when an officer said that it plays a role, but in a secondary manner, in conjunction with other factors; thus, it does not have a primary or independent impact on decision-making. Finally, the answer was coded as *not a factor* if the respondent clearly stated s/he never considered this factor in his or her

decision-making. In some cases we have reported these categories combined into “not a factor/ minor factor” and “factor/major factor”.

For each of these factors, we provide an overall assessment of its weight in the police decision concerning the disposition of the incident and offender, and any variations in the weight given to it by our respondents. We looked for variations across the regions of Canada, types of community, whether or not the police service’s jurisdiction includes a First Nations reserve or a significant number of aboriginals living off-reserve, the level and types of youth crime in the community, the type of policing, whether the police or the Crown make the decision concerning charging, and officer characteristics such as the level of authority in the police organization, the location of service (patrol, GIS, youth squad, etc.), gender, years of service, specific training for youth crime, and previous youth squad experience.

Occasionally, respondents volunteered that a factor also affects their decision-making concerning the method of compelling appearance, and this is noted where appropriate. However, a detailed analysis of the decision-making around compelling appearance is in Chapter II, Section 7.

In contrast with Chapters III and IV, where the police service or detachment was the unit of analysis, our unit of analysis here is the individual police officer, and his or her views concerning the factors which affect the exercise of his or her discretion.¹

The second method which we used to assess the impact of situational factors on police discretion was multivariate analysis of statistical data from the UCR2 Survey. The data which we analysed include 38,727 young persons apprehended in 2001 by 186 municipal police services and provincial police detachments which respond to the UCR2.² For each apprehended young person, the decision which we analysed (i.e. the dependent variable) was the police disposition: whether the young person was charged (or recommended to be charged in Crown screening jurisdictions) or processed otherwise (i.e. by informal action or referral to alternative measures, although these two actions are unfortunately not distinguished in the available data). The factors whose impact were analysed include: the type of offence (using grouped Criminal Code classifications), the number of prior apprehensions of the youth, the youth’s age, sex, and race (aboriginal or not), whether the incident involved a lone offender or accomplices, any weapon present, any injury suffered by a victim, and any relationship between a victim and an apprehended person. Using multivariate analysis, the impact of each factor was assessed, while holding other related factors constant; also, the relative weight of the various factors was estimated.³

¹ Actually, the unit of analysis is the interview; where more than one officer participated in an interview, we coded the responses as though they represented the views of one individual.

² Details of the subset of police services are in the Methodological Appendix. For more information on the methodology and data quality issues of the UCR2 Survey, see, e.g., Canadian Centre for Justice Statistics, 2002a.

³ Details of the statistical analysis are given in the Methodological Appendix.

This statistical analysis is similar to that used in a previous study of police discretion with young offenders in Canada in 1992-1993 (Carrington, 1998a), but there are two innovations. One is the use of UCR2 data for 2001. Not only are these data more recent, but they include substantially more police services than were included in the UCR2 Survey during the period of the earlier study. However, the more important innovation is the inclusion of the young person's record of prior contacts with the police (apprehensions) as an independent variable. Although this information is not captured in UCR2 records, it was constructed by a record linkage project carried out by the Canadian Centre for Justice Statistics especially for this project. The method of construction of the prior record variables is described in the Methodological Appendix.

Each of these two sources of data – opinions of police officers provided in interviews, and statistical data from the UCR2 Survey – has its own strengths and weaknesses, which are discussed in the Methodological Appendix. One major drawback of the UCR2 data is that several factors which have been identified in the literature as having an impact on police discretion with young offenders are not captured in the UCR2 Survey. These are: the victim's expressed preference concerning the disposition of the incident, whether the incident was gang-related, the young person's demeanour, home and school situations, gang or delinquent peer group affiliations, and the level of involvement of the parents. Therefore, we must rely on officers' opinions concerning the impact of these factors. Furthermore, many of the variables which we used to look for variations in the impact of factors – such as the characteristics of the officer making the decision, and of the police service in which s/he works – are also not available in the UCR2 Survey; so, our assessments of impact based on the UCR2 data are not differentiated by these variables, as the results from the interview data are.

1.0 Background

Analysis of the impact of situational factors on the exercise of police discretion with young offenders is a time-honoured tradition in criminology. The classic study of the "police encounter" with the juvenile suspect is that of Black & Reiss (1970), which was replicated by Lundman et al. (1978). Both studies found that the probability that the encounter will result in the arrest of the juvenile is strongly related to the legal seriousness of the crime, the preference of the complainant, the presence of "situational" (i.e. readily available) evidence, and the suspect's demeanour. Both studies underlined the pivotal role of the complainant, who is simultaneously: (a) the instigator of the "incident", since it is normally s/he who first defines an event as a criminal matter by calling the police; (b) the member of the public who, as the victim, has the principal interest in the disposition; and (c) the primary – often the only – source of evidence concerning the incident. Thus, if there *is* a complainant, and s/he *does* express a preference, it is given a great deal of weight by the patrol officer, who often "abdicates his discretionary power to the complainant" (Black & Reiss, 1970: 72).

These studies are noteworthy as much for a couple of factors which were *not* found to play a role in police discretion as for the factors which did. First, although black youth

were more likely than white youth to be arrested, both studies concluded that this was not an effect of racial bias by police, but was explained by the preferences expressed by the (black) complainants for arrest of (black) suspects, versus preferences expressed by white complainants for leniency with white suspects (there were few mixed-race incidents). Second, the juvenile's prior record, which is a major factor in sentencing, was not considered by the researchers, and presumably did not present itself as a factor, because, according to the authors, the studies concerned "encounters" between patrol officers and suspects "in the field": patrol officers in that era generally did not have access to the juvenile's record, and, furthermore, were only deciding whether to arrest, not whether to charge (refer to juvenile court)(Black & Reiss, 1970: 68-69).⁴ This is a crucial point with respect to the applicability to the Canadian context of foreign – especially American – research on police discretion with juveniles. Much of the American research, following Black & Reiss, concerns the decision made by a patrol officer in the field whether to *arrest*; whereas, Canadian researchers are generally more interested in the determinants of the decision to lay, or recommend, a charge. As Black and Reiss themselves point out, the decision whether to refer to court (i.e. lay a charge, in the Canadian context) is a "prosecutorial" (*sic*) decision which, in the police departments that they studied, was not made by patrol officers, but by youth bureau officers, working in their offices, and probably more oriented toward the expectations of the juvenile court than the immediate situation on the street (1970: 68-69).

Subsequent (and previous) American and British researchers⁵ have found broadly similar results: the police decision concerning the disposition of a youth-related incident is affected by (in approximate order of importance):⁶

- Offence seriousness: police exercise much more discretion in minor cases (Black & Reiss, 1970; Fisher & Mawby, 1982; Gaines et al., 1994; Krisberg & Austin, 1978; Landau, 1981; Lundman et al., 1978; Piliavin & Briar, 1964; Terry, 1967; Werthman & Piliavin, 1967);
- Prior record (of police contacts and/or convictions): is very influential in the decision to refer the youth to court (i.e. lay a charge), but also in the decision to arrest, if it is made by a youth officer who has access to the prior record; whether or not it led to charges or a conviction, contact with police labels a youth as a probable delinquent, increasing the probability of formal treatment on subsequent contact (Cicourel, 1968; Cohen & Kluegel, 1978; Fisher & Mawby, 1982; Landau, 1981; Lattimore et al., 1995; Morash, 1984; Piliavin & Briar, 1964; Terry, 1967);

⁴ Similarly, "the age status of a suspect [i.e. whether s/he is legally a juvenile] may even be irrelevant in the field" (Black & Reiss, 1970: 69).

⁵ The limited Canadian literature on police discretion with juveniles is reviewed below, under the separate topic headings.

⁶ The following review draws on Bynum & Thompson (2002: 366-375), Whitehead & Lab (1999: 190-194) and other sources cited in the text.

- Demeanour: an officer is more likely to arrest a juvenile suspect who is hostile, uncooperative or disrespectful, partly because of the necessity of establishing and maintaining control of the situation in the street; partly because officers and young people, especially males, place great weight on maintaining “respect”; and partly because in many cases the officer depends on the co-operation of the suspect to learn “what happened”, and what the suspect’s role was; on the other hand, some researchers have found that “unusually respectful” juvenile suspects are also more likely to be arrested, as their demeanour invites suspicion (Black & Reiss, 1970; Brown, 1981a; Cicourel, 1968; Hohenstein, 1969; Lundman, 1994, 1996a, 1996b; Lundman et al., 1978; Morash, 1984; Smith & Visher, 1981; Winslow, 1973; Worden & Shepard, 1996); Piliavin & Briar (1964) found that demeanour was the *most* important factor in police discretion with juveniles, and Fisher & Mawby’s (1982) research in Britain found that an attitude of remorse, or lack thereof, was the most important factor in police decisions regarding cautioning of 10-13 year olds;
- Complainant preference: as Black & Reiss (1970) found, if there is a complainant, s/he plays a crucial role, as both audience and main supporting actor, in the officer’s disposition of the incident; and if the complainant expresses a preference, the officer will take it very seriously (Hohenstein, 1969; Lundman et al., 1978; Smith & Visher, 1981);
- Race: some researchers, such as Black & Reiss (1970), Lundman et al. (1978), and Wilbanks (1987) argue that the race of the suspect plays no role in the decision to arrest, once the complainant’s role and/or the offence seriousness are taken into account; however, the majority of writers have found evidence that police respond to the race of the suspect (Black, 1980; Dannefer & Schutt, 1982; Fagan et al., 1987; Goldman, 1963; Huizinga & Elliott, 1987; Krisberg & Austin, 1993; Landau, 1981; Landau & Nathan, 1983; Lundman, 1996a; Miller, 1996; Piliavin & Briar, 1964; Pope & Feyerherm, 1993; Reiner, 1997; Smith & Visher, 1981);
- Age: apart from the obvious effect of the suspect’s age in determining whether s/he is legally a child, youth, or adult, research has found that police tend to treat younger juveniles more leniently than older juveniles; younger youth are seen as immature and out to test limits; older youth may be virtually indistinguishable from adult offenders (Fisher & Mawby, 1982; Goldman, 1963; Landau, 1981; Landau & Nathan, 1983; McEachern & Bauzer, 1967; Morash, 1984; Terry, 1967);
- Gender: some writers have argued that the belief that girls commit fewer and less serious crimes than boys has led to a higher probability that officers will handle female youth crime informally (Morash, 1984), and more leniently (Armstrong, 1977; Chesney-Lind, 1977). Treating girls more leniently has also been attributed to the “chivalry” effect: that predominantly male police officers and other system agents adopt an attitude of benevolent paternalism toward girls, but not to boys.

Other research demonstrates that police are more likely to respond harshly to girls involved in minor offences (e.g. shoplifting), but less harshly than to boys, when more serious offences are involved (Teilmann & Landry, 1981); and that police respond more harshly to girls involved in crimes, such as prostitution, which offend paternalistic stereotypes (Armstrong, 1977; Chesney-Lind, 1977, 1988; Chesney-Lind & Shelden, 1992; Terry, 1967);

- Attitude of the parents, or legal guardians: "...when parents can be easily contacted by the police and show an active interest in their children and an apparent willingness to cooperate with the police, the likelihood [of informal treatment] is much greater" (Bynum & Thompson, 2002: 374; see also Goldman, 1963); on the other hand, if the youth appears to lack responsible adult supervision, s/he is seen as a poor candidate for informal action (Landau & Nathan, 1983).

The limited Canadian literature on police discretion with juveniles is reviewed below, under the separate topic headings. Canadian research has identified some additional factors affecting police discretion: the relationship of the victim and the apprehended youth; the presence and type of accomplices; whether the apprehended youth was under the influence of alcohol or drugs; the location and time of day of the incident; and the "gang" affiliation, if any, of the apprehended youth. These additional factors are addressed in our research. The situational factors which we consider in this chapter are presented in two groups: first, circumstances of the incident, then, characteristics of the apprehended youth.

2.0 Seriousness of the crime

There is a consensus in the literature on police discretion that the seriousness of the (alleged) offence is the most important situational factor affecting the exercise of police discretion with youth (Caputo & Kelly, 1997; Carrington, 1998a; Doob, 1983; Doob & Chan, 1982; Statistics Canada, 1999). As the seriousness of the offence increases, the likelihood of the exercise of discretion tends to decrease. Police officers appear to agree that many youth involved in minor crimes should be dealt with informally or a referral to a pre-charge diversion program (Caputo & Kelly, 1997). However, police perceptions of "minor" and "major" crime may vary across police services and across individual officers. Furthermore, the relationship between "seriousness" and the likelihood of charges being laid against an apprehended youth is not entirely straightforward; for example, offences against the administration of justice and possession of stolen property have higher charge rates than major assaults and drug trafficking (Chapter II, Table II.2 above; cf. Carrington, 1998a).

Apart from the Criminal Code classification of the offence, police perceptions of the seriousness of an offence have been found to be related to the use or presence of a weapon, and the degree of harm done, whether to the person or property of a victim. The presence of a weapon in a violent incident usually results in the incident being classified as involving an indictable, rather than a (less serious) hybrid offence. In his multivariate

statistical analysis of UCR2 data for 1992 and 1993, Carrington (1998a) found that the presence of a weapon ranked third in importance among the thirteen situational and offender-related factors which he considered, and this was largely independent of whether or not a victim suffered injury. The value of the property involved and the level of injury (if any) to a victim had only moderate to low effects on the likelihood of charging: they ranked ninth and tenth among thirteen factors (Carrington, 1998a).

We asked officers whether the “seriousness of the offence”, the presence or use of a weapon, and the extent of harm done to person or property play a role in their use of discretion with young persons. Table V.1 summarizes their answers.

Table V.1 Effects of offence seriousness, use or presence of a weapon, and harm done, on police decision-making

	Not a Factor	Minor Factor	Factor	Major Factor	N
Seriousness	0	0	2%	98%	128
Presence of weapon	<1%	<1%	9%	90%	116
Harm done	0	0	12%	88%	116

Our respondents answered almost unanimously (98%) that they take the seriousness of the offence into account every time they deal with a youth-related incident. The large majority of officers indicated that the seriousness of the offence is the first factor they take into consideration in their decision-making. Further, in some cases, *all* other factors are considered to be secondary to the seriousness of the offence. These results confirm, once again, the consensus in the literature. However, since we did not go into detail with respondents about how they defined “seriousness”, our findings on this issue share the lack of precision, and, to some extent, circularity, characteristic of many surveys of police views: respondents cite seriousness almost by definition as the principal factor in the decision to charge, and are not required to confront the contradictions implied by statistical evidence that some relatively “non-serious” offences such as bail violations and possession of stolen property have very high charge rates.

Table V.2 shows the percentage of apprehended young persons who were charged, by offence category, in the subset of police services included in our UCR2 analysis. The first column shows the actual percentage charged. Clearly, the type of offence has a large influence on the probability of a charge being laid: a youth apprehended for mischief or arson has a one in three chance of being charged; those apprehended for major offences against the person and offences against the administration of justice are almost sure to be charged. As we mentioned in Chapter II, these percentages suggest that the probability of charging is not related in a simple way to the “seriousness” of the offence, unless one believes that failure to appear in court, provincial traffic violations, etc. are exceeded in seriousness only by murder.

Table V.2 Proportion of apprehended youth charged, by offence, Canada (parts), 2001

Offence category	% charged	N	Adjusted % charged	N
	%		%	
All offences	56	38,727	52	30,812
Murder, attempt	100	27		
Fail to appear	99	422		
Provincial traffic	98	822		
Bail violation	97	1,459		
Young Offenders Act	97	650		
Breach probation	93	347		
Provincial liquor	91	1,827		
Drinking-driving	90	172		
Escape/UAL	88	311		
Robbery	86	732	74	720
Dangerous operation of MV	86	95		
Assault & sexual assault level 3	85	52		
Possess stolen property	81	1,305	72	1,285
Indictable drug (trafficking, etc.)	74	1,061	67	1,014
Miscellaneous indictable person	74	151	72	146
Assault & sexual assault, level 2	72	1,239	63	1,201
Theft over	71	581	57	563
Weapons & explosives	62	403	46	399
Misc. provincial offences	61	894	50	839
Misc. Criminal Code traffic	58	62	55	51
Fraud	57	611	47	583
Sexual assault, level 1	57	412	61	367
Break & enter	55	2,183	48	2,034
Assault, level 1	53	3,758	47	3,601
Misc. summary & hybrid person	49	1,619	56	1,505
Miscellaneous	44	1,151	38	1,071
Summary & hybrid drug (possession)	40	3,052	38	2,751
Theft under	39	9,961	39	9,569
Mischief	33	3,052	33	2,836
Arson	31	316	37	277

Source: UCR2 Survey, Trend Database.

The second column of percentages (“adjusted percentages”) shows the result of a multiple regression analysis, in which the percentages are adjusted to remove the confounding effects of related factors, such as the youth’s age and prior apprehensions. These are the percentages of youth apprehended for each category of offence who “would have been charged if everything about the offence and the offender were the same, except for the type of offence”. For example, 86% of youth apprehended for robbery were charged, but the adjusted percentage is only 74%. This is because robbery tends to be committed by older youth with more prior apprehensions, etc., and these factors make

robbers more likely to be charged; but 74% *would have been* charged if robberies were committed by youth who were of average age and with an average number of prior apprehensions, etc.⁷

Table V.3 Proportion of each age group apprehended, by offence category, Canada (parts), 2001

Type of offence	Age of the apprehended youth					
	12 %	13 %	14 %	15 %	16 %	17 %
Robbery	1.1	1.5	2.0	2.2	2.6	3.3
Possess stolen property	2.1	3.4	3.5	4.7	4.9	4.5
Indictable drug (trafficking, etc.)	0.6	1.8	2.3	3.0	4.0	5.2
Misc. indictable person	0.2	0.4	0.4	0.4	0.4	0.7
Assault & sexual assault, level 2	3.5	3.2	3.3	3.8	4.3	4.6
Theft over	0.5	0.8	1.6	1.9	2.4	2.2
Weapons & explosives	0.9	1.0	0.9	1.3	1.4	1.7
Misc. provincial offences	0.8	1.5	2.1	2.7	3.2	3.9
Misc. Criminal Code traffic	0.0	0.0	0.1	0.1	0.2	0.4
Fraud	0.5	0.6	1.2	1.3	2.1	3.8
Sexual assault, level 1	2.6	1.9	1.6	0.9	0.9	0.7
Break & enter	5.6	4.8	6.2	7.3	7.0	7.1
Assault, level 1	15.6	12.5	12.0	12.1	11.1	10.1
Misc. summary & hybrid person	4.6	5.4	4.7	5.3	4.6	4.7
Miscellaneous	2.9	2.5	3.3	3.1	3.8	4.3
Summary & hybrid drug (possession)	2.5	5.8	7.7	9.6	11.0	10.7
Theft under	39.2	38.0	36.8	31.1	27.9	23.9
Mischief	14.6	13.2	9.3	8.3	7.7	7.8
Arson	1.9	1.4	1.1	1.1	0.5	0.5
Total	100.0	100.0	100.0	100.0	100.0	100.0

Source: UCR2 Survey, Trend Database.

Evidently, a considerable amount of the variation in charging rates for different types of offences is due to related factors, since the range of variation is narrowed considerably when the influence of other related factors is statistically controlled. The main related factors are the youth's age and prior record, which are both discussed below. Older youth commit more serious offences and have accumulated a longer record of police

⁷ Some offence categories were omitted from the multiple regression analysis because there were too few youths in the "not charged" group for reliable statistical analysis; also, a few youth in each category were excluded because, according to the UCR2 Survey, the reason why they were not charged was not police discretion but some other factor beyond the control of police.

apprehensions. Thus, part of the reason why some offences are charged in relatively high proportions is that they are committed by older youth with longer prior records. Robbery and the more serious property offences (e.g. break and enter, possess stolen property, theft over) are examples (Tables V.3, V.4). When we control statistically for these related factors, the charge rate for these offences is reduced. On the other hand, arson and level 1 sexual assault tend to be committed in higher proportions by younger youth, with fewer prior apprehensions, so the charge rate increases when these related factors are statistically controlled.

Table V.4. Proportion of apprehended youth, by type of offence and number of prior apprehensions, Canada (parts), 2001

Type of offence	Number of prior apprehensions				
	0 %	1 %	2 %	3-4 %	5+ %
Robbery	1.5	2.2	3.6	4.0	5.6
Possess stolen property	3.5	4.1	4.9	4.8	7.9
Indictable drug (trafficking, etc.)	3.2	3.8	2.6	4.1	3.1
Misc. indictable person	0.4	0.5	0.5	0.6	0.8
Assault & sexual assault, level 2	3.6	3.7	4.3	4.2	5.6
Theft over	1.2	2.1	2.3	2.9	4.6
Weapons & explosives	1.1	1.6	1.6	1.8	1.2
Misc. provincial offences	2.1	3.6	3.1	4.2	3.6
Misc. Criminal Code traffic	0.2	0.2	0.1	0.3	0.1
Fraud	1.6	2.2	1.8	2.4	2.9
Sexual assault, level 1	1.3	1.0	1.3	0.8	1.0
Break & enter	4.9	7.4	8.5	9.7	12.3
Assault, level 1	11.2	13.0	13.3	13.2	10.0
Misc. summary & hybrid person	4.4	5.3	6.6	6.4	4.7
Miscellaneous	3.3	3.4	3.5	3.5	4.6
Summary & hybrid drug (possession)	9.8	8.7	8.3	7.4	5.4
Theft under	36.4	26.1	24.3	20.3	19.0
Mischief	9.3	10.3	8.6	8.9	7.5
Arson	1.1	0.9	0.9	0.4	0.3
Total	100.0	100.0	100.0	100.0	100.0

Source: UCR2 Survey, Trend Database.

2.1 Presence of a weapon

Our respondents were also virtually unanimous that the presence of a weapon in the commission of the crime had a major effect their decision-making with young persons. Many officers indicated that they take the use of weapons very seriously, due to the potential of increasing the harm done to victims. The only variations in weight given to weapons were in relation to the type of community and the level and type of youth crime

in the community. Officers in rural areas and small town jurisdictions are most likely (96%) to rate the presence of a weapon as a major factor in their decision-making; those in suburban/exurban areas (90%) and metropolitan areas (83%) are less likely. We speculate that the reason for this gradient is that the higher number of incidents involving weapons in suburban/exurban and metropolitan areas has had a slightly desensitizing effect.

Officers in communities with a “normal amount” of youth crime were most likely (93%) to say that the presence of a weapon is a major factor in their decision-making; those in communities with “a lot” of youth crime were slightly less likely (86%), and those in communities with “not very much” youth crime were least likely (73%). Officers were slightly less likely to see a weapon as a major factor in their decision-making if they worked in a community with an identified problem with serious property crime (86% versus 94% of officers in other communities), a youth gang-related crime (84% versus 91%), or drug-related youth crime (86% versus 95%). They were much less likely to see a weapon as a major factor if they worked in a community with a youth prostitution problem (44% versus 93%).

Table V.5 shows the proportion of apprehended youth in the UCR2 data who were charged, by the presence and type of weapon. The UCR2 records information about weapons only in incidents involving an offence against the person; thus there are only small numbers of youth in this analysis. The use of a weapon, especially a firearm (which is rare) during the commission of a youth crime greatly increases the probability of charging, even when other relevant factors are controlled. The percentage charged for incidents involving a firearm is substantially reduced when other related factors are controlled, because the presence of a firearm usually results in the classification of the offence as a serious indictable offence; therefore much of the impact of this variable is already accounted for by the variable, “(legal) seriousness of the crime” (Section 2.0, above).

Table V.5 Proportion of apprehended youth charged, by the presence and type of weapon, Canada (parts), 2001

	% charged	Adjusted % charged	N
No weapon	47	43	1,018
Other weapon	64	63	6,091
Firearm	84	62	154

Source: UCR2 Survey, Trend Database.

2.2 Harm done to a victim

The extent of harm done to person or property also has a substantial effect on police decision-making with youth-related incidents. All of our respondents indicated that they feel the extent of harm done is a factor (12%) or a major factor (88%) in their decision to charge, use AM, or proceed with informal action. The more harm that is done, either

physically or psychologically, the less likely officers are to refer to alternative measures or deal with the incident informally. The great majority of officers at all levels of the organization consider the extent of harm done to be a major factor. However, this is slightly less important for practitioners, of whom 87% considered the extent of harm done to be a major factor, compared with 94% of supervisors, and 100% of officers in management positions.

There were small differences between officers in different types of communities in their assessment of the influence on their decision-making of the degree of harm suffered by a victim. Officers in rural and small town jurisdictions were more likely to consider the extent of harm done as a major factor (96%) than in suburban/exurban (90%) or metropolitan areas (83%). These differences highlight the effect that the type of community type seems to have on police decision-making. Perhaps this is the result of the greater social homogeneity and level of acquaintanceship, as a result of which the likelihood that the officer knows, or at least can identify with, the victim is higher in smaller communities. It could also be related to the perceived degree of seriousness of youth crime in the community: officers in communities with a significant amount of serious youth property crime were slightly *less* likely to consider harm as a major factor (83% versus 94% of officers in other communities), as were officers in communities with an identified problem of youth gang-related crime (80% versus 90%); those in communities with a youth prostitution problem were *much* less likely to consider harm done as a major factor (44% versus 92%).

Officers in jurisdictions which include a First Nations reserve were more likely to consider harm done to be a major factor (100% compared to 86% of officers in other jurisdictions) – possibly reflecting the more tightly-knit community of the reserve.

Table V.6 shows the relationship in the UCR2 data between injury to a victim and the likelihood of charging. Major injury greatly increases the probability that charges will be laid. The increase is much less when other related factors are controlled, because major injury usually results in the classification of the offence as a serious indictable offence; so much of the impact of this variable is already accounted for by the variable, “(legal) seriousness of the crime” (Section 2.0).

Table V.6 Proportion of apprehended youth charged, by the type of injury to a victim, Canada (parts), 2001

Type of injury	% charged	Adjusted % charged	N
None/minor/unknown	61	48	7,153
Major injury	89	60	179

Source: UCR2 Survey, Trend Database.

3.0 The role of the victim

The victim's preferences, the type of victim, and the relationship between the victim and the offender are areas that have not been explored in depth in Canadian research. Doob (1983) is ambivalent concerning the impact of the victim's preference: on the one hand, "...victims seemed to have an important part in the process of bringing the juvenile to the attention of the Youth Bureau and perhaps in the disposition finally decided on by the bureau", and the victim's request was found by multiple regression analysis to be a significant correlate of the disposition (1983: 159-161); on the other hand, "...officers were polite in dealing with [victims], but explained that the decision on the appropriate decision was one that they alone would make...the victim does not play an important part *because* of the nature of the decision process" (1983: 160-161; emphasis in the original). Ericson (1982) found that the police complied with the complainant's wishes totally or partly in two-thirds of the cases which he studied.⁸ Carrington (1998a) found that incidents involving an identified victim were more likely to result in a charge, thus reinforcing Black and Reiss's argument that a victim/complainant can make a valuable contribution to the quality of the evidence.⁹ Carrington (1998a) also found that incidents in which the victim was a stranger to the apprehended youth were more likely to result in a charge than those involving family members or friends.

We asked officers if the wishes of the complainant, the type of victim (person or business) or the relationship between the apprehended youth and the victim (friend, family, stranger) had any effect on their decision-making. Table V.7 summarizes the answers.

Table V.7 The role of the victim in police decision-making

	Not a Factor	Minor Factor	Factor	Major Factor	N
Victim Preference	4%	40%	40%	16%	120
Type of Victim	81%	16%	3%	0	95
Relation to Offender	60%	30%	10%	0	93

3.1 The victim's dispositional preference

Respondents were fairly evenly divided on whether they consider the preferences of the victim on a consistent basis. 44% of respondents suggested that victim preference plays little or no role in their decision-making. However, others suggested that their employer is the public, and that listening to and following the wishes of the victim is central to doing their job properly. According to many officers, difficulties arise when a victim would like a young person charged for a relatively minor offence, but the officer feels that using informal action or alternative measures would be much more appropriate,

⁸ If an encounter was visible (in a public setting) and the type of mobilization was proactive, there was a higher probability of arrest (Ericson, 1982). However, it is difficult to discern whether these findings reflect incidents with adults or with youths.

⁹ The UCR2 data analysed by Carrington (1998a) did not include the victim's dispositional preference.

given the nature of the offence and the characteristics of the young person. It was this hypothetical example that particularly elicited conflicting opinions concerning the role of the victim's preference. The majority of officers who rated victim preference as a secondary factor cited their belief that they must balance the rights of the victim with the best course of action for the administration of justice. In many cases, officers will go to great lengths to explain to the victims why alternative measures or conferencing would be a much more suitable course of action for crimes such as mischief and minor theft. Several officers volunteered the hypothetical example of a store manager who wants a charge laid against a youth caught shoplifting; the officer might well decide that a referral to alternative measures was more appropriate, and would politely but firmly make it clear that this decision was up to him/her, not the victim (cf. Doob, 1983: 160).

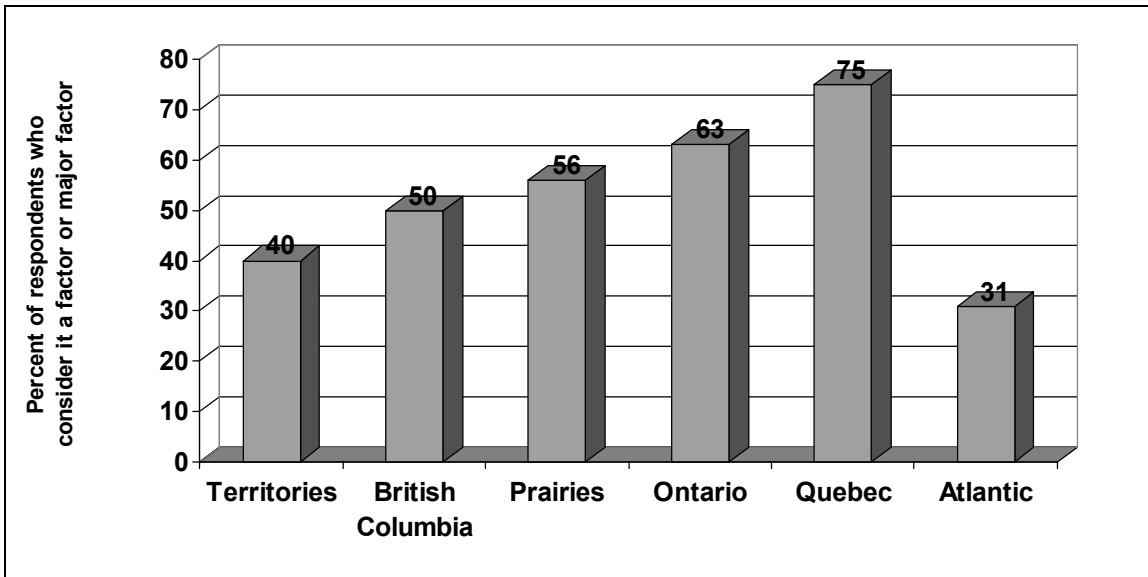
Officers in rural or small town jurisdictions are more likely to consider the preferences of the victim as a factor (47%) or major factor (20%) than those in suburban/exurban (36%/18%) or metropolitan areas (35%/10%). These differences offer further support to the notion that police in rural areas or small towns are more influenced by public opinion, or officers' perceptions of the expectations of the public. Similarly, officers in police agencies whose jurisdiction includes a First Nations reserve are more likely to consider the victim's preference to be a factor or major factor (65% versus 54% of officers in other police services).

Officers are less likely to consider the victim's preference to be a factor or major factor in communities which have "a lot" of youth crime (45%), versus "a normal amount" (63%), or "not very much" youth crime (83%); and/or in communities which have an identified problem of youth-related serious property crime (45% versus 70% of officers in other communities), youth-related serious violent crime (48% versus 58%), or a youth gang problem (48% versus 58%). Apparently, police are less able, or perhaps less willing, to respond to victims' preferences when they are burdened by the volume or seriousness of youth crime. Officers are also less likely to consider the victim's preference to be a factor or major factor in communities with a substantial amount of administration of justice offences involving youth (49% versus 60%).

In all provinces and territories, police officers take victim preference into consideration, but to varying degrees. Figure V.1 shows the regional variations. There are also slight variations on this issue between officers who work in agencies which police aboriginal populations versus those which do not. In both cases, the majority of officers consider the preferences of the victim as a factor or major factor; however, officers who work in an agency which has jurisdiction over a First Nations reserve are more likely (65%) to consider the victim's preference to be a factor or major factor than those who do not (54%). There are no significant differences for police who work in agencies which police off-reserve aboriginals.

