



Understanding Cases of Failure to Comply with a Disposition

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Report to the Department of Justice Canada

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EXECUTIVE SUMMARY

Cases Entering Youth Court. This report examined in detail the nature of the cases involving failing to comply with a disposition (FTC). Section I used one year of youth court data and investigated the case characteristics (e.g. other charges within the case) as these cases entered youth court. It appeared that many of these cases were single (38%) or multiple charges (17.5%) of failure to comply – not cases involving other criminal offences. As cases entered youth court, the more charges for failing to comply (FTC), the more likely that there was at least one conviction for FTC. Custody appeared to be used in a relatively high proportion of cases – 44% of cases with a single failure to comply conviction received custody. In cases with multiple failure to comply convictions (but no other types of offences) over half received custody. Custody was used in higher proportions in cases where there were other administration of justice offences or criminal offences.

Case Composition of Convicted FTC Cases. Section II used longitudinal youth court data to investigate the criminal history of cases that resulted in a failure to comply conviction. All cases in Canada that had a failure to comply conviction (or convictions) that were disposed of in 2002/2003 were identified and all previous offence history (types of convictions and previous sentence) was obtained. These data then, are from the *Young Offenders Act* era and may not reflect current sentencing patterns under the *Youth Criminal Justice Act*. Results from Section II revealed that close to half of the sample (46%) only had failure to comply convictions within the case. The majority (74%) of those “FTC only” cases had one single conviction for failing to comply. Of those with other types of convictions within the cases, the majority (47%) were property offences – distributed relatively evenly among break and enter, theft over, theft under and mischief. Violence constituted the next largest proportion of cases (28%) and tended to have equal proportions of serious violence (attempted murder, robbery, sexual assault, assault level two and three) and minor assaults.

Criminal History. When looking at the criminal history of these cases, the majority (43%) had three or more previous cases in youth before the current FTC conviction. Close to half of the sample had a violent offence as the most serious conviction ever. However, the violence was split between more serious violence and minor assaults. Looking more recently, only 25% had a violent conviction just before the FTC conviction (again this was split between serious violence and minor assaults). The majority (38%), most recently, were convicted of a property offence (distributed relatively evenly among break and enter, theft over, theft under and mischief).

Custody and FTC cases. Custody appeared to be used often – with close to half of the sample receiving a custodial sentence. Cases with multiple FTC convictions and multiple non-FTC convictions were treated the “harshest” in terms of custody. Interestingly however, cases with multiple FTC convictions were more likely to receive a custodial sentence than cases with one FTC conviction and one non-FTC conviction. Judges may see cases with multiple FTC convictions as more serious than cases with two convictions, one for FTC and another for a different type of offence (e.g. violence, property, drugs). A multiple regression analysis revealed that the strongest predictor of the current sentence was the most serious, most recent, sentence. The more severe the previous sentence was, the more severe the current sentence for FTC was. The next two strongest predictors were the number of non-FTC convictions within the case and the number of FTC convictions within the case. The more non-FTC convictions or the more FTC convictions with the case, the more severe the current sentence was. The number of convicted

cases preceding the FTC case and the most serious non-FTC conviction within the case were the next strongest predictors of the current sentence for the FTC conviction. The more previous cases the youth had or the more serious the current convictions, the more severe the sentence was for the FTC conviction.

The most serious and most recent conviction was the sixth strongest predictor of the current sentence. As the most serious, most recent, conviction decreased (towards less serious offences), the more the current sentence increased (towards harsher sanctions). While this may at first seem counter-intuitive, as one might have assumed that judges sentence with proportionality in mind (the more severe a conviction the harsher the sentence), it appears that the negative relationship was due to the predominance of harsher sentences for administration of justice and YOA convictions. If a youth had a conviction for an administration of justice offence or a YOA offence just before the FTC conviction, the sentence for the FTC conviction was considerably harsher. It may be that in the context of the current FTC conviction, judges see a previous administrative offence as significantly more serious than any other type of offence, even serious violence. One may wonder, however, if this sentencing pattern achieves section 38(2)(c) of the YCJA which states that the sentence must be proportionate to the seriousness of the offence and the degree of responsibility of the offender. There may be debate around whether an administration of justice offence is more serious than a violent offence. The weakest predictor was the most serious conviction ever in a youth's history. The more serious that type of conviction was, the more severe the current sentence for the FTC conviction was. Overall, the seven significant predictors accounted for 20.6% of the variation in the type of sentence given for the FTC conviction.

Provincial Variation. Looking at the current FTC conviction cases, Alberta and BC tended to have larger proportions (59% and 74% respectively) of cases with only FTC convictions within them (especially cases with only one FTC conviction) and therefore smaller proportions of cases with other criminal convictions. Quebec followed closely with 47% of cases only containing FTC convictions. The eastern provinces, Ontario and Manitoba/Saskatchewan all looked relatively similar to one another – with similar proportions of FTC only cases (roughly 36% to 39%) and other types of cases.

Given the case composition in Alberta and BC there was a somewhat surprising use of custody between these two provinces. Alberta used custody the least out of all the provinces (29% in open and secure) while BC uses custody the second most (50.6% in open and secure). This is somewhat surprising given that BC had the largest proportion (74%) of cases with only FTC convictions. Alberta had a similar – though not quite as high – proportion (59%) of cases with only FTC convictions but used custody the least. Clearly each province has a different idea about the types of sanctions that are appropriate for FTC cases, with BC predominately opting for custody and Alberta opting for other types of sanctions.

Ontario tended to use custody the most in Canada (56.9%), followed by BC (50.6%), the eastern provinces (47.2%), Manitoba/Saskatchewan (43.2%) and Quebec (39.6%). It is interesting that Ontario used custody more than the eastern provinces and Manitoba/Saskatchewan given that the composition of cases among those provinces was somewhat similar. Multiple regression analyses revealed that, controlling for case characteristics and criminal history, Ontario and BC used custody significantly more than the other provinces.

Policy Implications. In investigating the factors related to the type of sentence given for the FTC conviction, this report found that by far the most significant factor was the previous

sentence. The current FTC sentence was driven, largely, by the previous sentence – the more severe the previous sentence was, the more severe the current sentence for FTC was. Others (e.g. Matarazzo et al. 2002)¹ have also demonstrated a similarly strong effect of previous sentence within a sample of cases in youth court.

The high use of custody for these relatively minor offences then, places a youth at serious risk of receiving a more severe sentence if he/she ever comes back into youth court, no matter what the offence is. While this report could not examine the conditions that were breached, in a small sample of FTC cases from a Southern Ontario youth court, the most commonly breached condition was “failing to keep the peace and be of good behaviour” followed by “obey the rules and discipline of the home or approved facility”, “reside at an address approved by a youth worker” and “report to a youth worker as required by the court” (see Pulis, 2003). So, for example, a youth could be convicted of shoplifting and receive six months probation. Imagine the youth breaches one of the probation conditions (e.g. runs away from home and therefore does not “reside at an address approved by a youth worker”) and comes back into youth court with a FTC charge. The data here suggest that, if convicted, this youth would be in jeopardy of receiving a custodial sentence. Once breaking the threshold into custody, this youth is unlikely to ever receive a non-custodial sentence again.

There was also an interesting relationship between the most serious, most recent, conviction and the current FTC sentence. If the most serious and most recent conviction (before the FTC conviction) was an administration of justice offence, the youth was significantly more likely to receive a custodial sentence than if the previous conviction was any other type of offence. Even cases with a violent previous conviction were less likely to receive custody than cases with an administration of justice conviction. Given that administrative offences typically involve violating some sort of order (reside someplace, non-association order, curfew, etc) it is unclear if those types of infractions are more serious – and therefore more deserving of custody – than cases that involve serious violence. Clearly there may be some debate around whether this sentencing pattern is achieving proportionality whereby the most serious offences receive the most serious sanctions.

There is another question about the use of custody with these cases and Section 39 of the *Youth Criminal Justice Act* (YCJA). Section 39 states that custody can only be imposed if one or more of four conditions are met:

- it is a violent offence,
- the youth has previously failed to comply with non-custodial sentences,
- the youth has been found guilty of an offence where an adult could serve over two years and there is a history of findings of guilt, or
- “in exceptional cases where the young person has committed an ... offence, such that the imposition of a non-custodial sentence would be inconsistent with the purpose and principles [of sentencing]” (Section 39(1)).

The second provision – that the youth has previously failed to comply with non-custodial sentences suggests that there needs to be at least two failed sentences in the past. Looking at cases with only one previous case before the current FTC conviction (35% of the sample, N=3180), one finds that 33.6% of them received a custodial sentence. It is not clear if these

¹Matarazzo, A., Carrington, P.J. and Hiscott, D.R (2002). The Effect of Prior Youth Court Dispositions on Current Disposition: An Application of Societal-Reaction Theory. *Journal of Quantitative Criminology*, 17, 169-200.

trends will continue under the YCJA, however, it could be argued that the use of custody for these cases is now prohibited. Once again, those with two or more FTC convictions were more likely to receive custody than cases with one FTC conviction and one other type of conviction (38.3% and 26.8% respectively).

If these sentencing patterns still exist under the YCJA and one is interested in seeing the intent of the YCJA fulfilled (e.g. fewer minor cases in court and custody and proportionality in sentences so that the more serious cases are the ones that receive custody) the high use of custody for cases with only or two convictions for a breached condition is clearly a problem. Perhaps one way in which to reduce the number of cases with FTC charges would be to have a review of the sentence first before charging the youth with FTC. A forced review might help to identify if there are conditions that are problematic for the youth. Once in youth court, there could also be discussion about the various sentencing provisions of the YJCA (Sections 38 and 39 in particular). Focusing in particular on how to achieve “proportionality” and what should drive the current sentence (e.g. should the previous record and sentence predominately drive the current sentence or should the focus be more on responding to the current offence?). There should also likely be discussion around how serious people see these FTC cases as they are currently relying heavily on custodial sanctions – the most expensive of our limited resources.

SECTION I: ONE-YEAR SNAPSHOT

PART 1: INTRODUCTION

Under the *YOA*, and now the *YCJA*, failure to comply with a disposition is an offence that we know little about. From easily available youth court statistics, we know that the rate of bringing youths in to court for this office has increased slightly over the past ten years (1991-2001). We also know that the rate of imposing custody for this offence has increased over the past decade. The increased rate of imposing custody appears to be the result of slight increases at every stage of the youth court process: bringing more cases into court, finding larger proportions guilty, and sentencing larger proportions of guilty cases to custody. However, beyond this we know almost nothing about this offence.

This report examines in detail the nature of the cases involving failing to comply with a disposition under the *Young Offenders Act* (*YOA*). Section I uses one year of youth court data and investigates the case characteristics (e.g. other charges within the case) as these cases enter youth court. Section II uses longitudinal youth court data to investigate the criminal history of cases that resulted in a failure to comply conviction.

For this first section, all charges for a particular individual (in a particular court location and in a particular province) were aggregated on the first date of appearance in youth court in 2000/2001². Given this definition, there were 22,867 cases that appeared in youth court with failure to comply charge or charges. First, a description of these cases as they enter youth court will be provided followed by a description of the charges that were ultimately “found guilty” within these cases. Finally, the types of sentences³ given to these cases will be explored.

PART 2: DESCRIPTION OF CASES INVOLVING FAILURE TO COMPLY CHARGES

It has sometimes been suggested that failure to comply cases are cases that typically involve other (criminal) charges and thus it is an arbitrary decision to find the youth guilty of failure to comply rather than another charge that was part of the case (e.g., a theft or an assault). It appears, however, that this is not the case. As cases entered youth court 37.6% of the cases had only a single charge of failure to comply (Table 1). An additional 17.5% had multiple charges of failure to comply and another 8.3% had other administrative offences in addition to the failure to comply charge or charges (Table 1). Only 36.6% of cases with a failure to comply charge (or charges) had another criminal⁴ offence (or offences) in the case (Table 1). As mentioned earlier, there may be additional charges added after the date of first appearance. However, this issue is somewhat irrelevant when examining this specific issue of how these FTC charges first enter

²Using the date of first appearance in court is not the usual way CCJS releases data. Typically, a case is based on the date of disposition. However, given that the interest in this first section is on following cases through the youth court process, the date of first appearance was the best way to define a case. This means that these data cannot be compared to other data released by CCJS.

