

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

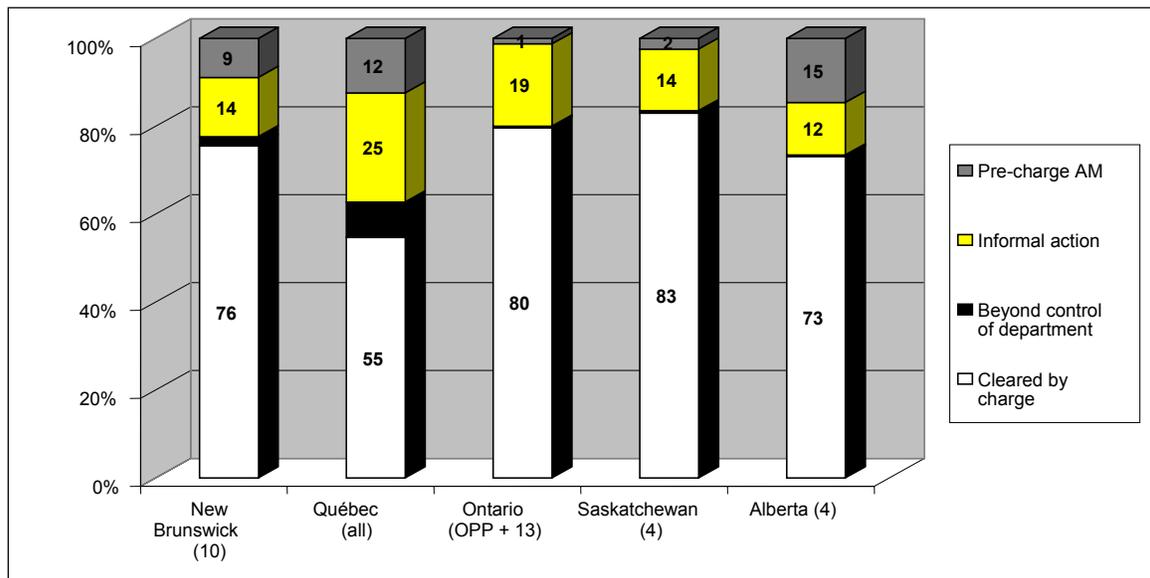
2.1 Modalities of delivery of Alternative Measures: Pre-charge, post-charge, and mixed models

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.

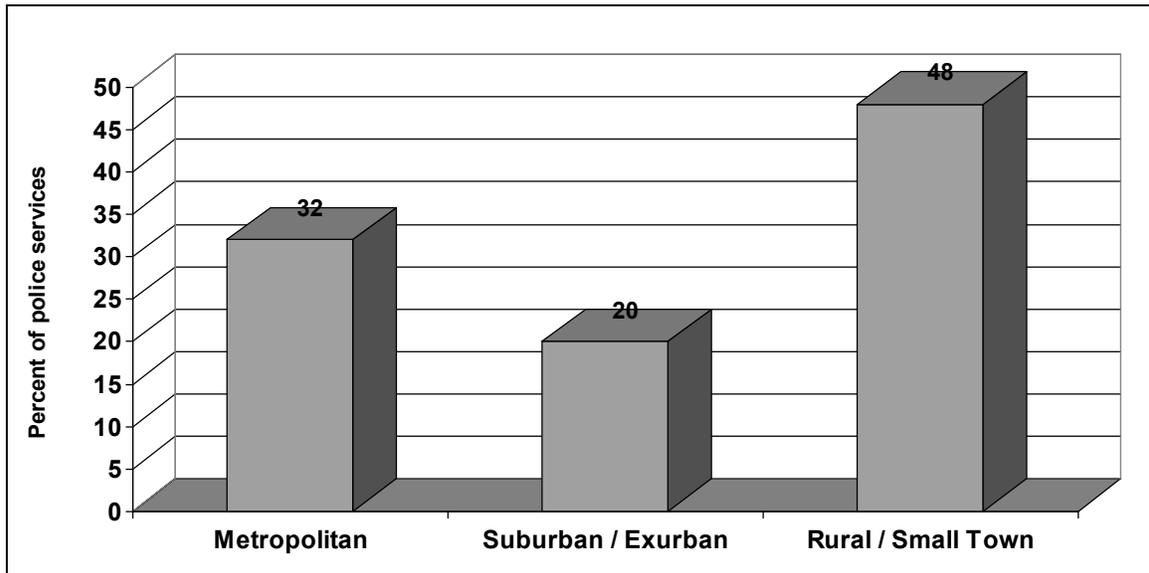
Before ruling out the use of community population or population density as indicators of urbanization, we calculated correlations between the proportion of apprehended youth who were charged, and municipal population and population density.¹⁹ No relationships were found; thus confirming that simple population 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).

