



Parents' involvement in youth justice proceedings: perspectives of youth and parents

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EXECUTIVE SUMMARY

Each year in Canada, there is one youth court case for every 29 youths age 12-17 (inclusive) in the country. Although the *Youth Criminal Justice Act (YCJA; S.C. 2002)* requires that attempts be made to notify parents¹ when a youth is charged, there is no legal requirement that a parent be present in any legal proceedings against a youth. One of the concerns uncovered in youth justice research over the last 20 years is that youths often do not fully understand the implications of some of their criminal justice decisions. Legislative provisions seem to suggest that parents can play a role in providing support and advice to young people, though nothing explicit regarding the nature of parental involvement is contained in the *YCJA*. However, we know almost nothing about the actual role that parents play in this area of children's lives.

The purpose of the study reported here was to address this gap by examining the role of parents in their adolescent children's youth justice experiences, specifically, to:

1. describe the experience of parental involvement from the perspective of youth and parents,
2. examine what factors predict parental involvement, and
3. explore the relationship between parental involvement and relevant outcomes at various stages in the youth justice process.

Study findings may have practical implications for current policies and may suggest the need for new policies to support effective parental involvement. For example, lack of parental understanding of significant aspects of the youth justice process, particularly if found to impact legal outcomes for young people, might indicate the need for the educational resources. Legal and judicial education may also be warranted. Lawyers are an important educational resource for both young persons and their parents. However, lawyers may not be aware of the misunderstandings youth and parents hold about the youth justice process, or the barriers that reduce parental involvement. Training for lawyers specializing in young offender law may help to bridge information gaps and facilitate effective parental involvement. Similarly, knowledge of the predictors and outcomes associated with parental involvement might assist judges in decision-making so that young people whose parents are not involved are not disadvantaged unfairly. Insight into these issues might also help frontline workers to facilitate positive interactions between parents and youth.

Context

The passing of the *Young Offenders Act (YOA)* in 1984 marked the beginning of a new era in the Canadian youth justice system. Shifting from the child welfare emphasis of the *Juvenile Delinquents Act* (S.C. 1908; R.S.C. 1970), the *YOA* was characterized by a

¹ The word 'parents' may include not only biological parents but step-parents, extended family members, or others who have assumed a caregiving role with respect to a young person.

rights and responsibilities orientation intended to “balance the needs of young offenders with youth accountability and public protection” (Hylton, 1994, p. 235). The *Act* stated that “young people 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” (*Young Offenders Act*, R.S.C. 1985). Parents were viewed as playing a key role in providing this additional protection and support. A continued focus on the role of parents is evident in the recently implemented *Youth Criminal Justice Act* (S.C. 2002), though this legislation has made a much clearer break from a child welfare orientation than its predecessor. Young people continue to have the right to consult with a parent prior to police questioning and authorities have a duty to notify a parent of a child’s detention and of court proceedings or extrajudicial measures. The *Act* also addresses parents’ socialization function in their children’s development, stating that “measures taken against young persons who commit offences should...where appropriate, involve parents, [and] the extended family” (*YCJA*, 2002, s. 3(1)(c)(iii)).

The youth justice policy perspective that young people are not yet fully mature is supported by research on young people’s culpability, ability to meaningfully participate in criminal proceedings, and other legally relevant capacities. Studies indicate that juveniles’ understanding of legal issues is quite variable across concepts and that many adolescents lack sufficient understanding of their legal rights and demonstrate misconceptions about important aspects of legal proceedings (Abramovitch, Higgins-Biss, & Biss, 1993; Grisso, 1981; Grisso, Steinberg, Woolard, Cauffman, Scott, Graham, Lexcen, Reppucci, & Schwartz, 2003; Peterson-Badali & Abramovitch, 1992, 1993; Peterson-Badali & Koegl, 1998). Similarly, a number of studies (e.g., Abramovitch, Peterson-Badali & Rohan, 1995; Abramovitch et al., 1993; Grisso, 1981; Grisso et al., 2003) have found that, relative to adults, many adolescents show deficits in understanding and appreciation of due process rights. Such deficits may be related to the fact that many young people waive rights to silence and legal counsel prior to police interrogation (e.g., Abramovitch et al., 1993; Peterson-Badali, Koegl & Ruck, 1999). Viljoen, Roesch and Zapf (2002, p. 482) argue that “given that confessions lead to convictions, and because most accused do not have a lawyer at this point, competence to waive interrogation rights is critical.”