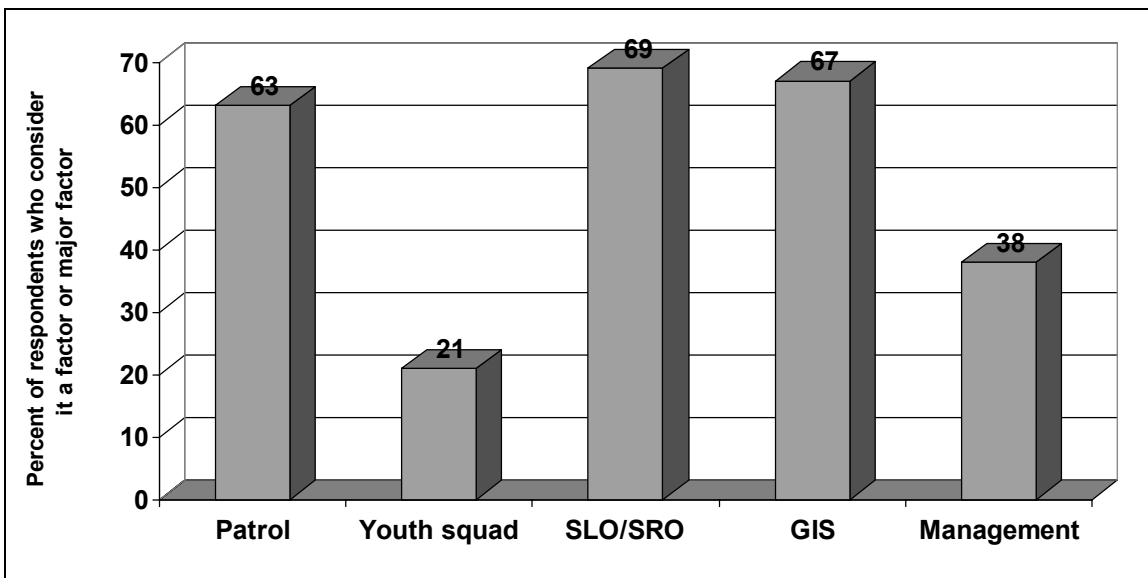
Our data suggest that the gender of the police officer affects his or her view of the importance of victim preference: female officers are more likely (67%) to take the victim's preferences into consideration than males (57%).

Figure V.1 Regional distribution of views on the impact of the victim's preference



The officer's level of authority and location of service are also related to the degree to which victim preference influences decision-making. Officers in management positions place less emphasis than the practitioner on victim preference: 43% of the former versus 60% of the latter said that victim preference is a factor or major factor in their decision-making with young offenders. The location of service also differentiates the views on this question (Figure V.2).

Figure V.2 Views on the impact of victim preference, by location of service



The majority (71%) of officers who work in a youth squad are less influenced by victim preference, seeing it as only a minor or secondary factor; whereas those working in patrol, as school liaison officers or in General Investigative Services are more likely to view victim preferences as a factor or major factor. Youth squad officers told us that their primary focus is on the young person and not only the characteristics of the offence. They see their role as finding the best course of action for that particular youth; thus, they tend to view the preferences of the victim as something which they take into consideration after other factors (e.g. the seriousness of the offence and the prior record of the offender).

Experienced and less experienced officers also differed in their views on the weight that is placed on the preferences of the victim also differ. The great majority (83%) of officers with five or fewer years of service felt that victim preference is a factor or a major factor in their decision-making; whereas, fewer officers (56%) with six or more years of service took this position.

3.2 Type of victim

The great majority of police officers (81%) do *not* take the type of victim (person or business) into consideration at all when deciding what course of action to take with a youth-related incident; 16% characterized it as a minor or secondary factor, and 3% said that this is a factor (none identified it as a major factor). Officers working in communities with a problem with serious violent youth crime are more likely to consider the type of victim as a factor (10% versus 1% of officers in other communities); those working in a community with a youth prostitution problem are *less* likely to consider it: 100% of them said that they do not take the type of victim into account at all in their decision-making with youth.

3.3 Victim-offender relationship

Almost all of our respondents (90%) did *not* see the relationship between the offender and the victim as significant (a factor or major factor) in their decision-making. However, there were variations related to the type of community. The relationship between the offender and victim is more likely to be cited as a factor or major factor by police working in rural and small town agencies (54%) than in suburban (47%) or metropolitan jurisdictions (23%). Once again, we speculate that the relative impersonality of metropolitan policing explains this phenomenon. Officers working in a community with an identified youth gang problem were slightly more likely (47% versus 38% of officers in other communities) to consider any relationship between the victim and the offender as a factor or major factor in their decision-making with youth.

Analysis of UCR2 data suggests that the relationship between a victim and an apprehended youth plays a significant role in the decision to charge, even when other relevant factors are controlled (Table V.8). (This variable is coded in the UCR2 only for

incidents involving an offence against the person.) The probability of a charge is higher if the victim is a parent or close friend, and lower if s/he is another family member (presumably a sibling) or an acquaintance. As with other circumstances of the incident, the percentages differences are much reduced when other factors are controlled, because young persons tend to commit different types of offences against different types of people: robbery and major assault and sexual assault against strangers, and level 1 sexual assaults against siblings and close friends (Table V.9).

Table V.8 Proportion of apprehended youth charged, by the relationship between a victim and the apprehended youth, Canada (parts), 2001

Victim-youth relationship	% charged	Adjusted % charged	N
Parent	78	67	179
Stranger	74	50	1,501
Close friend	64	54	338
Other family	57	47	786
Acquaintance	57	38	4,390

Source: UCR2 Survey, Trend Database.

Table V.9 Proportion of apprehended youth, by type of offence and relationship with victim, Canada (parts), 2001

Type of offence	Parent %	Other family %	Close friend %	Acquaintance %	Stranger %
Assault & sexual assault, level 2	11.2	16.8	15.4	14.9	19.0
Robbery	0.6	0.0	2.4	4.9	29.8
Misc. indictable person	1.7	0.5	5.6	1.5	2.3
Sexual assault, level 1	2.2	14.4	9.5	4.2	1.2
Assault, level 1	62.0	51.5	47.3	53.5	29.4
Misc. summary & hybrid person	22.3	16.8	19.8	21.1	18.2

Source: UCR2 Survey, Trend Database.

4.0 Co-offenders and apparent gang-related crime

Youth gangs and crimes committed by groups of youth are currently a major concern for the public and police. According to a recent Canadian textbook for law enforcement students:

The primary factors [in allegedly increasing youth crime] seem to be drugs and gangs, which in themselves create

tremendous frustration for police officers...Gangs are increasingly becoming a major problem for police officers...(Dantzker & Mitchell, 1998: 56)

Officers in approximately one-quarter of the police agencies in the sample told us that they face a significant problem with gang-related youth crime (Chapter III, Figure III.12, above). Although crimes committed by groups of youths and gang-related crime are distinct phenomena, they are often confused. Carrington (2002) found that 7% of youth-related incidents in Canada during the 1990's involved three or more apprehended youth, and another 17% involved two apprehended youth. Young offenders involved in incidents that involved at least three young persons were *less* likely to be charged than youth apprehended in pairs or alone (Carrington, 1998a).¹⁰

We asked officers whether they take co-offenders and gang-related crime into consideration when deciding how to deal with youth-related incidents. Table V.10 summarizes their answers.

Table V.10 Effect of gang-related crime and co-offenders on police decision-making

	Not a Factor	Minor Factor	Factor	Major Factor	N
Gang-related	52%	9%	24%	15%	75
Group vs. lone offender	44%	42%	13%	1%	123
Adult/youth co-offender	61%	30%	8%	1%	95

4.1 Gang-related crime

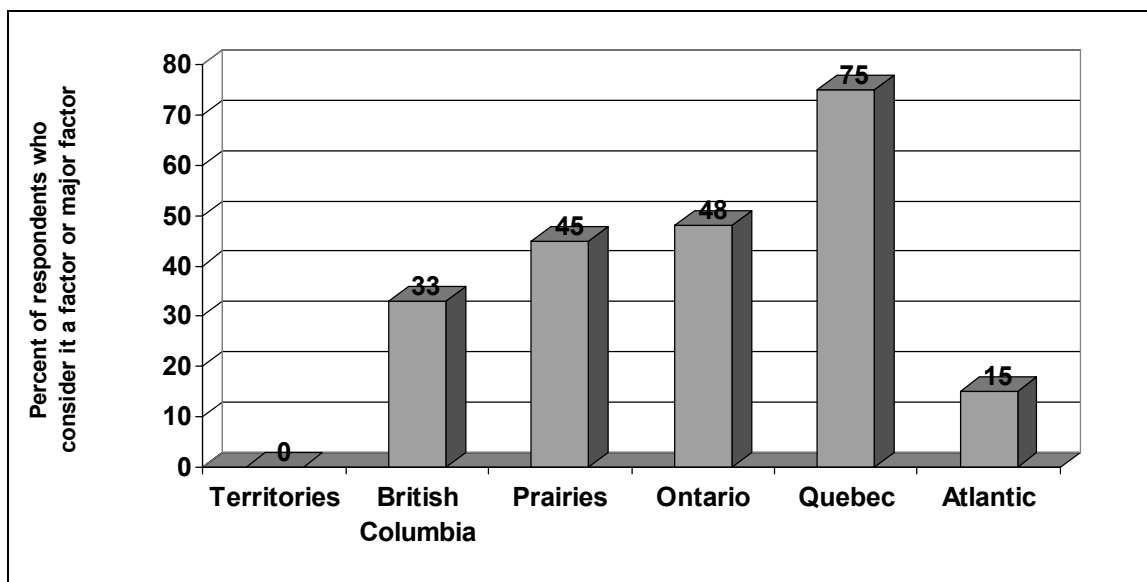
Approximately half of the police officers whom we interviewed said that they do *not* consider whether a youth crime is gang-related when deciding how to deal with it. Another 9% said that this is only a minor factor in their decision-making. However, there are large variations among police services on this issue. 56% of respondents in metropolitan police services said it was a factor or a major factor; versus 33% of those in suburban/exurban police agencies, and 17% of rural and small town officers. This mirrors the variation among metropolitan, suburban/exurban, and rural/small town communities in the extent of the identified problem with youth gang-related crime (43%/32%/9%; see Chapter III, Section 4.3). Indeed, officers in communities with an identified youth gang problem are much more likely (78%) than officers in other communities (21%) to say that they consider whether a crime is gang-related to be a factor or major factor in their decision-making with youth. Officers in communities with

¹⁰ Carrington (1998a) suggests this finding is partly a function of the types of crimes youth engage in as a group (i.e. property crimes). Youth apprehended alone were more likely to be implicated in 'other' Criminal Code offences, such as administration of justice offences.

“a lot” of youth crime are also more likely (61%) than those in communities with “a normal amount” (37%) or “not very much” (25%) to say that they consider whether a crime is gang-related to be a factor or major factor. Furthermore, officers in communities with almost any kind of identified problem of youth crime are more likely to consider the gang-related nature of a crime to be a factor or major factor: 47% of those in communities with serious youth property crime, versus 27% of officers in other communities; 73% in communities with serious violent youth crime, versus 25% of those in other communities; 46% in communities with a youth drug-crime problem, versus 28% in other communities; and 56% in communities with a youth prostitution problem, versus 36% in other communities.

There are also substantial regional variations in the extent to which officers take gang involvement into account in their decision-making with youth (Figure V.3). To some extent, these mirror regional variations in the identified incidence of youth gang problems (see Chapter III, Figure III.14).¹¹

Figure V.3 Regional distribution of views on the impact on decision-making of gang-related crime



Female officers are considerably more likely than males to take gang involvement into account in their decision-making (63% versus 44%). Police officers working in a youth squad (72%) or as a school liaison/resource officer (75%) consider gang involvement in crime much more often in their decision-making than officers in patrol (33%), in management (60%), or in GIS (46%). This is not surprising, since most of the specialized programs that target youth gang members are located in the two former

¹¹ Apart from the high proportion of respondents in Quebec who identified gang-related crime as a factor or major factor; however, very few Quebec officers answered this question, so the percentage is not reliable.

sections. Officers who had previously been assigned to a youth squad were more likely (86%) to consider apparent gang involvement than officers who had never served in a youth squad section (44%).

4.2 Group crime

Most respondents (86%) felt that whether the offender committed the crime alone or in a group did not play a significant role in their decision-making. However, officers who did indicate that they considered this to be a minor factor suggested that a youth who commits a crime in a group may have been influenced by peer pressure. They told us that it is important to determine, to the best of their ability, the role which each youth played in the commission of the crime. Thus, they may charge the ringleader, but refer the others to alternative measures. Officers who indicated that group versus lone offending is not a factor explained that each person in a group must be treated the same way (except for those that have different prior records). Thus, if they charge one youth in a group, they would charge all participants, since they do not believe they can assign degrees of responsibility. These officers told us the degree of responsibility can be determined by the Crown Attorney or in youth court, depending on the seriousness of the offence. This does not necessarily mean that these officers would not consider informal action for crimes committed in groups. Rather, they will treat each youth in the group in the same way, and in the same way as if s/he had committed the offence alone.

Views on this subject vary on most of the same dimensions as views on the salience of gang-related crime (above): officers in communities with a problem of serious youth property crime are more likely to consider group offending as a factor or major factor in their decision-making with youth (21% versus 5% of officers in other communities), as are officers in communities with a gang problem (20% versus 12%), a drug-related youth crime problem (17% versus 9%), and a problem of youth prostitution (33% versus 12%).

In addition, officers in communities with a significant off-reserve aboriginal population are *less* likely to consider youth crime committed by a group rather than an individual to be a factor or major factor (6% versus 17% of officers in other communities).

Views on this issue also differ by the gender and rank of the police officer. 16% of male police officers, but *no* females, consider co-offending to be a factor or major factor. Practitioners are slightly more likely than supervisors and officers in management positions to say that co-offending is a factor or a major factor (14% versus 8%).

Table V.11 Proportion of apprehended youth charged, by whether accomplices were involved, Canada (parts), 2001

Number of persons apprehended	% charged	Adjusted % charged	N
1 (only the apprehended youth)	57	57	19,536
2+ (group crime)	42	48	11,276

Source: UCR2 Survey, Trend Database.

Analysis of UCR2 data suggests that a youth who commits an offence with one or more accomplices is less likely to be charged, even when other factors are controlled (Table V.11). However, controlling for related factors increases the probability of co-accused youth being charged; this is because group crimes committed by youth tend to be the least serious, such as theft under, and to be committed by younger youth.

4.3 Adult co-offender

We also asked how police officers deal with youth-related incidents which involve an adult co-offender. The majority of respondents (90%) felt that this was not a factor or it was only a minor one. Views on this issue differ by type of police agency and community, and the officer's location of service, and level of authority. Almost every OPP officer (91%) indicated that s/he did not take adult co-offenders into consideration when deciding how to handle a youth-related incident. They informed us that the youth must be considered as an individual in the crime and that quite often the youths are sophisticated enough to have even orchestrated the crime. OPP officers told us they consider an adult co-offender as another element in the crime, but not as a reason to adjust their decision-making with the youth.

Officers working in communities with an identified youth gang problem are more likely to consider the involvement of an adult co-offender as a factor or major factor (17%) than officers in other communities (8%). Officers working in communities with a significant off-reserve aboriginal population are *less* likely to consider the involvement of an adult co-offender as a factor or major factor (4% versus 12%).

Officers who work in GIS are much more likely (56%) to take adult co-offenders into consideration in at least a minor way in their decision-making¹² with youth than officers in patrol (37%), youth squads (23%), school liaison officers (9%), or management (17%). This finding is explicable in terms of the types of youth-related cases which detectives tend to deal with in GIS. They are predominantly the more serious crimes and crimes that involve follow-up investigations. Further, although the majority of practitioners and supervisors do not consider the presence of an adult co-offender to be a factor, supervisors are more likely (43%) to consider it to be a minor factor than are practitioners (26%).

¹² That is, to consider it as a minor factor, a factor, or a major factor.

5.0 Under the influence of alcohol or drugs

Evidence that the apprehended youth was under the influence of alcohol or drugs at the time of the incident has been found to increase substantially the likelihood of charges being laid (Carrington, 1998a; Conly, 1978).

The majority of police officers in our sample (63%) said that they do not take the use of alcohol or drugs into consideration when dealing with youth-related incidents. Another 26% said that this is a minor factor. However, several officers did indicate that it can have an effect on the method used to compel appearance, increasing the likelihood that they would release the youth on an OIC undertaking specifying no consumption of alcohol.

Officers in communities with a youth prostitution problem are more likely to consider alcohol or drug consumption to be a *major* factor in their decision-making with apprehended youth (11% versus 2% of officers in other communities). However, officers in communities with other kinds of youth crime problems are *less* likely to consider alcohol or drug consumption to be a factor or major factor: 8% of those in communities with serious youth property crime, versus 15% of those in other communities; 4% of officers in communities with serious violent youth crime, versus 13% of other communities; no officers in communities with an identified youth gang problem, versus 14% in other communities; and 4% in communities with a problem of youth-related administration of justice offences, versus 15% in other communities. It appears that alcohol and drug involvement in youth crime is more of an issue in communities which do not suffer from high levels of serious types of youth crime (except prostitution).

Officers in communities with a significant off-reserve aboriginal population are more likely to consider alcohol or drug consumption to be a factor or major factor (20% versus 7% of officers in other communities). (However, officers in police agencies which include a First Nations reserve in their jurisdiction are no more or less likely than other officers to consider alcohol/drug consumption as a factor.)

Officers with six or more years of service view the use of alcohol and drugs differently from officers with five years or less: 17% of the former consider the use of alcohol a factor or a major factor, compared to none of the latter.

When we asked officers to elaborate on the impact which the use of alcohol or drugs has on their decision-making, two trends emerged. First, many officers felt that the root cause of the youth's criminal behaviour was an addiction to alcohol or drugs. They raised concerns that there were not enough social services or places to which they could refer these youths in crisis. One officer in British Columbia expressed this frustration as follows,

Our whole thing is, why are we bringing these kids into the criminal justice system because they have a drug addiction when nobody is willing to take it one step further. [*Many officers use drug and alcohol addiction as*] a tool you can

hold over their head because you know you'll look okay at the end in our little report, youth arrested by police, placed in detention centre, wipe your hands until it comes down to sentencing, 6 or 7 months down the road and you write to the probation officer, well, I haven't seen the kid, perhaps treatment is not a bad idea.

Several officers echoed these sentiments. They feel that they could make more of a difference if they had the resources available to refer youths to programs that will help them heal from their addictions.

Secondly, many officers indicated that the use of alcohol or drugs makes dealing with youth difficult. Alcohol is "liquid courage" and officers told us they do not take a youth's demeanour as seriously when they are under the influence. However, they are also quick to add that "the kid's safety is the main concern as the crime can happen any day". Thus, they will take whatever steps are necessary to ensure the young person's safety until they 'sober up' (even if this means they must detain the youth as no other facilities are available).

6.0 Location and time of day

Almost two-thirds of our interviewees (65%) said that they do *not* consider location or time of day to be a factor in their decision-making with young offenders. Another 22% said that these are only minor factors.

Provincial police officers (including RCMP officers) are less likely (24%) to consider location or time of day a factor, compared to independent municipal police officers (41%). Officers located in metropolitan and suburban/exurban jurisdictions are more likely (43%) to take the location of the offence or the time of day into account than officers in rural areas or small towns (23%). Officers in communities with serious violent youth crime are *less* likely to consider the location or time of day to be a factor or major factor in their decision-making with youth (7% versus 15% of officers in other communities). However, officers in communities with a youth prostitution problem are much more likely to take location and time of day into account (56% versus 9% in other communities), as are, to a lesser extent, officers in communities with drug-related youth crime (18% versus 5%). Officers in communities with a significant off-reserve aboriginal population are *less* likely to consider the location or time of day to be a factor or major factor (8% versus 15% of officers in other communities).

Officers working in a youth squad were much more likely (43%) to consider the location of the crime and the time of day to be a factor or a major factor in their decision-making. This is probably due to youth squad officers' particular interest in attaching specific, appropriate conditions to release Undertakings (e.g. "no go", curfew; see Chapter II, Section 7.3, and Chapter IV, Section 4.1). The great majority (80-90%) of officers in other units (patrol, GIS, etc.) do not consider this a factor, or at the most, a minor one.

However, youth squad officers indicated that they tend to take *all* factors into account in order to find the best course of action for that young person.

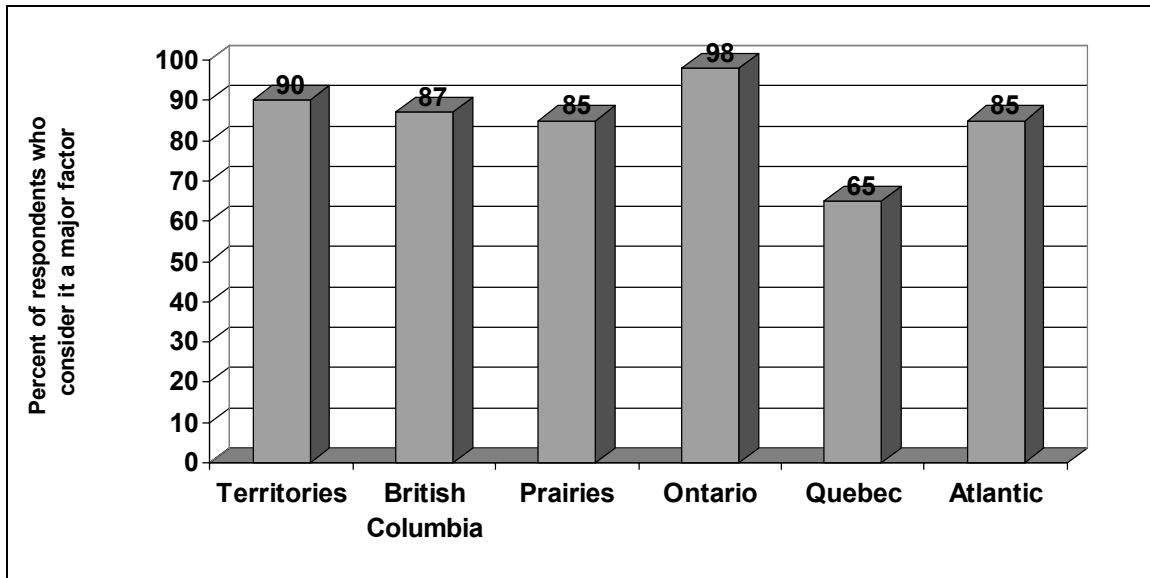
7.0 Prior record: contacts, alternative measures, charges, convictions

A record of prior convictions or prior contacts with the police has been found to be strongly positively associated with the likelihood of being charged (Conly, 1978; Doob, 1983; Doob & Chan, 1982; Ericson, 1982). Whether or not it led to charges or a conviction, contact with police labels a youth as a probable delinquent, increasing the probability of formal treatment on subsequent contact. Doob & Chan's (1982) statistical analysis of police dispositions found that prior contacts was one of the strongest, if not *the* strongest correlate of the decision to charge. On the other hand, Conly found that juveniles who had previously been *charged* were charged in the current instance at a much higher rate (52%) than those who had been previously contacted and not charged: the likelihood of the latter being charged (28%) was practically the same as that of youth who had no record of prior contacts (27%) (1978: 30).

We asked respondents to consider the effects on their decision-making with apprehended youth of prior contacts with police, prior referrals to alternative measures (especially in jurisdictions that use pre-charge diversion), prior charges, and prior convictions. However, none was inclined to differentiate among these. Almost all (96%) of our respondents said that prior record (in any and all forms) is a major factor (87%) or a factor (9%) in their decision-making process with youth-related incidents. Officers repeatedly emphasized that they consider a youth's prior record as important as the seriousness of the offence. They consider both of these factors together, and invariably they are the first and principal factors which officers say that they take into consideration.

Figure V.4 shows the regional distribution of answers to this question. Quebec is the exception, perhaps because of the more welfare-oriented approach to juvenile justice in that province, and perhaps also because police do not make the final decision to charge in that province (although prior record is clearly a major factor in British Columbia, the other Crown-screening province). This consideration is reminiscent of Black & Reiss's (1970) observation that, in their study, prior record was less important to patrol officers, who only made the decision to arrest, than to youth bureau officers, who decided whether to refer the youth to juvenile court (i.e. lay a charge).

Figure V.4 Regional distribution of views on the impact on decision-making of the youth's prior record



Officers who work in communities with serious violent youth crime are less likely to say that the youth's prior record is a factor or major factor in their decision-making (80% versus 90% of other officers). Officers in agencies which police a First Nations reserve are also less likely (81% versus 89% of other officers). Those who work in communities with a youth prostitution problem are *more* likely to take prior record into account (100% versus 86% of other officers).

School Liaison/Resource Officers are less likely to view prior record as a major factor than officers in other assignments (Figure V.5). SLO's suggested that there is much more to a youth-related incident than the nature of the offence and the offender's prior record. They did not imply that prior record is of no importance, but said that it is not the first factor which they take into account. Working in the school environment, they also consider the student's grades and relations with peers and teachers, as well as the nature of the offence. Prior record becomes much more important to SLO's if it is lengthy and involves incidents of the same type.

Analysis of UCR2 data confirms that prior apprehensions by the police play an extremely significant role in the decision to charge and apprehended youth (Table V.12). Even when related factors such as the youth's age (Table V.13, below) and the seriousness of the offence (Table V.4, above) are controlled, the probability of a charge being laid rises with increasing numbers of prior apprehensions, from 32% of first offenders to 66% of youth with five or more priors.

Figure V.5 Views on the impact of the youth’s prior record, by the officer’s location of service

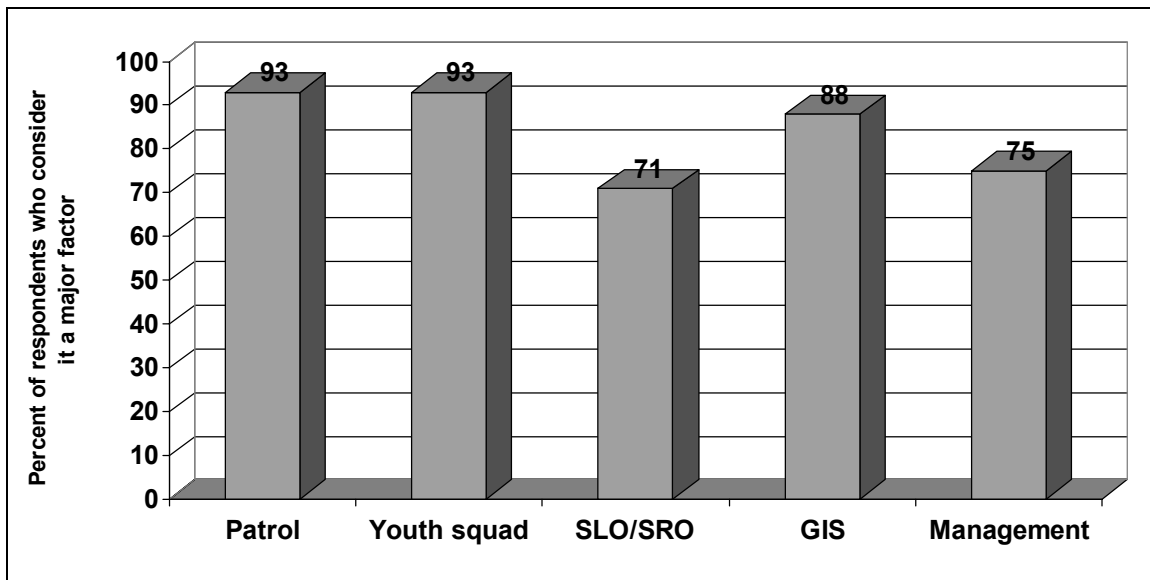


Table V.12 Proportion of apprehended youth charged, by the number of prior apprehensions, Canada (parts), 2001

Number of prior apprehensions	% charged	Adjusted % charged	N
0 (first offender)	40	32	18,341
1	59	47	5,205
2	69	55	2,377
3-4	76	60	2,100
5+	85	66	2,789

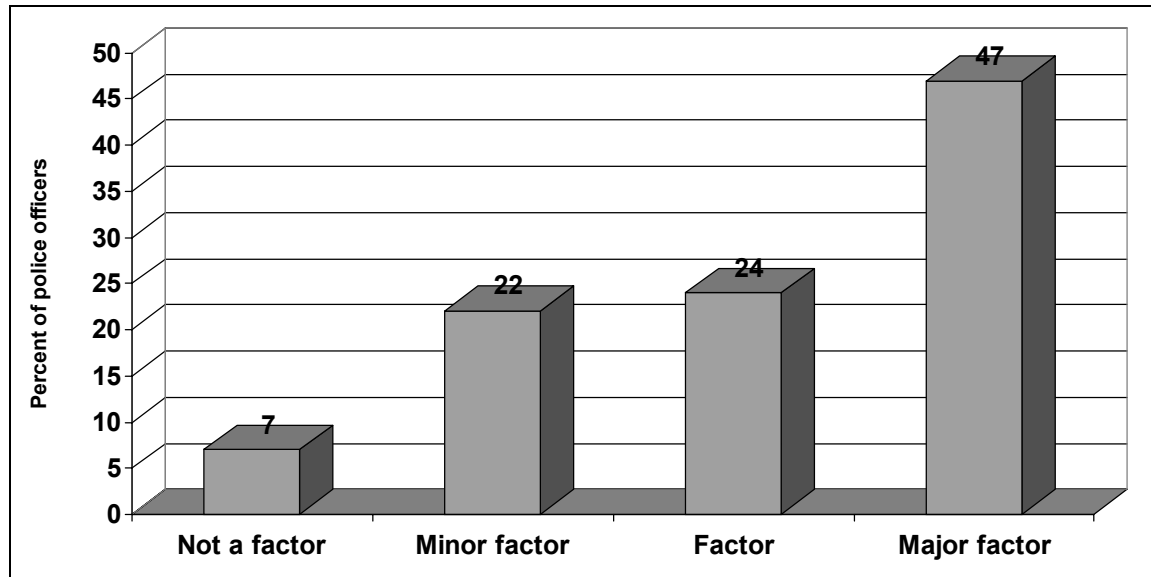
Source: UCR2 Survey, Trend Database.

8.0 Demeanour

Doob found that police dispositions of cases coming to a Youth Bureau were significantly affected by the youth’s “attitude” and “action he took when he came in contact with the police”; e.g. whether s/he admitted the offence (1983: 161; Doob & Chan, 1982).

Figure V.6 summarizes the results when we asked officers how much the young person’s demeanour affects their resolution of youth-related incidents.

Figure V.6: The effect of the youth's demeanour on police decision-making



Almost three-quarters of our respondents consider the demeanour of the young person to be a factor or a major factor in their decision-making. The majority of respondents indicated they have no choice but to take the demeanour of the young person into account in order to make a referral to alternative measures. A young person must take responsibility for his or her actions in order to qualify for AM, and many officers indicated that those with a “bad attitude” tend to deny their involvement in the crime. However, the notion that young people should accept responsibility for their actions, and, preferably, feel some remorse, was linked by officers not just to eligibility for AM, but to the intent of the YOA, which is that young persons should be held responsible for their actions: thus, if the apprehended youth showed that s/he held him/herself responsible, this made intervention by the police or courts less necessary, in the eyes of some of our respondents.

The weight assigned by officers to demeanour in their decision-making varies on several dimensions: by region of Canada, the type of community in which they work, the level and types of youth crime in the community, whether there is a First Nations reserve in the jurisdiction of the police service, and the gender, level in the hierarchy, location of service, and the number of years of service of the officer.

Officers' views of the impact of youths' demeanour is related to the perceived level of youth crime in the community: 90% of officers in communities where there was “a lot” of youth crime said that the youth's demeanour was a factor or major factor in their decision-making, versus 63% of those in communities with “a normal amount” of youth crime, and 50% of those in communities with “not very much” youth crime. No such relationship was found with reported levels of serious violent youth crime (73% of officers in communities with a problem of serious violent youth crime said that

demeanour was a factor or major factor, compared with 70% of officers in other communities), or significant youth gang problems (72% of officers in communities with a youth gang problem said that demeanour was a factor or major factor, compared with 71% of officers in other communities). However, officers in communities with a significant amount of serious property crime committed by youth are more likely to take demeanour into account (53% versus 39% of other officers said that demeanour is a *major* factor in their decision-making), as are those in communities with significant amounts of drug-related youth crime (75% versus 64% said demeanour is a factor or major factor), youth prostitution (100% versus 69%), and administration of justice offences involving youth (64% versus 37% of other officers said demeanour is a *major* factor).