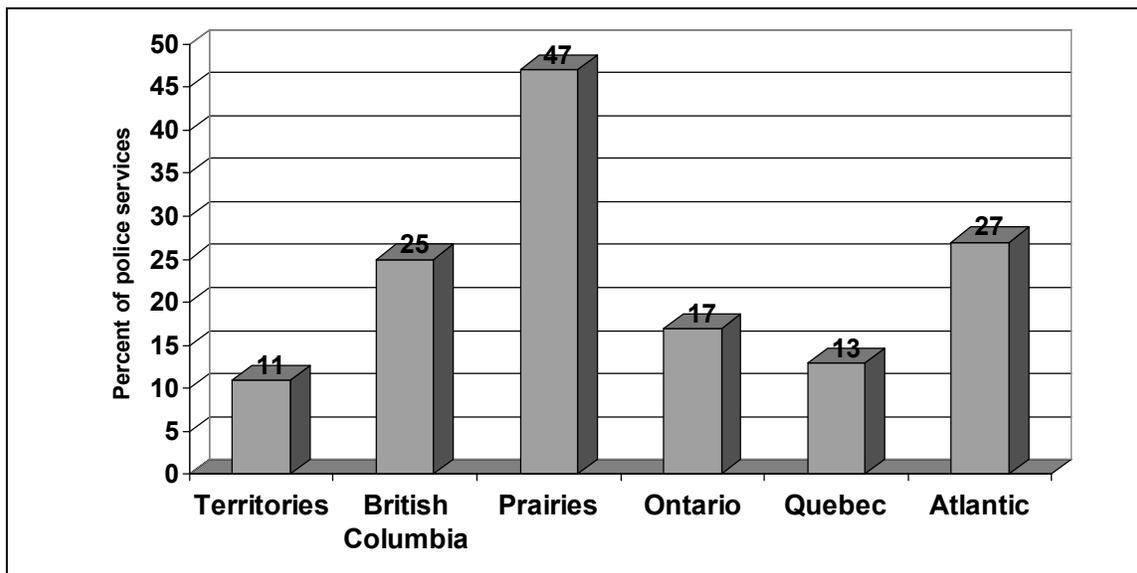
We asked respondents to describe their communities in terms of level of wealth, age profile, ethnic or racial diversity or homogeneity of the residents, and whether they considered the population to be predominantly stable or to include a substantial number of transients. We then attempted to relate 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

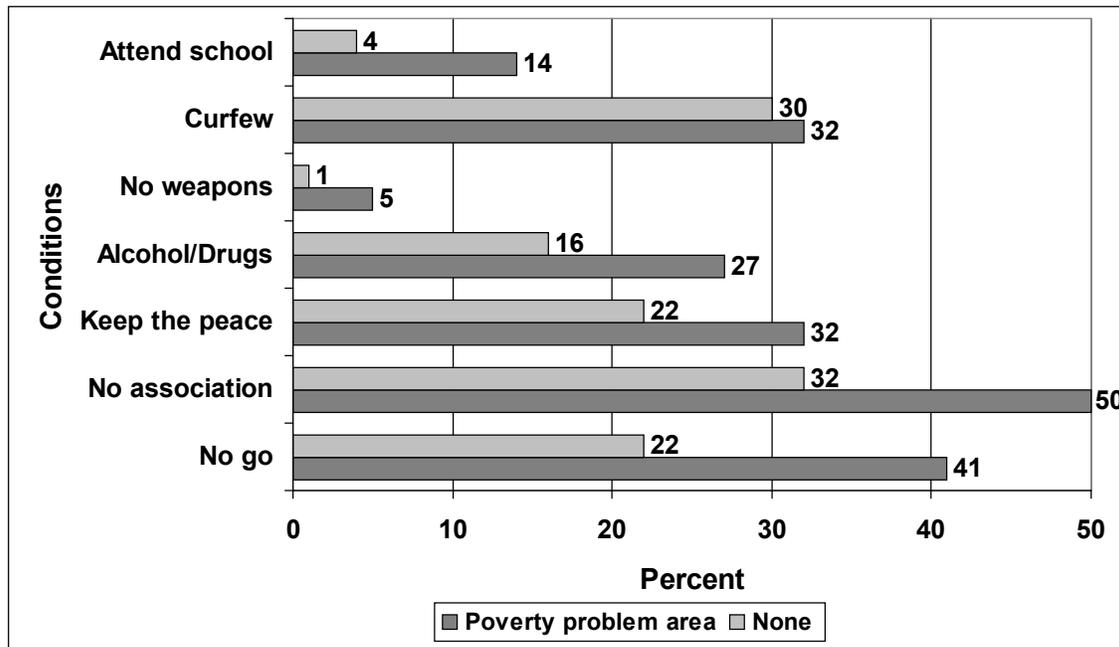
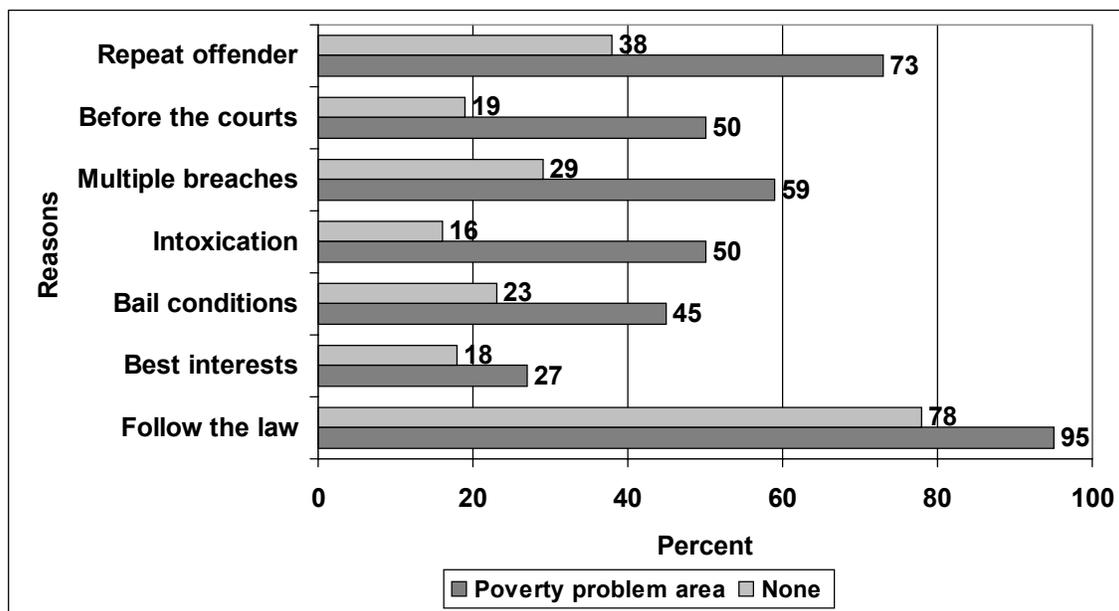