³ The term “sentences will predominantly be used instead of “dispositions”, since that is the terminology used in the *YCJA*.

⁴For the purpose of this report, a “criminal” offence includes only a violence, property and drug offence. Administration of Justice/Criminal Code offences are not included in this category.

court. As mentioned above, one theory was that youths were entering court with both FTC charges and criminal charges. So, for example, a youth might be charged with shoplifting and with failing to comply with the condition of not being in that particular store. Thus, both of those charges would enter youth court on the same day – as they were both part of the same incident. This, however, appears not to be the case. Rather many of these FTC charges are entering youth court without any other types of charges in the case.

Table 1: Cases involving Failure to Comply charges

| | |
|--|------------------|
| Single failure to comply charge case | 37.6% (8,600) |
| Multiple failure to comply charges | 17.5% (4,005) |
| Other administrative offences /criminal code charges | 8.3% (1,901) |
| Criminal offence with failure to comply charge(s) | 36.6% (8,361) |
| Total | 100% (22,867) |

Looking at the 36.6% of the cases that had other criminal charges (8,361 cases), the majority are relatively minor offences ⁵. Roughly 16% of the cases were minor assaults, another 14.6% consisted of “other violence/weapons” and over a third (36.3%) of the cases involved possession of stolen property/theft under (Table 2). The majority (70%) of the criminal offences then, were property or drug offences.

Table 2: Type of criminal charges with failure to comply cases

| | |
|--|------------------|
| Minor assault | 15.5% (1,295) |
| Other violence/weapons | 14.6% (1,217) |
| Possession of stolen property/ theft under | 36.3% (3,036) |
| Other property | 27.2% (2,276) |
| Drugs | 6.4% (537) |
| Total | 100% (8,361) |

⁵Where there were two or more criminal charges against the youth in the case, the most serious offence was chosen. Violence was seen as most serious, followed by property, followed by drug offences.

PART 3: CASE CHARACTERISTICS AND FINDING FAILURE TO COMPLY CHARGES GUILTY

Thus far, these cases have been described by the types of charges present at the beginning of the youth court process. However, not all of the charges were “found guilty”. The “not guilty” category includes some combination of not guilty, stayed, dismissed, withdrawn, etc. Roughly two thirds of the cases were convicted of at least one count of failing to comply with a disposition. Specifically, of the 22,867 cases that entered youth court with at least one failure to comply charge, 15,790 (69.1%) cases were ultimately convicted. Thus, 30.9% (7,077 cases) were not convicted, in the end, of failing to comply with a disposition. Information on convictions for the other charges was not obtained – thus, all charges other than FTC may, or may not, have ultimately been found guilty.

In single charge failure to comply cases, 70.5% of the cases were found guilty (Table 3). In cases of multiple failure to comply charges, a slightly larger proportion of cases (84.6%) had at least one conviction for failing to comply⁶ (Table 3). When there were other administrative offences or criminal offences in the case, there was less likely to be a conviction for failing to comply. For example, only 58.4% of cases with other administrative offences had a conviction for failing to comply. Of the cases with criminal offence(s), 62.5% of the cases had a failing to comply (FTC) conviction. It may be that the failure to comply charge appears trivial in comparison to a more serious (criminal) charge, thus there is less likely to be a conviction for FTC when other charges are present within the case. Information was not obtained on whether or not the other charges were found guilty so it is unclear how these cases look at the end, in terms of the types of convictions present.

Table 3: Percent of failure to comply charges found guilty as a function of type of case

| | Finding for failure to comply charge | | Total |
|---|--------------------------------------|-------------------|-------------------|
| | Not guilty* | Guilty | |
| Single FTC charge | 29.5% (2,538) | 70.5% (6,062) | 100% (8,600) |
| Multiple failure to comply charges | 15.4% (616) | 84.6% (3,389) | 100.0% (4,005) |
| Other administrative offences / criminal code charges | 41.6% (790) | 58.4% (1,111) | 100.0% (1901) |
| Criminal offence with FTC charge | 37.5% (3,133) | 62.5% (5,228) | 100% (8,361) |
| Total | 30.9% (7,077) | 69.1% (15,790) | 100% (22,867) |

*Not guilty = combination of not guilty, stayed, dismissed, withdrawn, etc.

Looking at only those cases with a criminal offence (N=8,361), it appears that the more minor the crime, the more likely there is to be a conviction for FTC. For example, of cases that had violence offences in addition to a FTC charge (or charges), anywhere from 56% to 58.6% of the cases were ultimately convicted of FTC (Table 4). In contrast, of the cases that had property offence, anywhere from 62.8% to 66.3% of cases received a conviction for FTC (Table 4). It is

⁶It was not possible to easily obtain findings of guilty on every failure to comply charge within every case. Thus, in cases where there were multiple failure to comply charges, a “guilty finding” or “conviction” means that at least one of the failure to comply charges was found guilty.

not clear why cases with less serious offences are more likely to receive convictions on the FTC charge (or charges). It could be the nature of the cases (more serious offences compared to less serious offences) are different. Perhaps the less serious cases have more failure to comply charges – thus making it more likely that there will be at least one conviction for FTC. Unfortunately the exact number of FTC charges for each case was not obtained so this issue can not be explored. Alternatively (or additionally) it may be that, as suggested above, the failure to comply charge appears trivial in comparison to a more serious (criminal) charge. Again, however, since no information on what happened to the other charges was obtained, one does not know how these cases look at the end of the process.

Table 4: Finding failure to comply charges guilty by type of criminal offence in case

| | Finding for failure to comply charge | | Total |
|---|--------------------------------------|------------------|-------------------|
| | Not guilty* | Guilty | |
| Minor assault | 41.4% (536) | 58.6% (759) | 100.0% (1,295) |
| Other violence / weapons | 44.0% (535) | 56.0% (682) | 100.0% (1,217) |
| Possession of stolen property / theft under | 33.7% (1,023) | 66.3% (2,013) | 100.0% (3,036) |
| Other property | 37.2% (847) | 62.8% (1,429) | 100.0% (2,276) |
| Drugs | 35.8% (192) | 64.2% (345) | 100.0% (537) |
| Total | 37.5% (3,133) | 62.5% (5,228) | 100.0% (8,361) |

*Not guilty = combination of not guilty, stayed, dismissed, withdrawn, etc.

PART 4: CASE CHARACTERISTICS AND MOST SERIOUS SENTENCE FOR THE FAILURE TO COMPLY CONVICTION

This section explores the most serious disposition given for the failure to comply conviction. Thus, it examines only those 15,790 cases (69.1% of the sample) where there was a finding of guilt on at least one of the failure to comply charges. When there are multiple convictions for failing to comply, the most serious sentence was chosen. Overall, over half (53.2%) of the dispositions for the failure to comply charge involved custody (Table 5). Again, however, any charges associated with the case that are not introduced on the same day as the start date are excluded. Thus, the sentences imposed could be influenced by additional, and sometimes more serious charges/convictions, that were introduced at a later date.

Table 5: Most serious disposition given for the failure to comply conviction

| | Percent (number of cases) | Cumulative Percent |
|------------------|------------------------------|-----------------------|
| Secure custody | 25.0% (3,946) | 25.0% |
| Open custody | 28.3% (4,462) | 53.2% |
| Probation | 29.5% (4,661) | 82.8% |
| Fine/ CSO/ Other | 17.2% (2,721) | 100.0% |
| Total | 100% (15,790) | ----- |

The case characteristics appeared to affect the sentence given to the failure to comply conviction. Single FTC conviction cases received the least punitive sentence (Table 6). However, 44.1% of cases with a single conviction for FTC received custody. Given that the failure to comply “offence” involves breaching a condition (curfew, non-association order, reporting to youth worker, etc) as opposed to committing a criminal offence, sanctioning with a custodial sentence may appear somewhat punitive. In cases of multiple failure to comply convictions, a slightly larger proportion of cases (53.7%) received a custodial sanction (Table 6).

When examining the sanctions for the failure to comply convictions in cases with administration of justice offences or other criminal offences, it is important to understand that the sentence for the failure to comply conviction may be concurrent with the sentence(s) for the other conviction(s) in the case. So, for example, imagine a case with a theft under conviction and a failure to comply conviction. In this data set it may be indicated that the failure to comply received a custodial sanction. This does necessarily reflect a “unique” sanction for the failure to comply. It may be that the custodial sentence was for both the theft under and the failure to comply (to be served concurrently). Alternatively, it may be that the custodial sanction is only for the failure to comply conviction and there is another custodial sanction or different type of sanction given for the criminal offence. Thus, when examining the most serious sentence for the failure to comply conviction, in cases with other criminal offences, one should interpret this as the minimum sentence given – there may be an additional sentence or it may be the entire sentence for all charges. In addition, as mentioned throughout, the sentence could also reflect additional charges that were added after the date of first appearance. It would likely be safe to assume, however, that at least a third of the cases containing only FTC convictions are receiving custody. See Appendix A: Table A1 for a breakdown of open/secure custody.

Table 6: Most serious disposition given for the failure to comply conviction by type of case

| | Type of Case | | | | Total |
|----------------|-----------------------|--------------------------|--|---|--------------------|
| | Single FTC conviction | Multiple FTC convictions | Other administration of justice /criminal code charges | Other criminal offence with FTC conviction(s) | |
| Custody | 44.1% (2,672) | 53.7% (1,821) | 64.2% (713) | 62.1% (3202) | 53.2% (8,408) |
| Probation | 29.4% (1,784) | 26.8% (908) | 24.2% (269) | 32.5% (1,700) | 29.5% (4,661) |
| Fine/CSO/other | 26.5% (1,606) | 19.5% (660) | 11.6% (129) | 6.2% (326) | 17.2% (2,721) |
| Total | 100.0% (6,062) | 100.0% (3,389) | 100.0% (1,111) | 100% (5,228) | 100.0% (15,790) |

Looking at those 5,228 cases where there was a FTC conviction and at least one other criminal offence in the case, one can see a relatively high use of custody across all offence types. Table 7 shows that in cases where the most serious criminal offence is a minor assault, 59.3% of cases received a custodial sentence for the failure to comply conviction. Looking at the more minor (non-violent) offences, (possession of stolen property and theft under) 60.8% of the cases received a custodial sanction for the failure to comply conviction. Again, this is the minimum sentence given – the criminal offence may or may not have received a different sentence to be served in addition to the most serious sentence given to the guilty failure to comply conviction. And again, there could have been additional charges added on after the first appearance. (see Appendix A: Table A2 for a breakdown of open/secure custody).

Table 7: Most serious disposition given for the failure to comply conviction by type of criminal offence in case

| | Type of Offence in Cases with Other Criminal Charges | | | | | Total |
|----------------|--|--------------------------|---|-------------------|-----------------|-------------------|
| | Minor assault | Other violence / weapons | Possession of stolen property / theft under | Other property | Drugs | |
| Custody | 59.3% (450) | 65.2% (445) | 60.8% (1,223) | 63.5% (907) | 51.3% (177) | 61.2% (3,202) |
| Probation | 34.7% (263) | 29.5% (201) | 32.5% (654) | 31.5% (450) | 38.3% (132) | 32.5% (1,700) |
| Fine/CSO/other | 6.1% (46) | 5.3% (36) | 6.8% (136) | 5.0% (72) | 10.4% (36) | 6.2% (326) |
| Total | 100.0% (759) | 100.0% (682) | 100.0% (2,013) | 100.0% (1,429) | 100.0% (345) | 100.0% (5,228) |

If these sentencing patterns hold under the *Youth Criminal Justice Act* (YCJA), then the relatively high use of custody for these minor offences may be problematic for a couple of reasons. First, this high use of custody for relatively minor cases may conflict with the intent of the new youth justice legislation. Sections 38 and 39 of the *YCJA* outline, fairly explicitly, what judges should be focusing on when sentencing and when to use custody. In section 38 judges are then given a list of approximately seven principles to follow when sentencing – for example that the

punishment must be proportionate to the seriousness of the offence and the degree of responsibility of the young person or that the sentence must be the least restrictive one available (*YCJA* Section 38(2)). Section 39 of the *YCJA* contains further “hurdles” for cases to get into custody. Custody can only be imposed if one or more of four conditions are met:

- it is a violent offence,
- the youth has previously failed to comply with non-custodial sentences,
- the youth has been found guilty of an offence where an adult could serve over two years and there is a history of findings of guilt, or
- “in exceptional cases where the young person has committed an ... offence, such that the imposition of a non-custodial sentence would be inconsistent with the purpose and principles [of sentencing]” (Section 39(1)).