Officers located in metropolitan areas are much more likely (63%) to consider demeanour a major factor than those in suburban/exurban (39%) or rural/small town jurisdictions (36%). This is inconsistent with findings discussed in previous sections, which suggested a more particularistic style of policing in smaller places; we speculate that demeanour may be more of an issue in cities, where youth may show more “attitude” than in smaller places. Another possibility is that demeanour is more of an issue in metropolitan areas because there is more youth crime there, and the level of youth crime affects the impact on police of youths’ demeanour (above). This hypothesis is explored in Figure V.7, which presents a very interesting picture. In communities with “a normal amount” of youth crime, the impact of the youth’s demeanour is related positively to the size of the community. But in communities with “a lot” of youth crime, demeanour is more of an issue for rural and small town (100%) and suburban/exurban officers (92%) than for officers in metropolitan police agencies (71%). A youth’s demeanour is an issue for officers in metropolitan police services, regardless of the level of youth crime; whereas, the likelihood of its becoming an issue for officers in other types of communities, especially rural areas and small towns, is related to the level of youth crime.

The regional distribution of views on this issue is shown in Figure V.8. We can only speculate as to why police in the two Crown-screening provinces report the lowest impact of the youth’s demeanour on their decision-making. This is puzzling, since, following Black & Reiss (1970), we would have expected that police who do not make the final decision to charge would be more affected by situational and “extralegal” factors, and less by the strictly legal aspects of the case. In particular, we would have expected this to be the case in Quebec, where officers reported a greater impact for other situational factors, such as the victim’s preference and whether the crime was gang-related (Section 4.1, above), and less impact of the “legal” variable, prior record (above).

Figure V.7 The impact on decision-making of the youth's demeanour, by the type of community and the perceived level of youth crime

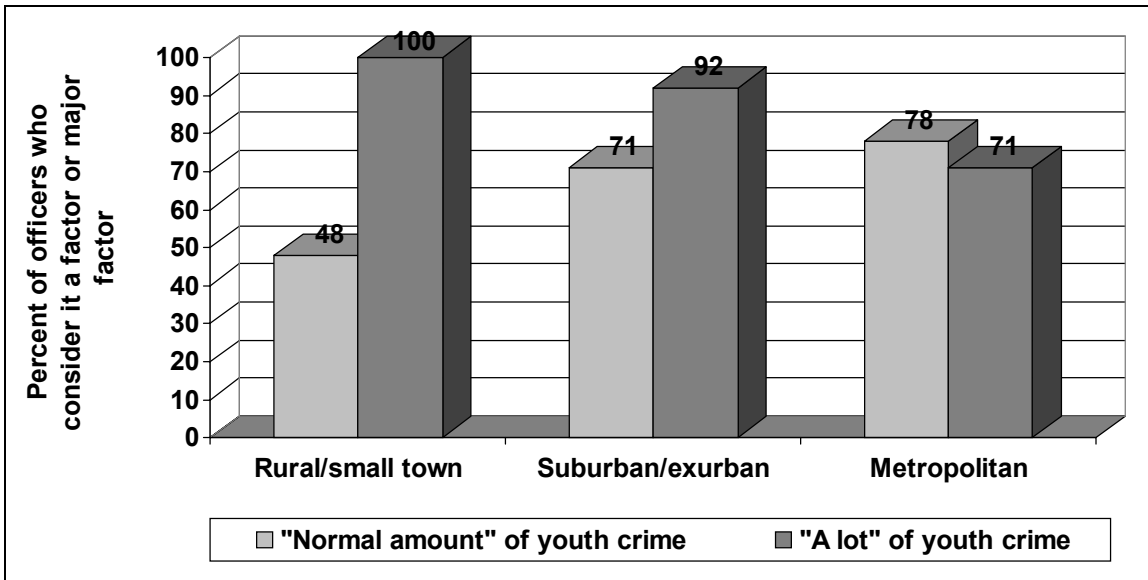
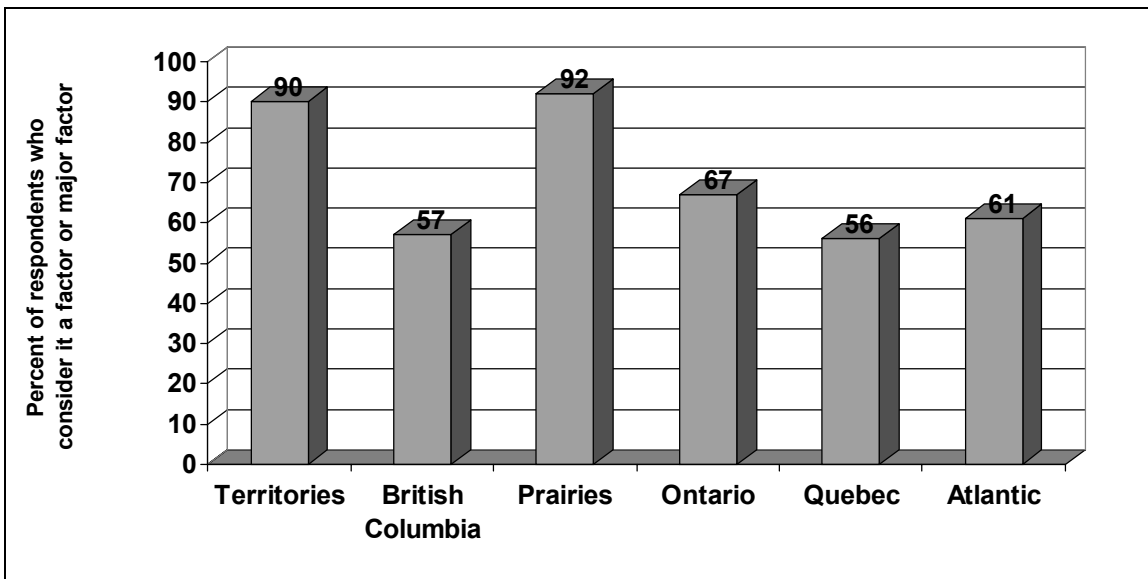


Figure V.8 Regional distribution of views on the impact on decision-making of the youth's demeanour

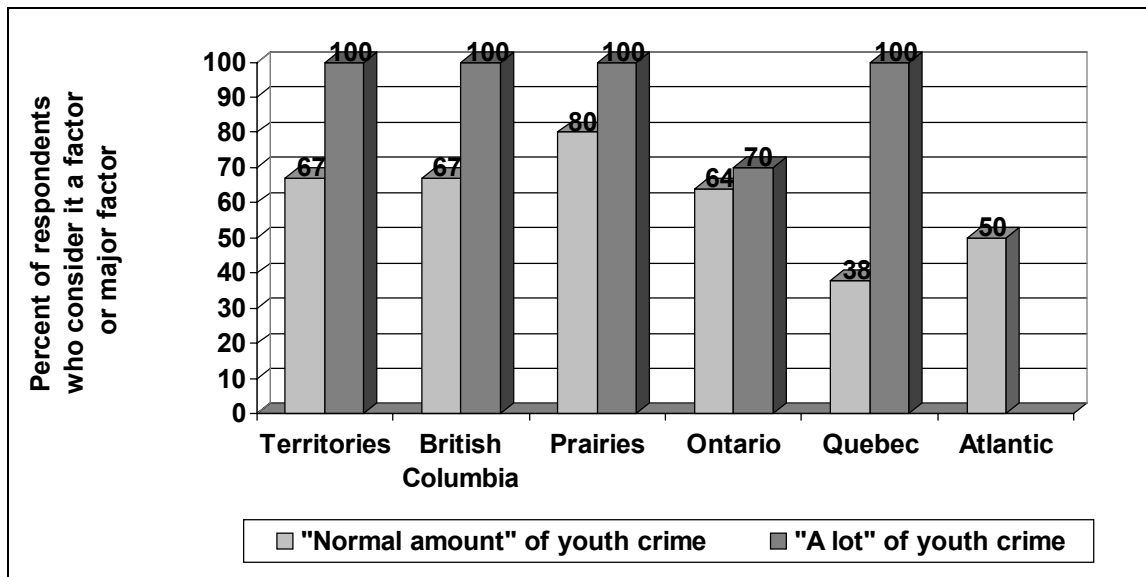


The other interesting finding is that police in the Prairies and Territories report a higher impact of the youth's demeanour on their decision-making. One possible explanation is that police in the Prairie provinces were much more likely to report "a lot" of youth crime and violence, and significant youth gang problems (Chapter III), so perhaps they face more problems with "bad attitudes" on the part of apprehended youth. However, police

in the Territories did not report high levels of youth violence or gangs. The Territories have relatively high levels of substance abuse, which may contribute to problems of “demeanour”. They also have very high proportions of aboriginal peoples, so they may experience “attitude problems” on the part of aboriginal youth, who tend to resent and distrust the police (Griffiths & Verdun-Jones, 1994: 641-642).

We can test these hypotheses by looking at officers’ opinions of the impact of demeanour, broken down by the other variables. In Figure V.9, the regional impact of demeanour is broken down by the level of youth crime reported by officers working in that jurisdiction. The Prairies and Territories no longer stand out: in all regions except Ontario,¹³ 100% of officers who work in “high-youth-crime” jurisdictions report that demeanour is a factor or major factor in their decision-making, and in jurisdictions reporting a “normal level” of youth crime (except in Quebec), about two-thirds of officers find demeanour to be a factor or major factor.¹⁴ Thus, the higher impact of demeanour in the Prairies and Territories is almost entirely explained by the higher (perceived) levels of youth crime in those regions.

Figure V.9 Regional distribution of views on the impact on decision-making of the youth’s demeanour, by the perceived level of youth crime in the jurisdiction



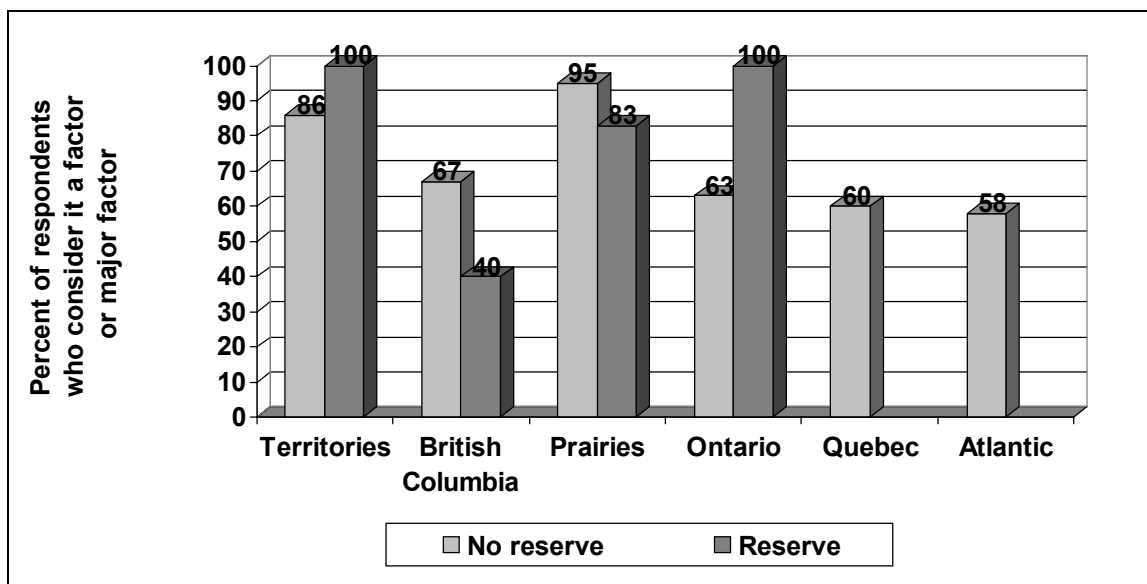
Officers working in police agencies with jurisdiction over a First Nations reserve were slightly more likely (76%) to say that the youth’s demeanour was a factor or major factor in their decision-making than officers in other police agencies (70%). Figure V.10 shows the regional variation in the impact of the youth’s demeanour, controlling for jurisdiction

¹³ And the Atlantic region, where no police services reported a high level of youth crime.

¹⁴ Percentages for communities with “not very much” youth crime are not reported, as the numbers were too small to be reliable.

over a reserve. The impact of demeanour varies. In Ontario and the Territories, officers policing reserves are more likely to find demeanour to be a factor or major factor in their decision-making, but in British Columbia and the Prairies, they are less likely. Among officers who do not police a reserve, those in the Territories and the Prairies are still more likely than those in other regions to say that they find demeanour to be a factor or major factor. Thus, although the presence of a reserve in the jurisdiction does increase the probability (by 6%) that the youth’s demeanour will affect police decision-making, this does not explain why demeanour is more of an issue in the Territories and Prairies.

Figure V.10 Regional distribution of views on the impact on decision-making of the youth’s demeanour, by jurisdiction over a First Nations reserve



In terms of hierarchy, supervisors are more likely to consider demeanour a factor or major factor (88%) than practitioners (71%), middle management (50%), or upper management (40%). School Liaison Officers (64%) and youth squad officers (47%) are more likely to consider demeanour a *major factor* than those in patrol (39%) or GIS (39%). SLO’s may be responding to the disruption in the school environment which can be caused by a young person displaying “attitude” in connection with a crime committed on school property. Most of the SLOs we interviewed were female; thus, it is not surprising that female officers are slightly more likely to consider demeanour a major factor (60%) than male officers (44%). It is surprising that patrol officers are the least likely to find demeanour to be a major factor, since one would expect that it is they who are most likely to suffer the brunt of a youth’s “attitude”. However, when we look at the proportions of officers who said that demeanour is either a *factor or major factor*, it is patrol officers who are most likely to say so (76%), followed by youth squad officers (73%), SLOs (71%), GIS (65%), and management (63%). This confirms the importance of the youth’s demeanour for patrol officers involved in “the encounter”. Finally,

officers with six or more years of service were more likely to take demeanour into account (74%) than officers with five or fewer years of service (62%).

9.0 Age

The probability of formal treatment by police increases with the young offender's age (Carrington, 1996, 1998a; Conly, 1978; Ericson, 1982; Hornick et al., 1996).¹⁵ Youths who are 17 years old are twice as likely to be charged as 12 year olds; for each additional year of age from 12 to 17 years, the probability of being charged versus dealt with informally rises by 4.6% (Carrington, 1998a); however, that study was unable to control for factors such as prior record and demeanour, which may explain the increased charging of older youth.

Analysis of UCR2 data confirms the major role of the age of the youth in the decision to charge. An apprehended seventeen year old is more than twice as likely to be charged as a twelve year old (Table V.13, first column). Some of the effect of the youth's age is mediated by other factors, especially his or her accumulated record of prior apprehensions (Table V.14), and increasingly serious offences committed (Table V.3, above); but even when other factors are held constant, the probability of a charge increases by approximately 4% for each additional year of age, so that a seventeen year old whose offence, prior record, etc. are the same as those of a twelve year old, still has a 50% higher probability of being charged (Table V.13, column 2). Some of this differential might be due to factors not included in the statistical analysis, such as demeanour, but it seems highly unlikely that these could account entirely for the clear relationship shown in the second column of Table V.13.

Table V.13 Proportion of apprehended youth charged, by the age of the youth, Canada (parts), 2001

Age	% charged	Adjusted % charged	N
12 years	28	39	2,010
13	36	45	3,549
14	45	51	5,212
15	52	55	6,331
16	58	59	6,680
17	65	62	7,030

Source: UCR2 Survey, Trend Database.

¹⁵ Doob (1983; Doob & Chan, 1982) concluded that the correlation between the youth's age and the likelihood of being charged was explained by other correlated factors; i.e. its impact is indirect, or mediated.

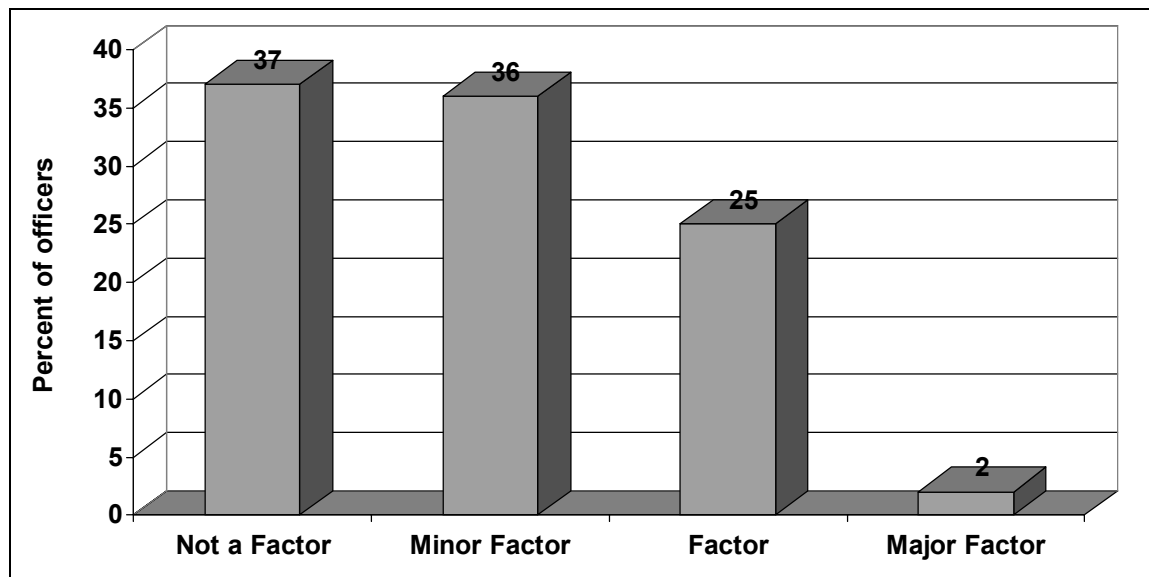
Table V.14 Number of prior apprehensions, by the age of the apprehended youth, Canada (parts), 2001

Number of prior apprehensions	Age of the apprehended youth					
	12 %	13 %	14 %	15 %	16 %	17 %
0 (first offender)	76.7	74.3	67.0	59.2	53.5	47.7
1	13.3	13.6	15.5	18.2	18.5	17.9
2	4.4	5.1	6.7	8.5	8.8	9.0
3-4	3.5	3.7	5.4	6.8	7.8	9.4
5+	2.1	3.4	5.4	7.3	11.4	16.0

Source: UCR2 Survey, Trend Database.

In asking officers about the impact of the offender’s age on their decision-making, we provided the following illustration: “Would you consider being more lenient with a 12 year old than a 17 year old?” Or: “Would you be more likely to use informal action or alternative measures with a 12 year old than with a 17 year old?” There was considerable variation in the answers (Figure V.11).

Figure V.11: The effect of the offender’s age on police decision-making



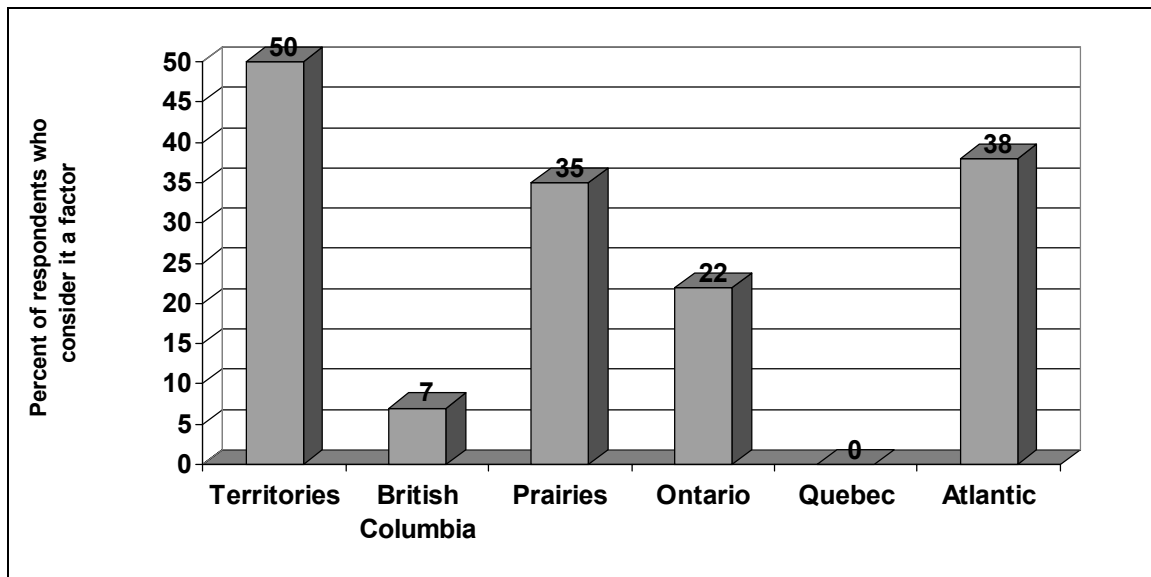
Slightly more than one-quarter of the respondents said that they consider the young person’s age to be a factor or major factor in their decision-making. However, a large number consider it to be a minor, or secondary, factor.

Environmental factors appear to play a role in officers' responses. In rural areas and small towns, officers are more likely to consider age a factor¹⁶ (31%) than in suburban/exurban (22%) or metropolitan jurisdictions (21%). Also, officers in agencies which have a First Nations reserve in their jurisdiction are more likely to take the youth's age into account (33% said it is a factor, versus 23% of other officers). These differences are consistent with other findings reported above which suggest a more particularistic (individualized) approach to police work with young offenders in smaller places and on reserves.

Alternatively, officers may take the youth's age into account because they are less burdened with a high volume of youth crime, or serious youth crime: officers in communities with "not very much" youth crime are more likely to take the youth's age into account (40%, versus 23% of officers in other communities), and officers in communities with a problem of serious violent youth crime are *less* likely to take the youth's age into account (14%, versus 29% of other officers).

Officers in jurisdictions with Crown screening are very unlikely to consider the youth's age in their decision-making (Figure V.12). We can offer no explanation for this.

Figure V.12 Regional distribution of views on the impact on decision-making of the youth's age



Officers working in the Atlantic region or the Territories are also more likely to consider age to be a factor than police in other areas of Canada. Examination of percentages by

¹⁶ So few officers consider it a major factor that we have omitted them from the following breakdowns.

individual province shows that this is true in only two of the four Atlantic provinces: New Brunswick (60% consider it to be a factor) and Nova Scotia (50%). For New Brunswick, we have no explanation; but in Nova Scotia, it is probably related to the “two-tiered” youth justice system, in which 12 to 15 year olds are treated differently from 16 and 17 year olds. For example, in Halifax Police Service, investigating officers fill out a form in all cases involving youth aged 12 to 15, which stipulates explicitly whether they have considered pre-charge diversion and asks for an explanation if they are not recommending diversion; and this police service also has a dedicated officer who reviews all cases involving youth aged 12 to 15, in order to ensure that as many as possible are diverted pre-charge. The weight placed on the youth’s age by officers in the Territories may be related to the relatively offender-oriented approach, in some case approaching the social worker role, adopted by some officers stationed there.¹⁷

30% of the male officers, versus none of the female officers, whom we interviewed said that they consider age to be a factor in their decision-making. Finally, almost one-half (46%) of the officers with five years or less of service take age into consideration, compared to 31% of officers with six or more years of service.

10.0 Gender

Canadian research has found that, overall, apprehended male youth have a slightly higher probability of being charged than females (Carrington, 1998a; Conly, 1978). In Canada, in the 1970’s, there were substantial gender differences in charging among police departments¹⁸ that could only be partially accounted for by the differences in types of offences that males and females committed (Conly, 1978). Doob & Chan’s study of the youth bureau of one southern Ontario police force found no effect of the juvenile’s sex when other factors were controlled (1982: 30). By the 1990’s, gender differences in charging in Canada were very small (Carrington, 1998a).

Virtually all of our respondents (94%) said they do not consider the gender of the young person at all when deciding on a course of action with youth-related incidents. Officers in communities with an identified youth gang problem are slightly more likely to take the youth’s gender into account (12% consider gender to be a *factor or minor factor* versus 5% in other communities). Of the eight officers who said that they consider gender a minor or secondary factor, seven are practitioners (front-line officers).

The views of respondents are borne out by analysis of UCR2 data. Although apprehended male youth are more likely than females to be charged (Table V.15, column

¹⁷ Cf. the discussion above of the relationship between policing a First Nations reserve and consideration of the youth’s age; also Chapter III, Section 4.2.4.

¹⁸ For example, Conly (1978) found the following variations: Quebec City (54% of apprehended males charged vs. 27% of apprehended females), London (34% vs. 21%), Windsor (25% vs. 7%), and Winnipeg (84% vs. 57%) (30).

1), practically all of this difference disappears when other related factors are statistically controlled. The remaining difference (2%) could well be due to other factors which could not be included in the analysis, such as the youth's demeanour.

Table V.15 Proportion of apprehended youth charged, by the gender of the youth, Canada (parts), 2001

Gender	% charged	Adjusted % charged	N
Male	54	53	22,641
Female	45	51	8,171

Source: UCR2 Survey, Trend Database.

11.0 Race

Literature on the general tenor of relations between police and aboriginal Canadians is reviewed in Chapter III, Section 4.2.4. There is very little Canadian research specifically on police charging practices in relation to aboriginal youth. Harding (1991) argued that Canadian police are more likely to apprehend and charge aboriginal youth. According to Schissel (1993), aboriginals in Canadian cities tend to be located in areas where there are high levels of policing, thereby increasing their chances of arrest. The incomplete data available from the UCR2 Survey suggest that apprehended aboriginal youth have a much higher than average probability of being charged, even when other correlated variables, such as offence seriousness and use of alcohol or drugs, are controlled; however, this study was unable to control for two possibly crucial confounding variables: demeanour and prior record (Carrington, 1998a).

Concerning other racial groups, Canadian research in Toronto interviewed youth and found that young people, regardless of colour, believe that black youth are a focus of police harassment (Neugebauer-Visano, 1996). The Report of the Commission on Systemic Racism in the Ontario Criminal Justice System (1995) alleges racism directed against both black and aboriginal youth by police in Ontario, but relies on the opinions of community members, and indirect evidence such as the over-representation of minority groups among those charged and detained by police.

Almost everyone in our sample (96%) whom we asked about the effect of the young person's race said that they do not take race into consideration when determining how to deal with a youth-related incident. The five respondents who did suggest that race was a minor or secondary factor referred to what might be called forms of "positive discrimination". For example, in some places, there may be an alternative measures program that is dedicated to aboriginal youth. In that circumstance, they would take it into account and recommend the aboriginal youth be referred to this particular program. Another officer said that the living conditions of many aboriginal youth in her city were so terrible that she was not surprised that they got into trouble with the law, and she was

therefore more inclined to “give a break” to an aboriginal youth than to a non-aboriginal. All five respondents who identified the youth’s race as a minor or secondary factor work in communities with a significant problem with serious property crime by youth.

Analysis of UCR2 data¹⁹ shows a large difference (19%) between the charge rates for apprehended aboriginal and non-aboriginal youth (Table V.16). Some of this difference is due to related factors, but when these are controlled, apprehended aboriginal youth are still 12% more likely to be charged. It is possible that this substantial difference is due to other related factors which were not included in the statistical analysis, or it could be due to the race of the youth itself. Further analysis of this issue is warranted.

Table V.16 Proportion of apprehended youth charged, by the race of the youth, Canada (parts), 2001

Race	% charged	Adjusted % charged	N
Aboriginal	70	58	1,272
Non-aboriginal	51	46	29,540

Source: UCR2 Survey, Trend Database.

12.0 Peer group and gang affiliations

The concept of the “youth gang” is an excellent example of W. I. Thomas’s dictum (1923) that “If men define situations as real, they are real in their consequences”. Although it is extraordinarily difficult to define a “gang” using objective indicators (Ball & Curry, 1995; Carrington, 2002; Doob & Cesaroni, 2002; Hobbs, 1997; Le Blanc & Fréchette, 1989), youth who perceive themselves, or are perceived by police, to be gang members may behave differently and be treated differently by police when they are apprehended. Involvement in a delinquent peer group, or “youth gang”, may result in elevated risk of both victimization and commission of crime (Hornick et al., 1996). Those youths who are male and belong to a predominantly male delinquent peer group have a much higher chance of arrest (Morash, 1984). Further, youth who commit crimes within peer groups have a higher visibility to police. Those peer groups that are perceived as “gangs” are seen as threatening and tend to invoke formal social control responses (Morash, 1984). However, Carrington (1998a) found that a youth apprehended in a group of three or more was less likely to be charged than youths apprehended alone or in a pair. This indicates the need for a clarification of police perceptions of the peer groups they encounter. The discrepancy in findings may be the result of whether a police officer defines the co-offending group as a gang.

Our data suggest considerable variations in police officers’ opinions concerning peer groups and apparent gang affiliation when dealing with youth-related incidents. Figure

¹⁹ According to Canadian Centre for Justice Statistics, results based on the ‘aboriginal status’ variable in the UCR2 Survey must be interpreted with caution, for two reasons: (i) some police services which report to the UCR2 Survey do not report data for this variable; and (ii) the variable is coded as “unknown” for many individuals.

V.13 summarizes our overall findings for this variable. Just over half of our respondents (58%) take a young person's peer group and apparent gang affiliations into consideration in their decision-making, although it is only a minor factor for many of these officers.

Figure V.13: The effect of a youth's gang affiliation on police decision-making

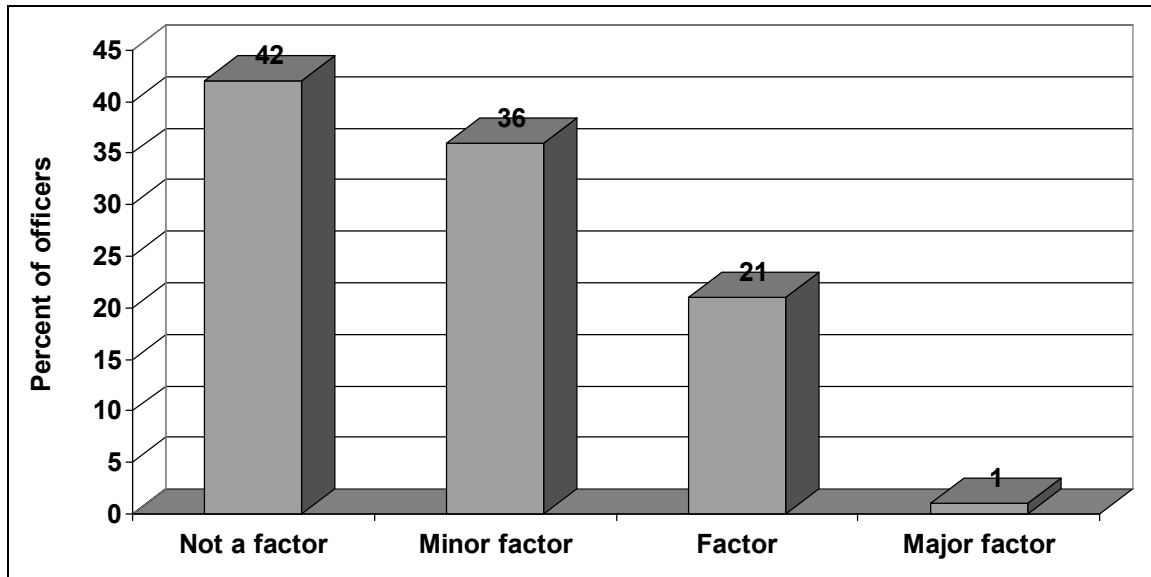
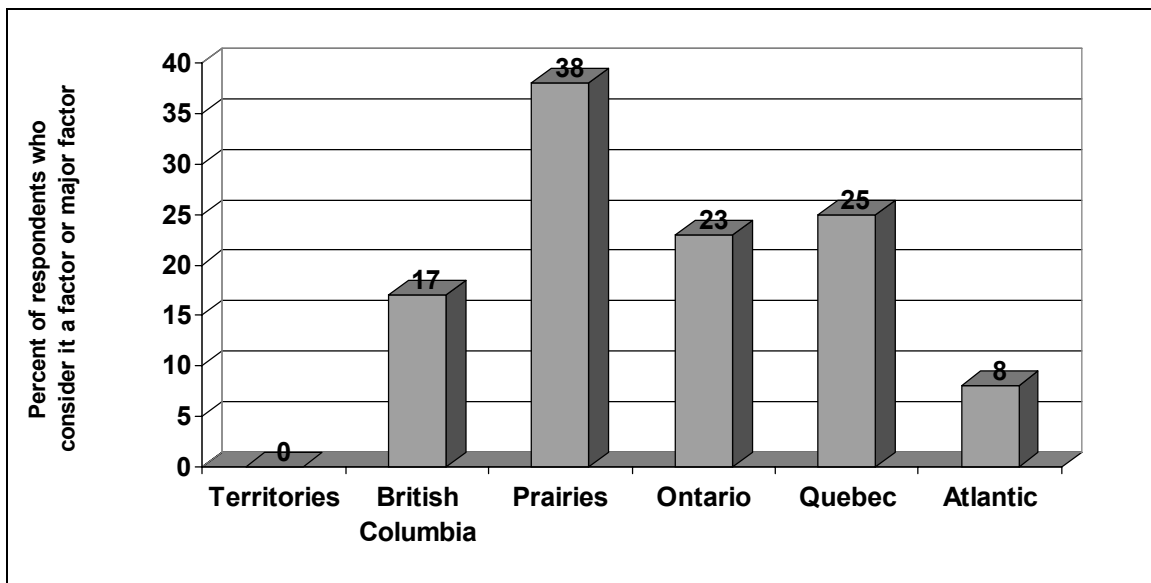


Figure V.14 shows regional variations in officers' views on the importance of a youth's gang affiliation in their decision-making. The distribution mirrors almost perfectly the regional distribution of problems with gang-related youth crime, according to our informants (Figure III.14, above). Indeed, officers working in communities with an identified youth gang problem are much more likely to say that a youth's gang affiliation is a factor or major factor in their decision-making (52% versus 13% of other officers).²⁰ Similarly, offices in communities with "a lot" of youth crime are more likely to take gang affiliation into account (45% said it is a factor, compared with 22% of officers in other communities), as are officers in communities with a problem of serious violent youth crime (46% versus 14%), drug-related youth crime (30% versus 11%), and youth prostitution (44% versus 20%). Officers who work in metropolitan areas are more likely (34%) to consider peer groups and gang affiliations to be a factor than those in suburban/exurban (16%) and rural/small town jurisdictions (10%). This finding is consistent with the prevalence of identified gang activity and more serious youth crime in metropolitan areas within our sample. Since most metropolitan police services are independent municipal police forces, they are more likely (26%) to consider peer groups and gang affiliation than officers in provincial police detachments (13%; including RCMP). Our data also suggest that police officers in communities with significant populations of aboriginals living off-reserve are twice as likely (36%) to consider gang

²⁰ The following analyses omit the responses of "major factor", since there were too few of these to support reliable analyses.

affiliation a factor in their decision-making with youth than officers in other communities (18%). However, officers who police a First Nations reserve are no more likely than other officers to take gang affiliation into account.