Figure III.5 Reasons to detain for a JIR hearing, by poverty problem area



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.

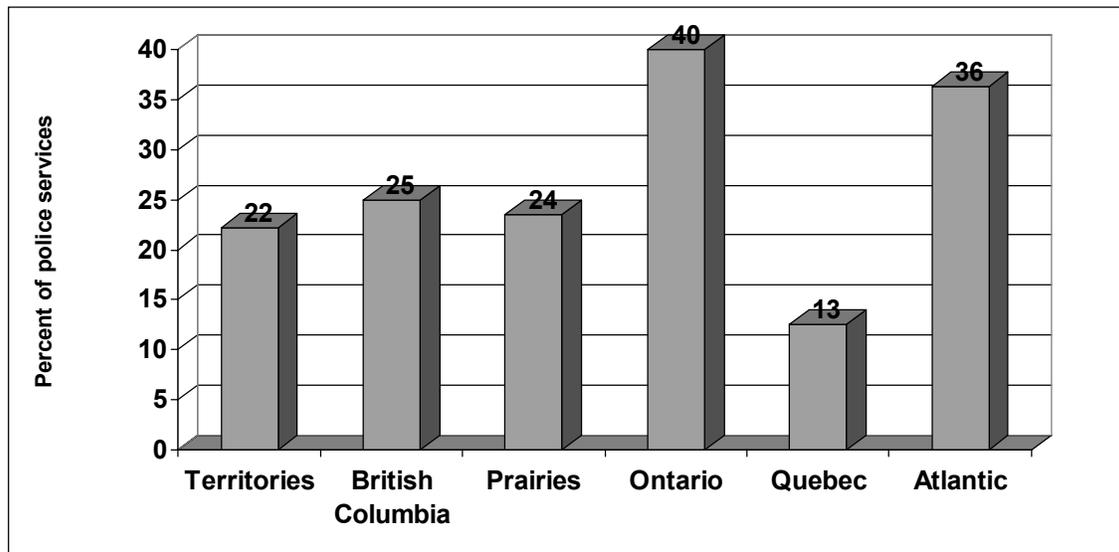
We also asked officers whether the population which they served tended to be stable or to experience significant geographic mobility. Officers in 28% of our sample answered this question by identifying a problem with young persons who were “transients”.

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

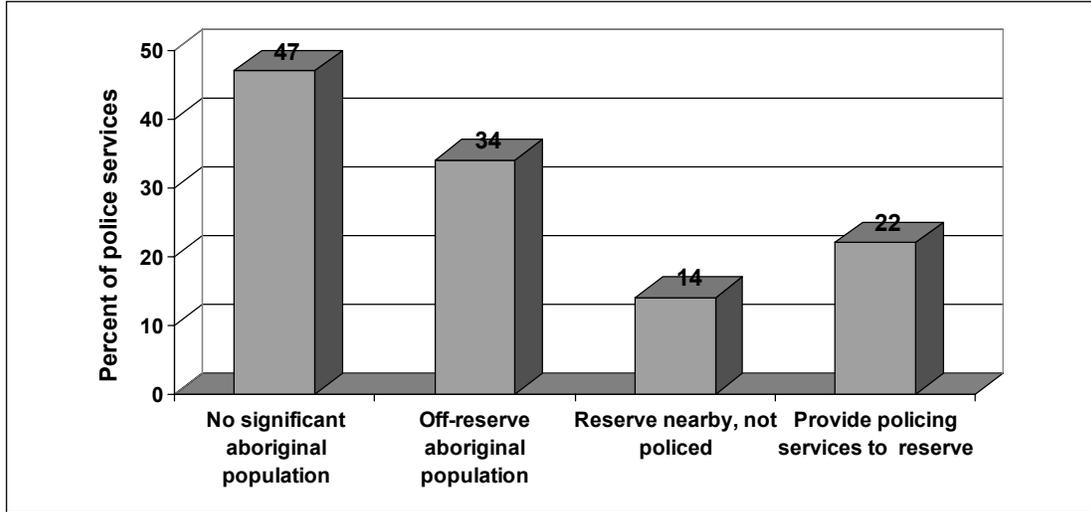
Many aboriginal Canadians live in areas of poverty and social exclusion which might well be described as “socially disorganized” (Canadian Criminal Justice Association, 2000; Griffiths & Verdun-Jones, 1994: 635-637; LaPrairie, 1988, 1995; Léonard & Trevethan, 2003). Therefore, according to social disorganization 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.