Inadequate legal understanding is not the only cause of impairments in legal decision-making. Researchers have suggested that adolescent decision-making is impaired by psychosocial immaturity even when cognitive processing appears to be sufficiently developed (Cauffman & Steinberg, 2000; Scott, Reppucci & Woolard, 1995; Steinberg & Cauffman, 1996). Scott, Reppucci and Woolard (1995) propose that juveniles’ legal decision making is impacted by factors such as compliance with peers and parents, attitude toward and perception of risk, temporal perspective, and obedience to authority. With respect to the latter, there is evidence that juveniles’ greater vulnerability to coercion puts them at risk for making false statements or confessing to crimes they did not commit (Dixon, Bottomley, Coleman, Gill, & Wall, 1990; Gudjonsson & MacKeith, 1990; Richardson, Gudjonsson & Kelly, 1995). In sum, there is an accumulation of

evidence that many young people require extra protection and guidance if their participation in the youth justice system is to be meaningful. However, there is virtually no research on whether parents actually fill this role.

Description of the Study

The present study investigated parents' involvement in youth justice proceedings from the perspective of both youth and parents. Seventy young people who had come into contact with the youth justice system and 19 parents were interviewed about their experiences with parents' involvement in youths' legal case. To obtain a detailed description of parental involvement, participants were interviewed about their (or their child's) youth justice system experiences from the time of arrest through to disposition, including their awareness of youths' right to contact parents during police proceedings, reliance on parents as a source of support, and perceptions of parents' roles during police and court proceedings. Perceptions about parents' involvement were compared across the two legal contexts (police versus court proceedings) to explore whether young people's and parents' experiences differed depending on the legal situation.

The present study also aimed to investigate factors that might be related to parents' level of involvement. Specifically, we examined whether variables such as young person's age, cognitive ability, legal understanding, legal reasoning, arrest history, and conviction history were related to parents' overall involvement. Parental factors, such as cognitive functioning, legal understanding and reasoning, socioeconomic status, and length of time in Canada were also important to explore in relation to parental involvement.

Finally, it was important to examine whether extent of parental involvement was related to legal outcomes for young people at various stages in the youth justice process, including whether they waived their right to silence, were released or detained after being charged, were granted bail, as well as judicial outcomes (e.g., conviction, disposition).

Summary of Results

Description of Parental Involvement

The present findings indicate that parents' involvement in young people's legal cases may often be quite limited. Indeed, in the present study, a substantial minority of young people had parents who had no or only very minimal involvement in their legal case. Many of these young people had no parental support while they were at the police station, did not see or talk to their parents during their stay in detention facilities, and had no parent with them when they were at court.

Parents may have particularly limited involvement during the early stages of youth justice proceedings. For example, in the present study only a small number of participants requested their parents' involvement at the police station. (Interestingly, few also

contacted a lawyer, and only three respondents contacted both.) Very few participants felt that their parents would have been able to provide them with legal advice or support at the police station. Additionally, present results suggest that a significant number of young people may not understand their right to contact a parent or may have difficulties gaining access to their parents when they are at the police station. Finally, it appears that conflicts in the parent-child relationship may often prevent young people from seeking their parents' support during police proceedings. From parents' perspective there was a disconnect between the role they felt they should play at the station (i.e., assistance, support) and the role they actually played. Also noteworthy is that a third of parents interviewed actually felt that they should assist the police when at the station with their child. Overall, both parents and youth felt that parents had very little influence on what happened at the police station.

In contrast to the limited parental involvement reported at the police station, the majority of participants requested their parents' presence during court proceedings and parents were more likely to be present during at least some of young people's court appearances than at the police station. Young people also felt that parents' presence had more influence on court proceedings than at the police station. Interestingly, while more parents indicated that they tried to have influence at court than at the station, many felt that their presence did not, in fact, influence court outcomes.

Predictors of Parental Involvement

Of the youth and parent demographic and cognitive predictors, the only variable to correlate significantly with parental involvement was young people's support for due process rights. This is an interesting relationship. Though it is impossible to infer causality, two possible interpretations are worth mentioning. The first is that parents' involvement in their adolescent child's youth justice experience reflects a valuing of young people and their rights to due process that emerges in young people's support for those rights. The second is that young people who understand and value their due process rights are more likely to seek and receive parental involvement in their case.