Figure V.14 Regional distribution of views on the impact on decision-making of the youth's gang affiliation



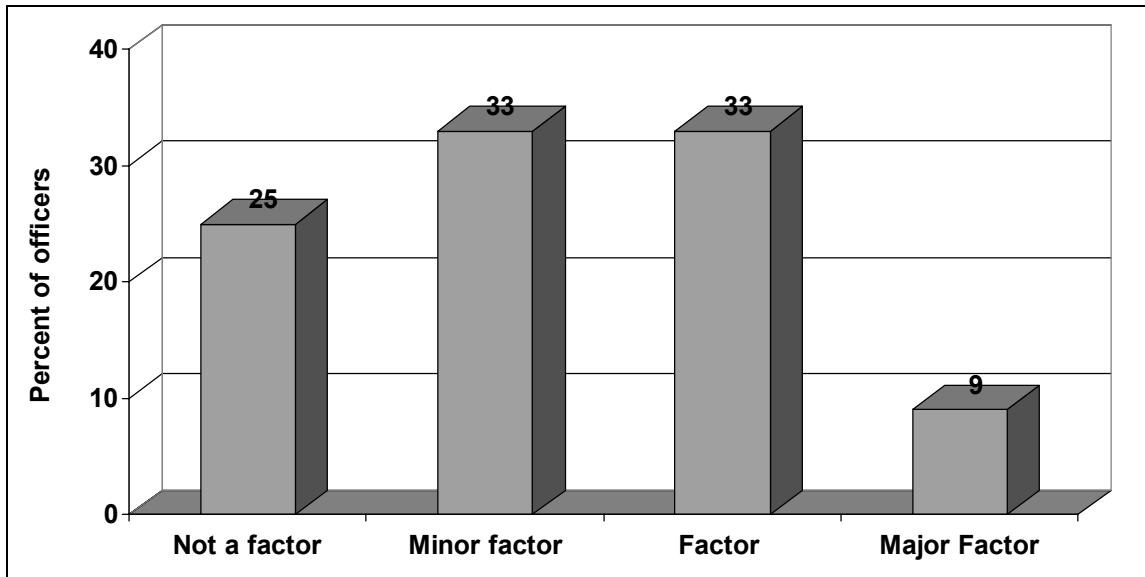
Finally, police officers who have had previous experience working in a youth section differ from others on this issue. Officers with prior youth squad experience were more than twice as likely (58%) as other officers (25%) to consider a gang affiliation. None of the officers with previous experience chose “not a factor”, compared to 21% of those who do not have experience in a youth section. Officers suggested that working in a youth section helps the agency as a whole due to an increase in intelligence on youth activities within the jurisdiction. This is especially important within those police agencies that have adopted intelligence-led policing.

13.0 Home and school situations

Conly (1978) found that apprehended youth who were not living with their parents or relatives were more likely to be charged, but noted that these results were far from definitive, as such a high proportion (87%) of those youths charged were living with their parents or relatives. Doob found that youth bureau officers referred youth to court in preference to taking formal action when they believed that the youth's family situation had “failed” (1983: 159). In focus group interviews, Canadian police officers identified two factors that youth who are in trouble with the law share: (i) a lack of employment, and (ii) a lack of physical space where they can ‘hang out’ with their friends (Caputo & Kelly, 1997).

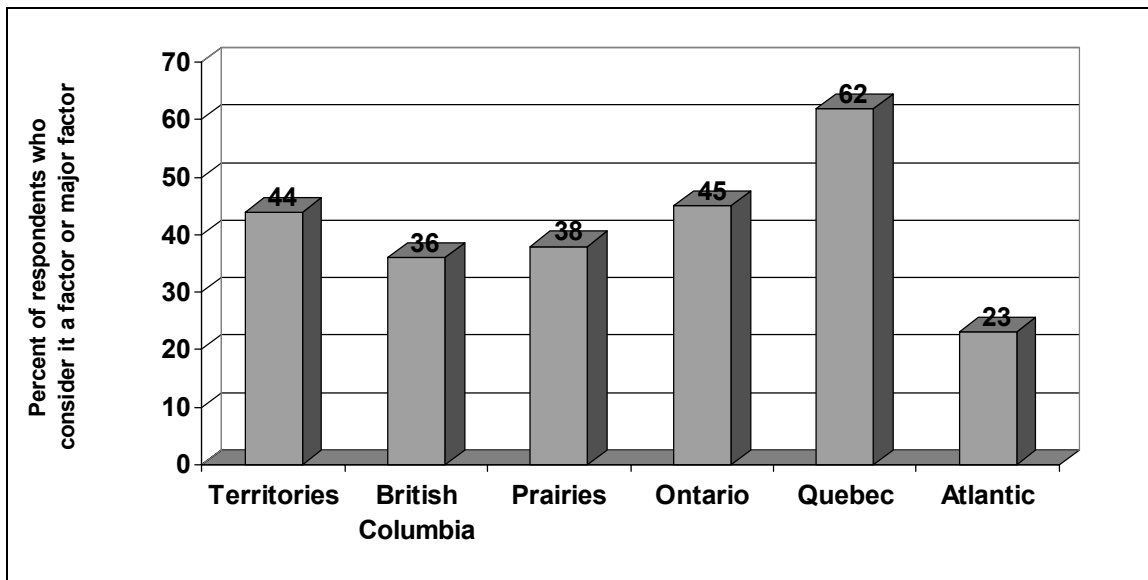
Three-quarters of the respondents in our sample indicated they consider a young person's home and school environments to varying degrees in their decision-making. Figure V.15 shows the substantial variety of opinions held by police officers concerning how much consideration a young person's home and school environment should be given.

Figure V.15: The effect of home and school situations on police decision-making



Regional variations in officers' opinions of the importance of the youth's home and school situations are shown in Figure V.16. The weight given to this factor by police in Quebec may be another example of the more welfare-oriented approach to youth justice in that province.

Figure V.16 Regional distribution of views on the impact on decision-making of the youth's home and school situations



As we found for other personal characteristics, the home and school situations of the youth are less likely to be taken into account by officers working in communities with a problem of serious property crime by youth (36% of officers said it is a factor or major factor, versus 48% of other officers), or serious violent youth crime (36% versus 43%). However, they are *more* likely to be taken into account by officers working in communities with a problem of youth prostitution (67% said it is a factor or major factor, versus 40% of other officers) and in agencies which include a First Nations reserve in their jurisdiction (47% versus 40%).

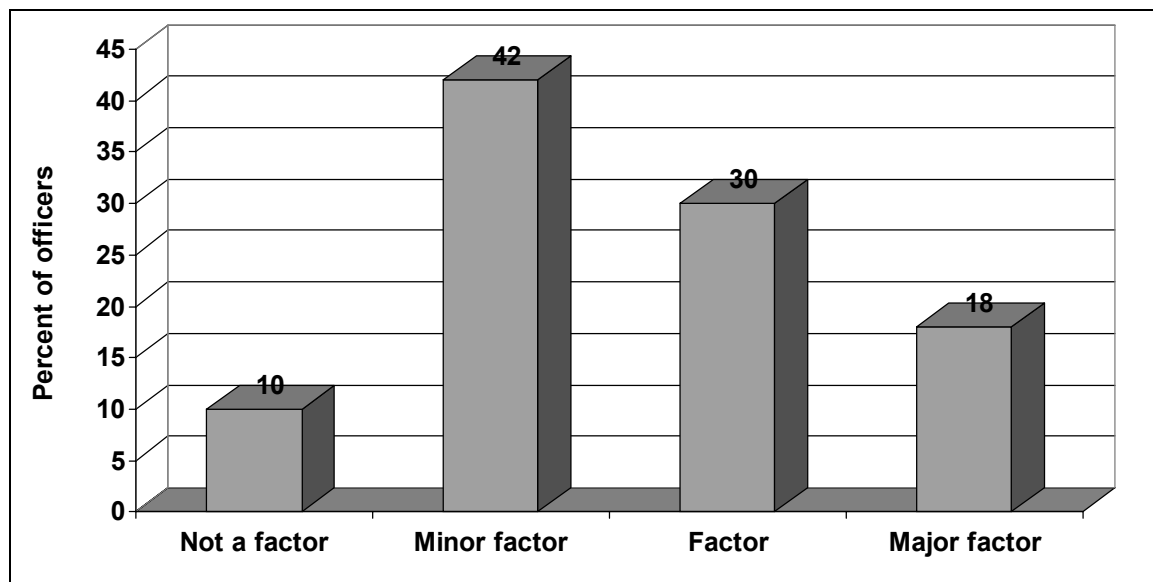
There were also variations in responses based on the officer's level of authority, location of service, and previous experience in a youth squad. Supervisors were much more likely (60%) than practitioners (39%) to say that they consider a young person's home background in their decision-making. Youth squad officers were more likely (53%) to take a young person's home situation into account than officers located in patrol (38%), schools (35%), GIS (43%) or in management (43%). This may be the result of the more welfare-oriented approach of youth squad officers, and also of their exclusive focus on youth that allows them more time to investigate thoroughly the young person's situation. These experiences on youth squad appear to carry over upon reassignment to other units. Officers who had previous experience working in a youth squad were twice as likely (50%) as those who had never worked in a youth section (24%) to take the home and school situation into consideration.

14.0 Parental involvement

The only Canadian research we could find which assesses the role of parental involvement in police decision-making is that of Doob, who found that when a parent was the victim or complainant, the youth was more likely to be charged, because the complaint to police was seen as an indicator that "...one traditional socialization agent, the family, had failed" (1983: 158-160).

In the interviews, officers generally understood our question concerning parental involvement to refer to "positive" involvement – that is, to the level of interest exhibited in the proceedings, and the level of support provided to the youth; although some officers volunteered that "the parents can be worse to deal with than the young person". Figure V.17 shows the distribution of officers' views concerning the importance in their decision-making of the youth's parents' involvement.

Figure V.17: The effect of parental involvement on police decision-making



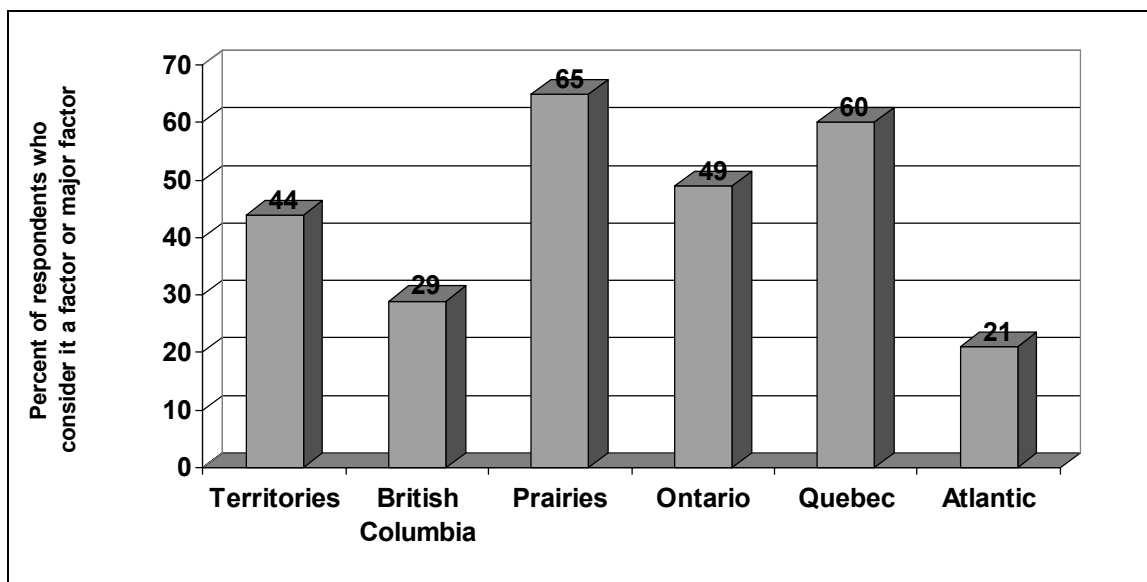
Almost all of our respondents give some consideration to the degree of parental involvement when deciding how to proceed with youth-related incidents, and almost one-half consider it a factor or major factor. Many of the latter officers indicated that they are more willing to use alternative measures if "the parents are on board". Further, these officers also were much more likely to release a young person on an appearance notice or summons when they felt there were high levels of parental involvement. If the offence was more serious, then instead of holding the young person until a judicial interim release hearing, they would release the young person on a PTA (with or without an undertaking).

However, there were a few examples given in which the converse had a negative effect on police decision-making. If a youth was arrested and the parents (1) wanted nothing to

do with the young person, or (2) minimized the seriousness of the situation, or (3) denied that their son or daughter could have committed the crime, officers were more likely to lay a charge, and, if the circumstances warranted, release on stringent conditions or hold until a JIR hearing.

Figure V.18 shows regional variations in the weight given by police to parental involvement. The high weight given to parental involvement in Quebec may reflect the more welfare-oriented approach of that province.

Figure V.18 Regional distribution of views on the impact on decision-making of the youth's parents' involvement



Officers working in communities with “a lot” of youth crime are more likely to take parental involvement into account: 69% said it is a factor or major factor in their decision-making, compared with 38% of those in communities with “a normal amount” and 33% of those in communities with “not very much” youth crime. Similarly, officers working in communities with a problem of serious violent youth crime are more likely to consider parental involvement to be a factor or major factor (60% versus 44% of other officers), as are those in communities with a youth gang problem (58% versus 45%), drug-related youth crime (53% versus 40%), and, especially, youth prostitution (78% versus 46%).

The only other systematic difference in answers to this question was by the officer's gender: female police officers were more likely to consider parental involvement in their decision-making (60%) than male officers (45%).

15.0 Summary

Table V.17 and Figure V.19 show the relative importance, averaged over all respondents, of the factors discussed in this chapter. The factors have been ranked by the percentage of respondents who said that this was a factor or major factor in their decision-making.

Table V.17 Overall ranking of situational factors affecting police decision-making with youth

Rank	Factor	% factor or major factor ^a	Mean score ^b	N ^c	Partial eta squared ^d
1	Seriousness	100	2.98	128	0.046
2	Harm done	100	2.88	116	0.000
3	Presence of weapon	98	2.87	116	0.003
4	Prior record	97	2.83	127	0.061
5	Demeanour	71	2.10	124	
6	Victim preference	56	1.68	120	
7	Parental involvement	48	1.56	125	
8	Home/school situations	42	1.26	120	
9	Gang related crime	39	1.01	75	
10	Age	28	0.93	120	0.019
11	Gang affiliation	22	0.82	94	
12	Group vs. lone offender	14	0.71	123	0.008
13	Location/time of day	13	0.50	115	
14	Use of alcohol/drugs	11	0.50	119	
15	Victim-offender relationship	10	0.49	93	0.001
16	Adult co-offender	9	0.49	95	
17	Type of victim (person/business)	3	0.22	95	
18	Gender	1	0.07	124	0.000
19	Race	0	0.04	122	0.002

^a Percent of respondents who said this is a factor or major factor.

^b Average score for respondents' views of the impact of this factor, where: not a factor=0; minor factor=1; factor=2; major factor=3.

^c Number of respondents who expressed a view on the impact of this factor.

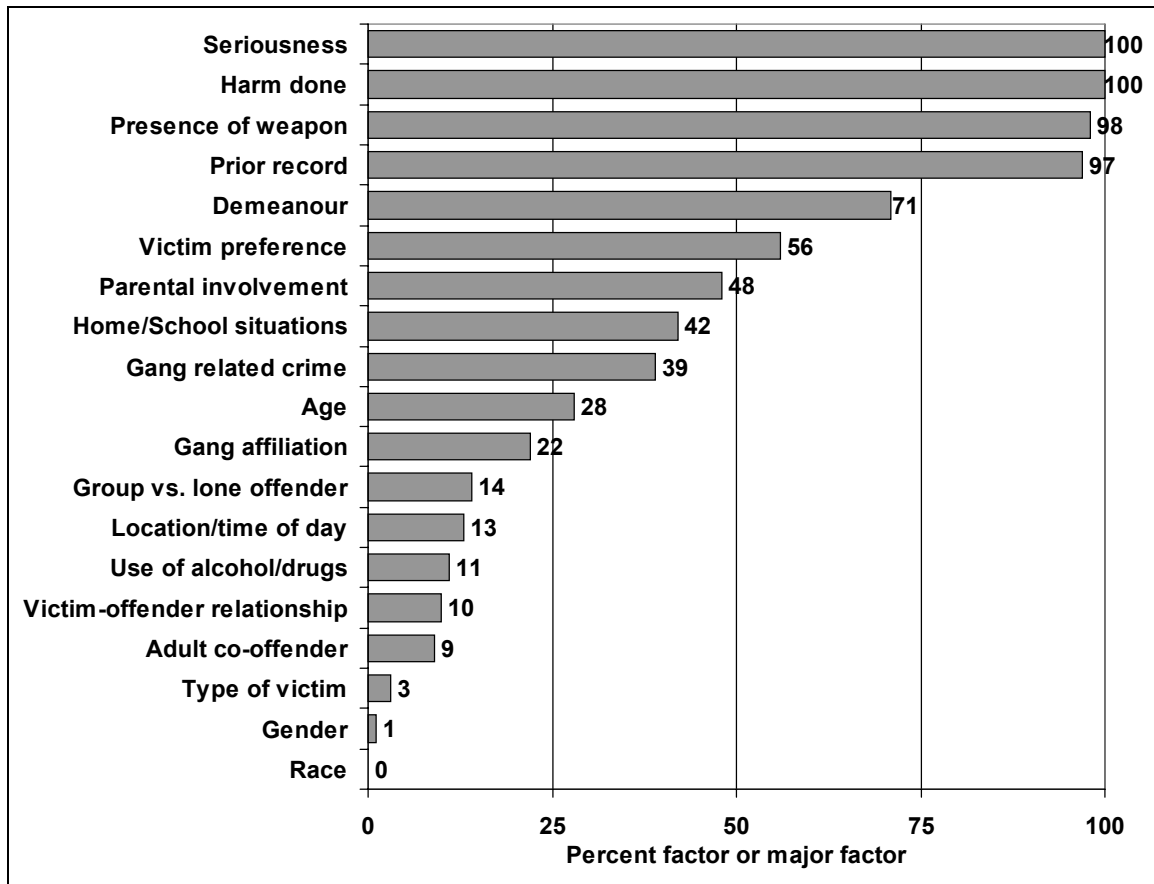
^d This statistic summarizes the contribution of a variable to explaining variations in the charging of youth, when the other variables are controlled.

Exactly the same ranking results from calculating the average “score” for each factor, where the answers were scored: “not a factor” = 0; “minor/secondary factor” = 1; “factor” = 2; “major factor” = 3.²¹ Values of the partial eta squared statistic are shown

²¹ Although it is natural to score “not a factor” as 0, there is no particular reason to assign scores of 1, 2, and 3 to the other answers. Therefore, we experimented with other scoring systems, assigning more weight to “major factor” and/or “factor”. All of the scoring schemes produced the same ranking that is shown, except that some scoring schemes ranked “adult co-offender” before “victim-offender relationship”.

for factors which were included in the multiple regression analysis of UCR2 data. This statistic summarizes the contribution of each independent variable, while holding all other variables constant, to explaining variations in the dependent variable - whether or not the youth was charged.

Figure V.19 Overall ranking of situational factors affecting police decision-making with youth



It is evident from Table V.17 and Figure V.19 that the factors fall into six clusters:

- The “legal” factors of offence seriousness - with its subsidiary indicators of presence of a weapon and harm done – and prior record, which practically everyone said are *major* factors (as indicated by their average scores close to 3). The value of the eta squared statistic for prior apprehensions (0.061) is the highest for any variable, indicating that the number of prior apprehensions plays a larger role than any other variable in explaining the charging of apprehended youth in the police services reporting to the UCR2. The next highest value of eta squared is for the type of offence. Values of eta squared for the presence and type of weapon and for injury to a victim are smaller, because much of their impact is

mediated by the classification of the offence.

- The youth's demeanour, chosen as a factor or major factor by almost three-quarters of respondents, and with an average score of 2.1 (i.e. slightly above the score for "factor").
- Four factors identified as factors or major factors by approximately half of the respondents: victim preference, parental involvement, home and school situations, and whether the crime is gang-related;
- The youth's age and any gang affiliation, identified as factor or major factors by approximately one-quarter of respondents, and with average scores near 1.0 (i.e. the score for "minor or secondary factor"). According to the value of the eta squared statistic, the youth's age has an impact on whether or not a youth is charged, when other factors are controlled, which is exceeded only by the type of offence and his or her record of prior apprehensions.
- Five factors which few (9-14%) respondents identified as factors or major factors, and which have average scores between 0.5 and 0.7, i.e. between the scores for "not a factor" and "minor/secondary factor": group vs. lone offender, location/time of day, use of alcohol or drugs by the apprehended youth, the relationship, if any, between the victim and the youth, and an adult co-offender. According to the multiple regression analysis, whether the youth was apprehended alone or with accomplices has a substantial impact on whether the youth is charged: those apprehended alone are more likely to be charged, even when other factors, such as the type of offence, are controlled.
- Factors which practically no-one identified as a factor in decision-making: whether the victim is a person or business, and the gender and race of the apprehended youth. While the unimportance of the youth's gender is confirmed by the multiple regression analysis, the youth's race appears to play a role in explaining variations in the charging of apprehended youth.

With the exception of prior record, the three factors which our respondents rank highest – legal seriousness (including weapon and harm), the youth's demeanour, and the victim's preference – are the factors identified by the classic study of Black & Reiss (1970) as most important in the patrol officer's arrest decision.²² This is somewhat remarkable, since Black & Reiss's study was done more than 30 years ago, in a supposedly less legalistic policing and juvenile justice environment, in cities in the USA, and involved observation of patrol officers' decision-making concerning the arrest decision; whereas,

²² Black & Reiss (1970) identified a fourth factor as important – the presence of situational evidence, which was important to his patrol officers because they could not, or did not want to, arrest youths unless they had readily available evidence of guilt. The availability of evidence was not an issue in our study, and we did not ask about it, because the question of charging versus AM versus informal action *presupposes* that there is sufficient evidence to charge.

our study asked the opinions of a sample of police officers of all ranks and duty assignments, working in every type of community and geographical area of modern Canada. It is equally striking that our four top-ranked factors - the three factors identified above, plus the victim's preference - are the same four factors identified by Doob (1983: 161) as most important in his study of decision-making by Youth Bureau officers in a southern Ontario police service in the late 1970's, when the Juvenile Delinquents Act was in force.²³ Plus ça change...!

Apart from the circumstances which practically all, or practically no, respondents identified as a factor in their decision-making (i.e. the first and last groups above), the weight given by respondents to each of the other factors varied fairly systematically along several dimensions. The variations pertaining to each factor have been noted in the individual sections of this chapter. In order to summarize these variations, we constructed tables of rankings of factors, like Table V.17, but for specific categories of police agencies and officers which had appeared repeatedly as dimensions along which opinions varied. The results of this analysis are shown in Table V.18.

The most striking thing about Table V.18 is the consistency of views among different categories of police officers. Very few of the factors are ranked more than one or two places above or below the overall rankings by any group. Many of the variations noted in the individual sections of this chapter in the weight given to particular factors by certain categories of officers are differences in emphasis, rather than differences in the overall rankings of factors. However, there are some significant variations in rankings, which are consistent with the more detailed differences in percentages which are discussed above.

Officers in metropolitan agencies, and in communities with perceived high levels of youth crime and identified problems with serious property or violent youth crime, or gang-, or drug-related youth crime, are more likely to take into account factors such as whether the crime was gang-related and any gang affiliation of the apprehended youth, and whether there was an adult co-offender. They are less influenced by the victim's dispositional preference, whether the youth was under the influence of alcohol or drugs, or the youth's age or home and school situations. These results suggest an offence-orientation, and possibly, an orientation toward crime control, rather than toward the offender or victim. This in turn is reminiscent of the claim by Weisheit et al. (1999: 110) that "the larger the community the more likely citizens were to believe that police should limit their role to enforcing criminal laws". However, we emphasize that these are only relative tendencies, in comparison with officers in other types of communities, not absolute characterizations.

²³ Doob treated the youth's "attitude" and "action when apprehended" as two separate factors; our respondents included them both in their answers to our question about "demeanour".

Table V.18 Rankings of situational factors affecting police decision-making with youth, for sub-groups of officers

Factor	Rank	Region						Level of youth crime			Type of community			Policing aboriginals		Type of youth crime problem					Location of officer	
		All	Territ ories	B.C.	Prair ies	Ont.	Que.	Atlan tic	A lot	Normal amount	Not very much	Metr opolit an	Subur b/exur ban	Rural/ small town	Off- reser ve	On reser ve	Ser. prop erty	Ser. viol ent	Gang	Drug	Pros tituti on	Youth squad
	128	8	12	22	29	13	7	30	49	12	36	16	39	35	22	69	30	26	81	9	15	14
Seriousness	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Harm done	2	3	2	2	3	3	3	3	2	2	2	2	3	3	3	2	3	3	2	2	3	3
Presence of weapon	3	2	4	3	2	2	2	2	3	4	4	4	2	2	2	3	2	2	3	5	2	2
Prior record	4	4	3	4	4	4	4	4	4	3	3	3	4	4	4	4	4	4	4	3	4	4
Demeanour	5	5	5	5	7	9	5	5	6	6	5	5	6	5	5	5	5	6	5	4	5	5
Victim preference	6	7	6	7	5	5	6	10	5	5	7	7	5	6	6	8	8	9	6	8	11	6
Parental involvement	7	10	13	6	8	7	10	6	7	9	8	6	8	7	7	6	7	7	7	6	8	9
Home/school situation	8	9	8	9	9	8	9	8	9	7	10	8	7	9	8	9	10	10	9	7	7	10
Gang related crime	9		9	8	6	6		7	8	10	6	11	10	8	9	7	6	5	8	9	6	7
Age	10	6	14	11	11		7	11	10	8	11	12	9	11	10	11	12	11	11	13	12	12
Gang affiliation	11		12	10	10	11		9	11	11	9	13	13	10	11	10	9	8	10	11	10	8
Group crime	12		10	13	13	12		14	13	12	17	9	11	15	12	12	11	12	13	12	14	11
Location/time of day	13		7	16	12			13	12	15	12	14	15	13	14	13	15	13	12	10	9	14
Use of alcohol/drugs	14	8			16		8	15	15	13	14	17	14	12	13	15	17		14	15	13	
Victim-youth rel'n	15	11		14	14			16	14		15	16	12	14	15	16	16	16	16		16	
Adult co-offender	16		11	12	17	10		12	16	14	13	10	16	16	16	14	14	14	15	14	15	13
Type of victim	17			15	15			17	17		16	15				17	13	15	17			
Gender	18			17							18							17	18			15
Race	19										19								19			

Notes:

The first row shows the number of officers in this group who commented on the importance of at least one, but not necessarily, all, of the factors.

Cells which are blank indicate factors which could not be ranked, because none of the respondents in this group considered them to be a factor or major factor, i.e. their score is 0%, and they are tied for last place in the ranking.

Generally, officers in rural and small town communities, and communities with low perceived levels of youth crime and few or no problems with particular types of serious youth crime, are more likely to take into account factors such as: the victim's dispositional preference, the youth's home or school situation and age, whether the youth was under the influence of alcohol or drugs, and any relationship between a victim and the apprehended youth. The greater attention to these factors suggests an orientation toward offenders and victims – i.e. *people* – rather than toward the characteristics of the offence; and this in turn suggests a more community-oriented and particularistic style of policing, and, possibly, an ability and willingness to take secondary factors into account because these officers are not overloaded with a high volume of youth crime, or significant amounts of serious youth crime.

Officers in suburban and exurban jurisdictions differ somewhat from both metropolitan and rural police. They are more concerned with crime committed by a group (*not* gang crime), whether there was an adult co-offender, and the type of victim (person or business); and less concerned than officers in other types of communities with whether crime is gang-related, and with the youth's age or use of alcohol or drugs.

Officers in police agencies in communities with a youth prostitution problem have a profile of factor rankings which is somewhat different from that of officers in communities with other kinds of youth crime problems. They tend to be more influenced by the location and time of day of an incident, and by an adult co-offender – both of which have an obvious relevance to street prostitution; and they are less concerned than other officers with the use weapons, victim preference, and – surprisingly – the youth's age.

Each of the regions of Canada appears to have its own pattern of variations from the overall rankings of factors, but there is considerable similarity between the profiles for officers in the Atlantic provinces and the Territories. Officers in both regions tend to be influenced more than other officers by the youth's age, use of alcohol or drugs, and any relationship between the victim and the youth – suggesting the people-oriented approach noted above as characteristic of rural/small town and low-crime jurisdictions, although the Territories are certainly not a low-crime region.

Officers in agencies whose jurisdiction includes a First Nations reserve²⁴ are more likely to consider the harm done to a victim and the victim's dispositional preference – suggesting a style of policing more oriented to community policing and/or Restorative Justice. They are also more likely to take into account the youth's demeanour, age, and home or school situation, and less likely to consider the youth's prior record as a major factor – suggesting an approach to youth crime which is (relatively) more offender- than offence-oriented.

²⁴ The following comments are based on percentage differences noted in the body of this chapter, since the factor rankings shown in Table V.18 for officers who police a reserve do not differ substantially from the overall rankings.

Officers in communities with a significant number of off-reserve aboriginals are more likely to consider gang-related crime and any gang affiliation of the youth, and the involvement of alcohol or drugs in the crime, possibly reflecting the characteristic social problems of aboriginal youth living off-reserve.

Officers in youth squads are more likely to consider factors such as the youth's demeanour and home or school situation, whether the crime was gang-related and the youth's gang affiliation, and the location and time of day of the incident; and are less likely to consider the victim's dispositional preference, or whether it was a group crime or an adult co-offender involved. This suggests the strong offender-orientation of officers in this assignment.

