

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.

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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,

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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.

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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.

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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.