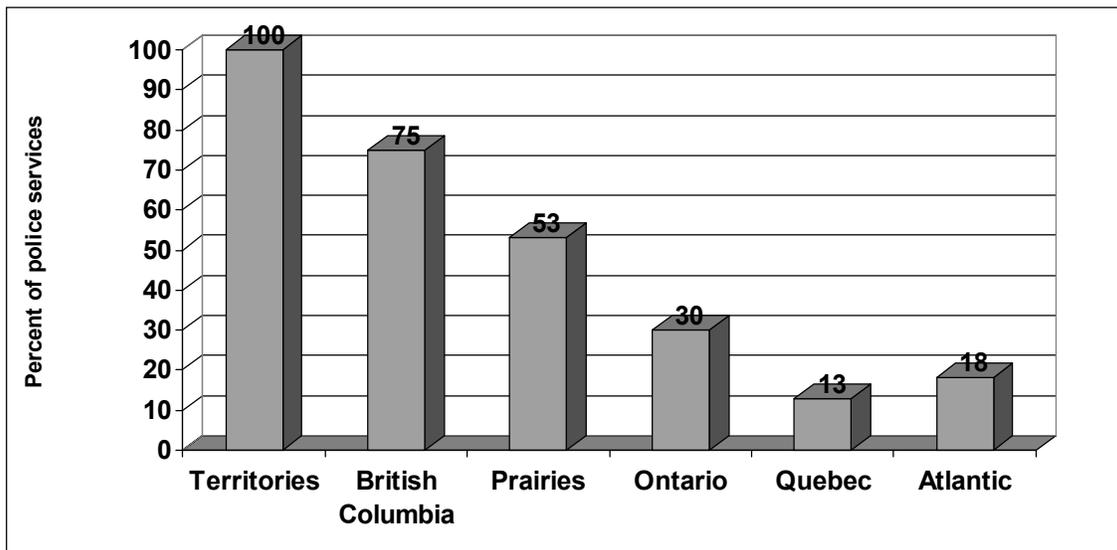
²⁹ However, our findings are limited by the fact that we interviewed only police officers and not the members of the communities which they police.

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).

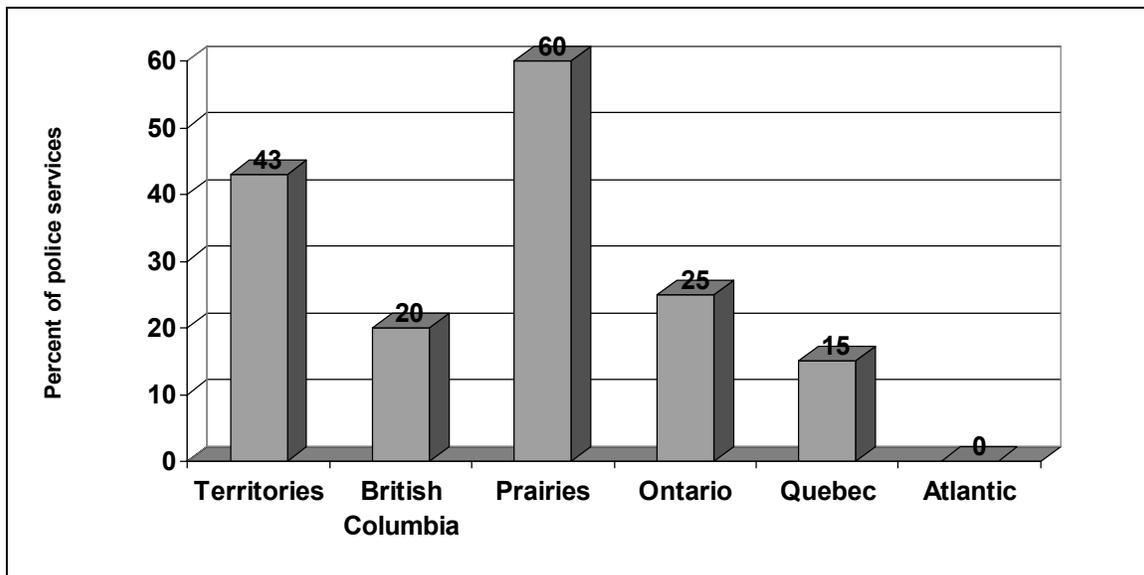
4.3 Level and type of crime in the community