While additional charges may have been added to some of the cases, there still appears to be a relative high use of custody for the more minor offences. For example, roughly 44% of cases with only a single conviction of FTC received a custodial sentence. While some of those cases may have had additional charges added, it would likely be safe to assume somewhere around 30% are receiving custody. It may be that those cases had a lengthy criminal history – thus making the use of custody permissible. However, if this was the first time those cases came into youth court for FTC, then the use of custody would likely be prohibited under the *YCJA* as the presumption in section 39 appears to be that custody should only be used if there are multiple (two or more) failed community-based sentences in the past. Thus, it would be valuable to explore whether this sentencing pattern has continued under the *YCJA*.

The high use of custody may be problematic for another reason. Research has shown that the previous sentence affects sentences that follow. Matarazzo, Carrington and Hiscott (2002) found that Canadian youth court judges appear to be more influenced by the previous sentence that a young person received than by his/her past criminal behaviour. That is, youths tend to be handed down either the same type of sentence that they received the previous time or a more severe sanction, independent of the present crime that they committed. In other words, it is not just what the youth did, or who the youth was, but what the judge did the previous time that makes the difference. This means that the high use of custody for these cases makes it very likely that if these youths ever return to youth court they will likely receive another custodial sentence no matter what they come back into youth court for. Again, this may cause a problem for achieving proportionality in sentencing.

PART 5: SUMMARY

Section I provided a snapshot of cases coming into youth court with a failure to comply charge (or charges) under the *Young Offenders Act*. It appears that many of these cases are single or multiple charges of failure to comply – not cases involving other criminal offences. The more charges of failing to comply, the more likely that there will be at least one conviction for FTC. Custody appeared to be used in a relatively high proportion of cases – 44% of cases with a single failure to comply conviction received custody. In cases with multiple failure to comply convictions (but no criminal offences) over half received custody. Custody was used in higher proportions in cases where there were other administration of justice offences or criminal offences. If this sentencing pattern still exists under the *YCJA*, then this high use of custody may be seen as conflicting with the intent of the *YCJA* and will undoubtedly affect any sentences that follow if the youth ever returns to youth court.

SECTION II: LONGITUDINAL YOUTH COURT DATA

PART 1: INTRODUCTION

The second section of this report builds on the previous section by exploring the criminal history of failure to comply cases under the *Young Offenders Act*. All cases⁷ in Canada⁸ that were disposed of in 2002/3 and had a conviction (or convictions) for “failing to comply with a disposition” (YOA: Section 26) were identified. For youths with more than one distinct case having a conviction on a failing to comply charge within 2002/3, the **final** such case was selected, based on the date of disposition (“case end-date”)⁹. Once all unique cases with conviction(s) for failing to comply were identified, their previous convictions and sentences (to 1991) were gathered. Specifically, failure to comply cases disposed of in 2002/3 were linked to previous years by matching on province/territory of disposition; accused identifier; sex of accused; and birthdate of accused.

Not all persons with a conviction for failing to comply in 2002/3 could successfully be linked to at least one preceding convicted case. Obviously this should not occur since, in order for a person to be charged with and convicted for failing to comply, there must be at least one preceding case and disposition. However, there are a variety of reasons that could account for the failure to make a successful link. Some of the reasons, provided by CCJS, include:

- the accused changed their name or used an alias;
- any change in local person identifiers used by the courts;
- prior convictions were for provincial statute offences;
- the previous court disposition was an application;
- the previous disposition was a peace bond;
- the previous conviction occurred in another province;
- the previous case was waved out of province;
- data capture errors on name or date of birth of the accused;
- the case was transferred to adult court;
- the conviction was obtained on an appeal.

There were, in total, 10,335 cases¹⁰ with a conviction for failing to comply with a disposition (FTC) in 2002/3. Of these 10,335 cases, roughly 10.9% (1,124 cases) had unmatched criminal history data. For all analyses that follow, the cases with no matching criminal history data have been excluded¹¹. This results in a sample size of 9,211.

⁷Throughout this report, the unit of analysis will be a “case” which is defined as one or more charges against a youth disposed of on the same day.

⁸Excluding the Northwest Territories and Nunavut.

⁹The FTC cases were not necessarily the literal final case for the accused disposed of in 2002/3. For example, a subsequent case with a different charge/conviction (eg. minor assault) might have occurred. These cases were only the final cases of FTC disposed of within 2002/3.

¹⁰The file created by CCJS was an aggregated file. They therefore created “weights” to represent the number of micro-data records that each case characterized. All data presented here have been weighted.

¹¹Analyses were run with and without the missing data. The missing data had no significant effect on any of the results presented in this report.

A description of the sample (Part 2A) will be provided followed by a description of the criminal history of these cases (Part 2B). Part 3 will explore factors that relate to the type of sanction given for the failure to comply conviction and Part 4 will examine what types of probation sentences appear more likely to fail. Part 5 will explore provincial variation. A summary and policy recommendations will be provided at the end.

PART 2A: DESCRIPTION OF CASES

Current Sample: Types of Convictions

There are a number of ways in which to describe the FTC cases that were disposed of in 2002/3. Within these FTC cases there could also be convictions for other types of offences (e.g. violence, property, drugs, etc). Looking at the cases that have, and did not have, other types of convictions within the case, one can see that close to half of the sample (46.1%) only had a FTC conviction (or convictions) within the case (Table 8). Another 26.4% only had one non-FTC conviction within the case. A “non-FTC conviction” includes any conviction that is not failing to comply with a disposition. Another 12.6% had two non-FTC convictions and 14.9% had three or more non-FTC convictions within the case. The same trends emerged when looking at boys and girls separately. However, girls were significantly more likely than boys to only have FTC convictions within their cases.

Table 8: Type of Case by Gender

| | Males | Females | Total |
|-----------------------------------|------------------|------------------|------------------|
| Only FTC convictions | 43.3% (3101) | 55.9% (1146) | 46.1% (4247) |
| One non-FTC conviction | 26.9% (1930) | 24.5% 503 | 26.4% (2433) |
| Two non-FTC convictions | 13.7% (982) | 8.8% (180) | 12.6% (1162) |
| Three or more non-FTC convictions | 16.0% (1149) | 10.7% (220) | 14.9% (1369) |
| Total | 100.0% (7162) | 100.0% (2049) | 100.0% (9211) |

Chi-square=119.44, df=3, p<.001

Another way of representing these cases is to show the number (and proportion) of cases with single/multiple failure to comply convictions as well as some combination of other non-FTC convictions. Table 9 presents these findings overall, and for boys and girls separately. Roughly 34.3% had only one FTC conviction within the case and another 11.8% had two or more FTC convictions (46.1% in total having only FTC convictions within the case). Thus, of the cases that only had FTC convictions (N=4,247), the majority had only one single conviction (N=3,162 or 74% of the cases that only had FTC convictions).

Roughly 19.8% had one FTC conviction and one non-FTC conviction while another 15.5% had one FTC conviction and two or more non-FTC convictions. Only 18.5% had two or more FTC convictions and one or more non-FTC convictions. Similar trends emerge when looking at boys and girls separately. Generally, however, boys were significantly more likely

than girls to have a non-FTC conviction (or convictions) with multiple FTC convictions (Table 9).

Table 9: Type of case by Gender

| | Male | Female | Total |
|---|------------------|------------------|------------------|
| One FTC conviction only | 32.9% (2356) | 39.3% (806) | 34.3% (3162) |
| Two or more FTC convictions only | 10.4% (745) | 16.6% (340) | 11.8% (1085) |
| One FTC and one non-FTC Conviction | 20.4% 1464 | 17.7% (362) | 19.8% (1826) |
| One FTC and two or more non-FTC convictions | 17.0% 1221 | 10.3% (211) | 15.5% (1432) |
| Two or more FTC and One or more FTC convictions | 19.2% (1376) | 16.1% (330) | 18.5% (1706) |
| Total | 100.0% (7162) | 100.0% (2049) | 100.0% (9211) |

Chi-square=132.29, df=4, p<.001

The next issue to explore is the type of non-FTC convictions within these cases. For the following analysis, the 46.1% of cases that **only** had a conviction (or convictions) for FTC were removed leaving the 53.9% (N=4,964) of the cases with non-FTC convictions. Where there were two or more different types of non-FTC convictions in the case, the most serious¹² conviction was chosen.

Overall, roughly 27.5% involved a violent offence as the most serious offence within the case and 47% involved a property offence as the most serious offence (Table 10). Roughly 12.9% had an administration of justice (e.g. failure to appear) offence as the most serious offence and another 4.7% involved a drug offence as the most serious offence.

The violence cases tended to be split between more serious assaults (attempted murder, robbery, sexual assault, assault level two and three: 11.2%) and minor assaults (11.1%) (Table 10). The property offences tended also to be relatively equally distributed among break and

¹²Since a case is characterized by a single charge, in cases with more than one charge it is necessary to determine the charge that will represent the case. In convicted cases with more than one conviction, CCJS uses the “most serious offence” rule, whereby all charges are ranked according to a seriousness scale based on the average length of prison sentence imposed on convicted charges between 1994/5 and 2000/1. If two charges have equal results according to this criterion, information about the sentence type (e.g. custody, probation, and fine) is considered. If the representative charge for the case still cannot be determined, the magnitude of the sentence is considered. CCJS then aggregates these UCR2 codes into a “Common Offence Classification Scheme” consisting of various pooled categories of violent, property, administration of justice, etc., offences.

For the purpose of this data set and determining the “most serious conviction ever”, however, only average sentence lengths were used. Thus, since “seriousness” was derived from the average prison sentence length over time, offences deemed “violent” under the “Common Offence Classification Scheme” were not always classified as the most serious conviction ever. This appeared to only affect four cases. Specifically, there were four cases where the most serious conviction ever was a property offence, yet there was a flag indicating that there were violent convictions in these youths’ histories.

enters (13.2%), theft over/other thefts (10%), theft under (11%) and mischief/possession of stolen property (12.8%) (Table 10).

Girls were significantly more likely than boys to have a minor assault at the most serious offence (17.6% of girls vs. 9.7% of boys) while boys were significantly more likely than girls to have a break and enter as the most serious offence (14.9% for boys vs. 5.5% for girls) (Table 10). Girls were also significantly more likely than boys to have an administration of justice offence as the most serious offence within the case (20.5% for girls vs. 11.2% for boys) (Table 10).

Table 10: Only Cases with Other Convictions in Addition to FTC:
Most Serious Conviction by Gender

| | Type of Most Serious Conviction | | |
|--|---------------------------------|-----------------|------------------|
| | Males | Females | Total |
| Attempted murder, robbery, sexual assault, assault level 2 and 3 | 11.4% (462) | 10.5% (95) | 11.2% (557) |
| Minor assault | 9.7% (393) | 17.6% (159) | 11.1% (552) |
| All other violence (predominately threats) | 5.0% (205) | 6.0% (54) | 5.2% (259) |
| Break and enter | 14.9% (606) | 5.5% (50) | 13.2% (656) |
| Theft over \$5000/Other thefts/)/Other property | 9.8% (399) | 10.5% (95) | 10.0% (494) |
| Theft under \$5000 | 10.4% (423) | 13.5% (122) | 11.0% (545) |
| Mischief, possession of stolen property | 13.6% (554) | 9.0% (81) | 12.8% (635) |
| Administration of justice | 11.2% (456) | 20.5% (185) | 12.9% (641) |
| Drugs | 5.4% (219) | 1.7% (15) | 4.7% (234) |
| All other offences | 8.5% (344) | 5.2% (47) | 7.9% (391) |
| Total | 100.0% (4061) | 100.0% (903) | 100.0% (4964) |

Chi-square=193.0, df=10, p<.001

There appeared to be a pattern involving the number of failing to comply convictions and the type of most serious conviction within the case. The more failing to comply convictions there were within in a case, the more likely the case also contained more serious non-FTC convictions. For example, of those with one conviction for failing to comply, close to half (49.3%) only had FTC convictions within the case (Table 11). However, of those with two FTC convictions 42.3% only had FTC convictions and of those with three or more FTC convictions 32.9% had only FTC convictions (Table 11). Generally, as the number of FTC convictions increased, so did the proportion of cases with violence, property, drugs, administration of justice or “other” convictions.