While there was no linear relationship between young people's age and parental involvement, when age (under vs. over 16) and involvement (none/minimal vs. some-high) were dichotomized, compared to parents of older youth, a significantly greater number of parents of younger adolescents had some-high involvement in their case.

It was somewhat surprising that no other variables related to parental involvement. In the case of the parent correlations, the very small sample created significant power problems in detecting significance. For example, both parental education level and non-verbal IQ were moderately positively related to parental involvement, though these correlations fell short of the .05 cutoff for significance.

Relationship Between Parental Involvement and Legal Outcomes

Outcomes were examined at various stages of the youth justice process, from the police station through the disposition phase. At the police station, young people who reported being given the opportunity to access support were more likely to contact a parent and/or a lawyer at the station. Contacting a lawyer was negatively associated with answering police questions and making a statement, while parents' presence at the station was positively associated with making statement. Parental presence had positive impact on young people's release from the police station. For those detained, parental presence at the bail hearing was positively associated with release from detention.

At court, highly involved parents came to all court appearances regardless of whether young people requested their presence or not. However, parents whose adolescent children requested their presence at court were more likely to come to some court dates than those whose did not, and conversely, those who did not request parents' presence were more likely to have parents who did not come to any court appearances. It should be noted that in some cases young people may not have requested parents' presence, and parents may not have come, because they were dead, incarcerated, or otherwise unavailable. Given the weight of factors such as youths' record and the nature of the current charge(s) in determining type and length of disposition, it is not surprising that parental involvement was not related to either of these outcomes.

Implications of Findings for Policy and Practice

In sum, present findings indicate that parents' involvement in young people's legal cases may often be quite limited. Indeed, in the present study, a substantial minority of young people had parents who had no or only very minimal involvement in their legal case. Many of these young people had no parental support while they were at the police station, did not see or talk to their parents during their stay in detention facilities, and had no parent with them when they were at court. It appeared that the court appearances that were most frequently attended by parents were bail or sentencing hearings. This is not surprising given that parental support during these court proceedings might influence legal outcomes (e.g., whether or not bail is granted). The finding that a relatively large number of participants had at least some parental involvement in their legal proceedings is important. However, it must be emphasized that only 10 participants (less than 15%) reported that their parents were involved at all or most of the stages of their youth justice experience.

It seems logical to suggest that increased efforts are necessary in order to increase parental involvement. However, before such a recommendation can be made, it is important to examine the barriers to parental involvement as reported by youth as well as the nature of parents' involvement when they *are* involved in an adolescent's case. The present findings also suggest that it is important to distinguish between involvement at the police station and involvement at court.

At the police station, young people reported that parents were not involved for various reasons. In some cases youth did not appear to understand or appreciate that they could

ask for their parents to come and to be present when police questioned them. However, a number of youth spoke of conflicts with parents that would have disrupted rather than facilitated events at the police station. Indeed, in some cases parent-child conflict was behind the youth's arrest and parents were the complainants in the matter. In still other cases, parents were unable to be reached or to come.

When parents were present at the station, they were rarely with the youth when he or she was being questioned by or giving a statement to the police. Parental presence did not increase the likelihood that a youth spoke with a lawyer or duty counsel and, indeed, young people were more likely to waive their right to silence and answer police questions and/or make a statement when parents were present. In contrast, when young people contacted a lawyer or duty counsel, they were less likely to answer questions or make a statement. Thus, it appears that parental presence does not serve to support the assertion of young people's right to counsel or silence. Reports from parents suggest that they were not actively encouraging their children to make a statement or confession to police. Rather, parents tended to suggest that youth show cooperation, which appears to have translated into answering questions and making statements. Overall, while some youth and parents reported that parents played a supportive role at the police station, many also indicated that parents played no role and had no influence in terms of what happened to young people. On a positive note, parental presence was associated with the young person's release from the police station.

The above discussion suggests that attempting to increase parental involvement at the police station may be neither possible nor desirable if the goal of such involvement is to protect young people's due process rights and ensure appropriate treatment. An alternative that has been recommended for some time by researchers and legal scholars alike (e.g., Grisso, 1981; Bala, 2002) is to make legal counsel available to all young people rather than as a waivable right. This would make youths' ability to understand and appreciate the significance of the right to counsel moot and would ensure that the youth receives knowledgeable advice prior to deciding whether to answer police questions, make a formal statement, etc. Recall that very few young people or parents viewed parents as a source of knowledge and expertise at the police station and, indeed, in the present (albeit small) sample parents' legal understanding and reasoning were no better or worse than adolescents'.