School Liaison Officers also tend to be influenced by whether the crime was gang-related and the youth's gang affiliation, but also by an adult co-offender; and they are less concerned than other officers with the level of parental involvement, and the youth's age and home or (surprisingly) school situation. Thus, the profile of factors which influence their decision-making is considerably different from that of youth squad officers.

Female officers are more likely than males to consider the victim's dispositional preference, whether the incident was gang-related, the youth's demeanour and the level of involvement of the parents; and less likely than males to consider the youth's age or whether the crime was committed by a group.

Officers with more experience are more likely to consider alcohol or drug involvement, and the youth's demeanour and age, and less likely to consider the victim's dispositional preference.

VI. Conclusions

This report was commissioned by the Department of Justice in support of the implementation and evaluation of the Youth Criminal Justice Act. The research had two main objectives: to provide a comprehensive description of the ways in which police in Canada currently exercise their discretion with youth, and to identify and assess factors which affect that exercise of discretion. Our intention was to provide information which could be used in two ways:

- as baseline data which can be compared in the future with similar data on the exercise of police discretion under the YCJA, in order to conduct an evaluation of the impact of the YCJA on police decision-making with youth, using a “pre-post” quasi-experimental design; and
- to identify aspects of the policing environment and of police organizations, which policymakers and police management could attempt to modify, in order to support police officers in exercising their discretion in conformity with the intent and specific provisions of the YCJA.

Although there have been several in-depth studies of individual police services in Canada, no attempt has been made to analyze police decision-making on a national scale since the study carried out by Statistics Canada in 1976 (Conly, 1978) – and even that study was limited in the depth of information which it collected and the scope of the sample which it studied. Accordingly, we set ourselves the goal of gathering in-depth information, both qualitative and quantitative, on a nationally representative sample of police services. Since a substantial proportion of smaller cities and towns, and most rural areas, in Canada are provided with policing services by detachments of the provincial police, including the RCMP working under contract to provincial governments, we felt that the sample must include a substantial number of these detachments.

Possible sources of information on police decision-making include interviews with officers at all levels and in all units of the police organization, observation of their work during “ride-alongs”, police agency documents, statistical data from the Uniform Crime Reporting (UCR) Survey and Incident-Based Uniform Crime Reporting (UCR2) Survey, operated by the Canadian Centre for Justice Statistics, and the individual case files maintained by police agencies, either in hardcopy or on their Records Management Systems (RMS). We used all of these sources except police case files. Early in the design phase of this project, we were advised by representatives of several police services that it would be problematic to access these data; we recognized also that to collect file data on a substantial number of youth-related cases from a representative sample of Canadian police agencies would be prohibitively expensive and time-consuming.

We conducted over 200 in-depth interviews police officers in 95 police services and detachments which are approximately representative of all police services in Canada – from all provinces and territories, all types of communities, and all types of police service, including independent municipal services, detachments of provincial police services including the RCMP, First Nations police services, and police training facilities. The sample included the police services in all of the largest cities in Canada, and a substantial number of police services and detachments in the smallest towns and the most remote rural areas of the country. We also analyzed aggregate UCR data for 1977-2000, and did detailed statistical analysis of UCR2 data on a large sample of individual young offender cases for 2001.

1.0 The exercise of police discretion with youth

We concentrated our attention on two aspects of police decision-making with youth. The first is the decision concerning the police disposition, or clearance, of the incident: whether to lay a charge (or recommend one, in provinces where the Crown makes the final decision) or divert to a pre-charge diversion program or Alternative Measures, or to resolve the incident by informal action. The second aspect comes into play only if a charge is laid, or will be laid: the method(s) chosen to compel the appearance of the youth in court.

We found that many – perhaps most – police officers do not see these as two discrete decisions concerned strictly with the enforcement of the law, but rather view them as inseparably interrelated parts of a repertoire of responses which they use to resolve situations involving youth whom they believe to have committed offences.

Police officers appear to have two main objectives in deciding upon a disposition for an incident. One is to satisfy the requirements of traditional law enforcement: to investigate the incident, identify and apprehend the perpetrator(s), and assemble the necessary evidence if there is to be a prosecution. Their other, less explicit, objective appears to be to deliver an appropriate sanction, or “consequence”, semi-independently of the Youth Court and correctional system. Officers repeatedly stressed the importance of youths’ experiencing appropriate consequences for their illegal actions, and many, but by no means all, expressed scepticism about the ability of the courts and correctional system to do so; and therefore, the necessity of their dispensing street-level justice. This is not to suggest any impropriety or illegality in the actions of police, but rather to suggest that their own view of the police function in preventing, responding to, and suppressing youth crime is somewhat more expansive than the traditional view of police merely as law enforcement agents.

Particularly in metropolitan jurisdictions, police officers tended to contrast unfavourably the perceived remoteness of the Crown and Youth Court, and the cumbersome and slow nature of their proceedings, with their own proximity to the reality of street crime, their own ability to deliver swift sanctions, and their familiarity with the circumstances and needs of individual young offenders. In rural areas and small towns, officers were more

VI. Conclusions

likely to have closer working relationships with the Crown and court officials, and therefore more confidence in the ability of these agencies to resolve youth crime satisfactorily; and officers in rural/small town RCMP detachments in particular were more likely to have confidence in the ability of the local community and/or local diversion agencies to deal with young offenders, thus reducing their own felt need to resolve the situation entirely themselves.

On the basis of our discussions with police, it is possible to construct a list of the consequences, or sanctions, usually applied by police in dealing with a young person who they believe on reasonable grounds has committed an offence. From least to most severe, these are:

1. Take no further action.
2. Give an informal warning.
3. Involve the parents.
- 4a Give a formal warning; and/or
- 4b. Arrest, take to the police station, and release without charge.
- 5a. Arrest, take to the police station, and refer to pre-charge alternative measures; or
- 5b. Lay a charge without arrest by way of an appearance notice or summons, then recommend for post-charge alternative measures.
6. Arrest, charge, and release on an appearance notice, a summons, or (more commonly) a PTA without conditions.
7. Arrest, charge, and release on a PTA with conditions on an OIC Undertaking.
8. Arrest, charge, and detain for a JIR hearing.

(The severity of options 6, 7, and 8 could be mitigated by recommending post-charge alternative measures.)

Apart from these two main objectives – law enforcement and informal sanctioning – a third objective of police action arises from what police see as their crime prevention and social welfare responsibilities – responsibilities which in some cases they would prefer not to assume, but feel that they are forced to do so by the inadequacy of existing social services. On some occasions, police will refer a youth to a diversion program, not as a sanction, but in order to address the youth’s perceived needs – whether these needs are directly related to the crime, or are seen as problems with which the youth needs assistance. Furthermore, when a youth has been arrested, an officer may feel, in some circumstances, that it would be irresponsible to release the youth back “out on the street”, but is unable to contact the parents, or the parents are unable, unwilling or unsuitable to take custody, and no agency can be found that will take the youth in. Circumstances which are seen as involving a risk to the youth’s well-being include intoxication, involvement in prostitution, or a dangerous home environment. In these circumstances, the officer feels constrained to detain the youth; and research on bail hearings suggests that the judge may then approve continued detention, also for welfare reasons. In many jurisdictions, police said that this expedient is forced on them by the lack of suitable facilities and agencies for youth.

VI. Conclusions

Data from the UCR Survey show that the proportion of apprehended youth who were charged increased under the Young Offenders Act (YOA) – from an average of 55% during 1977-1983 under the Juvenile Delinquents Act (JDA) – to an average of 64% during 1986-2000; however, the proportion charged has been slowly declining from a peak in 1991 to 59% in 2000. The main reason for this increase under the YOA in the national level of charging of apprehended youth has been the enormous increase in charging in certain provinces, notably Ontario and Saskatchewan. Under the JDA, these two provinces had high levels of police discretion with youth; that is, low proportions of apprehended youth charged – less than 40% in Ontario and less than 30% in Saskatchewan – but they now rank second and third highest in the country in the proportions of youth who are charged. Because Ontario comprises such a large part of the population of Canada, the trend in that province has had a substantial effect on the national trend. Analysis of UCR data and interviews with officers suggest that the main reason for this increase in charging under the YOA is the reliance of these two provinces on post-charge Alternative Measures. The scant data available from the UCR2 Survey suggest that police in Ontario and Saskatchewan use informal action with youth-related incidents approximately as frequently as police in other provinces, but generally they are unable to pre-charge Alternative Measures.

On the other hand, the use of police discretion with youth in two other provinces – Quebec and British Columbia – has increased substantially in the past decade, with the result that they now have the lowest recorded proportion of apprehended youth charged. The decline in charging of youth in Quebec in the past decade has been particularly pronounced. We are unsure of all the reasons for this trend, but the most plausible explanation is the unique screening systems for charging youth which are in operation in those two provinces. In Quebec, the police recommendation to charge a youth is reviewed by the Crown, in the context of an integrated youth justice and social welfare system which emphasizes both law enforcement and the welfare of apprehended young persons. In British Columbia, a police recommendation to charge a youth is reviewed by the Crown, who makes the final decision. As a result of not “owning” the decision to charge, many officers in British Columbia indicated that they try to use informal action and pre-charge diversion wherever possible, in order to ensure that the young person will receive at least some “consequence” for his or her wrongdoing.

Many forms of informal action are open to an officer who has apprehended a youth – taking no action, informal and formal warnings, involving the parents, arresting and taking the youth to the police station and then releasing him or her, and informal referral to a program (i.e. without invoking Alternative Measures). The great majority of the officers and police agencies in our sample use informal action frequently with youth. At least in the larger police services, informal action is usually recorded in the police RMS when the incident has been reported to police by a member of the public (because a record is generated when the call is received by dispatch), but recording is much more variable if the incident is discovered by an officer in the field.

Almost all of the agencies in our sample use informal warnings, and one-third use various types of formal warnings. It is also common practice to take apprehended youth home

VI. Conclusions

and/or involve the parents if possible. One-quarter of the sample said that one type of informal action which they use with a youth whom they have reasonable grounds to believe has committed an offence is to arrest and take him or her to the police station, then release without laying a charge.

Approximately half of the sample refer youth to pre-charge diversion programs, whether under the auspices of Alternative Measures or not. These programs are more available in cities: many smaller towns and rural areas have no such programs whatsoever. Although some officers remain sceptical about the value of pre-charge diversion and Alternative Measures, it appears that the great majority feel that they can play a useful role with some young offenders in some circumstances. In their view, diversion to a program or agency can be a much more effective way of dealing with a youth's perceived criminogenic problem than referring him or her to Youth Court; also, some see referral to Alternative Measures as a useful intermediate sanction, representing a consequence for the youth which is more severe than informal action, but less harsh than laying a charge.

By far the greatest source of dissatisfaction with AM programs which was expressed by interviewees is their unavailability. In many communities, the range of programs is inadequate; in many others, there are no programs at all.

A second deficiency of alternative measures which many officers identified is the lack of mechanisms to provide them with feedback on the outcomes of their recommendations – whether they were accepted, and whether the resulting placement was effective. In the absence of information, they can only speculate about the appropriateness and effectiveness of their past and future recommendations.

Although many officers were interested in discussing pre-charge diversion with us, and many had definite opinions on this subject, very few showed any such interest in discussing post-charge AM. Apparently, this is largely foreign territory for police officers: many said that this is entirely a matter for the Crown, and they did not offer input to the Crown on a decision which is entirely out of their hands.

In summary, pre-charge diversion and alternative measures seem to have been accepted by the great majority of police officers and police services as a very useful method of dealing with certain kinds of offending youth in certain circumstances. However, according to police whom we interviewed, the available facilities and programs are woefully inadequate.

Although the recorded rate of youth crime in Canada has not changed substantially in the past 20 years, there is one category of youth crime which has increased exponentially: offences against the administration of justice. Almost all of these are violations of bail or probation conditions and failures to appear for court. The recorded rate of bail condition violations and failures to appear by youth in 2000 was approximately 20 times as high as in 1983. In the year 2000, offences against the administration of justice accounted for 16% of all youth charged in Canada. In fiscal 1999/2000, administrative offences accounted for 27% of all Youth Court cases, and 40% of all custodial dispositions.

VI. Conclusions

According to UCR statistics, police exercise less discretion with these offences than with any other offence except murder. When we asked officers why so little discretion is used with these offences, which are victimless and cause no harm except for expense and inconvenience to the justice system, they explained that many such cases are referred to them by other system agents – mainly the Youth Court or probation officers – and they feel they have no alternative but to comply with what they interpret as an implicit or explicit request to lay a charge. When police themselves discover a breach, they may well overlook it, unless there are aggravating circumstances. Often, for example, the breach is just the tip of the iceberg – the youth has a substantial record of prior offences, including prior breaches, and is on bail in multiple current cases before the court, and/or on probation for past offences. None of the officers whom we interviewed seemed to think that they could overlook a failure to appear: apparently (although this was by no means entirely clear to us), notification by the court of the failure to appear and of the subsequent issuance of a bench warrant is understood as a request for the laying of a charge. The epidemic of administration of justice offences in the youth justice system appears to be more a result of the way in which the Youth Court and probation systems define and enforce their orders, than of police decision-making. The one way in which police do seem to be contributing to this epidemic is in their decisions concerning conditions of release from custody (discussed below). In some circumstances, police will impose, or seek to have imposed, intrusive conditions which may inadvertently “set the youth up for failure”. This is particularly a concern with intensive supervision programs for high-risk youth, such as SHOP and SHOCAP, which rely on bail (and probation) conditions such as a curfew to give police the opportunity to monitor the lifestyle of the youth.

Possible methods of compelling the appearance of a youth (or adult) in court include: the summons and appearance notice, which can be used either instead of arrest, or as a method of release after arrest; and release on a Promise to Appear (PTA), with or without an Undertaking involving conditions. Theoretically, police can also release a young person on a Recognizance, but this is apparently never done.

The use of the summons or appearance notice without arrest would seem to be particularly desirable with young offenders, because of the non-intrusiveness of these measures. However, they are in fact rarely used. Several reasons were offered by police. The main reason appears to be that when an officer contemplates laying a charge or referring to pre-charge Alternative Measures, s/he needs to provide enough evidence to the Crown that a prosecution would be feasible (whether or not a prosecution actually takes place). This would typically involve establishing identity, taking a statement, possibly fingerprinting, possibly notifying the parents, and completion of one or more forms, all of which can be done much more satisfactorily in a police station than in the street or police car. Another reason is that arresting the youth and taking him or her to the police station prior to laying a charge are seen by some officers as ways of impressing the seriousness of the situation upon the youth, who might not take a summons or appearance notice as seriously. Related to this is the perceived necessity, in some circumstances, of establishing control of the situation, and of separating the youth from

his or her peers, in order to elicit cooperation. A final reason is the difficulty, in some circumstances and jurisdictions, of serving a summons.

Following arrest and temporary custody, most officers prefer the Promise to Appear to the summons or appearance notice as a method of release. The main reason is that the PTA can be accompanied by an Undertaking which specifies conditions of release. Many officers seem to attach considerable significance to the conditions contained in an undertaking. They see these conditions as relatively precise, immediate, enforceable constraints on the young person's future behaviour, and immediate, concrete consequences (sanctions) for the youth's criminal act. These are contrasted with what they see as the remote, delayed, unpredictable, and perhaps inappropriate constraints and sanctions which may (or may not) be imposed eventually by the Youth Court and correctional system.

The final, and by far the most intrusive, option for compelling appearance is detention for a Judicial Interim Release (JIR) hearing. The reasons given by police officers for detaining youth fall into three broad categories. The first includes reasons related to law enforcement, narrowly defined, such as establishing identity, protecting evidence, ensuring attendance at court of a youth whom police have reason to believe would not otherwise attend, and preventing a repetition of the offence. The second group of reasons could be summarized as "detention for the good of the youth". These include detaining youth who are intoxicated, who do not have a safe or secure home to be released to, and whom social services will not or cannot accommodate, or who are prostitutes. In these cases, police find themselves acting, not as law enforcement officials, but as staff of the "only 24-hour emergency service in town". The third type of rationale treats detention as another kind of police disposition – that is, as another in the repertoire of measures which police can take in order to administer a sanction or "meaningful consequence" for a youth's illegal behaviour. This view seems to underlie some officers' statements that they will detain a repeat offender or a youth with multiple breaches, or a youth with a "bad attitude", or a youth in a gang-related incident. A variant of this is the use of detention and the JIR hearing to get judicial bail conditions, in order to impose immediate control on the young person, and, in some cases, to facilitate the work of monitoring programs for high-risk youth, such as SHOP and SHOCAP.

2.0 Environmental factors influencing police discretion with youth

Two major sources of influence on the way in which officers exercise their discretion are the environment in which the police agency is situated, and the way in which the agency is organized. Police agencies operate within a complex environment, consisting of, among other things, the nature of the local community, federal and provincial legislation, policies, procedures, and programs, local public and private resources, and public opinion. The police have little or no control over their environment. Nor can any federal

VI. Conclusions

or provincial government agency expect to have much immediate impact on some salient aspects of the policing environment, such as the degree of urbanization, socio-demographic characteristics, or the level and type of crime of the communities which police serve. However, it is certainly within the power of provincial governments to affect other aspects of the policing environment which affect the exercise of police discretion, namely the relationship of Crown prosecutors with the police, and, above all, the availability of programs to which youth can be referred as an alternative to being charged (and, on occasion, held in police detention).

The availability of external resources to which apprehended youth can be diverted is seen by many police officers as crucial to their ability to avoid laying a charge. This availability varies widely. They are much more common in metropolitan jurisdictions than in suburban/exurban communities or, especially, rural communities and small towns. However, they are seen by officers as inadequate in all types of communities and all parts of Canada. In all provinces and territories, officers felt that they did not have the appropriate external resources for the effective handling of youths with alcohol or drug addiction, anger management issues, or mental illness (including Fetal Alcohol Syndrome/Fetal Alcohol Effect). Officers in many police agencies said that there were absolutely no programs available for young people with these problems. Lack of suitable diversion programs is associated with increased use of charging, and with increased use of detention. When there is no available agency to which police can release a youth in need of immediate supervision or intervention, then they sometimes feel constrained to hold the youth for a bail hearing.

We looked at several characteristics of the community in which the police work. Some research, especially in the U.S.A., has found that urbanization is associated with higher crime rates and higher levels of formal action by police; whereas, there is less crime and a more neighbourly atmosphere in rural areas and small towns, and a corresponding less formal policing style. In Canada, there is no relationship between urbanization and the crime rate. Crime rates in small places are as high as those in the largest cities. However, youths commit more serious violent crime and property crime, and more gang-related crime, in metropolitan areas. Another major difference between the Canadian and American situations is that most rural areas and small towns in Canada are policed by detachments of three very large, professional, and bureaucratic police services – the RCMP, OPP, and Sûreté du Québec; whereas, in the U.S.A., small towns and rural areas are often policed by elected sheriffs or small-town police forces recruited locally. The findings from the interview data suggest a different style of policing in rural and small town areas, and also some differences between policing in urban centres and their suburban and exurban fringes. Rural and small town communities have a distinctive social climate that appears also to influence police decision-making. With a higher density of acquaintanceship, rural and small town officers feel more accountable to the community. On the other hand, detachment commanders in the RCMP and OPP are accountable to their superiors, and, ultimately, to headquarters in Ottawa or Orillia. Rural and small town officers whom we interviewed – whether in independent municipal agencies, or RCMP or OPP detachments - suggested that the communities they police want the police to be tough on youth crime but not to incarcerate their youth. Officers in

VI. Conclusions

rural areas and small towns appear to make more use of informal action, but less use of pre-charge diversion, than officers in metropolitan and suburban jurisdictions. Rural/small town and suburban/exurban jurisdictions are particularly likely to have no external agencies to which police can divert youth: almost half of the officers whom we interviewed in non-metropolitan communities said that they are *never* able to make referrals to external agencies. Officers in rural/small town communities and in suburban/exurban communities are more likely to use a summons to compel appearance, because they do not face the same problems of serving it as do officers in larger centres; and officers in rural areas and small towns are less likely to detain a youth for a JIR hearing, because the distance to the nearest youth detention facility makes access problematic, both for the police and for the youth's family.

Concerning the level of youth crime in the community, 29% of police services said they had "a lot", 17% said "not very much", and the others indicated "a normal amount". Perceived high levels of youth crime are more common in the Prairies and the Territories, and in metropolitan areas. UCR data indicate that police agencies in communities which police said had "not very much" youth crime have higher rates of charging apprehended youth than others. These are confirmed by data from the interviews, which suggest that police officers tend to use more discretion if they identified their jurisdiction as having a lot of youth crime. They are more likely to use various forms of informal action and pre-charge diversion, and they are more likely to detain for a JIR hearing and to cite "legalistic" rather than social welfare reasons for detention.

When we asked about the types of youth crime which are characteristic of their jurisdictions, officers in most police services reported, not unexpectedly, that they deal with high levels of minor property crime and minor assaults. Three-quarters of the police agencies also perceive high levels of serious property crime by youth, especially break and enter. One-quarter identified a problem of serious violent youth crime. These were more prevalent in metropolitan areas and in the Prairie provinces. One-quarter identified a problem of youth gangs; these were also more common in metropolitan areas and the Prairies. Surprisingly, 80% of the police services in the sample perceive a serious problem of drug-related crime among youth in their jurisdictions. These are spread across all the provinces and territories, and in all types of communities, although they are slightly more prevalent in the Territories, and in metropolitan jurisdictions. 14% of the police services, all but one in metropolitan jurisdictions, identified a problem of teenage prostitution. We found no significant relationship between the types of youth crime identified in a jurisdiction, and the exercise of discretion with young persons in that jurisdiction.

The literature on the history of police-aboriginal relations in Canada suggests that they have been characterized by conflict and mutual distrust. 42% of the agencies in the sample said that they have jurisdiction over significant populations of aboriginal peoples, living either on- or off-reserve. They are more prevalent in the Territories, British Columbia, and the Prairies. The UCR data indicate that police services which police *off-reserve* aboriginals have rates of charging apprehended youth which are a little higher than other police agencies. The interview data indicate that police agencies with

jurisdiction over aboriginal populations are slightly more likely than other police services to use informal action, twice as likely to refer youth to a Restorative Justice program, less likely to use summonses or appearance notices, more likely to use a Promise to Appear and an OIC Undertaking, and more likely to detain for a JIR hearing because the youth is a repeat offender, is intoxicated, or for the youth's safety.

The characterizations by respondents of police-community relations in their jurisdictions are consistent with the results of previous research. About two-thirds of respondents found the community to be generally or very supportive of the police; one-quarter offered fairly neutral or mixed assessments, and 14% found the community to be only "somewhat" or "not" supportive. Police in suburban/exurban jurisdictions were most likely to find the community generally or very supportive; those in rural/small town agencies were slightly more likely to find the community generally or very supportive than those in metropolitan agencies. Police in British Columbia and the Prairies, and those which have jurisdiction over a significant aboriginal population, are less likely than other officers to find the community generally or very supportive. We found no relationship between the exercise of police discretion with youth and the perceived level of community support.

3.0 Organizational factors influencing police discretion with youth

Analysis of the organizational characteristics of police agencies, and their influence on the exercise of discretion with youth is particularly germane to the objectives of this research, because almost all aspects of police organization are mutable. Police forces which want to modify the ways in which their members exercise their discretion with young offenders, in order to conform to the specific provisions and general intent of the YCJA, can effect change to most of the aspects of police organization and culture which are identified here as affecting the exercise of discretion – although organizational change can be difficult and fraught with risks and unanticipated consequences. Presumably, federal and provincial policy-makers in the areas of policing and youth justice can play a role in encouraging such changes.

Probably the most salient aspect of the police organization is whether or not it has a youth squad (or dedicated youth officers, i.e. officers assigned exclusively to youth-related duties). Only 17 of the 92 police services in our sample have a youth squad or dedicated youth officers. These are all independent municipal police services, and 14 of them have more than 100 officers. They are mainly located in metropolitan areas, especially in Ontario, Quebec, and British Columbia. It is difficult for smaller police services and detachments to dedicate one or more officers exclusively to handling youth crime. Some smaller police services and detachments have officers who specialize in youth-related incidents, but who also do other kinds of police work. It appears that the use of youth squads and dedicated youth officers by Canadian police services has diminished

VI. Conclusions

considerably since their heyday in the 1970's, and that this is probably largely due to financial stringencies during the 1990's.

Our data suggest that police services with youth sections and/or dedicated youth officers respond differently to youth-related incidents. It appears from the interview data that police services with youth sections or dedicated youth officers make more use of parental involvement, referrals to external agencies and pre-charge diversion, and less use of formal charges. Analysis of UCR data confirms that the overall use of formal charges is lower (Table IV.6), and the limited information from the UCR2 Survey suggests that the use of informal action is greater. They are more likely to use the less intrusive methods of compelling appearance, except that they tend to use more restrictive conditions with OIC undertakings and are more likely to use detention, like the conditions of release, as a means of addressing what they see as the criminogenic conditions of the youth's life. Many innovative programs are developed by youth officers, and they are able to involve themselves proactively with youth in the community within a primary, secondary or tertiary capacity. Youth officers acting as follow-up and as a resource to patrol officers facilitate the gathering of intelligence and an increased knowledge of alternatives to formal youth court. In a sense, the existence of a youth squad – just like the existence of a homicide or armed robbery unit - is an indication that the police service recognizes the unique nature of this particular kind of crime, and places priority on developing specialist expertise in responding to it.

83% of police agencies in the sample have School Liaison Officers (SLO's), but only 40% assign enforcement duties (response, investigation and disposition) to their SLO's – in the other police services, the role of the SLO is restricted to making crime prevention presentations in schools. SLO's, especially with enforcement duties, are more common in larger police services, presumably because of resource considerations. UCR data suggest that the presence of SLO's, especially SLO's with enforcement duties, slightly reduces the use of charging with young offenders. The interview data suggest that police agencies which have school liaison officers, especially SLO's with enforcement duties, appear to use less intrusive means of dealing with youth crime: they are more likely to use informal action, less likely to lay charges, bring the youth home or to the police station for questioning, more likely to make referrals to external agencies, more likely to use pre-charge diversion, and more likely to use appearance notices to compel attendance at court.

Community policing can be seen as having four dimensions: philosophical, strategic, tactical, and organizational. The strategic dimension of community policing comprises the adoption and public promulgation of written policies and protocols for all aspects of policing, and the allocation of significant resources to community policing. According to the officers whom we interviewed, 22% of the police services in the sample have implemented the strategic dimension by allocating significant resources to community policing. This is considerably less than “virtually every” police force in Canada, which, according to Horne (1992) had adopted the rhetoric of community policing. Analysis of UCR data suggests that police services which have allocated significant resources to community policing have lower charge rates than those which have not. Analysis of the

VI. Conclusions

interview data suggests that police services which have allocated significant resources to community policing use more informal action, make more referrals to external agencies, use more pre-charge alternative measures, and more PTA's to avoid detaining the youth, or "as a higher consequence" for the youth.

The tactical dimension of community policing includes involvement in crime prevention programs and the adoption of the problem-oriented policing (POP) model. Every police agency in the sample is involved in crime prevention programs, but the degree of involvement varies considerably. Analysis of UCR data suggests that agencies with a higher level of involvement in crime prevention programs tend to have a lower rate of charging, especially in communities with high levels of youth crime. The interview data suggest that more involvement in crime prevention programs is associated with more use of informal action. Adoption of the problem-oriented policing (POP) model does not appear to have a large impact on decision-making with youth.

About half of the sample was able to provide documentation on policies and protocols for handling youth-related incidents and young offenders. However, only 13% of officers whom we interviewed found their organizations' policies and protocols helpful, and only 2% found them to be realistic. Analysis of UCR data shows that police services which have youth-related policies and protocols charge, on average, 5% fewer apprehended youth. The interview and documentary data indicate that police services which have youth-related policies and protocols tend to make more use of pre-charge diversion, and of appearance notices. Many differences appear between officers who do and do not find these policies and procedures helpful and/or realistic. Those who find them helpful or realistic are more likely to use various forms of informal action, referrals to external agencies, pre-charge diversion, and appearance notices; and to "follow the law" and not to invoke social welfare considerations, in making detention and release decisions.

In examining what officers had the authority and responsibility to lay a charge (or recommend a charge, in Crown screening provinces) against a young person, we found two common models: front-line autonomy, and front-line initial decision with review by another officer(s). Analysis of UCR data suggests that the impact of the procedural model for charging varies, depending on whether the police service has a youth squad or not. The model which is associated with the lowest charge rates is front-line autonomy in a police service which has youth specialists. The model associated with the highest charge rate is front-line autonomy with no youth specialization. The implication is that front-line autonomy results in greater use of discretion not to charge young persons *if* the front-line officer has training to deal with youth, or if the police service is committed to using discretion with youth, as indicated by its establishment of a youth squad. If there is no youth specialization, or commitment to special treatment for youth, then autonomy appears to result in front-line officers using their discretion *to lay charges* against youth. Thus, in a police agency without youth specialization, it is the review by another officer, whether supervisor or GIS, which appears to moderate the tendency of front-line officers to lay charges. The interview data suggest three themes. First, the likelihood of police officers using informal action with young offenders is higher in police services where front-line officers are autonomous, and where there is a commitment to the use of

VI. Conclusions

discretion with youth. Second, agencies in which there are no dedicated youth officers, and front-line officers decide alone on the disposition of youth-related cases, tend to use referrals to external agencies and pre-charge diversion less, and lay charges more, than agencies in which a supervisor or youth specialist is involved in the decision. Finally, autonomous patrol officers appear to use less intrusive measures to compel the attendance of a young person in court. In cases where they *do* detain a young person they tend to do so as a result of stipulations within departmental policy.

We assessed the impact of proactive versus reactive policing in relation to individual officers, rather than trying to characterize an entire police service as proactive or reactive. 40% of officers said their work was mostly reactive, 9% said it was mostly proactive, and 51% said that their work involved “a bit of both”. Officers whose work is mostly proactive are more likely to use informal action, less likely to use formal charges, less likely to detain youth for a JIR hearing, but more likely to use more intrusive conditions on release Undertakings.

The degree of centralization of a police organization refers to the extent to which central management retains control of day-to-day decision-making by its divisions. In principle, decentralization should increase the opportunities for the exercise of discretion by individual officers. Our interview data suggest that decentralized police agencies use more informal action, more pre-charge diversion, more Promise to Appear (PTA’s), more conditions on release Undertakings, and more detention for JIR hearings. Analysis of UCR data found no differences between centralized and decentralized agencies in the level of charging of apprehended youth, when other related variables, such as the type of policing and community, were controlled.

The size (number of officers) and degree of hierarchy (number of ranks) of the police services and detachments in our sample varied substantially: from 2 to more than 5,000 officers, and between 1 and 12 ranks. In principle, size and vertical differentiation should have considerable impact on the way in which members do their work. However, we were unable to assess their impact on police decision-making, because we could not distinguish their effects from the effects of the size of the community, with which both variables are very strongly correlated.

4.0 *Situational factors influencing police discretion with youth*

Most research on police decision-making with youth has been restricted to analysis of the impact of factors specific to the individual incident and apprehended youth on the decision whether to charge (or to arrest, in most American research). Our main source of information about these factors was the views expressed by officers in interviews, but these were complemented wherever possible by statistical analysis of data from the UCR2 Survey.

Both sources of data confirmed that the “legal” factors of the seriousness of the offence (including its Criminal Code classification, the presence and type of weapon, and harm done to the person or property of a victim) and the youth’s criminal history are by far the

VI. Conclusions

most important determinants of the officer's decision whether to lay a charge or resolve the incident otherwise. Almost every respondent identified seriousness and prior record as major factors in their decision-making. However, these apparently simple relationships become more complex when examined more closely.

The relationship between the type of offence and the likelihood of charging is by no means a simple question of "seriousness". Less discretion is exercised with offences against the administration of justice than with any other offence except homicide and attempt murder – although administrative offences have no victim and cause no harm, except expense and inconvenience to the justice system. If discretion varies inversely with seriousness of the offence, then possession of stolen property is more serious than abduction, major assaults, drug trafficking, break and enter, and sexual assaults; impaired driving is more serious than break and enter, sexual assaults, and sexual abuse; arson is less serious than almost any other offence; and violent crimes, as a group, are slightly less serious than victimless crimes. Clearly, there is *some* relationship between the seriousness of the offence and the amount of discretion exercised by police, but the relationship is not straightforward.

The issue *is* more straightforward with respect to weapons and harm to a victim. Both the interview data and the UCR2 data confirm that a charge is much more likely if the youth was carrying a weapon, especially a firearm (which is very rare), or if a victim suffered significant harm to person or property.