Table 11: Type of most serious conviction in a case by the number of FTC convictions

| | Number of FTC convictions within cases | | | Total |
|-------------------------------------|--|---------------------|-------------------------------|----------------|
| | One FTC conviction | Two FTC convictions | Three or more FTC convictions | |
| Only FTC convictions in case | 3162 49.3% | 746 42.3% | 339 32.9% | 4247 46.1% |
| Violence conviction in case | 870 13.6% | 300 17.0% | 198 19.2% | 1368 14.9% |
| Property conviction in case | 1545 24.1% | 457 25.9% | 328 31.9% | 2330 25.3% |
| Admin of justice conviction in case | 399 6.2% | 141 8.0% | 101 9.8% | 641 7.0% |
| Drug conviction in case | 172 2.7% | 40 2.3% | 22 2.1% | 234 2.5% |
| "Other" conviction in case | 272 4.2% | 78 4.4% | 41 4.0% | 391 4.2% |
| Total | 6420 100.0% | 1762 100.0% | 1029 100.0% | 9211 100.0% |

Chi-square=127.76, df=10, p<.001

It is unclear why this pattern appears. It could be that when there are other criminal offences the youth has also broken specific orders placed on him/her (e.g. refrain from being in a certain place, non-association orders, etc). Alternatively (or additionally) it may be that more breaches occur almost automatically with the criminal offence. That is, it may be that the youth, in committing an offence, automatically breaks a condition like “keep the peace and be of good behaviour” plus specific orders placed on him/her (e.g. refrain from a certain place). Thus, more breaches occur in the commission of a criminal offence.

In a sample of failure to comply cases from a southwestern Ontario youth court, it was found that the most frequent condition breached was “keep the peace and be of good behaviour” (Pulis, 2003¹³). However, that condition was not “automatically” breached with the commission of an offence as not every case with a criminal conviction had a conviction for failing to “keep the peace and be of good behaviour”. Pulis’s (2003) findings suggested that if the offence was more serious, it was more likely that the youth would also be convicted of failing to keep the peace and be of good behaviour. For example, all cases with a violence conviction were also breached on the condition of failing to keep the peace, but only 42% of cases with drug/other convictions were also breached on that condition¹⁴.

¹³Pulis, J. (2003). *A critical analysis of probation for young offenders in Canada*. Unpublished MA thesis, University of Guelph. Guelph, Ontario, Canada. (CCJS did not provide the data for this study – Pulis gathered the data herself)

¹⁴There were no gender differences found in the conviction of failing to keep the peace and be of good behaviour. In addition, it is important to note that in the cases with a criminal conviction, the majority were property offences (theft under \$5000), followed by violence (almost exclusively minor assaults).

Current Sample: Types of Sentences

When examining the most serious sanction¹⁵ given for the failure to comply conviction, it is important to understand that, as in Part I, the sentence may be concurrent with the sentence(s) for other convictions in the case. So, for example, imagine a case with a theft under conviction and a failure to comply conviction. In this data set it may be indicated that the failure to comply received a custodial sanction. This does necessarily reflect a “unique” sanction for the failure to comply. It may be that the custodial sentence was for both the theft under and the failure to comply (to be served concurrently). Alternatively, it may be that the custodial sanction is only for the failure to comply conviction and there is another custodial sanction or different type of sanction given for the other criminal conviction. Thus, when examining the most serious disposition for the failure to comply conviction, in cases with other criminal convictions or multiple failure to comply convictions, one should interpret this as the minimum sentence given – there may be an additional sentence or it may be the entire sentence for all convictions.

Table 12 shows the most serious sentence given for the failure to comply conviction for boys, girls, and overall. Boys are significantly more likely than girls to receive a custodial sentence. Roughly 48.5% of boys receive a custodial sentence (25% secure and 23.5% open) whereas roughly 41.6% of girls receive a custodial sentence (20.1% secure and 21.5% open).

Overall then, 23.9% received a secure custodial sentence as the most serious sentence for a FTC conviction (Table 12). Another 23.1% received open custody – resulting in 47% of this sample receiving a custodial sentence. Another 33.2% received probation.

Table 12: Most Serious Sentence on FTC Conviction by Gender

| | Male | Female | Total |
|----------------|------------------|------------------|------------------|
| Secure custody | 25.0% (1792) | 20.1% (412) | 23.9% (2204) |
| Open custody | 23.5% (1683) | 21.5% (441) | 23.1% (2124) |
| Probation | 31.5% (2259) | 39.0% (800) | 33.2% (3059) |
| Fine | 8.7% (622) | 6.3% (130) | 8.2% (752) |
| CSO | 7.7% (548) | 8.5% (175) | 7.8% (723) |
| Other | 3.6% (258) | 4.4% (91) | 3.8% (349) |
| Total | 100.0% (7162) | 100.0% (2049) | 100.0% (9211) |

Chi-square=61.02, df=5, p<.001

¹⁵ This is the single most serious sentence given. “ Seriousness is defined by its effect on the young person (custody—probation—fine—other).

The more failing to comply convictions and other convictions within the case, the more severe the sentence was. Table 13 shows the type of case and type of sentence by gender. Looking first at those cases with only one FTC conviction, one can see that 28.8% of boys and 30.5% of girls received a custodial sentence (29.2% overall). Cases with two or more FTC convictions had a higher use of custody with 51% of boys and 47.1% of girls (49.8% overall) receiving custody. Within the FTC only cases, girls appeared more likely than boys to receive probation while boys were more likely than girls to receive a CSO.

For both boys and girls, there appears to be a higher use of custody for cases with two FTC convictions compared to cases with one FTC conviction and one other type of conviction. For example, roughly 41.6% of cases received a custodial sentence if they had one FTC conviction and one non-FTC conviction compared to 49.8% of cases receiving custody that had two FTC convictions (Table 13). Once there are two or more FTC convictions and one or more non-FTC convictions within the case roughly 70.7% receive custody. For most comparisons, girls were significantly more likely than boys to receive probation instead of custody.

Table 13: Most Serious Sentence Given for FTC Conviction by Type of Case and Gender

| | | Custody | Probation | Fine/CSO/Other | Total |
|---|--------|-----------------|-----------------|-----------------|------------------|
| One FTC conviction only | Male | 28.8% (678) | 32.6% (768) | 38.6% (910) | 100.0% (2356) |
| | Female | 30.5% (246) | 36.5% (294) | 33.0% (266) | 100.0% (806) |
| | Total | 29.2% (924) | 33.6% (1062) | 37.2% (1176) | 100.0% (3162) |
| Two or more FTC convictions only | Male | 51.0% (380) | 24.6% (183) | 24.4% (182) | 100.0% (745) |
| | Female | 47.1% (160) | 35.3% (120) | 17.6% (60) | 100.0% (340) |
| | Total | 49.8% (540) | 27.9% (303) | 22.3% (242) | 100.0% (1085) |
| One FTC and one non-FTC conviction | Male | 43.2% (633) | 42.3% (620) | 14.4% (211) | 100.0% (1464) |
| | Female | 34.8% (126) | 53.3% (193) | 11.9% (43) | 100.0% (362) |
| | Total | 41.6% (759) | 44.5% (813) | 13.9% (254) | 100.0% (1826) |
| One FTC and two or more non-FTC convictions | Male | 64.0% (781) | 31.2% (381) | 4.8% (59) | 100.0% (1221) |
| | Female | 55.9% (118) | 38.4% (81) | 5.7% (12) | 100.0% (211) |
| | Total | 62.8% (899) | 32.3% (462) | 5.0% (71) | 100.0% (1432) |
| Two or more FTC and one or more non-FTC convictions | Male | 72.9% (1003) | 22.3% (307) | 4.8% (66) | 100.0% (1376) |
| | Female | 61.5% (203) | 33.9% (112) | 4.5% (15) | 100.0% (330) |
| | Total | 70.7% (1206) | 24.6% (419) | 4.7% (81) | 100.0% (1706) |

Gender Differences

- One FTC conviction only: Chi-square= 8.42, df=2, p<.05
- Two or more FTC convictions only: Chi-square= 15.17, df=2, p<.001
- One FTC and one non-FTC conviction: Chi-square=14.14, df=2, p<.001
- One FTC and two or more non-FTC convictions: Chi-square=5.00, df=2, non-significant
- Two or more FTC and one or more non-FTC convictions: Chi-square= 19.56, df=2, p<.001

Given that a failing to comply conviction is typically not a criminal offence, but rather is a violation of some sort of order (e.g. curfew, non-association order, etc), there appears to be a relatively liberal use of custody in these cases. As just highlighted, close to 30% of the cases with only one FTC conviction received a term of custody. Of those with two or more convictions of failing to comply with a sentence, half received a custodial sanction. In fact, cases with two convictions for FTC appeared to be treated somewhat more “harshly” (in terms of receiving a custodial sentence) than cases with one FTC conviction and one other type of conviction (e.g. violence, property or drugs) in the case.

Table 14 shows the type of sentence given by the type of conviction within the case. The more serious the type of conviction, the more severe the sentence was. For example, 70.7% of the cases that had a serious violence conviction (attempt murder, robbery, sexual assault, assault 2/3) received custody compared to 52.9% of the cases that had a conviction for a minor assault (Table 14). However, across all cases with other types of convictions in addition to FTC, close to half always receive custody (from a low of 45.7% for drug offences to a high of 70.7% for serious violence).

Table 14: Most Serious Sentence Given by Most Serious Conviction in the Case

| | Custody | Probation | Fine/CSO/other | Total |
|--|-----------------|-----------------|-----------------|------------------|
| Only FTC conviction(s) | 34.5% (1464) | 32.1% (1365) | 33.4% (1418) | 100.0% (4247) |
| Attempt murder, robbery, sexual assault, assault 2/3 | 70.7% (394) | 27.1% (151) | 2.2% (12) | 100.0% (557) |
| Minor assault | 52.9% (292) | 42.8% (236) | 4.3% (24) | 100.0% (552) |
| Other violence (mainly threats) | 58.3% (151) | 39.8% (103) | 1.9% (5) | 100.0% (259) |
| Break and enter | 67.5% (443) | 29.4% (193) | 3.0% (20) | 100.0% (656) |
| Theft over/other thefts/other property | 55.7% (275) | 39.5% (195) | 4.9% (24) | 100.0% (494) |
| Theft under | 47.3% (258) | 40.2% (219) | 12.5% (68) | 100.0% (545) |
| Mischief/possession of stolen property | 57.3% (364) | 34.2% (217) | 8.5% (54) | 100.0% (635) |
| Administration of justice | 57.9% (371) | 24.2% (155) | 17.9% (115) | 100.0% (641) |
| Drugs | 45.7% (107) | 40.2% (94) | 14.1% (33) | 100.0% (234) |
| Other | 53.5% (209) | 33.5% (131) | 13.0% (51) | 100.0% (391) |
| Total | 47.0% (4328) | 33.2% (3059) | 19.8% (1824) | 100.0% (9211) |

Chi-square= 1193.02, df=20, p<.001

Overall then, it appears that close to half of the sample (46%) only had failure to comply convictions within the case. The majority (74%) of those “FTC only” cases had one single conviction for failing to comply (Table 9). Of those with other types of convictions within the cases, the majority (47%) were property offences – distributed relatively evenly among break and enter, theft over, theft under and mischief (Table 10). Violence constituted the next largest proportion of cases (28%) and tended to have equal proportions of serious violence and minor assaults (Table 10). Custody appeared to be used often – with close to half of the sample receiving a custodial sentence. Cases with multiple FTC convictions and multiple non-FTC convictions were treated the “harshest” in terms of custody (Table 13). Interestingly however, cases with multiple FTC convictions were more likely to receive a custodial sentence than cases with one FTC conviction and one non-FTC conviction (Table 13). Judges may see cases with multiple FTC convictions as more serious than cases with two convictions, one for FTC and another for a different type of offence (e.g. violence, property, drugs).

PART 2B: DESCRIPTION OF CASES

Criminal History: Previous Convictions

There are a number of ways in which the criminal history of these cases can be described. One could talk about past number of charges, or the past number of individual convictions or the past number of cases. The criminal history of these youths will be described in term of “cases”. Within any one case, however, there can be multiple convictions for a various offences. In the event of multiple convictions within a case, the single most serious conviction will be chosen to describe the case¹⁶.