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



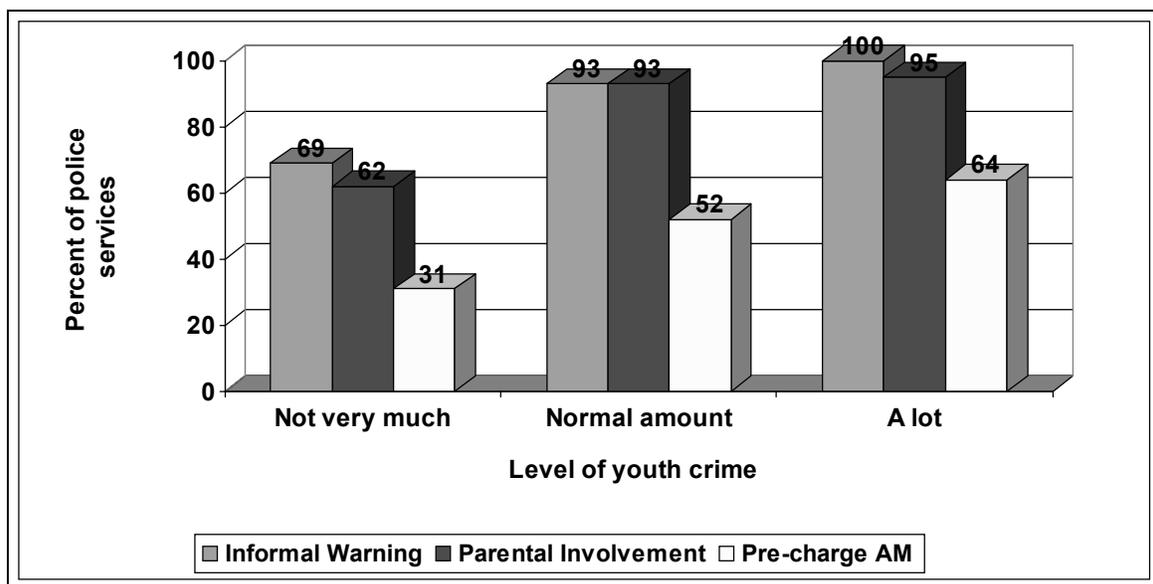
Urbanization and social disorganization theories of social control propose that, in urban areas, which suffer from higher rates of social disorganization and perceived deviance and crime, police will compensate for the breakdown of informal social control in the community by using more formal social 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



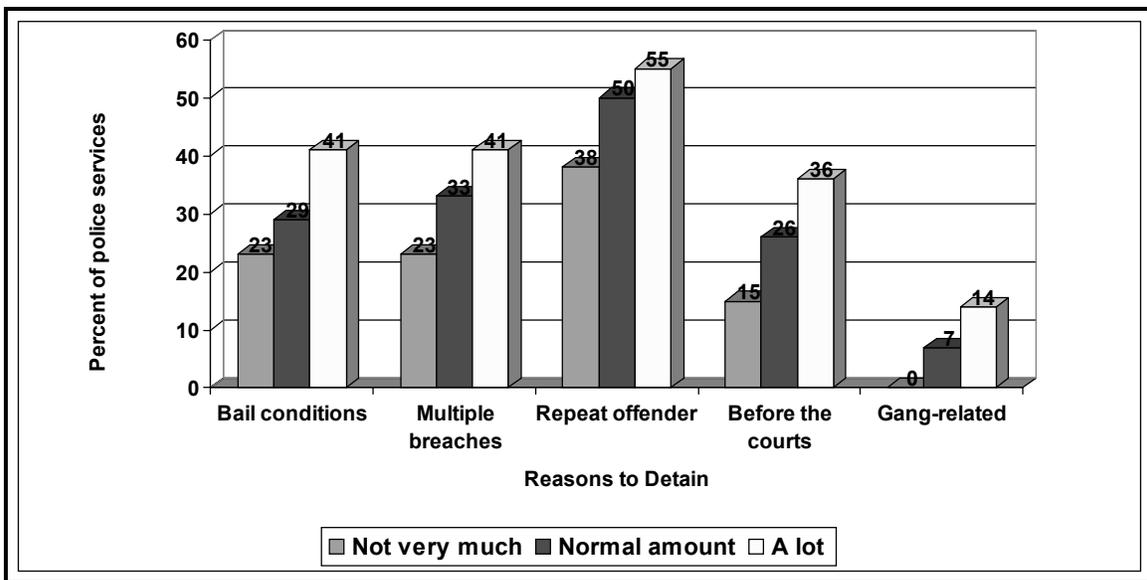
Whether police agencies find feedback on alternative measures dispositions helpful is also related to their perception of the level of youth crime in the community. Police agencies that perceive a lot of youth crime are slightly more likely to find feedback useful (74%) than those who perceive a normal 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