The interview data and the UCR2 data also make clear that the youth's history of previous criminal activity – whether indicated by prior apprehensions by police, prior referrals to Alternative Measures, prior charges, or prior convictions – has a very strong influence on police discretion. Our analysis of UCR2 data found that the number of prior apprehensions of the youth – regardless of their outcome – is the strongest single predictor of the decision to charge.

After the seriousness of the offence and the youth's criminal history, the interview data indicate that the strongest influence on the decision to charge is the youth's demeanour – both his/her "attitude" and the extent of his/her cooperativeness when apprehended and processed. Approximately three-quarters of the respondents identified demeanour as a factor or major factor in their decision-making. Officers stressed the importance of the youth's accepting responsibility for his/her wrongdoing, and their willingness to "give him a break" when remorse and respect for the law were expressed. They also repeatedly referred to "accepting responsibility" as a criterion of eligibility for Alternative Measures.

According to the interview data, the next most important factors in the decision to charge are the victim's expressed dispositional preference, the extent and nature of parental involvement (whether parents appeared to be willing and able to take custody and control of the youth, and whether they expressed an appropriate attitude to their child's wrongdoing), and the stability of the youth's home and school situations. Approximately one-half of the respondents identified these as factors or major factors in their decision-making.

40% of respondents mentioned whether the crime was gang-related, and 22% cited the youth's gang affiliation, as factors or major factors in their decision-making. These officers were much more likely to be in metropolitan police services and/or communities with an identified problem of youth gangs.

Both the interview data and the UCR2 data identified the youth's age as a factor, although the results of analysis of the UCR2 data were stronger than the views expressed by interviewees. Only 28% of interviewees said that the youth's age was a factor or major factor in their decision-making. However, analysis of UCR2 data found that an apprehended 17 year old youth is 50% more likely to be charged, even when other factors such as the seriousness of the offence and his/her criminal history are controlled.

According to the interview data, some other factors play a minor or secondary role in the police decision to charge: whether the incident involved one or more offenders, the location and/or time of day, whether the youth was under the influence of alcohol or drugs, any relationship between the youth and a victim, and whether an adult co-offender was involved. The impact of two of these factors was also analyzed with UCR2 data, and both were found to have a minor effect. A lone offender is somewhat more likely to be charged than one apprehended with accomplices. Youths whose victims are a parent or stranger are more likely to be charged than those whose victims are siblings, friends or acquaintances, even when other related factors such as the type of offence are controlled.

The type of victim (person or business) and the youth's gender and race play little or no role in the decision whether to charge, according to officers interviewed. Analysis of UCR2 data confirmed that the youth's gender plays no role, but suggests that aboriginal youth are substantially more likely to be charged, even when other related factors are controlled.

We compared the views of officers from different parts of the country, different types of communities, and in different functional assignments. The most striking result was the consistency of views across all officers (and the consistency of the interview data with the results of statistical analysis of UCR2 data, and, indeed, with most previous research, in Canada and in other countries). However, there were differences in emphasis related to the region of the country, the type of community, the level and types of youth crime with which the police service was dealing, and whether the respondent was a member of a youth squad or was a School Liaison Officer.

5.0 Implications for implementation of the YCJA

Our commission did not include making recommendations to the Department of Justice – much less to police - concerning the implementation of the YCJA, and we have not done the kind of thorough analysis of the provisions and intent of that legislation which would qualify us to make recommendations. However, even with our limited knowledge of the statute, some implications of our findings seem so obvious that they bear repeating.

VI. Conclusions

Our research suggests that the main impediment to police diversion of apprehended youth is the lack of suitable programs. The YOA set out an elaborate system of diversion - Alternative Measures - and invited its widespread use with youth, but to a considerable extent it appears that the invitation has not been accepted by the authorities responsible for implementing diversion programs. The great majority of police officers whom we interviewed believe that informal diversion and Alternative Measures are potentially valuable responses to youth crime, but many officers are unable to use them at all, and practically all officers are unable to use them as much as they would like to, because of their unavailability. Thus, they feel that they have no alternative but to lay a charge in circumstances where mere informal action is, in their view, an inadequate response.

At least from the point of view of the police whom we interviewed, post-charge diversion programs are not an attractive alternative. They have little input to the post-charge diversion decision, and are ignorant of its outcome. It is paradoxical to them that they have to lay a charge in order to divert the youth. Our analysis of statistical data lends support to the commonsense view that post-charge alternative measures result in net-widening: increasing the use of formal sanctions.

Apart from diversion programs per se, social programs which can offer help to youth in need or at risk are, according to many of our respondents, woefully inadequate. In the absence of these programs and agencies, police officers sometimes find themselves in the position of surrogate social workers, seeing no alternative to the use of their powers to arrest, charge, and detain youth whose main needs appear to be for protection and assistance, not criminal sanctioning.

Concerning informal action, our conclusion from this research is that it is, and always has been, widely used by police with apprehended youth, and will continue to be under the new statute. However, there is room for a huge expansion in its use. Under the Juvenile Delinquents Act, many police services used informal action with three-quarters or more of apprehended youth. According to UCR statistics, quite a few police services and detachments in Canada, particularly in Quebec and British Columbia, currently charge only 20-30% of apprehended youth. In this respect, the YOA was, in principle, a revolutionary statute, because it explicitly authorized the use of police discretion with youth: to take "no measures" or "measures other than judicial proceedings". Statutory recognition of police discretion was revolutionary because - in principle - it exploded the "myth of full enforcement": the myth, in which much of the public and many police officers continue to believe, that it is the responsibility of the criminal and juvenile justice systems to prosecute all violations of the law, and that failure to do so can only be justified by lack of resources. Under the myth of full enforcement, the use by police of their discretion not to charge is seen as an undesirable expedient which is best concealed behind a discreet curtain of obfuscation. The persistence of this uneasiness can be seen in the joke which we heard repeatedly when we introduced our research to police officers: "Discretion? What discretion?" - or, "Discretion? We don't have any." To some extent this joke is simply a wry reference to the various constraints which police experience in doing their work, but we believe that it also refers to the preference of many officers to

VI. Conclusions

minimize the extent of their power not to charge. This uneasiness with the term “police discretion” can be attributed to two sources: first, the perceived desire on the part of the public for full and vigorous enforcement of the law, and second, the ever-present danger that discretion will be used, or be seen to be used, in a discriminatory way. It seems to us that the implementation of the YOA was singularly unsuccessful in legitimating, for both the police and the public, the use by police of informal action with youth. Most police officers continue to see informal action (and pre-charge diversion) as “giving the kid a break”, rather than as a legitimate law-enforcement response to a violation of the law. Thus the importance of the record of prior apprehensions: a kid who has received one break doesn’t deserve another. Therefore, it seems to the authors that the implementation of the YOA largely failed to achieve in practice what it did in principle: to encourage the expanded use of informal action by police.

The YCJA appears to take this “revolution in principle” a step further, by requiring police to consider informal action with apprehended youth, and by making it presumptive with non-violent first offenders. However, it seems to us that a major educational campaign will be needed to persuade the police, other system agents, and the public that informal action is a fully legitimate and appropriate response to juvenile lawbreaking – just as legitimate and appropriate, in some circumstances, as referral to a program or to court.

We paid a great deal of attention in Chapter II to the epidemic of cases involving administration of justice offences by young persons, since they are subject to such low levels of police discretion. Another revolutionary aspect of the YCJA, in our opinion, is its preference for the use of alternatives to laying a charge in cases of a breach of a probation order – either through extrajudicial measures or an application for a review of the order under Section 59. In cases of failure to appear, it appears that police will no longer be able to find that their discretion is inapplicable, since they will be required to “consider” extrajudicial measures – i.e. using their discretion - before laying a charge. However, as with the use of informal action by police, it seems to us that the implementation of this new way of thinking about administrative offences will require a major effort. It will also be interesting to see how the programs for monitoring of high-risk offenders, such as SHOP and SHOCAP, deal with this challenge to what is one of their major monitoring tools and sources of leverage with their clients.

Concerning the process of laying a charge, we have noted at several points in this report that the two provinces in which police said that the Crown screens their recommendations to charge – Quebec and British Columbia – also have the lowest recorded rates of charging of apprehended youth in the country. Can this be merely a coincidence? It seems not, from the comments of many officers in British Columbia. They told us that they find the system of Crown screening of their recommendations to charge so frustrating that they prefer, wherever possible, to use informal action or pre-charge diversion (not Alternative Measures). The rather perverse implication of this is that one way to reduce the use by police of formal charges is to make the procedure frustrating so that they avoid using it.

VI. Conclusions

Concerning organizational influences on the use of police discretion with youth, our findings suggest that police services which want to increase their use of informal action and of pre-charge diversion, and to reduce the use of intrusive methods of compelling appearance, might consider any of the following measures: wholehearted adoption of the community policing model, in all its dimensions, including a fundamental organizational redesign and philosophical reorientation, the allocation of significant resources to community policing, increased involvement in crime prevention programs, especially in high-crime communities, and the adoption of the POP model by all ranks; creation of a youth squad, or at least one or more officers who specialize in youth crime; adoption of explicit policies and protocols for handling youth crime and young offenders; provision of training in handling youth crime to all front-line officers, and then allowing them to have autonomy in deciding how to dispose of youth-related incidents; assigning investigative and enforcement functions to SLO's who currently are limited to making presentations in schools; increasing the use of proactive policing; and decentralizing decision-making in the organization.

However, once again, we must emphasize that organizational innovation does not take place in a vacuum. Many police managers are perfectly aware of the value of a youth squad, enforcement SLO's, etc., and many police services used to have youth squads, but they were abandoned under the pressure of financial stringency during the 1990's. When money is tight, all sorts of innovative programs are abandoned, and the organization must concentrate on its core activities. The core activities of the police, in the view of most police officers and most members of the public, are routine patrol, and responding to calls for service, i.e. reports by the public of a crime. Police services operating on restricted budgets will give up almost any other activity before these. In this, they can probably count on the support of the public. Therefore, if the various organizational innovations detailed above are to be adopted, a police service must not only receive funding for that innovation, but it must also be assured of an adequate base budget – because if the base budget for traditional policing functions which are expected by the public is inadequate, then inevitably ways will be found to divert the funds for innovation to what are seen by all as core activities.

Our analysis of situational factors in police decision-making has at least one implication for the implementation of the YCJA. This concerns the paramount importance to police of the record of the youth's previous apprehensions, whether or not they resulted in a charge or a conviction. Currently, the recording by police of informal action is quite variable. If one aspect of the implementation of the YCJA is going to be a significant improvement in the recording of informal action, in order to track its use and effectiveness, this may well have the effect of increasing the information available to police on a youth's previous criminal activity – and this may result in an increase in charging. To put it differently, the statutory recognition of what was previously “informal” police action may, implicitly, raise its status to that of “semi-formal” or “formal” action, with a corresponding increase in its influence on a subsequent police decision to charge.

Thus, provisions of the YCJA which were intended to reduce charging may have the unintended consequence of increasing it. This does not seem so far-fetched if one considers some of the totally unanticipated consequences of the YOA: an increase in police charging and an increase in the courts' use of custodial dispositions. One of the authors of this report did research some years ago on the factors affecting dispositions in Youth Court, and found that the youth's prior record was the principal predictor of a custodial disposition; an implication of that research was that part of the reason for the increase in custodial dispositions might simply be improved record-keeping by the Youth Courts. In a similar vein, we note that the police services studied by Black & Reiss in the 1970's did not have the advantages of today's sophisticated Records Management Systems, and patrol officers in the field did not have effective access to the records of youth whom they encountered: therefore, the youth's prior record could not play a role in their decision. Today's patrol officers have computers in their cars, and instant access to whatever information is in the RMS.

6.0 Implications for future research

In this section, we suggest several research initiatives which we believe would be valuable contributions to the evaluation of the impact of the YCJA.

6.1 A pre-post evaluation of the impact of the YCJA

One of the main objectives of the present study was to provide baseline data on the exercise of police discretion with youth, so that the impact of the YCJA on police discretion could be evaluated by collecting comparable data in a few years time, and analyzing any changes that had taken place. Such a study should collect qualitative and quantitative data on all aspects of police discretion with youth, and on organizational characteristics of police services and their environments, as the present research has done. The proposed research should also repeat our analysis of situational factors influencing police discretion, in order to see if any changes have occurred.

Such a study could replicate the methodology of the present study, or it might be possible to collect the data which we obtained through face-to-face interviews by telephone interviews or perhaps even mailed questionnaires. These more streamlined methods might be feasible because the present study has defined the issues, and has developed a set of standardized answers to all of the questions which we asked. (All of our questions, except those concerning the impact of various situational factors, were open-ended, i.e. we simply asked the questions and recorded the answers, which were classified and coded later; in many cases, it was not so much a matter of question and answer as of introducing a topic and recording and later coding the ensuing discussion.) However, it is our strong impression that a principal reason for the incredible cooperation which we received was that we made a visit to each police service and conducted face-to-face interviews. Telephone interviews or mailed questionnaires might result in a much lower

degree of participation, and much less complete data from each participating police service. The follow-up study would also analyze data from the UCR and UCR2 Surveys, and would benefit, hopefully, from improvements in the UCR2 Study (see below). Such a follow-up study could be conducted in late 2004 or, preferably, in 2005 after the YCJA has been in effect for two full years; one factor which might affect the timing would be the availability of UCR2 data for an expanded sample of police agencies (see below).

6.2 A baseline file study of police discretion under the YOA

One of the major lacunae of the present research is the lack of quantitative data on various aspects of police discretion, such as informal warnings, formal warnings, arrest, etc. Although we have been able to report the percentage of police services which use such forms of discretion “usually”, “always”, etc., we have been unable to report precisely what proportion of their youth-related cases are handled by each of these methods.

As is explained above, it was not possible, for various reasons, for us to obtain this kind of information on individual (or aggregated) young offender cases from police hardcopy files or Records Management Systems. Such baseline information for the sample of police services which we studied, or a comparable sample, would be enormously useful in a later evaluation of the impact of the YCJA, assuming that comparative data could again be collected in the follow-up evaluation study. We therefore suggest that the possibility of a file study be revisited.

6.3 A “best practices” study of police discretion under the YCJA

Because the present study was designed as an exploratory survey, that is, a study of a relatively large representative sample of police services, with a somewhat open-ended set of questions, we were not able to study any one police service in much depth. However, it was quite evident that some police services have already implemented, or are in the process of implementing, many of the structures and processes which we believe will result in greater use of police discretion with youth. It would be valuable to do in-depth study of a small number - perhaps six - of these police services, in order to evaluate more carefully the impact of these various organizational factors. Such information could be useful both to policymakers and to management of other police services.

6.4 A study of the processing of administrative offences under the YCJA

We have referred repeatedly in this report to the epidemic of offences against the administration of justice committed by young persons, and the apparent inability of the current system to deal with them constructively. We have also alluded to the view taken

VI. Conclusions

by most police officers that they have very little discretion when a request, whether explicit or implicit, to lay an administrative charge comes to them from another system agent. We also reported that we were unable to clarify the process by which a youth's failure to appear in court leads to the laying of a charge by police, who apparently feel that in this situation they have no discretion because of the wishes of the judge.

Because of the enormity of the problem of administrative offences, it might be worthwhile to devote a separate study to a close investigation of the respective roles of police, judges, and other system agents such as probation officers, in the genesis of administrative charges. Such a study would also monitor the implementation of the provisions in the YCJA for nonjudicial responses to administrative charges, and the impact of these provisions.

6.5 Improvement of the UCR2 Survey

In principle, the UCR2 Survey should be an enormously useful tool for monitoring the implementation of the YCJA and evaluating its impact. The UCR2 has two data elements which capture the use of police discretion. One is the clearance status of each incident, coded as cleared by charge, or cleared in several other ways, some of which are forms of police discretion, and one of which captures referral to diversion programs. The other element is the clearance status of each apprehended person, which is currently coded as charged or processed otherwise. It is our understanding that these codes may be expanded somewhat to capture the new provisions of the YCJA.

However, the UCR2 is currently of extremely limited use in monitoring the use of police discretion in Canada, and its correlates. As a research tool for studying police discretion in Canada, it suffers from two crippling deficiencies. The main one is the non-participation of a large number of police services. Although the UCR2 for 2001 included 59% of incidents in Canada, its coverage is concentrated in Quebec, and, to a lesser extent, Ontario. It included only 1 police agency in British Columbia, 4 in each of Saskatchewan and Alberta, etc. Since the RCMP does not participate, there is practically no information on policing in small towns and rural areas outside Ontario and Quebec. Even in Ontario, only 13 municipal agencies and the OPP report to the UCR2, leaving numerous towns unrepresented. Until at least the RCMP, and preferably many more municipal agencies report to the UCR2, it will be all but useless for portraying the national situation.

The second deficiency is specific to the two elements described above: the clearance status of incidents and of apprehended persons. Some police services which report to the UCR2, including some very large police services, provide information on few or no incidents or persons which are cleared other than by charge. Thus, according to their UCR2 returns, they lay a charge in approximately 100% of incidents, and against approximately 100% of apprehended persons. This makes the information in the UCR2 for these police services useless in the study of police discretion. It is also possible that other police services substantially under-report incidents and persons cleared otherwise,

VI. Conclusions

thus inflating their charge rates. Until the non-reporting problem is cleared up, the effective coverage of the UCR2, for purposes of the study of police discretion, is even less than its limited overall coverage. Furthermore, until the problem of under-reporting is resolved, statistics derived from the UCR2 on the extent of use of informal action and of pre-charge diversion will always be viewed with scepticism. This is a great pity, because in principle it is infinitely preferable to have quantitative data on police activity collected every year on a routine basis by a professional data collection agency, which can guarantee confidentiality under the Statistics Act, to having to collect it oneself on a one-shot basis, at great expense, and entirely dependent on the willingness of police to cooperate.

Any investment made now in immediate improvement of both the coverage and the data integrity of the UCR2 should provide large dividends to research on all aspects of police work under the YCJA, in the coming years

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POLICE DISCRETION WITH YOUNG OFFENDERS

METHODOLOGICAL APPENDIX

Figure A.1 Locations of police services in the sample



I. Interviews

1.0 Sample

1.1 Target sample

A sample of 118 police agencies was selected to be interviewed. This consisted of 76 agencies which we designated as high priority, and 42 additional agencies which were designated as “to be interviewed if time permits”.

The target sample was based on the principles of representativeness of the regions of Canada, of communities of different sizes, and communities inside and outside Census Metropolitan Areas, and the different modes of delivery of police services: independent municipal, provincial, RCMP municipal and provincial contract, OPP municipal contract, and First Nations self-policing.

The 76 first-priority agencies consisted of 47 independent municipal police services, 20 RCMP detachments, 5 provincial police (OPP and RNC) detachments or headquarters, 2 First Nations police services, one police training facility, and the headquarters of the Sûreté du Québec.

The 42 second-priority agencies included 27 independent municipal services, 8 RCMP detachments, and 7 OPP detachments, with a number of detachments of the Sûreté du Québec, to be determined in consultation with the headquarters of the Sûreté.

1.2 Actual sample

The target sample had to be modified in various ways, which are discussed below. The outcome was that members of 98 police agencies were interviewed. These are shown as push-pins in the map in Figure A-1, and listed in Annex A-1, at the end of this Appendix. These police agencies fall into 5 categories:

1. Independent municipal police services (in all provinces except Newfoundland) (n=50);
2. RCMP detachments in 5 provinces and 3 territories (NWT, Nunavut, Yukon, B.C., Alberta, Saskatchewan, Manitoba, and New Brunswick (n = 29);
3. Provincial police detachments (Ontario Provincial Police and Royal Newfoundland Constabulary) (n=14);

4. First Nations police services (n=3);
5. Training facilities (n=2).

Of the original sample of 76 first-priority police agencies, 15 could not be included in the final sample. Six of these 15 agreed to participate, but could not be accommodated in the interviewer's travel schedule. Representatives of one police service (the Sûreté du Québec) expressed initial interest in participating, but eventually declined to participate after consultation with the provincial Ministère de la sécurité publique. The other 8 first-priority police services which could not be included are all located in Province of Québec. Municipal consolidation and the amalgamation of policing services during 2002 in Québec have resulted in the substitution of regional police, or policing by the Sûreté, for smaller independent municipal services. These 8 police services were in the process of being dissolved or merged into larger regional services, and were therefore unsuitable for inclusion in the study.

Thirty-seven police agencies were added to the 61 original first-priority agencies included in the sample. These 37 additional agencies were selected according to two criteria: they had characteristics which improved the representativeness of the resulting sample, and they were relatively convenient to interview, given the travel schedule imposed on our interviewers by the locations of the 61 first-priority agencies.

Initiatives by the RCMP and Ontario Provincial Police were extremely helpful in overcoming the shortcomings of the target sample, particularly its under-representation of rural and small-town policing. This bias in our target sample in favour of larger communities was partly a result of our priority on representativeness by population, and was partly forced on us by the necessity of concentrating our interviewers' visits in cities and surrounding areas in order to use their time and travel budget most efficiently.

On the initiative of Dorothy Franklin, Officer in Charge, National Youth Strategy, Community, Contract and Aboriginal Police Services, contact was made on our behalf with 12 RCMP members who had served recently in 7 detachments in the Yukon, Northwest Territories, or Nunavut, but were now posted to Ottawa, southern Ontario, or Edmonton. Project staff were able to interview these members without travelling to the North. The interviews provided unique information on policing with young offenders, and indeed, policing in general, in the North.

A similar opportunity was provided by the OPP, on the initiative of Supt. Susan Dunn, Commander, Operational Planning and Research Bureau. Her staff arranged for officers currently posted to 10 remote detachments in Northern Ontario to travel to OPP HQ in Orillia to be interviewed by project staff.

Apart from these 17 remote RCMP and OPP detachments, we were able to include from the second-priority list, 6 RCMP detachments in B.C., Alberta, and Saskatchewan, a police training academy in B.C., and one municipal service in each of Ontario and Nova Scotia. However, the main substitutions occurred in the Province of Québec, due to the large number (9 out of 14) which could not be included from the first-priority sample. Nine additional municipal and 2 First Nations police services in the Province of Québec were incorporated in the resulting sample of police services interviewed.

We believe that the resulting sample provides adequate representation of public policing in the regions of Canada, in communities of different sizes, and communities inside and outside Census Metropolitan Areas, and the different modes of delivery of police services: independent municipal, provincial, RCMP municipal and provincial contract, OPP municipal contract, and First Nations self-policing. The only major aspect of policing which is not represented in the sample is provincial policing in the province of Quebec.

The number of members interviewed per police agency varied between one and seven, depending on the size of the agency and the availability of interviewees. Altogether, 199 interviews were conducted with more than 300 members of the 98 police agencies. Their names are listed with their permission in Annex A-2.

Qualitative data from all the interviews has been incorporated into the report. The statistical analyses of the interview data are based on 194 interviews with 95 police agencies since key information was not available from 5 interviews with 3 police agencies.

2.0 Interview Procedure

2.1 Contact

Initial contact with the sampled police agencies was made in three ways:

- Project staff attended and made presentations at the semi-annual meetings of the POLIS (Police Information and Statistics) Committee of the Canadian Association of Chiefs of Police, in October, 2001 and March, 2002. This committee has members representing the largest police services in Canada, including the RCMP, the 3 provincial police forces, and approximately 12 of the largest municipal forces, representing almost every province of Canada. After receiving expressions of support at both POLIS meetings, and invitations from some POLIS members, project staff contacted most members of POLIS as the

first “wave” of interviews, in March, 2002. Eventually, all members (as of October, 2001) of POLIS were contacted to request interviews.

- A letter of introduction requesting cooperation was sent in March, 2002, by the Director General, Youth Justice Policy, Department of Justice, to the Commanding Officer (Chief of Police, Chief Constable, etc.) of every sampled municipal and provincial police service, and to the Commanding Officers of the RCMP Divisions for the 5 provinces in which sampled RCMP detachments were located. This letter enclosed a brief description written by project staff of the objectives of the project, the information which we wanted to elicit in the interviews, and the kinds of officers whom we wanted to interview (see Annex A-3).
- A representative of Youth Justice Policy arranged a meeting in March, 2002, at RCMP National Headquarters between project staff and members of the Community, Contract and Aboriginal Police Services, RCMP. This resulted in a strong expression of support for the project, expressed in a letter of introduction written by Dorothy Franklin, Officer in Charge, National Youth Strategy, requesting cooperation from the Divisional Commanding Officers for the 5 provinces (and for “Depot” Division) where we wished to interview RCMP members; with copies to the Officer in Charge, Criminal Operations, in each provincial Division, and to the Officer in Charge of each sampled detachment.

We believe that each of these approaches probably contributed significantly to the extremely high degree of cooperation which we subsequently received from police services. In our approaches to the many police services which do not belong to POLIS, we cited the support for the project expressed by POLIS, and the fact that almost all members of POLIS had agreed to participate in the study. Presumably the support of POLIS and its individual members, in combination with the letter requesting cooperation sent by Justice Canada, encouraged the commanding officers of other police services to allow us access.

In the case of the OPP, it was in response to our presentation at the March, 2002, meeting of POLIS that the Commander, Operational Planning and Research Bureau, offered the services of her office in coordinating the interviews with OPP officers which we had planned, and also made the very generous offer to bring members of Northern detachments to OPP Headquarters to be interviewed.

In the case of the RCMP, we believe that the letter of introduction from the OIC, National Youth Strategy, was probably crucial to obtaining the cooperation of the provincial Divisional Commanders, who then arranged access for us to the individual detachments.

The second contact with each sampled municipal police service, and the two RNC detachments, took the form of a short letter faxed to the Commanding Officer, written by the Principal Investigator. It referred to the letter of introduction from Justice Canada, briefly repeated the objectives of the project, listed the (growing number of) names of police services which had already agreed to participate, suggested a day for the interviews to take place, and invited the recipient to contact the Principal Investigator to arrange the interviews. A copy of the project summary was included (Annex A-3). In the case of the RCMP, this letter from the Principal Investigator was sent to the provincial Divisional Commanders, and listed the detachments which we wished to interview and the days, or week, during which our interviewer would be available to visit the detachments. A slightly different procedure was followed with the police services in the Province of Québec; this is discussed below.

In some cases, the faxed letter elicited a telephone call from the Chief's office, or someone in the police service assigned by the Chief to liaise with us. If no response was forthcoming, project staff contacted the Chief's office by telephone. In the phone calls, we answered questions about the project, since many of the police services which we contacted had concerns about our objectives, our methods, and the nature of our intended report; and explained what kinds of officers we wished to interview, and arranged a mutually convenient day or days to visit the police service.

In the case of the smaller police services, it was often possible to make the arrangements for the visit in one or two telephone calls, with either the Chief himself, or his secretary or Deputy Chief. In some of the larger police services, the Chief's executive assistant, or a Deputy Chief or other officer in a management position was assigned to assist us, and arrangements were made fairly easily. In other police services, responsibility for assisting us was passed from person to person down the chain of command; in these cases, several phone calls, over a period of weeks, were needed to arrange a visit. In some cases, more than a dozen phone calls were required to make the arrangements.

In the case of the RCMP, our first phone call was to the office of the provincial Divisional CO. In one province, the CO assigned an officer to assist us, who requested information from us concerning our preferred interview times, then personally contacted all the detachments which we had identified, and arranged all the visits for us. In the other provinces, the CO notified the detachments by letter of our wish to visit them, requested their cooperation, and left it for us to arrange the visits. We then contacted the Officer or NCO in Charge of each detachment, as though it were an independent police service – with the important difference that the provincial CO had already requested that the OIC of the detachment cooperate with us. In all but one province, staff of Divisional Headquarters were made available to us to interview, although in two provinces, our interviewer's crowded travel schedule made this impossible.

A few police services required detailed information about the questions which we planned to ask during the interviews, and our provisions for maintaining the confidentiality of oral answers and documentary material. In these cases, we provided the police service with a written Confidentiality Protocol (Annex A-4) and a complete Interview Schedule (Annex A-5).

We used a slightly different procedure to contact police services in the Province of Québec, since the regular project staff are not fluent in French. A bilingual interviewer who is resident in Montreal was engaged in late April, to do interviews with police in the Province of Quebec. During May, she translated our main interview documents into French, including the interview schedule (Annex A-6) and letters of introduction to police (Annex A-7). After the Director General, Youth Justice Policy, had sent the initial letter of introduction (in French) to sampled police services, our bilingual interviewer faxed the follow-up letter on our company letterhead, under her own signature, with an invitation to contact her at her Montreal office. If she did not receive a reply, she then made contact with the police services and arranged the interviews.

2.2 Interview procedures

With very few exceptions, interviews were conducted on-site, either at the premises of the police agency, or in the officer's car. The exceptions are two telephone interviews and one conducted at a conference which the interviewee was attending. All interviews were tape-recorded, with the permission of the interviewees. There were some group interviews with two or more members participating. Almost all interviewees were sworn police officers; a very small number were civilian employees in administrative support divisions, such as Records.

Interviews were conducted between March and August, 2002. For the sake of consistency, we decided to have all the anglophone interviews conducted by the same interviewer, the Assistant Project Manager. (Actually, a few interviews were also conducted by the Principal Investigator when the Assistant Project Manager was unavailable.) This imposed limits on how much time she could spend with each police service, since she had to visit a large number of agencies, scattered all across Canada, in a few months. Generally, we allocated half a day for visits with smaller police services (and detachments), where we anticipated conducting only one or two interviews; and a full day for visits to the larger municipal police services, involving three to seven interviews. For a few very large municipal services, two days were allocated.

In the case of police services with specialized youth detectives, and where the interviewer's schedule permitted, we requested that the interviewer be taken on a ride-along with a youth detective. Eleven ride-alongs were conducted. No tape recorder was

used during the ride-alongs, but the interviewer's observations were recorded afterwards, and incorporated into the analysis.

The interview schedule is reproduced in Annexes A-5 and A-6. Interviews were semi-structured; that is, the interview schedule was used by the interviewers as a guide to topics to be covered, rather than to be slavishly followed. If the interviewee wished to pursue a line of thought which was not, strictly speaking, in the interview schedule, but seemed relevant to the project's objectives, then s/he was not discouraged from doing so.

The last part of the interview schedule, covering recording practices, was devised mainly to shed some light on the genesis of UCR data, for the benefit of project staff doing analysis of statistical data, rather than to provide substantive information for the final report. This section turned out not to be very successful, since many or most of the officers interviewed were not in a position to give informed answers, and there were few opportunities to interview personnel in Records. Furthermore, this section came at the end of the interviews, which tended to be lengthy and tiring for both interviewers and subjects, and which were usually conducted during a fixed period of time; so that there was often no time to cover this section, or it seemed inadvisable on account of the subject's or interviewer's fatigue. In addition, this seemed to be the one topic on which interviewees seemed reluctant to speak frankly. Therefore, interviewers adopted the practice of omitting this section, unless there was some particular opportunity to pursue it (e.g. someone from Records was made available for interviewing).

Although interviewers attempted to ask all the questions in the interview schedule (with the exception noted above) in the course of interviewing each police agency, they did not necessarily ask all the questions of each interviewee. Subsets of questions are designated in the schedule as being particularly appropriate for upper management to answer; subsets for middle management, and subsets for general duty officers (patrol and investigators). However, in the smaller police services, where only one or perhaps two officers could be interviewed, a larger portion or all of the questions were addressed in the one or two interviews. In some large municipal police services, some interviewees had highly specialized functions, and the interviews with them concentrated on these functions.

Further limitations on coverage of the interview schedule for some police services were imposed by the busy schedules of some interviewees, and occasionally by the travel schedule of the interviewer.

Relevant documentary material was requested from all police agencies, and in many cases was provided. Much information about the nature of the community, general police service orientation, and organizational structure was also obtained from the web sites maintained by some police services and municipalities.

Following the visit, a letter was sent to the CO or Chief expressing appreciation for the participation of the police service, and thanking by name the members who had been most instrumental in the success of the visit.

2.3 Transcription and translation

The English interviews were transcribed by a local transcription service. The French interviews were transcribed in French, and then translated into English.

II. Statistical data on young offender cases

Custom tabulations of statistical data from the Incident-Based Uniform Crime Reporting (UCR2) Survey were provided by Canadian Centre for Justice Statistics.

For the analyses reported in Chapter II, we used a tabulation of all youth-related incidents reported to the UCR2 for 2001, broken down by province and clearance status of the incident; and a tabulation of all youth-related incidents reported for 1995-2001 by a subset of police services which have been reporting continuously to the UCR2 between 1995 and 2001 (the “Trend Database”).