The first very general description shows the total number of previous cases that were disposed of in youth court before the current FTC conviction. Table 15 shows that 34.5% of the sample had one convicted case previously. Roughly 22.7% had two previous cases in youth court and 42.8% had three or more convicted cases before the current FTC conviction. Girls were significantly more likely than boys to have fewer previous convicted cases.

Table 15: Total Number of Convicted Cases Before FTC Case by Gender

| | Male | Female | Total |
|-------------------------------|------------------|------------------|------------------|
| One convicted case | 33.2% (2376) | 39.2% (804) | 34.5% (3180) |
| Two convicted cases | 23.0% (1644) | 21.8% (447) | 22.7% (2091) |
| Three or more convicted cases | 43.9% (3142) | 38.9% (798) | 42.8% (3940) |
| Total | 100.0% (7162) | 100.0% (2049) | 100.0% (9211) |

Chi-Square= 26.91, df=2, p<.001

Table 16 shows the most serious conviction ever in these youths’ history. Roughly 48.4% had, as the most serious offence ever, a violence conviction. The violence was generally split between more serious offences (20.1%) and minor assaults (19%). Another 39.7% had a property conviction as the most serious offence. Relatively few had administration of justice offences (3.2%), drug offences (2.7%), YOA offences (1.8%) and “other” offences (4.1%) as the most serious conviction ever.

Girls were significantly more likely than boys to have a violent conviction as the most serious conviction ever (53.5% of girls had a violent conviction compared to 46.9% of boys). However, the majority of violence for girls was minor assaults (25.8%). Girls were also significantly more likely than boys to have a theft under conviction as the most serious conviction (12.0% for girls; 6.0% for boys) while boys were significantly more likely to have a break and enter conviction as the most serious conviction ever (19.0% for boys; 7.3% for girls).

¹⁶ See footnote 12 for a description of how offence “seriousness” is determined.

Table 16: Most Serious Conviction ever in Youths' History by Gender

| | Male | Female | Total |
|--|------------------|------------------|------------------|
| Attempt murder, robbery, sexual assault, assault 2/3 | 20.7% (1484) | 18.0% (368) | 20.1% (1852) |
| Minor assault | 17.0% (1221) | 25.8% (529) | 19.0% (1750) |
| Other violence (threats mainly) | 9.2% (658) | 9.7% (198) | 9.3% (856) |
| Break and enter | 19.0% (1359) | 7.3% (149) | 16.4% (1508) |
| Theft over/other thefts/other property | 7.3% (526) | 8.2% (167) | 7.5% (693) |
| Theft under | 6.0% (431) | 12.0% (246) | 7.3% (677) |
| Mischief/possession of stolen property | 8.9% (640) | 7.0% (143) | 8.5% (783) |
| Administration of justice | 2.6% (189) | 5.3% (109) | 3.2% (298) |
| Drugs | 2.9% (205) | 2.1% (44) | 2.7% (249) |
| YOA offences | 1.5% (111) | 2.8% (57) | 1.8% (168) |
| Other | 4.7% (338) | 1.9% (39) | 4.1% (377) |
| Total | 100.0% (7162) | 100.0% (2049) | 100.0% (9211) |

Chi-square= 373.00, df=10, p<.001

Yet another way of describing the criminal history of these cases is to examine the most serious and most recent conviction before the FTC conviction. Only roughly 24.5% of the cases prior to the FTC conviction had, as the most serious conviction, a violent offence (Table 17). Once again, however the violence was split between the more serious offences (9.0%) and minor assaults (10.9%). The majority (38.3%) involved a property offence as the most serious conviction before the FTC conviction. Another 20.3% had a YOA offence (predominately failing to comply with a disposition) as the most serious conviction.

Once again, girls were significantly more likely than boys to have a violent conviction as the most serious conviction before the FTC conviction. Predominately, however, the violence that girls were convicted of was minor assaults. Similar to the findings when looking at the most serious conviction ever, boys were more likely than girls to be convicted of a break enter while girls were more likely than boys to be convicted of a theft under. Girls were also more likely than boys to have, as the most serious conviction before the FTC conviction, a YOA offence.

Table 17: Most Serious and Most Recent Conviction Before FTC Case by Gender

| | Male | Female | Total |
|--|------------------|------------------|------------------|
| Attempt murder, robbery, sexual assault, assault 2/3 | 9.2% (661) | 8.3% (170) | 9.0% (831) |
| Minor assault | 9.4% (671) | 16.1% (330) | 10.9% (1001) |
| Other violence (threats mainly) | 4.7% (334) | 4.2% (87) | 4.6% (421) |
| Break and enter | 12.2% (877) | 4.2% (87) | 10.5% (964) |
| Theft over/other thefts/other property | 8.3% (598) | 6.8% (139) | 8.0% (737) |
| Theft under | 8.8% (633) | 12.6% (258) | 9.7% (891) |
| Mischief/possession of stolen property | 10.9% (784) | 7.0% (144) | 10.1% (928) |
| Administration of justice | 8.2% (589) | 11.2% (229) | 8.9% (818) |
| Drugs | 3.9% (282) | 1.7% (35) | 3.4% (317) |
| YOA offences | 18.8% (1346) | 25.7% (526) | 20.3% (1872) |
| Other | 5.4% (387) | 2.1% (44) | 4.7% (431) |
| Total | 100.0% (7162) | 100.0% (2049) | 100.0% (9211) |

Chi-square= 330.27, df=10, p<.001

Overall then, roughly one third of the sample had only one previous case before the current FTC conviction (Table 15). Roughly 42% had three or more previous cases. It appears that a larger proportion of youth were convicted (in their lifetime) of violence (48.4%) as opposed to property offences (39.7% – Table 16). Most recently, however, the majority (38.3%) were convicted of a property offence (Table 17). The girls in the sample tended to have more violence (in their lifetime and most recently) than boys – however, the majority of violence was minor assaults. Girls were also more likely than boys to be convicted of theft under while boys were more likely to be convicted of break and enter. That trend held for both the most serious conviction ever and the most serious, most recent, conviction. Most recently, there was a sizable proportion (20.3%) that had, as the most serious conviction in the case, a YOA offence. Girls were more likely than boys to have a YOA offence as the most serious and most recent conviction before the current FTC conviction.

Criminal History: Previous Sentences

Table 18 shows the most recent, most serious, previous sentence. Overall, 34.1% received a custodial sentence. The custodial sentences were split relatively evenly between open (16.8%) and secure (17.3%) custody. Roughly 53.1% received a term of probation as the most serious sentence and another 12.7% received a fine, CSO or “other” type of sentence. Boys were

more likely than girls to receive a custodial sentence. Girls were more likely than boys to receive a term of probation.

Table 18: Most Serious and Most Recent Sentence before FTC Case by Gender

| | Male | Female | Total |
|----------------|------------------|------------------|------------------|
| Secure custody | 17.9% (1284) | 15.3% (313) | 17.3% (1597) |
| Open custody | 17.4% (1243) | 15.1% (309) | 16.8% (1552) |
| Probation | 52.2% (3741) | 56.3% (1154) | 53.1% (4895) |
| Fine/CSO/other | 12.5% (894) | 13.3% (273) | 12.7% (1167) |
| Total | 100.0% (7162) | 100.0% (2049) | 100.0% (9211) |

Chi-square= 17.25, df=3, p<.001

PART 3: UNDERSTANDING THE MOST SERIOUS SANCTION GIVEN FOR A FAILURE TO COMPLY CONVICTION

This section aims to understand the type of sentence given for the failure to comply conviction (see Table 12). Specifically, using multiple regression this next analysis will explore which variables appear to be significant predictors of the type of sentence given for the failure to comply conviction.

Dependant Variable: Most serious sentence for failure to comply conviction

- 0 = other (3.8%)
- 1 = CSO (7.8%)
- 2 = fine (8.2%)
- 3 = probation (33.2%)
- 4 = open custody (23.1%)
- 5 = closed custody (23.9%)

Predictor Variables

(For all scales, the values have been recoded so that higher numbers = more serious offences or more serious sentences)

- 1) Gender
Boys = 1; Girls = 2
- 2) Most serious conviction ever (Table 16). Scale of 1 to 11.
1:other; 2:YOA offences; 3: administration of justice; 4:drugs; 5:mischief/possession of stolen property; 6:theft under; 7:theft over/other thefts/other property; 8:break and enter; 9:other violence; 10:minor assault 11:attempted murder/sexual assaults/assaults level 2 and 3
- 3) Most serious, most recent, previous conviction (Table 17). Scale of 1 to 11.
1:other; 2:YOA offences; 3: administration of justice; 4:drugs; 5:mischief/possession of stolen property; 6:theft under; 7:theft over/other thefts/other property; 8:break and enter; 9:other violence; 10:minor assault 11:attempted murder/sexual assaults/assaults level 2 and 3
- 4) Most serious, most recent, previous sentence (Table 18). Scale of 1 to 6.
1:other; 2:CSO; 3:fine; 4:probation; 5: open custody; 6: secure custody
- 5) Number of convicted cases preceding FTC case (Table 15). Scale of 1 to 3.
1:one case; 2:two cases; 3: three or more cases

- 6) Most serious non-FTC conviction within current FTC case (Table 14). Scale of 0 to 10.
0:only FTC convictions within the case; 1:other; 2:administration of justice; 3:drugs;
4:mischief/possession of stolen property; 5:theft under; 6:theft over/other thefts/other
property; 7:break and enter; 8:other violence; 9:minor assault 10:attempted murder/sexual
assaults/assaults level 2 and 3
- 7) Number of non-FTC convictions within the case (Table 8). Scale of 0 to 3.
0: only FTC convictions; 1: one non-FTC conviction; 2: two non-FTC convictions; 3: three or
more non-FTC convictions.
- 8) Number of FTC convictions within the case. Scale of 1 to 3.
1: one FTC conviction; 2: two FTC convictions; 3: three or more FTC convictions.

Using multiple regression to examine the effect of each of the nine predictors on the sanction for the FTC conviction, it appears that all of them except for the gender of youth were significant predictors (Table 19). By far the strongest predictor was the most serious, most recent, sentence (#4) – the more severe the previous sentence was, the more severe the current sentence for FTC was. The next two strongest predictors were the number of non-FTC convictions within the case (#7) and the number of FTC convictions within the case (#8). The more non-FTC convictions or the more FTC convictions with the case, the more severe the current sentence was.

The number of convicted cases preceding the FTC case (#5) and the most serious non-FTC conviction within the case (#6) were the next strongest predictors of the current sentence for the FTC conviction (Table 20). The more previous cases the youth had or the more serious the current convictions, the more severe the sentence was for the FTC conviction.

The most serious and most recent conviction was the sixth strongest predictor of the current sentence. The relationship between the most serious, most recent, conviction and the current sentence for the FTC conviction was negative (Table 20). This means that as the most serious, most recent, conviction decreased (towards less serious offences), the more the current sentence increased (towards harsher sanctions). While this may at first seem counter-intuitive, as one might have assumed that judges sentence with proportionality in mind (the more severe a conviction the harsher the sentence), it appears that the negative relationship was due to the predominance of harsher sentences for administration of justice and YOA convictions. If a youth had a conviction for an administration of justice offence or a YOA offence just before the FTC conviction, the sentence for the FTC conviction was considerably harsher. Table 20 gives an example of this relationship. Looking only at cases with one previous case before the current FTC conviction, one can see that administration of justice and YOA offences are most likely to receive custody (Table 21). Roughly 31% of cases with a most recent conviction of a serious violent offence received custody, however, if a youth had a YOA conviction¹⁷ most recently, 47.7% received custody. While the proportion of cases receiving custody ranged from 43% (other violence) to 26% (“other”), the proportion of cases receiving custody was significantly

¹⁷“YOA” offences include sections 7.2 (failure to comply with an undertaking), 26 (failure to comply with a disposition), 47 (contempt of court) and 50 (assist/interfere). While the majority of offences are typically s.26 (failing to comply with a disposition) – in this context, with only one previous conviction, this category instead include some combination of sections 7.2, 47 and 50. The last year (1999-2000) that CCJS published these offences separately, instead of grouping them all into “YOA offences”, suggests that the vast majority are “failing to comply with a disposition”, followed by “failing to comply with an undertaking”. Thus, in this context, with only one previous conviction, it is likely that the majority are “failing to comply with an undertaking”.

higher for administration of justice (41%: this involved things like failure to appear and unlawfully at large) and YOA offences (47%). This general pattern held when looking at cases with two previous cases or three or more previous cases (Appendix A; Tables A3 and A4).