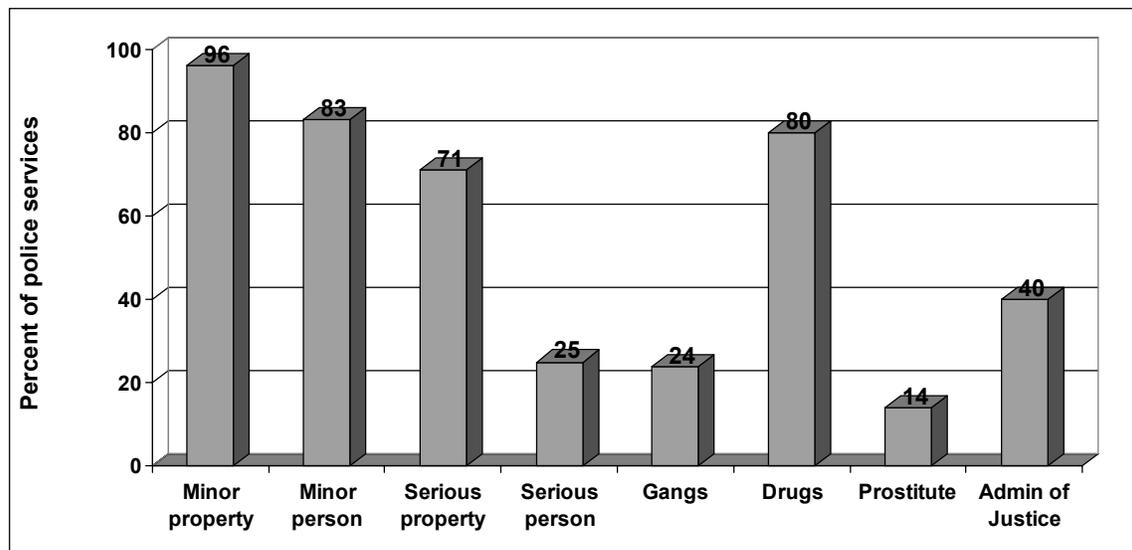


A similar pattern exists in the answers to our question about offences that would “almost always” result in arrest and detention. Police agencies with high levels of youth crime are more likely almost always to detain for serious offences (73%) than agencies in areas with a normal amount (64%) or not 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



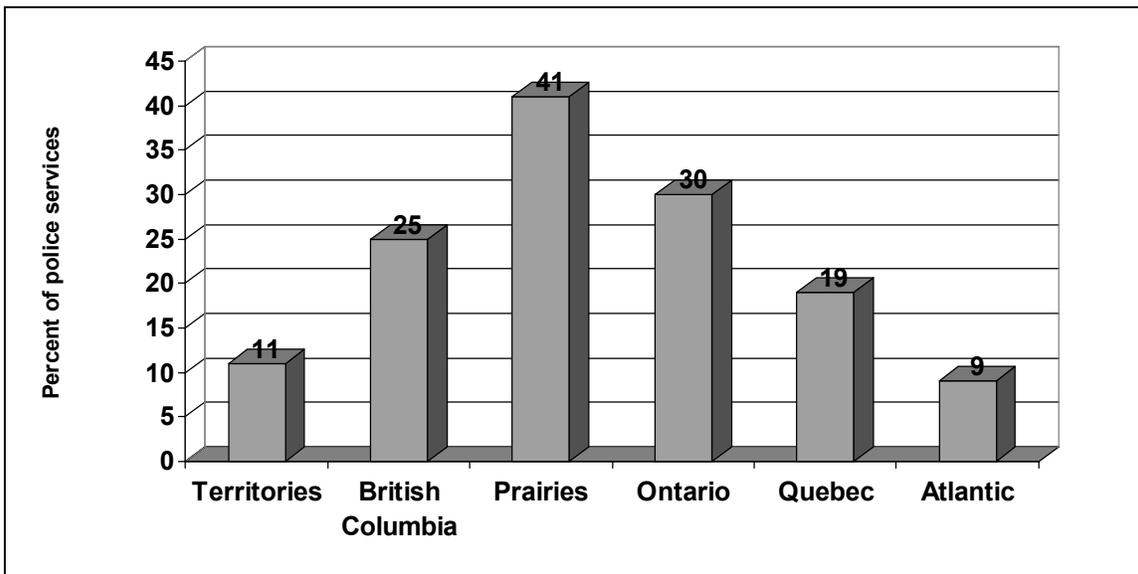
Virtually every police agency and detachment (96%) indicated that youth commit minor property crimes (e.g. theft under, shoplifting). Over three-quarters (83%) also mentioned many minor crimes against the person, such as minor assaults.

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.