For the analyses reported in Chapter V, we used a tabulation of all young persons apprehended in 2001 who were reported to the UCR2 by a subset of police services. This tabulation was broken down simultaneously by the police disposition (charged vs. processed otherwise) and several independent variables. Because this tabulation incorporated information pertaining to the years 1995-2001 (see below), the sample of police services was restricted to the Trend Database (see above). It was further restricted by omitting one police service (Toronto) which does not report youth who are not charged – since the dependent variable in the analyses was whether or not the youth was charged. The resulting sample included 186 police services in 6 provinces: New Brunswick, Quebec, Ontario, Saskatchewan, Alberta, and British Columbia.

The youth’s record of prior criminal activity has been identified as an important determinant of the police disposition, both by previous research and by interviews in the present research. Special programming work was required in order to create this variable, since it is not routinely captured by the UCR2. The work was done for this project by staff of Statistics Canada and the Principal Investigator. The procedure involved searching through all UCR2 records for 1995-2001 for the selected sample of

police services, and matching records of apprehensions pertaining to youths apprehended in 2001. Each record (except the latest apprehension in 2001, which was the apprehension whose outcome was being analyzed) constituted one prior apprehension. These were counted and classified.

Matching of records for the same person was not straightforward, since there is no unique person identifier in the UCR2. The person's surname is encoded in a 4-character SOUNDEX code, which is not unique; i.e. many surnames are encoded with the same SOUNDEX. Thus, simply matching on the SOUNDEX would result in many false positive matches; i.e. many records for different people would be erroneously treated as prior apprehensions of a single person. The result would be an underestimate of the number of unique persons and an overestimate of the length of their prior records. This is not necessarily as great a problem in the present research as it might be in other types of research, because we are not concerned here with prior record in itself, but in its correlation with the probability of being charged. In general, errors in measurement of variables (such as overestimates of prior records) result in attenuation of correlations, so the result of such error would be a small underestimate of the impact of prior record on police dispositions, and a small overestimate of the impact of other related variables, such as the youth's age. False positives can be greatly reduced by matching simultaneously on SOUNDEX, birth date, and sex (which are all in the UCR2), but are still a potential problem.

Methodologists at Statistics Canada conducted an exhaustive analysis of the probability of false positive matches by comparing the rate of occurrence of each SOUNDEX in the UCR2 with the rates of occurrence of the corresponding surnames in the populations of the provinces of Canada, using electronic telephone directories. This enabled them to establish, for each SOUNDEX, the expected rate of false positives, when it was used for matching in combination with birth date and sex. SOUNDEXES vary greatly in their vulnerability to false positive matches, since some encode very common surnames and others do not. Assessments of SOUNDEX "match quality" (i.e. non-vulnerability to false positives) were made under the assumption that UCR2 records would be matched only within the police services in a Census Metropolitan Area (CMA), or within the jurisdiction of individual police services outside CMA's (since there was no obvious principle with which to group non-CMA police services). Consideration was also given to the possibility of matching within larger areas, such as an entire province, in order to capture a youth's apprehensions in different jurisdictions. The basic principle here is that the probability of false positives is directly related to the size of the population within which one is matching.

On the basis of this quality analysis, four categories of SOUNDEXes were defined:

- **0** – SOUNDEX is rare enough that it can be used in analysis within a given CMA or individual police service (99% or better match efficiency rate)

- **1** – SOUNDEX is rare enough that it can be used in analysis within a given CMA or individual police service (95% – 99% match efficiency rate)
- **2** – SOUNDEX is common enough that it should be used with caution in analysis within a given CMA or individual police service (90% - 95% match efficiency rate)
- **3** – SOUNDEX is too common to be used for analysis – this will result in too many false matches (less than 90% match efficiency rate).

“Match efficiency” refers to the absence of false positives; e.g. 99% match efficiency means that 1% of matches are expected to be false positives, and “99% or better” means that 1% or fewer false positives are expected.

Using 95% match efficiency as a criterion of acceptability, we decided to omit all records with SOUNDEXes with a quality code of 2 or 3, except in Montreal. This omission is quite acceptable elsewhere, since most jurisdictions have small enough populations that there are very few or no SOUNDEXes with quality codes of 2 or 3: the only jurisdictions with more than 0.0% of these SOUNDEXes are Montreal (28.4%), Quebec City (2.2%), Calgary (1.3%), Edmonton (3.5%), and Toronto (15.1%), but Toronto was already omitted from our sample because of its non-reporting of youth who are not charged. Due to the large number of records which would be omitted for Montreal if we adopted this criterion, we included records with a SOUNDEX quality code of 2 in that jurisdiction.

The population of areas of New Brunswick reporting to the UCR2 is small enough that matching could be done with all police services treated as one unit, for all SOUNDEXes. For Saskatchewan and Alberta, matching was done with all police services treated as one unit for SOUNDEXes with a quality code of 0, but within individual police services for SOUNDEXes with a quality code of 1. For Ontario, Quebec, and British Columbia, matching was done within CMA or individual non-CMA police service for SOUNDEXes with quality codes of 0 and 1. This resulted in a sample of 38,727 unique young persons apprehended in 2001, with an average of 2.9 apprehensions, including the current one; or 1.9 prior apprehensions. We also examined the results of three other plausible but less conservative sets of matching criteria, which produced very similar results, ranging from 38,369 to 38,411 unique youths, and an average number of apprehensions (in all three cases) of 3.0. Thus, for this study, the results of matching were robust even when less stringent matching criteria were used.

Although the number of prior apprehensions of youths in our sample ranged from 0 to 261, the great majority (96%) had 10 or fewer, and most (90%) had 5 or fewer. In assessing the relationship between the number of prior apprehensions and the police disposition, no information was lost by recoding the number of prior apprehensions as 0, 1, 2, 3-4, and 5 or more.

The police disposition (charged vs. processed otherwise) was cross-tabulated separately with each of the independent variables:

- the type of offence, indicated by the Criminal Code classification;
- the level of injury suffered by a victim;
- the presence of a weapon;
- the number of prior apprehensions of the youth;
- the age of the youth;
- the gender of the youth;
- whether the youth was an aboriginal;
- whether the youth was apprehended alone or with other persons
- the type of relationship, if any, between the youth and a victim;
- whether the youth and a victim were living together;
- whether there was evidence that the youth had recently consumed alcohol or drugs.

The two latter variables were omitted from further analysis, since they were unrelated to the police disposition. The proportions of youth who were charged, broken down by each of the other variables, are presented in individual tables in Chapter V.

In order to assess the relationship of the independent variables while controlling for related factors, all independent variables were entered simultaneously into a multiple regression analysis with the police disposition (charged vs. processed otherwise) as the dependent variable. Two statistics were calculated:

- the adjusted percentage of youth who were charged, for each category of the independent variable: this is the percentage of youth who “would have been charged if everything about the offence and the offender were the same, except for variations in this variable”; and
- partial eta squared: this is an estimate of the amount of variation in the police disposition which is accounted for when all other variables are controlled, i.e. the strength of its unique impact on the police disposition.

Annex A-1. Interview Sample

Subsample 1. Independent municipal police services (n=50)

British Columbia

- 1) Vancouver (POLIS member)
- 2) Victoria (POLIS member)
- 3) Abbotsford
- 4) New Westminster

Alberta

- 5) Edmonton (POLIS member)
- 6) Calgary (POLIS member)

Saskatchewan

- 7) Regina (POLIS member)
- 8) Saskatoon
- 9) Moose Jaw

Manitoba

- 10) Winnipeg (POLIS member)

Ontario

- 11) Toronto (POLIS member)
- 12) Ottawa (POLIS member)
- 13) Sudbury (POLIS member)
- 14) Waterloo Regional (POLIS member)
- 15) Peel
- 16) Windsor
- 17) Guelph
- 18) Barrie
- 19) Cornwall
- 20) Prescott

- 21) Durham
- 22) Hamilton-Wentworth
- 23) Niagara Regional
- 24) Essex
- 25) Orangeville
- 26) New Liskeard
- 27) Lasalle
- 28) South Bruce Grey

Québec

- 29) Montréal (POLIS member)
- 30) Québec City
- 31) Sherbrooke
- 32) St. Jérôme
- 33) Mirabel
- 34) Laval
- 35) Roussillon
- 36) Sainte-Julie
- 37) Vallée-du-Richelieu (Beloeil)
- 38) Mont-Tremblant
- 39) Rivière-du-Loup
- 40) Les Collines-de-l'Outaouais (La Pêche)
- 41) Memphrémagog
- 42) Sorel-Tracy

New Brunswick

- 43) Saint John
- 44) Rothesay Regional
- 45) Bathurst

Nova Scotia

- 46) Halifax (POLIS member)
- 47) Truro
- 48) Stellarton

Prince Edward Island

- 49) Charlottetown
- 50) Summerside

***Subsample 2. RCMP Headquarters, Divisional Headquarters,
and detachments (n=29)***

- 1) RCMP Headquarters (“A” Div., Ottawa)

British Columbia (“E” Div.)

- 2) Kelowna
- 3) Penticton
- 4) Prince Rupert
- 5) Terrace
- 6) Hope
- 7) Surrey

Alberta (“K” Div.)

- 8) “K” Divisional Headquarters
- 9) St. Albert
- 10) Fort Saskatchewan
- 11) Sherwood Park
- 12) Stony Plain
- 13) Barrhead
- 14) Wetaskiwin
- 15) Hobbema

Saskatchewan (“F” Div.)

- 16) “F” Divisional Headquarters
- 17) Battlefords
- 18) Warman

Manitoba (“D” Div.)

- 19) Portage La Prairie
- 20) Neepawa

New Brunswick (“J” Div.)

- 21) Hampton

Yukon Territory (“M” Div.)

- 22) Whitehorse
- 23) Dawson City (interviewed at “K” Div. HQ, Edmonton)
- 24) Old Crow (interviewed at Newmarket, Ontario detachment)

Nunavut Territory (“V” Div.)

- 25) “V” Div. HQ, Iqaluit (interviewed at “K” Div. HQ, Edmonton, and “A” Div. HQ, Ottawa)
- 26) Arctic Bay (interviewed at “A” Div. HQ, Ottawa)
- 27) Resolute Bay (interviewed at “A” Div. HQ, Ottawa)

Northwest Territories (G” Div.)

- 28) Yellowknife (interviewed at “A” Div. HQ, Ottawa)
- 29) Inuvik (interviewed at “A” Div. HQ, Ottawa)

***Subsample 3. Provincial police headquarters and detachments
(n=14)***

Ontario

- 1) Caledon detachment
- 2) Orillia detachment
- 3) West Parry Sound detachment (interviewed at OPP HQ, Orillia)
- 4) North Bay detachment (interviewed at OPP HQ, Orillia)
- 5) Noelville detachment (interviewed at OPP HQ, Orillia)
- 6) Almaguin Highlands detachment (interviewed at OPP HQ, Orillia)
- 7) Kenora detachment (interviewed at OPP HQ, Orillia)
- 8) Nipigon detachment (interviewed at OPP HQ, Orillia)
- 9) Greenstone detachment (interviewed at OPP HQ, Orillia)
- 10) Red Lake detachment (interviewed at OPP HQ, Orillia)
- 11) Fort Frances detachment (interviewed at OPP HQ, Orillia)
- 12) Dryden detachment (interviewed at OPP HQ, Orillia)

Newfoundland

- 13) RNC St. John's
- 14) RNC Corner Brook

Subsample 4. First Nations police services (n=3)

- 1) Stl'atl'imx (B.C.)
- 2) Kanasatake (Quebec)
- 3) Kahanawake (Quebec)

Subsample 5. Training facilities (n=2)

- 1) Justice Institute of B.C.
- 2) RCMP Training Facility, Regina ("Depot" Division)

Annex A-2 List of Interviewees

This list includes all interviewees who gave permission for their names to be used, and other people who provided background information. We are grateful to them for making this research study possible.

Sergeant Danielle Abel-Normandin (Police Communauté Urbaine de Montréal)
Corporal Lorne H. Adamitz (R.C.M.P. “K” Division)
Deputy Chief Bernie Allain (Bathurst City Police)
Sergeant C.C. (Chuck) Allingham (R.C.M.P. – Portage la Prairie)
Constable J.P.P. (Peter) Anctil (R.C.M.P. – Stony Plain)
Inspector Dan Anderson (Waterloo Regional Police)
Val Atkinson (Abbotsford Police Department)
Constable Bill Bakkan (Victoria Police Department)
Susan Ballangear (Victoria Police Department)
Staff Sergeant Bob Bangs (R.C.M.P. – Portage la Prairie)
Sergeant Charlie Bates (Victoria Police Department)
Chief Paul Battershill (Victoria Police Department)
Chief Jack Beaton (Calgary Police Service)
Constable H. Beauclair (O.P.P. – Kenora)
Superintendent Gary W. Beaulieu (Niagara Regional Police Service)
Det. Constable Karen Beuparlant (Toronto Police Service)
Investigator Bill Beiersdorfer (R.C.M.P.)
Sergent-superviseur Michel Bélisle (Ville de Mirabel Service de police)
Directeur Pierre Bernaquez (Ville de Mont-Tremblant Sécurité publique)
Chief Vince Bevan (Ottawa-Carleton Regional Police Service)
DéTECTIVE Dany Blouin (Régie de police de Memphrémagog)
Constable Manon Boisvert (Régie intermunicipale de police Vallée-du-Richelieu)
Constable Serge Boivin (Régie intermunicipale de police Saint-Jérôme métropolitain)
Corporal Stephane Bonin (R.C.M.P. “A” Division)
Constable J.W. (James) Bos (R.C.M.P. – Terrace)
Directeur Pierre Bourgeois (Régie intermunicipale de police Saint-Jérôme métropolitain)
Directeur Bernard Bousseau (Service de police de Mirabel)
Chief Rick Bowie (Prescott Police Service)
Staff Sergeant Jerome Brannagan (Windsor Police Service)
Corporal Robert W. Brossart (R.C.M.P. – Spruce Plains)
Staff Sergeant Scott Brown (Ottawa-Carleton Regional Police Service)
Corporal Gordon Brown (Saint John Police Force)
Special Constable Wayne Brown (City of North Battleford)
Constable Robert Brunette (Greater Grand Sudbury Police Service)
Constable D.R. (Darrel) Bruno R.C.M.P. – Hobbema)
Grant Bunker (British Columbia Ministry for Children and Families)
Corporal Reg Burgess (R.C.M.P. – Kelowna)

Deputy Chief Dale Burn (Calgary Police Service)
Constable Jennifer Caddell (Barrie Police Service)
Staff Sergeant Boyd D. Campbell (Winnipeg Police Service)
Sergent-déetective Donald Campeau (Police Communauté Urbaine de Montréal)
Constable Joe Cantelo (Rothesay Regional Police Force)
Det. Constable Stephen Canton (Niagara Regional Police Service)
Constable Howard G. Carey (Royal Newfoundland Constabulary)
Constable Maizy Carlson (O.P.P. – Almaguin Highlands)
Directeur Sylvain Caron (Ville de Sorel-Tracy Service de police)
Directeur Michel Carpentier (Service de police de Sherbrooke)
Capitaine André Castonguay (Service de police de la région Sherbrookoise)
Det. Constable Cates (Toronto Police Service)
Chief Noel P. Catney (Peel Regional Police)
Constable André Champagne (Ville de Mirabel Service de police)
Déetective Daniel Charest (Service de police de la région Sherbrookoise)
Dan Clattenburg (Ministry of Community and Social Services)
Constable Gary J. Clow (City of Charlottetown Police Department)
Chief C.E. Cogswell (Saint John Police Force)
Garth Coleman (O.P.P. – General Headquarters)
Chief Terry Coleman (Moose Jaw Police Service)
Constable T.J. Cooney (O.P.P. – Nipigon)
Directeur Yves Corbin (Sécurité publique de Rivière-du-Loup)
Inspecteur Michel Cousineau (Service de protection des citoyens de Laval)
Constable Phil Crouch (R.C.M.P. “A” Division)
Deputy Chief Brian Cunningham (Waterloo Regional Police)
Deputy Chief Tracy J. David (South Bruce-Grey Police Service)
Acting Inspector John A. Davidson (Abbotsford Police Department)
Inspector John De Haas (Vancouver Police Department)
Staff Sergeant Casey De Haas (New Westminster Police Service)
Uultsje De Jong (Abbotsford Restorative Justice and Advocacy Association)
Sergeant Doug Deacon (New Westminster Police Service)
Constable Bryan Dean (Guelph Police Service)
Chief Rick Deering (Royal Newfoundland Constabulary)
Inspector M.A. (Marlin) Degrand (R.C.M.P. – Terrace)
Staff Sergeant C.J. (Jim) Delnea (R.C.M.P. – Hope)
Superintendent John Dennis (Toronto Police Service)
Constable F.M. (Ferlin) Desjarlais R.C.M.P. – Hobbema)
Harj Dhami (Victoria Youth Empowerment Society)
Chief Peacekeeper John K. Diabo (Kahnawake Mohawk Peacekeepers)
Det. Constable Allan Dionne (Toronto Police Service)
Constable Yannick Dionne (Sécurité publique ville de Rivière-du-Loup)
Constable Luc Doherty (Régie de police de Memphrémagog)
Detective Barry Dolan (Peel Regional Police)

Det. Sergeant Mike Dougall (Peel Regional Police)
Constable Nathalie Drouin (Ville de Sainte-Julie Sécurité publique – Police)
Chief Ian Drummond (Summerside Police Department)
Lieutenant-déetective Marc Dubé (MRC des Collines-de-l’Outaouais Sécurité publique)
Superintendent Keith Duggan (Edmonton Police Service)
Superintendent Susan C. Dunn (O.P.P. – General Headquarters)
Detective Brian Eckensviller (Waterloo Regional Police)
Corporal Brian Edmonds (R.C.M.P. – Carcross)
Sergeant Pat Egan (R.C.M.P. – Whitehorse)
Inspector T.G. (Tonia) Enger (R.C.M.P. – Prince Rupert)
Det. Constable C. Ennis (Vancouver Police Department)
Superintendent Bill Evans (Winnipeg Police Service)
Sergeant E.J. (Ed) Eviston (Vancouver Police Department)
Staff Sergeant Jim Fair (Calgary Police Service)
Sergeant Dan Fantetti (LaSalle Police Service)
Chief Julian Fantino (Toronto Police Service)
Instructor Marianne G. Farmer (Justice Institute of British Columbia)
Staff Sergeant Ray Fast (R.C.M.P. – Whitehorse)
Inspector Len Favreau (Peel Regional Police)
Detective Marvin Fefchak (Abbotsford Police Department)
Sergeant Debbie Ferguson (Regina Police Service)
Capitaine André Fillion (Ville de Québec Service de police)
Constable Jovette Fillion (Service de protection des citoyens de Laval)
Staff Sergeant L.A. (Lee) Findlay (R.C.M.P. – Sherwood Park)
Constable René Fleury (Régie intermunicipale de police Roussillon)
Constable John Forster (Abbotsford Police Department)
Peter Frampton (Learning Enrichment Foundation)
Chief Wayne Frechette (Barrie Police Service)
Chief Rod Freeman (Orangeville Police Service)
Det. Constable R.W. (Bob) Fremlin (O.P.P. – West Parry Sound)
Chef de division Paul Fugère (Sûreté du Québec)
Sergeant R.A. (Bob) Furchner (O.P.P. – Noelville)
Sergeant Bob Gallop (R.C.M.P. – Hampton)
Constable Gary Gamberta (Essex Police Service)
Capitaine Alain Gariépy (Ville de Mirabel Service de police)
Agent de liaison Diane Gilbert (Ville de Mirabel Service de police)
Sergeant S.P. (Steve) Gleboff (R.C.M.P. “K” Division)
Constable M. Golding (O.P.P. – Fort Frances)
Sergeant Nancy Goodes (Hamilton Police Service)
Deputy Chief Cameron Graber (LaSalle Police Service)
Constable Lisa Graham (O.P.P. – Orillia)
Chief Superintendent J.H. (Jamie) Graham (R.C.M.P. – Surrey)
Chief Larry Gravill (Waterloo Regional Police)

Corporal David Gray (R.C.M.P. “A” Division)
Deputy Chief Dave Griffin (Summerside Police Department)
Inspector Gordon Gummer (Victoria Police Department)
Constable J.W.Q. (Jared) Hall (R.C.M.P. – Portage la Prairie)
Constable Grant Hamilton (Victoria Police Department)
Det. Constable Hammond (Toronto Police Service)
Instructor Robert Harding (Winnipeg Police Service)
Constable Shannon Hartenberger (Saskatoon Police Service)
Corporal Nick Hartle (R.C.M.P. – Warman)
Constable Alex Hasham (Edmonton Police Service)
Constable G.D. (Gord) Hay (R.C.M.P. – Neepawa)
Chief Ambrose J. Heighton (Stellarton Police)
Sergeant S. Lee Henderson (Truro Police Service)
Constable Mary Henderson (Rothesay Regional Police Force)
Sergeant Mike Herman (Winnipeg Police Service)
Constable Richard Hickox (Truro Police Service)
Constable Linda Hilborn (Toronto Police Service)
Constable Rob Hlebec (O.P.P. – Caledon)
Detective Lisa J. Hodgins (Toronto Police Service)
Constable Carl Horn (Kahnawake Mohawk Peacekeepers)
Constable Mark Houle (Edmonton Police Service)
Christine Hudy (R.C.M.P. “Depot” Division)
Corporal Jeff Hurry (R.C.M.P. “A” Division)
Sergeant I.S. (Irv) Inglemart (R.C.M.P. – Stony Plain)
Inspector Jeremy Irons (Vancouver Police Department)
Constable Greg Irvine (R.C.M.P. – Sherwood Park)
Det. Sergeant Steve Izzett (Toronto Police Service)
Constable Don James (O.P.P. – Orillia)
Constable Joe James (Orangeville Police Service)
Chief Doug Jelly (New Liskeard Police)
Chief Cal Johnston (Regina Police Service)
Sergent Jean Joly (Service de protection des citoyens de Laval)
Staff Sergeant C.L. (Chris) Kaiser (R.C.M.P. – Battlefords)
Constable Ed Kaminski (Ottawa-Carleton Regional Police Service)
Constable Ellen Kartio-Archibald (R.C.M.P. – Battlefords)
Rick Kayes (Community Justice Forum of New Liskeard)
Constable Linda Kennedy (O.P.P. – Caledon)
Constable Steve Kern (Abbotsford Police Department)
Senior Constable Terry King (O.P.P. – West Parry Sound)
Constable Julian Knight (New Westminster Police Service)
Terry Kopan (R.C.M.P. – Surrey)
Corporal Anthony Kubanowski (Regina Police Service)
Det. Sergeant Dave Kuzina (Victoria Police Department)

Deputy Chief Armand Labarge (York Regional Police)
Superintendent Richard Lafortune (Ottawa-Carleton Regional Police Service)
Constable Lisa Lafreniere (Saskatoon Police Service)
Mark LaLonde (Justice Institute of British Columbia)
Directeur Daniel Langlais (Service de police de Québec)
Sue Larkin (Windsor Police Service)
Inspector Dale M. Larsen (Moose Jaw Police Service)
Constable Terry Lashar (Vancouver Police Department)
Sergent-déetective Enrick Laufer (Service de protection des citoyens de Laval)
Deputy Chief Ron Laverty (Cornwall Police Service)
Program Coordinator Shane Leathem (Justice Institute of British Columbia)
Directeur Benjamin Leclair (Régie intermunicipale de police de Vallée-du-Richelieu)
Enquêteur Germain Leclerc (Régie intermunicipale de police Roussillon)
Constable Shawn Lemay (R.C.M.P. – Whitehorse)
Chief John Leontowicz (LaSalle Police Service)
Enquêteur Benoît Lévesque (Sécurité publique ville de Rivière-du-Loup)
Inspector G.W. (Gerry) Locke (R.C.M.P. District Commander – Hampton)
C. Louise Logue (Ottawa-Carleton Regional Police Service)
Constable Darrel Long (Royal Newfoundland Constabulary)
Sergeant Dan Longpré (Ottawa-Carleton Regional Police Service)
Constable Norbert Losier (Bathurst City Police)
Det. Constable Shannen Lough (Niagara Regional Police Service)
Constable Heather Macdonald (R.C.M.P. – Kelowna)
Chief Mackenzie (Abbotsford Police Department)
Chief Ken C. MacLean (Truro Police Service)
Charles MacPherson (Youth Intervention Outreach Program – Charlottetown)
Constable L. Maksymchuk (O.P.P. – Red Lake)
Kevin Malloy (Cornwall Police Service)
Det. Constable Phil Mann (South Bruce-Grey Police Service)
Det. Constable Roger Marchack (Toronto Police Service)
Julie Marcoux (R.C.M.P. – Surrey)
Sergeant Mitch Martin (Durham Regional Police Service)
Chief Peacekeeper Georges Martin (Kanasatake Mohawk Peacekeepers)
Sergeant Tom Matthews (Waterloo Regional Police)
Sergeant Joseph J. Matthews (Niagara Regional Police Service)
Chief Kevin McAlpine (Durham Regional Police Service)
Chief Alex McCauley (Greater Grand Sudbury Police Service) (Retired)
Instructor Keiron R. McConnell (Justice Institute of British Columbia)
Constable Dave McConnell (Hamilton Police Service)
Constable Richard McDonald (Halifax Regional Police)
Constable Jack McFarland (Hamilton Police Service)
Sergeant David R. McGrath (Stellarton Police)
Staff Sergeant Noel McIntee (R.C.M.P. – Barrhead)

Chief Stephen N. McIntyre (Rothesay Regional Police Force)
Chief David McKinnon (Halifax Regional Police)
Chief Terry McLaren Peterborough Lakefields Community Police Service)
Staff Sergeant Scott J. McLean (Niagara Regional Police Service)
Inspector Brian McLeod (R.C.M.P. – Sherwood Park)
Susan McMullen (Windsor Police Service)
Superintendent Chris McNeil (Halifax Regional Police)
Constable Derek McNeilly (Guelph Police Service)
Constable Helen Meinzinger (R.C.M.P. – Fort Saskatchewan)
Deputy Chief Chuck Mercier (Durham Regional Police Service)
Directeur Adrien Mercier (Régie de police de Memphrémagog)
Inspector Debbie Middleton-Hope (Calgary Police Service)
Heather Miller (Saskatchewan Social Services)
Sergeant Bob Miller (R.C.M.P. “Depot” Division)
Constable John Allen Minke (South Bruce-Grey Police Service)
Sergent Francois Monetta (Ville de Sorel-Tracy Service de police)
Capitaine James Montgomery (Régie intermunicipale de police Vallée-du-Richelieu)
Deputy Chief Donna L. Moody (Niagara Regional Police Service)
Constable Jarrett Morgan (Halifax Regional Police)
Sergent Danny Morillon (Ville de Québec Service de police)
Directeur Pierre Morin (Régie intermunicipale de police Roussillon)
Capitaine Denis Morneau (Ville de Sorel-Tracy Service de police)
Constable Rick Morris (Winnipeg Police Service)
Staff Sergeant Paul Murdock (Greater Grand Sudbury Police Service)
Detective Sherri Murphy (Cornwall Police Service)
Constable Guy Nadeau (Ville de Sorel-Tracy Service de police)
Chief Gary E. Nicholls (Niagara Regional Police Service)
Deputy Chief Sue O’Sullivan (Ottawa-Carleton Regional Police Service)
Sergeant James Oakes (Ottawa-Carleton Regional Police Service)
Corporal Wayne Oakes (R.C.M.P. – Barrhead)
Staff Sergeant R.E. (Ron) Obodzinski (R.C.M.P. – Spruce Plains)
Inspector J.L.C. (Chuck) Orem (R.C.M.P. “F” Division)
Det. Constable Jocelyn Ouellette (Bathurst City Police)
Deputy Chief E. Stephen Palmer (Rothesay Regional Police Force)
Arden Parent (Windsor Police Service)
Constable Samantha Parker (Edmonton Police Service)
Staff Supt. Daniel C. Parkinson (Peel Regional Police)
Constable Lester Parsons (Royal Newfoundland Constabulary)
Sergeant Bob Patterson (O.P.P. – Caledon)
DéTECTIVE Martin Pelletier (Régie intermunicipale de police Saint-Jérôme métropolitain)
Chief G.H. (Greg) Pigeon (Essex Police Service)
Inspector Barry Pike (Royal Newfoundland Constabulary)
Capitaine Pierre Pilon (Régie intermunicipale de police Saint-Jérôme métropolitain)

Staff Sergeant Steve Pilote (Winnipeg Police Service)
Chief Dennis W. Player (South Bruce-Grey Police Service)
Sergent Réjean Pleau (Ville de Québec Service de police)
Directeur Jacques Poire (Régie intermunicipale de police de Roussillon)
Constable J.O.R. (Bob) Poitras (R.C.M.P. – Hampton)
Inspector Gerry Pope (Greater Grand Sudbury Police Service)
Acting Staff Sergeant Larry Proctor (O.P.P. – General Headquarters)
Constable Dean Puali (O.P.P. – Warren)
Corporal Frank Pualicelli (R.C.M.P. – Surrey)
Constable Randy M. Quinn (R.C.M.P. – Hampton)
Inspector Brian Refvik (Calgary Police Service)
Constable Christine E. Reid (O.P.P. – Orillia)
Acting Inspector Bill Reid (Saint John Police)
Instructor Colin Renkema (Justice Institute of British Columbia)
Detective Norm Renwick (Moose Jaw Police Service)
Chief A. Repa (Cornwall Police Service)
Constable Murray Rice (Moose Jaw Police Service)
Chef de service Guy Richard (Police Communauté Urbaine de Montréal)
Chief Kenneth Robertson (Hamilton Police Service)
Constable Gary Rogers (Halifax Regional Police)
Constable Lindsay Rogers (Summerside Police Department)
Constable J.J.M. (Michel) Ross (R.C.M.P. – St. Albert)
Sergeant Cathy Ross (New Westminster Police Service)
Patrol Sergeant Doug Roxburgh (Winnipeg Police Service)
Inspector Paul Roy (Ottawa-Carleton Regional Police Service)
Constable Dean Roy (Durham Regional Police Service)
Capitaine Guy Roy (Régie de police de Memphrémagog)
Sergeant Bill Russell (Toronto Police Service)
Chief Russell L. Sabo (Saskatoon Police Service)
Constable J.M. Sabourin (O.P.P. – Greenstone)
Sergeant Atallah Sadaka (Ottawa-Carleton Regional Police Service)
Constable Charity Sampson (R.C.M.P. – North Battleford)
Directeur Pierre Sangollo (Ville de Sainte-Julie Sécurité publique – Police)
Directeur Michel Sarrazin (Police Communauté Urbaine de Montréal)
Det. Sergeant/Acting Staff Sergeant Gregory P. Sartor (Niagara Regional Police Service)
Det. Sergeant Dave Saunders (Toronto Police Service)
Inspector Steve Schnitzer (Vancouver Police Department)
Sergeant Darrell A. Scribner (Saint John Police Force)
Sergent Normand Séguin (Police Communauté Urbaine de Montréal)
Inspector George Shillaker (R.C.M.P. – St. Albert)
Inspector Ted Shinbein (Vancouver Police Department)
Constable Caroline Simmonds (R.C.M.P. – Sherwood Park)
Inspector Brian Simpson (R.C.M.P. – Wetaskiwin, Hobbema)

Inspector Ab Singleton (Royal Newfoundland Constabulary)
Constable J. Singleton (O.P.P. – Dryden Ignace)
Al Sismey (R.C.M.P. – Penticton)
Detective Pamela Smith (Windsor Police Service)
Chief A. Paul Smith (City of Charlottetown Police Department)
Detective Tom Snelling (Peel Regional Police)
Inspector Darryl Snyder (Windsor Police Service)
Detective Bill Soules (Toronto Police Service)
Chief Glenn Stannard (Windsor Police Service)
Detective Troy Stasiuk (Vancouver Police Department)
Sergeant Cam Stauffer (Waterloo Regional Police)
Constable Allison Stephanson (Winnipeg Police Service)
Det. Constable Linda Stewart (Vancouver Police Department)
Detective Rick Stewart (Edmonton Police Service)
Constable Dean Stienburg (Halifax Regional Police)
Directeur adjoint Denis St-Jean (MRC des Collines-de-l’Outaouais Sécurité publique)
Assistant Commissioner W.M. Sweeney (R.C.M.P. “K” Division)
Constable Kathy Szoboticsanec (Vancouver Police Department)
Michael Taylor (Operation Springboard)
Staff Sergeant Nick Taylor (R.C.M.P. – Fort Saskatchewan)
Sergeant Brian D. Thiessen (Abbotsford Police Department)
Executive Officer Brent Thomlison (Waterloo Regional Police)
Constable Scott Thompson (Regina Police Service)
Constable Jennifer Thorson (Toronto Police Service)
Sergeant Derek G. Tilley (Royal Newfoundland Constabulary)
Commandant Réjean Toutant (Police Communauté Urbaine de Montréal)
Staff Sergeant Bruce Townley (Durham Regional Police Service)
Sergeant Peter R. Tremblay (Bathurst City Police)
Sergent Pierre Tremblay (Ville de Sainte-Julie Sécurité publique – Police)
DéTECTIVE Patrick Trépanier (Ville de Sainte-Julie Sécurité publique – Police)
Inspector Mike Trump (Justice Institute of British Columbia)
Det. Constable Cathy Uskin (Niagara Regional Police Service)
Capitaine Thierry Vallières (MRC des Collines-de-l’Outaouais Sécurité publique)
Deputy Chief Geoff Varley (Victoria Police Department)
Staff Sergeant Tim Vatamaniuk (R.C.M.P. – Stony Plain)
Inspector Chuck Walker (R.C.M.P.)
Melissa Wall (Saskatchewan Social Services)
Sergeant Cheryl Wallin (Edmonton Police Service)
Constable Angela Walsh (Calgary Police Service)
Chief Bob Wasylyshen (Edmonton Police Service)
Diane Wilkins (Greater Grand Sudbury Police Service)
Dawn Wilkonson (Central Okanagan Boys and Girls Club)
Corporal B.E. (Ben) Wilkowski (R.C.M.P. – Fort Saskatchewan)

Sergeant Jeff Wilks (Edmonton Police Service)
Constable D.A. (Derek) Williams (R.C.M.P. – Prince Rupert)
Susan Wilms (Abbotsford Police Department)
Sergeant Jim Wright (LaSalle Police Service)
Constable Bryan Young (Peel Regional Police)
Chief W.L. Zapotichny (New Westminster Police Service)
Constable Rick Zeibots (O.P.P. – Caledon)
Constable R.M. (Ray) Zillich (R.C.M.P. – Warman)
Constable Dennis Zivolak (Hamilton Police Service)

Annex A-3. Introductory Letter and Project Summary

POLICE DISCRETION WITH YOUNG OFFENDERS

This project was commissioned by the Youth Justice Policy Branch of the Department of Justice Canada as part of the preparation for the implementation of the Youth Criminal Justice Act. It has two objectives:

- To provide a comprehensive description of the ways in which police across Canada deal with youth crime under the Young Offenders Act. This will be used as baseline information, for comparison with the results of a replication of the study, done after the YCJA has been in force for a few years, in order to assess the impact of the YCJA on police work with young offenders.
- To provide information which can inform decision-making by Justice Canada concerning the allocation of resources to support the implementation of new measures in the YCJA.