Generally administration of justice and YOA offences receive similar or significantly harsher, sentences than violence cases. It may be that in the context of the current FTC conviction, judges see a previous administrative offence as significantly more serious than any other type of offence, even serious violence. One may wonder if this sentencing pattern achieves section 38(2)(c) of the YCJA which states that the sentence must be proportionate to the seriousness of the offence and degree of responsibility of the offender. There may be debate around whether an administration of justice offence is more serious than a violent offence.

The weakest predictor was the most serious conviction ever in a youth's history. The more serious that conviction was, the more severe the current sentence for the FTC conviction was. Overall, the seven significant predictors accounted for 20.6% of the variation in the type of sentence given for the FTC conviction.

Table 19: OLS Multiple Regression examining the effect of legal factors on the most serious sentence given for the failure to comply conviction

| | Unstandardized Coefficients | | Standardized Coefficients | t | Sig. |
|--|-----------------------------|------------|---------------------------|--------|------|
| | B | Std. Error | Beta | | |
| (Constant) | 2.219 | .075 | | 29.446 | .000 |
| 1) Gender | -.014 | .030 | -.004 | -.569 | .639 |
| 2) Most serious conviction ever | .016 | .006 | .033 | 2.761 | .006 |
| 3) Most serious, most recent conviction | -.023 | .005 | -.056 | -4.661 | .000 |
| 4) Most serious, most recent sentence | .272 | .011 | .233 | 24.295 | .000 |
| 5) Number of convicted cases preceding FTC case | .131 | .017 | .086 | 7.669 | .000 |
| 6) Most serious non-FTC conviction within the case | .039 | .005 | .102 | 7.456 | .000 |
| 7) Number of non-FTC convictions within the case | .236 | .017 | .191 | 13.725 | .000 |
| 8) Number of FTC convictions within the case | .272 | .019 | .138 | 14.557 | .000 |

Dependent Variable: MSD (most serious sentence) for FTC conviction

Model Summary

| R | R Square | Adjusted R Square | Std. Error of the Estimate | Change Statistics | | | | |
|------|----------|-------------------|----------------------------|-------------------|----------|-----|------|---------------|
| | | | | R Square Change | F Change | df1 | df2 | Sig. F Change |
| .453 | .206 | .205 | 1.1954 | .206 | 297.654 | 8 | 9202 | .000 |

Table 20: The most serious, most recent conviction and the most serious sentence for the current FTC conviction (Cases that only had one previous case before the FTC conviction)

| | | | | Total |
|--|--------------------|---------------|----------------------------|----------------|
| | Other/ fine/CSO | Probation | Open/ secure custody | |
| other | 54 29.0% | 83 44.6% | 49 26.3% | 186 100.0% |
| YOA offences | 15 17.0% | 31 35.2% | 42 47.7% | 88 100.0% |
| administration of justice | 28 19.3% | 58 40.0% | 59 40.7% | 145 100.0% |
| drugs | 37 22.3% | 90 54.2% | 39 23.5% | 166 100.0% |
| mischief/possession of stolen property | 85 22.5% | 159 42.2% | 133 35.3% | 377 100.0% |
| theft under | 71 19.5% | 184 50.4% | 110 30.1% | 365 100.0% |
| theft over/other thefts/other property | 65 21.6% | 137 45.5% | 99 32.9% | 301 100.0% |
| B&E | 111 23.6% | 198 42.0% | 162 34.4% | 471 100.0% |
| other violence (threats mainly) | 27 13.7% | 86 43.7% | 84 42.6% | 197 100.0% |
| minor assault | 90 17.9% | 240 47.7% | 173 34.4% | 503 100.0% |
| attempt murder, robbery, sex assault, assault 2/3 | 85 22.3% | 179 47.0% | 117 30.7% | 381 100.0% |
| Total | 668 21.0% | 1445 45.4% | 1067 33.6% | 3180 100.0% |

Chi-square = 50.44, df=20, p<.001

The finding that, by far, the strongest predictor was the type of sentence handed down most recently (predictor #4), is similar to what others have found. For example, Matarazzo, Carrington, and Hiscott's (2002) study¹⁸ investigating predictors of youth court sentences demonstrated that judges not only take the previous history of offending into account, but they also take the previous *sentences* into account when handing down sentences. In effect, a sentence “steps up” from the previous sentence. Thus, under the *Young Offenders Act*, judges appeared to hold this “step” theory of sentencing: sentences tended to be made more severe than the previous sentence regardless of what the youth was being sentenced for. The results presented here further confirm that finding – the most significant predictor was not what the youth had done, but rather how the judge had sentenced the youth most recently. If this sentencing pattern exists under the YCJA, it could conflict with Section 38 of the YCJA which states that the sentence must reflect the seriousness of the offence and the degree of responsibility of the offender. In addition, given the judicial focus on the previous sentence in crafting the current sentence, the relatively high use

¹⁸Matarazzo, A., Carrington, P.J. and Hiscott, D.R (2002). The Effect of Prior Youth Court Dispositions on Current Disposition: An Application of Societal-Reaction Theory. *Journal of Quantitative Criminology*, 17, 169-200.

of custody for these relatively minor offences is clearly problematic. It means that youths who receive custody for a simple FTC conviction are likely to receive custody again if they ever come back into the youth justice system, no matter how minor the offence is.

PART 4: TIME TO FAILURE

There were 6,296 cases (68% of the sample) that received a probation sentence as all or part of the sentence imposed on the most serious offence in the case prior to the current FTC charge¹⁹. Roughly 14% (N=879) of the cases had a probation sentence for 6 months or less. Another 58% (N=3,650) had a probation sentence of six months and one day to one year. The rest 28% (N=1,767) received a sentence of over one year and one day. While direct comparisons cannot be made, one can look at the distribution of all probation sentences imposed to get a general idea about what types of sentences may be more likely to fail.

In published Juristats, one can obtain the number of probation sentences given that ranged from up to six months; six months and one day to one year; and one year and one day or more. Averaging across 2001-2²⁰ and 2002-3²¹, it appears that there were roughly 6,073 probation sentences of up to six months; 19,967 from six months one day to one year; and 8,510 probation sentences over one year. One can then look at the proportion of sentences within each length that failed in this sample and compare that to the number of probation sentences given overall. When one does this comparison, it looks as if a larger number of the longer sentences are failing. For example, an average of 6,073 probation sentences of up to six months were given between 2001/2 and 2002/3 and in this sample only 879 cases had a sentence of up to six months. This works out to roughly 14% of the probation sentences failing. When looking at the longest sentences, an average of 8,510 sentences of over one year were given and in this sample 1,767 cases had a sentence of over one year. This works out to roughly 21% of the longest sentences failing. Again, however, one should not use these numbers as exact indications of the proportion of failed sentences. One should not compare data from the Justistats since that publication looks at all probation sentences and this sample of probation lengths only involved probation as the most serious sentence for the most serious and most recent conviction before the current FTC conviction. However, this does suggest that it may be the longer sentences that are more likely to fail, though further work would need to be done in order to confirm this.

¹⁹This number differs slightly from Table 18 which shows that 4,895 cases (53% of the sample) received a probation sentence. This difference is due to the fact that Table 18 shows the single most serious sentence whereas here the focus is on probation, regardless of whether or not it was deemed the “most serious” sentence in the case. Thus, there are an additional 1,401 cases that had probation in addition to custody.

²⁰For 2001/2: Thomas, J. (2003). Youth Court Statistics, 2001/2. Juristat, 23(3), 1-18. On page 6: “Of the 34,083 cases resulting in a term of probation, 18% were for a period of 6 months or less, 57% ranged from greater than 6 months and up to 12 months, and 24% were for more than 12 months”. That works out to 6,135 cases getting 6 months, 19,427 getting from 6 to 12 months and 8,180 getting more than one year.

²¹For 2002/3: Robinson, P. (2004). Youth Court Statistics, 2002/3. Juristat, 24(2), 1-20. On page 7: “Seventeen percent of cases with a probation sentence were for a period of 6 months or less, 58% ranged from greater than 6 months to 12 months, and 25% were for more than 12 months”. The number of probation sentences (N=35,356) can be obtained from Table 4 (page 13) and thus it works out to 6,011 cases getting 6 months, 20,507 getting from 6 to 12 months and 8,839 getting more than one year.

PART 5: PROVINCIAL VARIATION

Description of Cases and Types of Sentences

As has been well-documented, there is considerable provincial variation in the use of youth court. Generally, the largest variation appears to be in bringing minor cases into court – more serious cases (e.g. serious violence) and proportions of cases found guilty or sentenced to custody generally show less variation (Doob and Sprott, 1996²²). There has, however, not been much research investigating provincial variation with the specific offence of “failure to comply with a disposition”.

This following section on provincial variation pools Newfoundland, PEI, Nova Scotia and New Brunswick into the “Eastern Provinces”. Because of small numbers, Manitoba and Saskatchewan have also been pooled together. There were also 15 cases from the Yukon which, given the small number, have been removed from the analysis. Thus, the sample size for this section of the report has been reduced to 9,196.

Looking at the type of case, it appears that anywhere from about 28.1% to 51.6% of the cases, across all provinces, involve only one conviction of failing to comply (Table 21). The eastern provinces, Ontario and Manitoba/Saskatchewan have similar proportions of cases with only one FTC conviction (roughly 28% to 29%). Alberta and BC have the highest proportion of single FTC conviction cases (44.1% and 51.6% respectively).

Across all provinces, anywhere from 36.1% to 73.6% of the cases have no other types of criminal convictions within the case. Alberta and especially BC stand out having the highest proportion of only FTC cases (58.5% and 73.6% respectively). Those provinces are also the ones that have the highest proportion of cases with only one single conviction for FTC (Table 21). The rest of the provinces have anywhere from roughly 36% to 47% of their cases with only FTC convictions.

It appears then, that the western provinces (Alberta and BC especially) are most likely to have cases consisting only of FTC convictions. The trends for boys and girls were generally the same (see Appendix A; Table A5).

²²Doob, A.N. and Sprott, J.B. (1996). Interprovincial variation in the use of youth courts. *Canadian Journal of Criminology*, 38(4), 401-412.

Table 21: Number of Failure to Comply (FTC) and Criminal Convictions in Cases by Province

| | Eastern provinces | Quebec | Ontario | Manitoba/Saskatchewan | Alberta | British Columbia | Total |
|---|-------------------|-----------------|------------------|-----------------------|------------------|------------------|------------------|
| One FTC conviction only | 28.1% (255) | 32.7% (282) | 29.3% (1020) | 28.6% (400) | 44.1% (674) | 51.6% (526) | 34.3% (3157) |
| Two or more FTC convictions only | 8.0% (73) | 14.7% (127) | 8.4% (293) | 10.6% (148) | 14.4% (220) | 22.0% (224) | 11.8% (1085) |
| One FTC and one non-FTC conviction | 27.7% (252) | 15.3% (132) | 24.4% (850) | 19.0% (266) | 13.7% (209) | 11.1% (113) | 19.8% (1822) |
| One FTC and two or more non-FTC convictions | 12.4% (113) | 15.3% (132) | 18.9% (659) | 20.8% (291) | 11.2% (171) | 6.2% (63) | 15.5% (1429) |
| Two or more FTC and one or more non-FTC convictions | 23.8% (216) | 22.0% (190) | 18.9% (657) | 21.0% (293) | 16.6% (253) | 9.2% (94) | 18.5% (1703) |
| Total | 100.0% (909) | 100.0% (863) | 100.0% (3479) | 100.0% (1398) | 100.0% (1527) | 100.0% (1020) | 100.0% (9196) |

Chi-square=682.74, df=20, p<.001

Another way of exploring criminal convictions is to look at the type of conviction. In this analysis, the 4,242 cases with only FTC convictions have been removed, leaving a sample of 4,954 cases. Table 22 shows that, except for Quebec, the majority of other types of convictions involved property offences – ranging from a low of 44.8% of the cases in Ontario to a high of 53.3% of the cases in the BC. Quebec, being the third highest province in having only FTC conviction cases, tended to have equal proportions of violence and property offences (roughly 37% for each). For the other provinces, violence accounted for anywhere from 17.4% (Alberta) to 30.6% (Ontario) of the cases. Only Quebec and Alberta had a larger proportion of serious violence than minor assaults. All of the other provinces had equal (or larger) proportions of minor assaults and serious violence. These trends are generally the same for boys and girls separately though there are very small numbers in some of the province by offence by gender combinations (see Appendix A: Table A6).