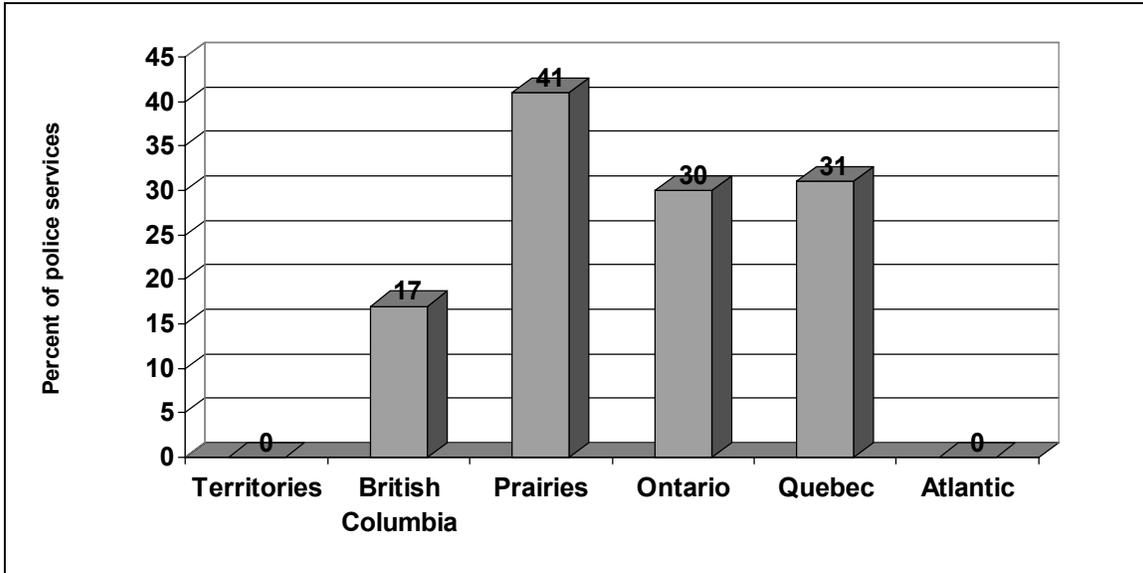
Figure III.13 Regional distribution of police agencies which report dealing with a significant amount of serious violent youth crime



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.

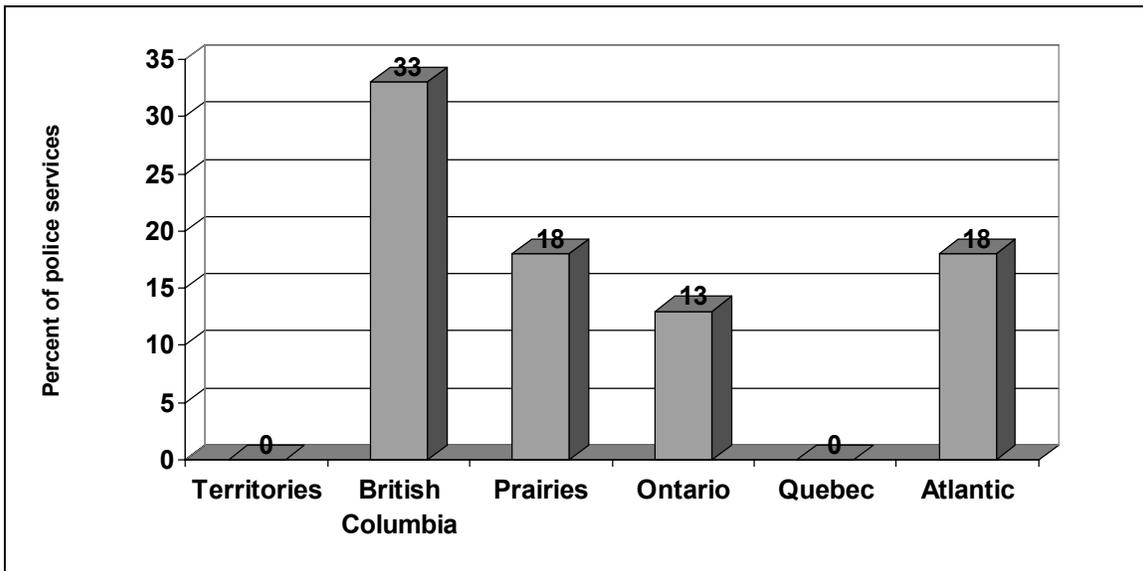
Almost one-quarter of the sample of police services (24%) indicated that they have youth gangs in their jurisdiction. Once again, gangs were cited more often by metropolitan agencies (43%) than by suburban/exurban (32%) or rural/small town agencies (9%). The regional distribution is shown in Figure III.14,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



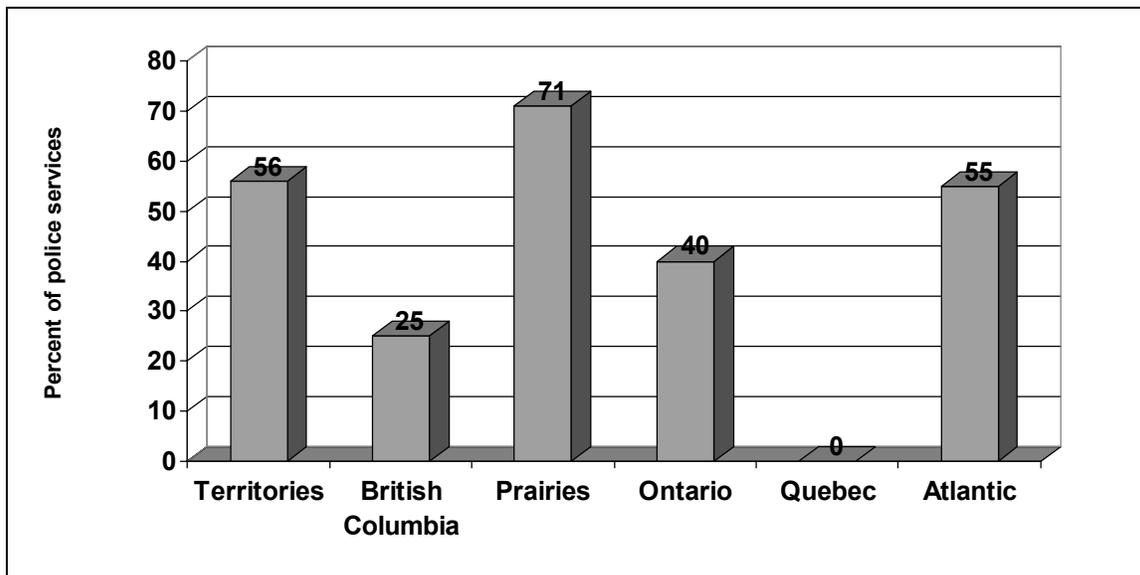
Similarly, 14% of the sample (13 police agencies) indicated they have a “kiddie stroll” where youths under the age of eighteen are involved in prostitution. Twelve were in metropolitan areas, and one in a rural or small town jurisdiction. This concentration in large cities is also consistent with Leonard’s 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.