Where it appears that parental involvement is important is in terms of having someone into whose custody a young person can be released once processing has been completed at the police station, as young people whose parents were not present were more likely to be placed in detention rather than released from custody. Where it is deemed appropriate to release a youth, efforts should be made to locate parents or to find a suitable alternative adult so that young people are not held in detention for lack of someone to assume responsibility for them.

Parents were more likely to be present at court than at the police station and both youth and parents agree that parents do and should fulfill a supportive role at court. In some

cases this takes the form of social or emotional support but young people are also more likely to see parents as helping them understand court proceedings or providing them with information at court than at the police station. Parents are also seen as playing an instrumental role at court, facilitating outcomes such as release from detention. As with release from police custody, young people whose parents were present at their bail hearing were more likely to be released than those whose parents were not present. While parental involvement was not related to the length or type of disposition in the current sample, it seems possible that judges view a youth's situation differently when parents are present and involved at court. Thus, efforts should be made to increase parental involvement in the court (and particularly pre-disposition) phase of a young person's case. Again, in some cases there are practical limitations to parental involvement that need to be addressed (e.g., parents cannot afford to miss work to attend court, the youth is not in contact with parents or parent-child conflict continues to interfere with effective involvement). Measures to address these must depend on the circumstances. For example, where parents are willing and able to support their child but unable to attend court dates, communication with parents, seeking parental input, and clarifying what parents are able to provide in relation to dispositions (e.g., supervision or monitoring, etc.) can occur outside the courtroom, facilitated by probation officers or court workers. Where parents are not willing or able to provide support, alternative supports should be sought (e.g., relatives, youth or child welfare workers) to fulfill this role.

In other cases parents are willing and able to be involved but require information and education about the youth justice system in general as well as the specific issues and circumstances surrounding their child's case. Results indicated that parents felt they tried to have an influence at court but in a number of cases they did not. It may be that communication with parents in a way that facilitates their understanding of what is going on will allow them to be (and feel) more effectively involved.

Given the emphasis in the *YCJA* on extrajudicial processing, it seems possible and indeed hopeful that parents, youth, and youth justice officials (e.g., police, crowns) can come together outside the courtroom to arrive at resolutions that will be effective and serve justice, both for the young person and for victims of crime. As mentioned, when parents are unwilling or unable to be available, it will be important to find alternative adults to fulfill the role of supporting, monitoring, etc. young people. In the interests of fairness and of reducing future crime, it is necessary not to penalize young people whose parents are unable or unwilling to be supportively involved in their youth justice experience (e.g., by being placed in detention rather than released from police custody).

Conclusion and Future Directions

Clearly, the present study represents merely a first step in exploring the important issue of parental involvement in youth justice proceedings. Further research is necessary in order to gain a better understanding of the extent and nature of parents' roles in their adolescent children's youth justice experiences. In this regard, larger samples, particularly of parents, will help to address the problem of low statistical power

encountered in this study. Increasing the sample of parent-child matched pairs will also allow for a more extensive and rich examination of parents' involvement.

The present study focused on young people's youth justice experiences from police contact through the court process. However, it would be desirable to focus more in depth on parents' involvement from the pre-disposition phase through post-disposition. For example, parents potentially serve a number of important functions, including monitoring and supervision of young people's activities and adherence to probation conditions, etc., as well as facilitating assessments and treatment that may be deemed necessary. It will be important to explore their role and perceptions around facilitating and ensuring that necessary conditions are met and services obtained.

The *YCJA* also emphasizes alternatives to formal court processing – extrajudicial measures. Whether and how parents are involved after a youth is detained by police may have an impact on the likelihood that the young person will be given the opportunity for such extrajudicial measures. For example, willingness of parents to be involved in supervision and monitoring of adolescents, as well as is other aspects of extrajudicial measures, may influence police and crown attorneys in their recommendations and decisions with respect granting such opportunities. It will be important to explore how police and crown attorneys perceive parental involvement, or lack thereof, in this regard. It will also be important to talk to parents in such contexts in order to explore their understanding of the nature and implications of extrajudicial measures.

Exploring parental involvement from the perspective of police, lawyers, and judges will also add depth to the information obtained from youth and parents. In addition, using the data obtained in the current study as a starting point, youth, parents, police, lawyers, and judges can be useful resources in discussing the barriers to parental involvement and generating solutions that protect young people's rights and facilitate meaningful consequences that ultimately serve to reduce youth crime.