Generally then, the variation that occurs with respect to FTC cases is: Alberta and BC tend to have larger proportions of only FTC conviction cases (especially cases with only one FTC conviction) and therefore smaller proportions of cases with other criminal convictions, followed close by Quebec. The eastern provinces, Ontario and Manitoba/Saskatchewan all looked relatively similar to one another – with similar proportions of FTC only cases and other types of cases (within about a range of about 10%).

Table 22: Type of most Serious Conviction by Province

| | Eastern provinces | Quebec | Ontario | Manitoba/Saskatchewan | Alberta | British Columbia | Total |
|--|-------------------|-----------------|------------------|-----------------------|-----------------|------------------|------------------|
| Attempt murder, robbery, sexual assault, assault 2/3 | 9.1% (53) | 16.5% (75) | 12.3% (267) | 10.2% (87) | 8.2% (52) | 8.5% (23) | 11.2% (557) |
| Minor assault | 12.6% (73) | 9.5% (43) | 12.7% (275) | 10.7% (91) | 6.8% (43) | 9.3% (25) | 11.1% (550) |
| Other violence (threats mainly) | 6.7% (39) | 11.7% (53) | 5.6% (122) | 2.1% (18) | 2.4% (15) | 4.4% (12) | 5.2% (259) |
| Break and enter | 15.5% (90) | 14.8% (67) | 12.1% (262) | 16.0% (136) | 10.4% (66) | 12.2% (33) | 13.2% (654) |
| Theft over/other thefts/other property | 17.2% (100) | 14.5% (66) | 8.0% (174) | 9.5% (81) | 8.1% (51) | 7.8% (21) | 10.0% (493) |
| Theft under | 8.4% (49) | 1.1% (5) | 11.1% (241) | 13.5% (115) | 13.9% (88) | 17.4% (47) | 11.0% (545) |
| Mischief/possession of stolen property | 10.0% (59) | 6.2% (28) | 13.6% (295) | 12.6% (107) | 16.4% (104) | 15.9% (43) | 12.8% (635) |
| Administration of justice | 9.3% (54) | 5.1% (23) | 12.2% (264) | 14.9% (127) | 21.0% (133) | 13.7% (37) | 12.9% (638) |
| Drugs | 5.0% (29) | 14.5% (66) | 4.7% (102) | 1.2% (10) | 2.8% (18) | 3.0% (8) | 4.7% (233) |
| Other | 6.2% (36) | 6.2% (28) | 7.6% (164) | 9.2% (78) | 10.0% (63) | 7.8% (21) | 7.9% (390) |
| Total | 100.0% (581) | 100.0% (545) | 100.0% (2166) | 100.0% (850) | 100.0% (633) | 100.0% (270) | 100.0% (4954) |

Chi-square=461.49, df=45, p<.001

Table 23 shows a somewhat surprising use of custody between Alberta and BC. Alberta uses custody the least out of all the provinces (29% in open and secure) while BC uses custody the second most (50.6% in open and secure). This is somewhat surprising given that BC had the largest proportion (73.5%) of cases with only FTC convictions. Alberta had a similar – though not quite as high – proportion (58.5%) of cases with only FTC convictions but used custody the least. Clearly each province has a different idea about the types of sanctions that are appropriate for FTC cases, with BC predominately opting for custody and Alberta opting for other types of sanctions.

Ontario uses custody the most in Canada (56.9%), followed by BC (50.6%), the eastern provinces (47.2%), Manitoba/Saskatchewan (43.2%) and Quebec (39.6%). It is interesting that Ontario used custody more than the eastern provinces and Manitoba/Saskatchewan given that the composition of cases between those two provinces was somewhat similar (refer back to Tables 21 and 22). Once again, these trends were generally the same when looking at boys and girls separately (see Appendix A: Table A7).

Table 23: Most Serious Sentence for FTC Conviction by Province

| | Eastern provinces | Quebec | Ontario | Manitoba/Saskatchewan | Alberta | British Columbia | Total |
|-------------------------|-------------------|-----------------|------------------|-----------------------|------------------|------------------|------------------|
| Secure custody | 18.6% (169) | 26.4% (228) | 26.3% (915) | 24.2% (338) | 22.1% (338) | 20.2% (206) | 23.9% (2194) |
| Open custody | 28.6% (260) | 13.2% (114) | 30.6% (1065) | 19.0% (266) | 6.9% (106) | 30.4% (310) | 23.1% (2121) |
| Probation | 43.6% (396) | 36.8% (318) | 36.5% (1269) | 29.4% (411) | 18.7% (286) | 37.1% (378) | 33.3% (3058) |
| Fine | 4.2% (38) | 2.7% (23) | 4.3% (149) | 6.5% (91) | 25.7% (393) | 5.7% (58) | 8.2% (752) |
| Community service order | 2.5% (23) | 14.6% (126) | 1.4% (50) | 16.7% (233) | 16.7% (255) | 3.5% (36) | 7.9% (723) |
| Other | 2.5% (23) | 6.3% (54) | 0.9% (31) | 4.2% (59) | 9.8% (149) | 3.1% (32) | 3.8% (348) |
| Total | 100.0% (909) | 100.0% (863) | 100.0% (3479) | 100.0% (1398) | 100.0% (1527) | 100.0% (1020) | 100.0% (9196) |

Chi-square=2042.59, df=25, p<.001

Criminal History and Previous Sentences

Table 24 shows the type of most serious conviction (ever) across provinces. When looking at the type of most serious conviction ever, there again appears to be considerable variation. Quebec and Ontario have similar proportions of violence convictions (roughly 52%). However, Ontario's violence appears evenly split between more serious violence and minor assaults while Quebec has a larger proportion of serious violence (Table 25). The eastern provinces and BC have the third and fourth largest proportions of violence cases (roughly 48%), followed by Manitoba/Saskatchewan (44.7%). Alberta has the smallest proportion of violence cases (41.2%).

Both Quebec and Ontario have relatively small proportions of property offences (28.3% and 36.2% respectively). The eastern provinces and BC had the third and fourth largest proportions of property offences (roughly 40%). Given that Manitoba/Saskatchewan and Alberta did not appear to be reserving court for the more serious violent offences, they, not surprisingly, had the largest proportions of property offences (46.3% and 48%). (See Appendix A: Table A8 for boys and girls separately)

Table 24: The most serious conviction ever in a youth's history by province

| | Eastern provinces | Quebec | Ontario | Manitoba/Saskatchewan | Alberta | British Columbia | Total |
|--|-------------------|-----------------|------------------|-----------------------|------------------|------------------|------------------|
| Attempt murder, robbery, sexual assault, assault 2/3 | 15.8% (144) | 27.7% (239) | 20.5% (713) | 21.3% (298) | 15.8% (241) | 21.2% (216) | 20.1% (1851) |
| Minor assault | 19.6% (178) | 13.0% (112) | 21.4% (745) | 17.5% (245) | 19.8% (302) | 16.3% (166) | 19.0% (1748) |
| Other violence (threats mainly) | 13.1% (119) | 12.4% (107) | 10.2% (354) | 5.9% (82) | 5.6% (86) | 10.5% (107) | 9.3% (855) |
| Break and enter | 18.0% (164) | 15.8% (136) | 13.0% (451) | 24.6% (344) | 17.7% (271) | 13.4% (138) | 16.4% (1504) |
| Thefts over/other thefts/other property | 11.0% (100) | 8.2% (71) | 6.4% (222) | 8.4% (117) | 7.4% (113) | 6.8% (69) | 7.5% (692) |
| Theft under | 5.2% (47) | 0.6% (5) | 7.8% (273) | 6.1% (85) | 9.6% (147) | 11.5% (117) | 7.3% (674) |
| Mischief/possession of stolen property | 5.9% (54) | 3.7% (32) | 9.0% (312) | 7.2% (101) | 13.3% (203) | 7.8% (80) | 8.5% (782) |
| Administration of justice | 2.9% (26) | 0.6% (5) | 4.3% (149) | 3.1% (44) | 3.3% (51) | 2.2% (22) | 3.2% (297) |
| Drugs | 2.3% (21) | 9.7% (84) | 2.0% (70) | 1.1% (15) | 2.1% (32) | 2.6% (27) | 2.7% (249) |
| YOA offences | 2.2% (20) | 1.9% (16) | 1.6% (54) | 1.5% (21) | 1.1% (16) | 4.0% (41) | 1.8% (168) |
| Other | 4.05% (36) | 6.5% (56) | 3.9% (136) | 3.3% (46) | 4.3% (65) | 3.6% (37) | 4.1% (376) |
| Total | 100.0% (909) | 100.0% (863) | 100.0% (3479) | 100.0% (1398) | 100.0% (1527) | 100.0% (1020) | 100.0% (9196) |

Chi-square=703.27, df=50, p<.001

Table 25 shows the most recent (most serious) conviction before the FTC conviction. Once again, Quebec and Ontario have the largest proportion of cases with a violent conviction (roughly 29%). However, whereas Quebec appears to be reserving youth court for the most serious violence, Ontario appears to be using youth court for minor assaults (Table 27). The eastern provinces have the third largest proportion of violence offences (25.4%), the majority of which are minor assaults. Manitoba/Saskatchewan and BC both have roughly 20% of their cases with violent convictions as the most serious, most recent conviction with equal proportions of serious violence and minor assaults. Alberta has the lowest proportion of violence offences (16.9%) the majority of which are minor assaults.

Not surprisingly, Alberta has the largest proportion of property offences (43.4%) predominately consisting of theft under and mischief (Table 25). The second largest proportion of property offences is found in Manitoba/Saskatchewan (42.7%), followed by the eastern provinces (39%), Ontario (37%), BC (34%) and finally Quebec (30.3%). (See Appendix A: Table A9 for boys and girls separately).

Table 25: Most serious, most recent previous conviction by province

| | Eastern provinces | Quebec | Ontario | Manitoba/Saskatchewan | Alberta | British Columbia | Total |
|--|-------------------|-----------------|------------------|-----------------------|------------------|------------------|------------------|
| Attempt murder, robbery, sexual assault, assault 2/3 | 7.4% (67) | 13.6% (117) | 10.0% (348) | 9.4% (131) | 5.5% (84) | 8.2% (84) | 9.0% (831) |
| Minor assault | 11.8% (107) | 8.1% (70) | 13.9% (484) | 9.0% (126) | 9.2% (141) | 7.1% (72) | 10.9% (1000) |
| Other violence (threats mainly) | 6.2% (56) | 7.3% (63) | 5.3% (186) | 2.4% (33) | 2.2% (33) | 4.9% (50) | 4.6% (421) |
| Break and enter | 12.1% (110) | 11.2% (97) | 9.6% (334) | 14.9% (208) | 8.9% (136) | 7.6% (78) | 10.5% (963) |
| Theft over/other thefts/other property | 13.0% (118) | 12.3% (106) | 6.7% (233) | 9.1% (127) | 6.8% (104) | 4.7% (48) | 8.0% (736) |
| Theft under | 5.9% (54) | 0.9% (8) | 10.2% (356) | 9.7% (135) | 13.8% (210) | 12.2% (124) | 9.6% (887) |
| Mischief/possession of stolen property | 8.0% (73) | 5.9% (51) | 10.5% (364) | 9.0% (126) | 13.9% (213) | 9.7% (99) | 10.1% (926) |
| Administration of justice | 8.7% (79) | 4.6% (40) | 9.8% (342) | 11.2% (156) | 9.8% (150) | 4.8% (49) | 8.9% *816) |
| Drugs | 2.8% (25) | 11.4% (98) | 3.0% (106) | 1.6% (23) | 2.4% (37) | 2.7% (28) | 3.4% (317) |
| YOA offences | 20.4% (185) | 17.7% (153) | 16.5% (573) | 19.0% (265) | 22.0% (336) | 35.0% (357) | 20.3% (1869) |
| Other | 3.9% (35) | 7.0% (60) | 4.4% (153) | 4.9% (68) | 5.4% (83) | 3.0% (31) | 4.7% (430) |
| Total | 100.0% (909) | 100.0% (863) | 100.0% (3479) | 100.0% (1398) | 100.0% (1527) | 100.0% (1020) | 100.0% (9196) |

Chi-square=827.67, df=50, p<.001

Table 26 shows the most serious (most recent) sentence before the FTC conviction across the provinces. The eastern provinces have the highest use of custody (40.5%) followed closely by Ontario (39.2%) and BC (38.2%). Manitoba/Saskatchewan have the third highest use of custody (32.4%) followed by Quebec (27.3%). It is interesting that Quebec has the second lowest use of custody given the larger proportion of cases with more serious types of offense compared to other provinces (see Tables 24 and 25). Alberta once again, has the lowest use of custody (21.6%). (See Appendix A: Table A10 for boys and girls).