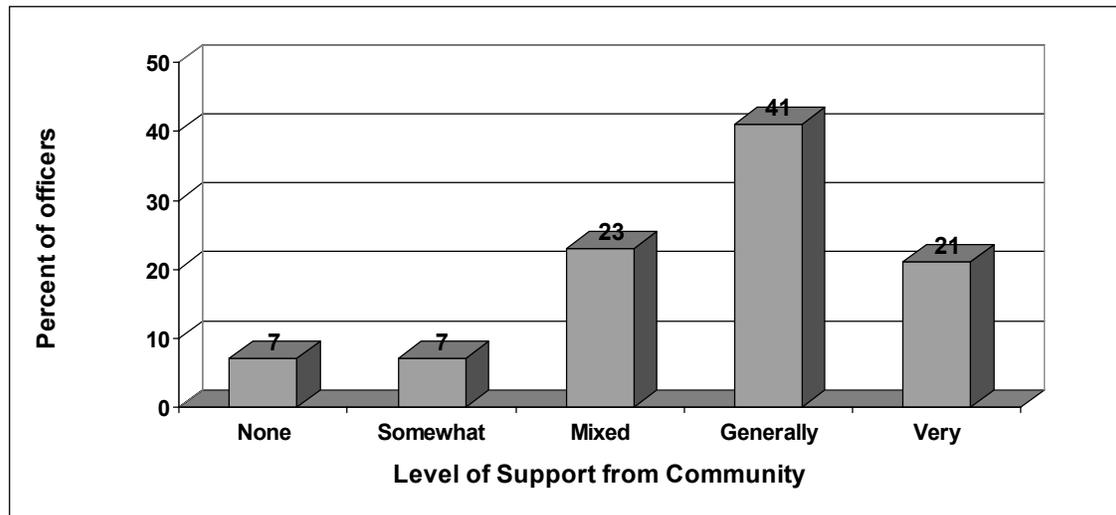
4.4 Community-police relations

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”.

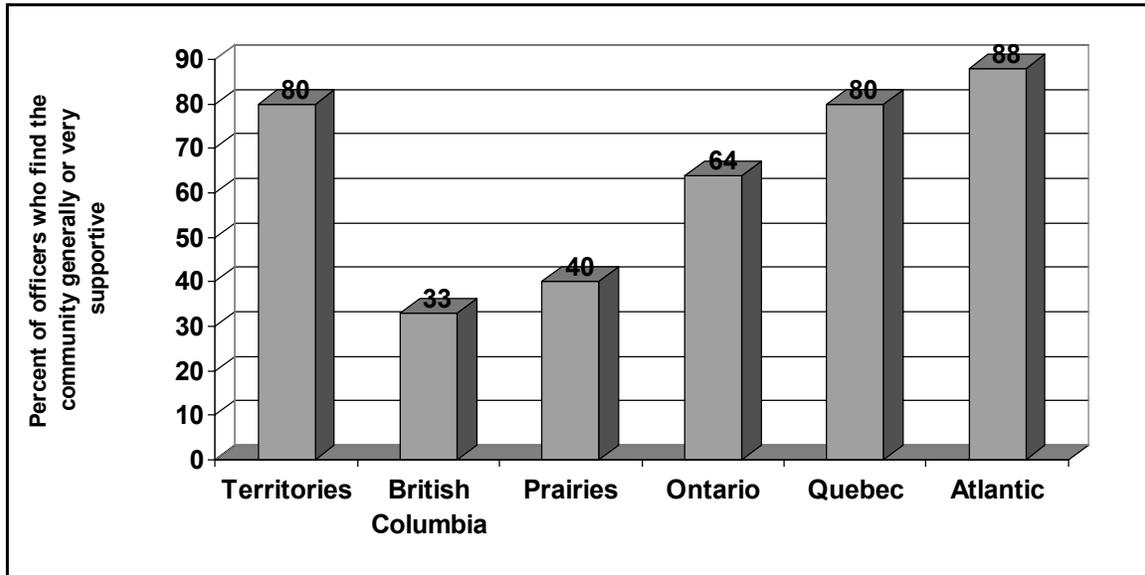
Police in suburban and exurban jurisdictions tended to perceive more support from the community than those in metropolitan or rural/small town jurisdictions. 83% of suburban/exurban officers found the community generally or very supportive, compared with 63% of rural/small town, and 56% of metropolitan 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.