We believe this study will benefit police in Canada in at least two ways, in addition to the objectives stated above:

- Police services will be able to use the report from this project as a benchmark against which to compare their own approach to youth crime;
- By providing information to the study, police services will be able to influence decision-making concerning aspects of the implementation of the YCJA that relate to their work.

We are particularly interested in assessing the factors which influence two decisions: how young offender cases are cleared (by charge, by referral to alternative measures, or informally); and whether youth who are charged are held in detention. Of course, we are aware that these decisions are not made by police alone, but our mandate is to examine the role of police in these decisions.

Our review of previous research on this subject has led us to define the scope of possible factors very broadly: from the environment in which a police service operates, including federal and provincial legislation and programs, and the nature of the community being policed, through the internal organizational structure, policies and procedures of the police service, to decision-making by the front-line officer. These are the main topics which we plan to cover:

Environment

- The type of community being policed
- The impact of provisions of the YOA and any other relevant legislation
- External resources, such as provincial, municipal, and private agencies and programs

Organizational structure

- Overall goals and mandate, approach to policing
- Specialization re youth crime (Youth Bureau, specialist officers, etc.)
- Who has authority/responsibility to lay charges?
- Training

Organizational processes

- Are there specific policies/protocols for dealing with young persons?
- Investigation – how typical scenarios are handled (victim/witness reports completed incident; victim/witness reports incident in progress, etc.)
- Clearing – by charge/refer to alternative measures/informal means
- Compelling attendance at court: use of detention/release/appearance notice/summons/etc.
- The impact of the circumstances of the incident and offender characteristics on the decisions re clearing and compelling attendance
- Recording practices and how they impact on the accuracy of UCR data

Our main source of information will be interviews with police services. We will also analyze statistical data on communities and crime trends, and on young offender cases provided by Canadian Centre for Justice Statistics from the UCR2 Survey, and, if possible, from a sample of police services which do not contribute to the UCR2. We will try to interview a sample of police forces which is representative of the variety of policing environments and organizations in Canada: the regions, communities of different sizes, and the various policing arrangements: independent municipal, contract municipal, provincial, etc.

For each police service which we interview, we would like, if possible, to talk with someone in senior management, who can answer questions about the environment in which the service operates, and its overall structure, policies, and procedures; and also with one or two front-line officers, preferably who specialize in young offender cases. In

addition, in the case of police services with a Youth Bureau, we would like to interview someone in a management position in the Youth Bureau. Each of these interviews should take no more than an hour. We would also like, if possible, to arrange a ride-along with an officer who deals with young offenders, in order to observe decision-making firsthand. We would also appreciate being provided with copies of documents which concern the handling of young offender cases, such as any procedural guidelines.

Of course, it is entirely up to each participating police service, and each officer being interviewed, to decide what questions they choose to answer, and what documents they provide.

For further information, please contact the undersigned at 519-743-0214 or by email at pjcco@sympatico.ca; or the Project Authority for Justice Canada, Jharna Chatterjee, at 613-954-3591 or by email at JChatter@justice.gc.ca.

Sincerely,
Peter Carrington, PhD
Principal Investigator

Annex A-4. Confidentiality Protocol

POLICE DISCRETION WITH YOUNG OFFENDERS

INTERVIEWS AND DOCUMENTS: CONFIDENTIALITY PROTOCOL

Our arrangements to protect the privacy of participants in this research are based on three premises:

- The research is being done under contract to the Department of Justice Canada, which, under the terms of the contract, will hold copyright on any reports written in connection with the research.
- It is the expressed intention of Justice Canada to release the final report publicly.
- Participation in the research, whether by organizations or individuals, is entirely voluntary.

We have adopted the following measures to protect the privacy of individuals and police services:

- No information on identifiable young persons will be recorded or collected, and no information which might identify a young person will be included in any of our reports.
- We recognize that most internal police documents which are provided to us, although they are not necessarily identified as confidential, are not intended for public release. Therefore, we will not reveal their contents to anyone outside our research staff, or reproduce them or quote from them in our reports, without first obtaining the written permission of the police service which provided them.
- No individual will be referenced in our reports, except that: each individual who provides information to us will be acknowledged in an appendix to the Final Report, provided that s/he has given consent to being so acknowledged. In the case of police services for which only one or two individuals provided information, such acknowledgment could conceivably lead to a reader of the report being able to deduce the identity of the person who provided the information. In such cases, individuals who wish to protect their identities should request that they not be acknowledged.

Interviews will be tape recorded, with the consent of the person(s) being interviewed. Tape recording is very important to the integrity of the research, for two reasons:

- A transcript of a tape recorded interview is infinitely more accurate than the interviewer's recollections.
- The interviewer cannot successfully conduct an interview while simultaneously trying to take notes.

In addition to the protections listed above, the identities of individuals and police services participating in tape recorded interviews will be further protected by the following measures:

- The person being interviewed may, at any time during the interview, require that the tape recorder be turned off temporarily, in order to provide confidential background information.
- The contents of the interviews will not be revealed to anyone outside our research staff, except as part of our reports, and under the conditions listed above to protect the privacy of individuals and police services.
- As far as possible, the person(s) being interviewed, and the police service to which s/he belongs, will not be identified in the tape recording. Taped interviews will be identified only by code numbers, and a key connecting the code numbers to individuals and police services will be kept in secure locked storage separately from the tapes and transcripts. Nevertheless, we recognize that there is some possibility that the name of the police service may come up during the interview.
- Tapes, transcripts, and the key connecting taped interviews and individuals' names, will always be kept in secure, locked storage.

Any member of our research staff who has access to the documentary information, tapes, transcripts, or the interview identity information, will be required to agree in writing to the provisions of this Confidentiality Protocol.

For further information, please contact the undersigned at 519-743-0214 or by email at pjcco@sympatico.ca; or the Project Authority for Justice Canada, Jharna Chatterjee, at 613-954-3591 or by email at JChatter@justice.gc.ca.

Peter Carrington, PhD
Principal Investigator

Annex A-5. Interview schedule (English)

Preamble

- any Q's re project?
 - Permission to include their name in the acknowledgments
 - Tape recording of the interview
 - The respondents may turn the recorder off at any time during the interview if they would prefer to answer the question off the record.
 - Confidentiality is ensured as no statements will be directly quoted (referenced to their names)
 - Exchange business cards or confirm rank and spelling of last name

A. UPPER MANAGEMENT

Introduction – (if appropriate) – length of service, previous police services/postings, current responsibilities

Environment – The Nature of the Community

- 1) How would you describe the socio-demographic characteristics of the community(s) you police?
 - a. Poor/wealthy
 - b. Young/old
 - c. Ethnically diverse/homogenous
 - d. Stable/transient/immigrant
- 2) What is the typical level and type of crime (and youth crime) in these communities?

Structure – Management Style

- 3) What types of crime prevention initiatives get delivered that address youth?
 - a. Primary (general)
 - b. Secondary (targeted at high risk groups)
 - c. Tertiary (targeted at identified offenders)
- 4) Can you describe some examples of 'problem oriented policing' within your department that target youth?

Structure – Training

- 5) What types of training help prepare officers for handling youth crime?
 - a. Academy?
 - b. Internal training opportunities?

6) What types of training do you feel would help officers who are working with youth?

Process – Organization

7) Have there been any major changes in this police service's approach to youth crime in the past 15 years since the YOA came into effect?
a. If so, what were the reasons (YOA, budget cuts, other?)?

Structure – Documentation

- During *upper management interview* ask for relevant documentation (and/or confirmations).
- Confirm
 - o Overall strength of force (# of officers)
 - o Rank structure
 - o Approximately how many officers in each rank

B. GENERAL INTERVIEW SCHEDULE

Introduction – (if appropriate) – length of service, previous police services/postings, current responsibilities

Structure – Training

- 8) What type of training have you had that has prepared you to handle youth crime?
a. Academy?
b. Internal training opportunities?
- 9) Do you feel the amount and type of training you received was adequate to prepare you for working with youth?
- 10) What types of training do you feel would help officers who are working with youth?
- 11) How have your previous experiences shaped the way you handle incidents involving youth?
a. Practical field experience
b. Mentors and advice
- 12) Is there any mechanism in place where officers can share these experiences?
a. Successful diversion programs
b. The programs best suited for certain types of crime
c. Decision making processes

Structure – Management Style

- 13) Can you describe some examples of ‘problem oriented policing’ within your department that targets youth?
- 14) Do you find support exists within your working environment for community policing?
- a. Seeking informal alternatives
 - b. Promotion indicators

Process – Organization

- 15) Are there any internal policies or protocols when dealing with young persons? Do you find them helpful?
- 16) Would you characterize your work with youth as proactive or reactive?
- a. What do you feel is ideal?
 - b. What is actually happening?
 - c. Community policing?

Process – Investigation

Youth Detectives/Youth Bureau officers:

- 17) At what point in the investigation does an incident become a youth detective/bureau matter?
- 18) What criteria do patrol officers use in deciding whether to refer a case to your attention?

All Officers:

- 19) In what ways do you generally become aware of youth related incidents?
- a. Victim/witness reports incident (in progress/completed)
 - b. Police discover completed incident (e.g. evidence of break in during patrol)
 - c. Police discover incident in progress
 - d. Other system agents report incident to police (e.g. probation breach)

- 20) Could you take me through the process involved in a typical youth related incident, from dispatch putting out the call, all the way to the case going to court, or being disposed of in some other way?
- 21) How much information on youth suspects is available to you?
- Prior convictions
 - Prior AMs, diversion
 - Prior contacts
- 22) How are administration of justice cases handled by the system?
- Fail to appear
 - Bail violations
 - Violations of probation or community service order conditions
 - Unlawfully at large
- 23) How do they come to your attention?
- 24) How much discretion do you have in these cases regarding charging?
- 25) Are provincial offences handled any differently?
- 26) How much of your caseload involves provincial offences?

Process – Clearing the Incident

- 27) What options are available to you to clear an incident?
- 28) Who has the authority to lay a charge? Does this differ by type of offence?

WITH MIDDLE LEVEL OFFICERS – JUMP TO #38

(Frontline officers:)

- 29) If you decide to take informal action what options are available to you and how do you choose among them? (*Look out for pre-charge diversion*)
- Informal warning (no record / with record)
 - Formal warning (with record)
 - Parental involvement
 - Taking the youth home or to the police station
 - Questioning the youth at the scene or at the police station
 - Referrals to external agencies (e.g. Social Services, Child Welfare)
 - Referrals to internal (police-operated) programs
 - Other?

30) What programs are available in the community for youth diversion? (*Look out for post-charge diversion.*)

31) Do you find them effective?

32) Do you receive any feedback on the case if the youth went through Alternative Measures (diversion)?

a. Is this information that would help your decision making processes?

Process – Incident and Offender Characteristics

33) In what ways do the characteristics of the offence influence your decision to lay charges, use AM, or informal diversion? (*This may need explaining – for the subject, it may be an overall judgment, not reference to a list of criteria*)

- a. Seriousness (type of offence)
 - i. Presence and type of weapon
 - ii. Harm done (injury, amount of loss/damage to property)
- b. Victim / Complainant preference
 - i. Type of relationship between offender and victim
- c. Group vs. lone offender
 - i. Age of co-offenders
 - ii. Number of co-offenders
- d. Use of alcohol / drugs
- e. Location and time of day

34) Are there any offences which almost always result in (a) handling the case informally (b) charge, or (c) diversion?

35) In what ways do the characteristics of the young person influence your decision to lay charges, use AM (diversion), or informal action?

- a. Prior record
 - i. Conviction
 - ii. AM
 - iii. Contact
- b. Age
- c. Gender
- d. Race???? (play this variable by ear) ~ try ‘native, aboriginal’
- e. Attitude
- f. Home / School / Work situations
- g. Peer group / gang affiliations
 - i. How would you define a gang related incident?

I have a couple of questions about arrest and the methods of compelling attendance at court, when charges are laid:

36) How do you decide whether to arrest a young offender?

37) If you don't arrest, would you use an Appearance Notice or a Summons? (If either, under what circumstances?)

(Resume middle level officer interview here)

38) If the youth is arrested and charged, what methods are used to use to compel attendance at youth court – and how do you choose among these methods?

- i. Detain for bail hearing?
- ii. Release with:
 1. Promise to Appear, no conditions?
 2. OIC Undertaking - any conditions? (curfew?)
 3. both PTA and OIC Undertaking?
 4. Recognizance?

39) Are there any offences which almost always result in:

- a. Arrest and detention
- b. Use of an Appearance Notice

40) Which methods of handling youth crime do you perceive as having 'meaningful consequences' for the young person?

41) Is there anything else (besides what we have already covered) that you take into account in assessing the seriousness of a crime and what actions to take?

Environment – Legislation

I have a few questions specifically about the Young Offenders Act:

42) How does the Young Offenders Act impact on the day-to-day handling of youth crime?

- a. Declaration of Principle
- b. Alternative Measures/Diversion provisions
- c. Legal counsel provisions
- d. Taking statements provisions
- e. Notifying the parents
- f. Other provisions?

- g. Other federal legislation (C.C., Bail Reform Act, etc.)
- h. Provincial legislation/practice (e.g. Youth Protection Act, Crown charging)

43) *For any subsections not covered in the previous section:* What are your perceptions of...?

44) In your opinion, does the YOA help or hinder handling youth crime? If so, in what way?

Process – Recording Practices

45) How do you decide whether to record an incident or not?

(skip #46 and #47 unless Records staff)

46) If you are reporting an incident which involves multiple offenders, how do you decide whether to include each offender?

47) Do all of the incidents that you encounter get reported in the UCR? (all occurrence reports?)

48) Is there a method of formal or informal internal tracking of persistent young offenders? If so, what criteria?

49) Is there a procedure in place to record AM dispositions so that youth who have had AM don't appear to be first time offenders?

50) Is there a procedure in place to record informal dealings with apprehended youth?

51) How effective do you think these recording practices are?

52) Are there any types of information that you feel would be useful to record in helping you handle youth crime?

53) Finally, are there any difficulties that you encounter in the day to day handling of youth crime which we haven't covered?

THANK YOU

Annex A-6. Interview schedule (French)

Préliminaires

- Permission d'inclure leurs noms dans les remerciements
- Enregistrement sur cassette audio de l'entrevue
 - les personnes peuvent fermer l'enregistreuse à tout moment durant l'entrevue s'ils préfèrent répondre à une question en toute confidentialité
- confirmer le grade et l'orthographe du nom de famille (échange de cartes d'affaires)
- confidentialité assurée car aucune mention directe d'une déclaration ne sera faite (aucune référence à leurs noms)

A. HAUTE DIRECTION

Milieu – Le genre de communauté

1. Quels sont les caractéristiques socio-économiques de la communauté que vous desservez?
 - a. Démunie/à l'aise
 - b. Jeune/âgée
 - c. Diversifiée d'un point de vue ethnique/homogène
 - d. Stable/de passage/immigrante
2. Quels sont les taux moyens et le genre de délits commis dans cette communauté?

Structure – Style de gestion

3. Quelles sortes d'initiatives de prévention de la criminalité mises en œuvre s'adressent aux jeunes?
 - a. Primaire (tous les jeunes, pas nécessairement des contrevenants : ex. prévention dans les salles de classe)
 - b. Secondaire (les jeunes agressifs à l'école : référés par l'école, jeunes à haut risque)
 - c. Tertiaire (après déclaration de culpabilité, soit par admission ou après procès)
4. Pouvez-vous donner des exemples à l'intérieur de votre service de méthodes axées sur des problèmes qui ciblent les jeunes?

Structure – Formation

5. Quels genres de formation préparent les policiers à traiter de la criminalité des jeunes?
 - a. école nationale?
 - b. possibilités de formation à l'interne?
6. Quels genres de formation, à votre avis, aideraient les policiers qui travaillent avec les jeunes?

Processus – Organisation

7. Y-a-t-il eu des changements majeurs dans l'approche de ce service face à la criminalité des jeunes ces 15 dernières années depuis que la LJC est entrée en vigueur?
 - a. Si oui, quels en sont les motifs (LJC, coupures budgétaires, autre?)?

Structure – Documentation

- pendant la *rencontre avec la haute direction*, demander la documentation pertinente (et/ou des confirmations).
- Confirmer :
 - . Aptitude générale du service (nombre de policiers)
 - . Structure des grades
 - . Nombre approximatif de policiers de chaque grade

B. APERÇU GÉNÉRAL DU DÉROULEMENT DES ENTREVUES

Structure - Style de gestion

8. Pouvez-vous donner des exemples à l'intérieur du service de méthodes axées sur des problèmes qui ciblent les jeunes?
9. D'après vous, y-a-t-il un soutien dans votre milieu de travail pour une approche communautaire au maintien de l'ordre?
 - a. dans la recherche de mesures informelles
 - b. facteur considéré pour les promotions

Structure – Formation

10. Quel genre de formation vous a préparé pour faire face à la criminalité des jeunes?
 - a. école nationale?

- b. possibilités de formation à l'interne?
11. D'après vous, est-ce que le genre et l'importance (fréquence) de formation que vous avez reçue ont été suffisants pour vous préparer à travailler avec les jeunes?
 12. D'après vous, quels genres de formation aideraient les policiers qui travaillent avec les jeunes?
 13. Comment vos expériences antérieures ont-elles influencé la façon dont vous répondez aux événements qui concernent les jeunes?
 - a. expérience pratique sur le terrain
 - b. mentors et conseils
 14. Y-a-t-il un mécanisme en place par lequel les policiers peuvent partager ces expériences?
 - a. programmes efficaces de diversion
 - b. les programmes les mieux adaptés pour certains genres de crimes
 - c. processus de prise de décision

Milieu - Législation

15. Comment la Loi sur les jeunes contrevenants influence-t-elle votre façon de faire face à la criminalité des jeunes sur une base quotidienne?
 - a. déclaration de principe
 - b. mesures de rechange/dispositions de diversion
 - c. dispositions concernant la représentation par un avocat
 - d. dispositions concernant la prise de déclaration
 - e. avis aux parents
 - f. autres dispositions?
 - g. autres lois fédérales (code criminel,..)
 - h. lois provinciales/usages (ex. Loi sur la protection de la jeunesse, code de procédure pénale, procureurs de la couronne portant accusation)
16. *Pour toute sous-section non traitée par la section précédente* : Que pensez-vous de...?
17. D'après vous, est-ce que la LJC aide ou nuit au traitement de la criminalité des jeunes? Si oui, de quelle façon?

Processus – Organisation

18. Avez-vous des directives ou protocoles à l'interne pour faire face à la criminalité des jeunes? Les trouvez-vous utiles?

19. Est-ce que vous qualifieriez votre travail avec les jeunes de proactif ou de réactif?
 - a. D'après vous, que serait l'idéal?
 - b. Que se passe-t-il réellement?
 - c. Police communautaire?

Processus – Enquête

20. À quel moment d'une enquête un évènement relève-t-il d'un agent de la jeunesse/ de la section de la jeunesse?
21. Quels critères sont utilisés pour décider de référer un dossier à votre attention?

Tous les policiers

22. De quelles façons êtes-vous généralement avisés d'évènements concernant les jeunes?
 - a. rapports d'évènements de victime/témoin (en cours/terminé)
 - b. la police trouve un évènement terminé (ex. preuve d'effraction durant une patrouille)
 - c. la police arrive lors d'un évènement en cours
 - d. d'autres intervenants du système rapportent un évènement à la police (ex. bris de condition)
23. Est-ce que la façon dont vous devenez au courant d'un évènement influence la façon dont vous réagissez?
24. Pouvez-vous me décrire le processus impliqué lors d'un évènement typique concernant les jeunes (arrivée sur les lieux, et puis...)?
25. Quels renseignements sur le suspect vous sont disponibles sur les lieux?
 - a. condamnations antérieures
 - b. mesures de rechange antérieures, diversions
 - c. contacts antérieurs (informels)
26. Comment sont traités par le système les dossiers d'administration de la justice?
 - a. défaut de comparaître
 - b. bris de condition de cautionnement
 - c. bris de libération conditionnelle ou d'ordonnance de travaux communautaires
 - d. en liberté illégalement
27. Comment sont-ils portés à votre attention?

28. Dans ces dossiers, quelle discrétion avez-vous pour porter une accusation?
29. Est-ce que les infractions de juridiction provinciale sont traitées différemment?
30. Quelle proportion de vos dossiers concerne des infractions de juridiction provinciale?

Processus – Traitement de l'évènement

31. Quelles possibilités vous sont disponibles pour traiter d'un évènement?
32. Qui a l'autorité pour porter ou recommander de porter une accusation? La nature du délit influence-t-elle ceci?
33. Si vous décidez de prendre des mesures informelles, quelles possibilités vous sont disponibles et comment choisissez-vous parmi elles?
 - a. avertissement informel(sans rapport/avec rapport)
 - b. avertissement formel (avec rapport)
 - c. participation des parents
 - d. ramener le jeune à la maison ou au poste
 - e. interrogatoire du jeune sur les lieux ou au poste
 - f. renvoi à des agences externes (ex. DPJ)
 - g. renvoi à des programmes internes (gérés par la police)
 - h. autre?
34. Quels programmes sont disponibles dans la communauté pour la diversion des jeunes?
35. Les trouvez-vous efficaces?
36. Êtes-vous tenus au courant du dossier si le jeune est soumis à des mesures de rechange?
 - a. ces renseignements influenceraient-ils la façon dont vous prenez une décision?

Processus – Circonstances de l'évènement et caractéristiques du contrevenant

37. De quelle façon les circonstances du délit influencent votre décision de porter ou de recommander de porter une accusation, de recommander le renvoi à des mesures de rechange ou d'une diversion informelle?
 - a. gravité (nature du délit)
 - i. possession d'une arme et genre

- ii. dommages causés (blessures, montant des pertes/dommages à la propriété)
 - b. préférence de la victime/du plaignant
 - i. nature du lien entre le contrevenant et la victime
 - c. contrevenant solitaire ou en groupe
 - i. âge des co-contrevenants
 - ii. nombre de co-contrevenants
 - d. consommation d'alcool/de drogues
 - e. endroit et moment de la journée
38. Y-a-t-il des délits qui donnent lieu presque toujours à une accusation, un renvoi à des mesures de rechange ou un traitement informel?
39. De quelle façon les caractéristiques du jeune influencent votre décision de porter (recommander) une accusation, utiliser des mesures de rechange ou une action informelle?
- a. Dossier antérieur
 - i. condamnation
 - ii. mesures de rechange
 - iii. contact
 - b. âge
 - c. sexe
 - d. origine ethnique
 - e. attitude
 - f. situation à la maison/école/travail
 - g. groupe d'amis/appartenance à un gang
 - i. comment définissez-vous un événement relié à un gang
40. De quelles façons les circonstances du délit et les caractéristiques du contrevenant influencent-elles votre décision sur le moyen d'assurer sa comparution en cour?
41. Si vous décidez de porter (ou recommander) une accusation, comment décidez-vous de la méthode à utiliser pour assurer la comparution
- a. Si arrestation
 - i. détention et enquête sur cautionnement
 - ii. remise en liberté avec :
 - 1) promesse de comparaître, sans conditions
 - 2) cautionnement
 - b. Si le jeune n'est pas arrêté, dans quelles circonstances utilisez-vous un avis de comparaître ou une sommation?
42. Y-a-t-il des délits qui donnent lieu presque toujours à :
- a. arrestation et détention

- b. arrestation et remise en liberté
- c. utilisation d'un avis de comparaître

43. Quelle méthode de traitement de la criminalité des jeunes percevez-vous comme ayant des `conséquences significatives` sur le jeune?
44. Y-a-t-il autre chose (à part ce qui vient d'être couvert) dont vous tenez compte lors de l'évaluation de la gravité d'un délit et de quelle action prendre?

Processus – Méthodes de rapport (d'enregistrement)

45. Comment décidez-vous de rapporter un évènement ou non?
46. Lorsque vous rapportez un évènement avec plusieurs contrevenants, comment décidez-vous si vous devez inclure chaque contrevenant?
47. Est-ce que tous les évènements que vous rencontrez sont rapportés au DUC2? (tous les rapports d'évènement?)
48. À l'interne, y-a-t-il une pratique formelle ou informelle de repérage au-delà de ce qui est rapporté au DUC ou DUC2? Si oui, quels critères?
49. Y-a-t-il une procédure en place pour enregistrer les dispositions de mesures de rechange pour qu'un jeune qui en a bénéficié ne soit pas considéré comme un contrevenant sans antécédent?
50. Y-a-t-il une procédure mise en place pour enregistrer les moyens informels utilisés avec un jeune appréhendé?
51. D'après vous, quelle est l'efficacité de ces pratiques d'enregistrement?
52. D'après vous, y-a-t-il des genres de renseignements qu'il serait utile d'enregistrer pour vous aider dans le traitement de la criminalité des jeunes?
53. Finalement, y-a-t-il des difficultés que vous rencontrez quotidiennement dans le traitement de la criminalité des jeunes que nous n'avons pas abordé?

MERCI

Annex A-7. Introductory Letter and Project Summary (French)

LA DISCRÉTION POLICIÈRE ET LES JEUNES CONTREVENANTS

Ce projet a été demandé par le secteur de politique sur la justice applicable aux jeunes du ministère de la justice, pour faire partie de la préparation de la mise en application de la Loi sur le système de justice pénale pour les adolescents. Il a deux objectifs :

- Fournir une description détaillée des façons dont la police à travers le Canada s'occupe de la criminalité des jeunes en vertu de la Loi sur les jeunes contrevenants. Celle-ci servira de données de base pour comparer les résultats d'une reprise de l'étude, qui sera effectuée après quelques années de la mise en vigueur de la LSJPA, afin d'évaluer l'impact de la LSJPA sur le travail des policiers avec les jeunes contrevenants.
- Fournir des renseignements qui peuvent guider la prise de décision de Justice Canada lors de l'allocation de ressources pour apporter un soutien à la mise en application de nouvelles mesures de la LSJPA.

Nous croyons que cette étude sera utile à la police au Canada de deux façons au moins, en plus des objectifs plus haut décrits:

- Les services de police pourront utiliser le rapport de ce projet comme référence pour comparer leur propre démarche face à la criminalité des jeunes;
- En fournissant de l'information à l'étude, les services de police pourront influencer la prise de décision concernant certains aspects de la mise en application de la LSJPA qui ont trait à leur travail.

Nous sommes particulièrement intéressés à étudier les facteurs qui influencent deux décisions : comment les dossiers de jeunes contrevenants sont traités (par accusation, par un renvoi à des mesures de rechange ou de façon informelle); et si les jeunes qui sont accusés sont détenus. Évidemment, nous savons que ces décisions ne sont pas prises uniquement par la police, mais notre mandat consiste à examiner le rôle de la police dans ces décisions.

Notre examen de recherches antérieures sur ce sujet nous a amenés à déterminer de façon très générale les facteurs possibles: du milieu dans lequel un service de police évolue, incluant la législation et les programmes fédéraux et provinciaux, et le genre de communauté desservie, à la structure de l'organisation interne, aux politiques et procédures du service de police, à la prise de décision par le policier de première ligne. Voici les principaux sujets que nous entendons couvrir :

Milieu

- Le genre de communauté desservie
- L'impact des dispositions de la LJC et autre législation pertinente
- Les ressources externes, telles que les organisations et programmes provinciaux, municipaux et privés

Structure organisationnelle

- Mandat et objectifs généraux, façon de maintenir l'ordre
- Spécialisation face à la criminalité des jeunes (section de la jeunesse, policiers spécialisés, etc.)
- Qui a l'autorité/la responsabilité de porter une accusation (ou d'en faire la recommandation, dans les juridictions où le service de police procède ainsi)?
- Formation

Processus organisationnel

- Y-a-t-il des politiques/protocoles précis pour s'occuper des jeunes?
- Enquêtes – comment des scénarios typiques sont traités (victime/témoin rapporte un événement terminé; victime/témoin rapporte un événement en cours, etc.)
- Traitement – par accusation (ou recommandation de porter une accusation)/renvoi à des mesures de rechange/moyens informels
- Assurer la présence à la cour : utilisation de la détention/libération/avis de comparution/sommation/etc.
- L'impact des circonstances de l'évènement et des caractéristiques du contrevenant sur les décisions concernant le traitement et pour assurer la présence à la cour
- Méthodes d'enregistrement et leur impact sur la précision des données DUC

Notre source principale de renseignements sera les entrevues avec les services de police. Nous analyserons aussi les données statistiques sur les communautés et les tendances de la criminalité, et sur les dossiers de jeunes contrevenants de l'étude DUC2 fournis par le centre canadien de la statistique juridique et, si possible, d'un nombre représentatif de services de police qui ne contribuent pas au DUC2. Nous tenterons de rencontrer un nombre de services de police qui sont représentatifs de divers milieux et de diverses organisations de maintien de l'ordre au Canada : des régions, des communautés de différentes grandeurs, et des diverses ententes pour assurer le maintien de l'ordre : municipal indépendant, municipal contractuel, provincial, autochtone volontaire, etc.

Lors des rencontres avec chaque service de police, nous aimerions, si possible, parler avec quelqu'un de la haute direction qui peut répondre aux questions concernant le milieu dans lequel le service opère et les structures générales, les politiques et procédures; et aussi avec un ou deux policiers de première ligne, de préférence spécialisés dans les dossiers de jeunes contrevenants. De plus, dans le cas de services de police ayant une section de la jeunesse, nous aimerions rencontrer quelqu'un de la direction de cette section. Chacune de ces entrevues ne prendra pas plus d'une heure. Nous aimerions également, si possible, accompagner un policier en devoir qui s'occupe de jeunes contrevenants pour observer nous-mêmes la prise de décisions. Nous apprécierions recevoir des copies de documents qui concernent le traitement des dossiers de jeunes contrevenants, tels que des directives procédurales.

Bien sûr, il appartient à chaque service de police participant et à chaque policier rencontré de décider des questions auxquelles il répondra et des documents qu'il fournira.

Pour plus d'informations, veuillez communiquer avec l'une des personnes suivantes :

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