Table 26: Most serious, most recent, sentence by province

| | Eastern provinces | Quebec | Ontario | Manitoba/Saskatchewan | Alberta | British Columbia | Total |
|----------------|-------------------|-----------------|------------------|-----------------------|------------------|------------------|------------------|
| Secure Custody | 17.3% (157) | 16.3% (141) | 18.4% (639) | 19.5% (272) | 16.4% (250) | 12.9% (132) | 17.3% (1591) |
| Open Custody | 23.2% (211) | 11.0% (95) | 20.8% (725) | 12.9% (181) | 5.2% (80) | 25.3% (258) | 16.9% (1550) |
| Probation | 55.2% (502) | 60.4% (521) | 55.0% (1912) | 51.9% (726) | 43.4% (662) | 55.4% (565) | 53.2% (4888) |
| Fine | 1.7% (15) | 1.2% (10) | 1.2% (43) | 2.1% (30) | 13.0% (199) | 1.7% (17) | 3.4% (314) |
| CSO | 1.4% (13) | 7.9% (68) | 3.1% (109) | 10.6% (148) | 16.5% (252) | 2.5% (26) | 6.7% (616) |
| Other | 1.2% (11) | 3.2% (28) | 1.5% (51) | 2.9% (41) | 5.5% (84) | 2.2% (22) | 2.6% (237) |
| Total | 100.0% (909) | 100.0% (863) | 100.0% (3479) | 100.0% (1398) | 100.0% (1527) | 100.0% (1020) | 100.0% (9196) |

Chi-square=1266.86, df=25, p<.001

Overall then, whether looking at the most serious conviction ever, or the most serious (most recent) conviction, Quebec and Ontario stand out as having the largest proportion of violence and smallest proportion of property offences. However, while Quebec reserves court for the more serious violence, Ontario has equal proportions of serious violence and minor assaults. Interestingly, Ontario has the highest use of custody when looking at the sentence immediately preceding the FTC conviction while Quebec has one of the lowest.

Alberta and Manitoba/Saskatchewan tend to have the smallest proportions of violent offences and the largest proportions of property offences in their youth courts. Interestingly, however, Alberta had the lowest use of custody (when looking at the most recent sentence before the FTC conviction) while Manitoba/Saskatchewan was in the middle among all six jurisdictions examined.

The eastern provinces and BC were somewhere in between the extremes of Quebec/Ontario and Alberta/Manitoba-Saskatchewan in terms of their offence compositions. However, those two provinces had relative high levels of custody when examining the most serious, most recent, sentence.

In order to explore whether the different provinces used custody more or less than Canada as a whole, (while controlling for the different case characteristics), a multiple regression was performed. The same eight variables that were used for the first regression were used again (see section II, part 3: pages 23/24 for the descriptions). This time, however, a flag for each province was created so that each province could be compared to the rest of Canada. Initial analyses showed no significant difference for the Eastern provinces compared to the rest of Canada so it has been omitted from the current analysis. Thus, there were five flags created:

- FlagQB: 0=rest of Canada / 1 = Quebec
- FlagON: 0=rest of Canada / 1 = Ontario
- Flag Man-Sask: 0=rest of Canada / 1 = Manitoba/Saskatchewan
- FlagALB: 0=rest of Canada / 1 = Alberta
- FlagBC: 0=rest of Canada / 1 = British Columbia

Table 27 shows the results of this regression analysis. The results were the same as the earlier regression (Table 19). All of the predictors, except for gender, were statistically significant. The more serious the most serious conviction ever in the youth's history was, the more serious the current sentence was (predictor #2). The less serious the most recent conviction was, the more severe the current sentence was (predictor #3). Once again, this negative relationship appears to be due to the prevalence of harsher sentences for administration of justice and YOA convictions. If a youth had a conviction for an administration of justice offence or a YOA offence just before the FTC conviction, the sentence for the FTC conviction was considerably harsher. The more severe the previous sentence was (predictor #4), the more severe the current sentence for FTC was. The more previous cases the youth had (predictor #5) or the more serious the current convictions within the FTC cases were (predictor #6), the more severe the sentence was for the FTC conviction. The more non-FTC convictions (predictor #7) or the more FTC convictions with the case (predictor #8), the more severe the current sentence was.

Over and above those case characteristics, however, all of the flags for the provinces were also significant predictors of the use of custody. Quebec, Manitoba/Saskatchewan and Alberta used custody significantly less than the rest of Canada. Ontario and BC used custody considerably more than the rest of Canada, even once controlling for the case characteristics. Overall, these 12 significant predictors accounted for 26.7% of the variance in the type of sentence given for the failure to comply conviction.

Table 27: OLS regression examining the effect of legal factors, and province, on the most serious sentence given for the failure to comply conviction

| | Unstandardized Coefficients | | Standardized Coefficients | t | Sig. |
|--|-----------------------------|------------|---------------------------|---------|------|
| | B | Std. Error | Beta | | |
| (Constant) | 2.459 | .083 | | 29.544 | .000 |
| 1) Gender | -.040 | .029 | -.012 | -1.360 | .174 |
| 2) Most serious conviction ever | .013 | .006 | .027 | 2.403 | .016 |
| 3) Most serious, most recent conviction | -.023 | .005 | -.055 | -4.761 | .000 |
| 4) Most serious, most recent sentence | .205 | .011 | .176 | 18.538 | .000 |
| 5) Number of convicted cases preceding FTC case | .175 | .017 | .114 | 10/436 | .000 |
| 6) Most serious non-FTC conviction within the case | .027 | .005 | .071 | 5.357 | .000 |
| 7) Number of non-FTC convictions within the case | .256 | .017 | .208 | 15.395 | .000 |
| 8) Number of FTC convictions within the case | .296 | .018 | .151 | 16.442 | .000 |
| 9) FlagQB | -.219 | .055 | -.048 | -3.987 | .000 |
| 10) FlagON | .314 | .043 | .114 | 7.324 | .000 |
| 11) FlagMan-Sask | -.284 | .049 | -.076 | -5.775 | .000 |
| 12) FlagALB | -.585 | .049 | -.162 | -11.882 | .000 |
| 13) FlagBC | .252 | .053 | .059 | 4.729 | .000 |

Dependent Variable: MSD (most serious sentence) for FTC conviction

Model Summary

| R | R Square | Adjusted R Square | Std. Error of the Estimate | Change Statistics | | | | |
|------|----------|-------------------|----------------------------|-------------------|----------|-----|------|---------------|
| | | | | R Square Change | F Change | df1 | df2 | Sig. F Change |
| .517 | .267 | .266 | 1.1478 | .267 | 257.878 | 13 | 9182 | .000 |

PART 6: SUMMARY

The data presented in this report suggests that, under the YOA, close to half (46%) of these FTC cases had no other criminal convictions. Furthermore, a majority of these “FTC only” cases had one single FTC conviction. In the cases with criminal convictions, the majority (47%) were property offences – generally evenly distributed among break and enters, theft over/other thefts, theft unders and mischief/possession of stolen property. The 28% of cases that involved violence tended to be evenly split between more serious violence and minor assaults. Given the nature of these cases there appeared to be a relatively high use of custody. Roughly 29% of the cases with only one FTC conviction received custody and in cases with two or more FTC convictions half received a custodial sentence. In fact, sentences for multiple FTC convictions were somewhat harsher than the sentences for cases with only one FTC conviction and one other type of conviction. Half of the cases with two or more FTC convictions received custody compared to 42% of cases with one FTC conviction and one other type of conviction.

Pulis (2003)²³ conducted a study investigating FTC convictions from a sample of cases (N=69) from a court in southwestern Ontario found that the most commonly breached condition was “failure to keep the peace and be of good behaviour” (breached in 52% of the cases). While that breach could occur automatically with the commission of an offence, that did not appear to happen. Instead if the offence was more serious (e.g. violence) it was more likely that the youth would also receive a conviction for failing to keep the peace and be of good behaviour. This could be evidence of judges responding to the seriousness of the offence and attempting to further denunciate the offence with a second conviction involving the failed condition. While it was not possible to obtain the failed conditions in this current data set, there was some evidence that if there were multiple FTC convictions within a case, there was more likely to be a conviction for a criminal offence (see, for example, Table 11 or Appendix A Table A11 for row percents).

After “failing to keep the peace”, Pulis (2003) found that the next most common breaches were “obey the rules and discipline of the home or approved facility” (13% of the cases had a FTC conviction involving that rule) followed by “reside at an address approved by a youth worker” and “report to a youth worker as required by the court” (12% for each). The only significant gender difference that emerged was that a larger proportion of girls were convicted of failing to comply with the condition of “reside at an address approved by a youth worker”. In addition, a larger proportion of younger youths and girls were convicted of failing to comply with the condition of “obey the rules and discipline of the home or approved facility”. It is not clear from the analysis whether this means that there is something specific about gender and age that relates to more girls and younger youths being convicted of those conditions or whether it is simply that those groups are more likely to be given those conditions in the first place. If boys and older youths are less likely to be given those conditions, obviously there would not be many convictions for failing to comply with those conditions. One would need case processing data that had the number of conditions of probation initially given and then one could examine which, if any, were later breached. Pulis’s (2003) study was only able to look at a snapshot of FTC cases²⁴.

²³Pulis, J. (2003). *A critical analysis of probation for young offenders in Canada*. Unpublished MA thesis, University of Guelph. Guelph, Ontario, Canada.

²⁴Part of Pulis’s study (2003) also looked at a snapshot of probation cases to examine the conditions placed on youths. There were no clear gender differences in that sample (108 cases). Instead the number and types of probation conditions were more clearly associated with the nature of the offence. The more

When looking at the criminal history of these cases, the majority (43%) had three or more previous cases in youth court before the current FTC conviction. Close to half of the sample had a violent offence as the most serious conviction ever. Once again, however, the violence was split between more serious violence and minor assaults. Looking more recently, only 25% had a violent conviction just before the FTC conviction (again this was split between serious violence and minor assaults). The majority (38%), most recently, were convicted of a property offence. Clearly one may argue that because of the criminal record these FTC cases should result in “harsher” sentences and a relatively high use of custody. However, it is unclear whether the current sentence should predominately be driven by the criminal record.

In investigating the factors related to the type of sentence given for the FTC conviction, this report found that by far the most significant factor was the previous sentence. The current FTC sentence was driven, largely, by the previous sentence – the more severe the previous sentence was, the more severe the current sentence for FTC was. Matarazzo et al. (2002) have also demonstrated that finding with a sample of cases in youth court.

The high use of custody for these relatively minor offences then, places the youth at serious risk of receiving a more severe sentence if he/she ever comes back into youth court, no matter what the offence is. So, for example, you could have a youth convicted of a shoplifting offence who receives six months probation. Imagine the youth breaches one of the conditions (e.g. non-association order) and comes back into youth court – the data here suggest that this youth would be in jeopardy of receiving a custodial sentence. Once breaking the threshold into custody, this youth is unlikely to ever receive a non-custodial sentence again.

There was also an interesting relationship between the most serious, most recent, conviction and the current FTC sentence. If the most serious and most recent conviction was an administration of justice offence, the youth was significantly more likely to receive a custodial sentence than if the previous conviction was any other type of offence. Even cases with a violent conviction were less likely to receive custody than cases with an administration of justice offence. Given that administrative offences typically involve violating some sort of order (reside someplace, non-association order, curfew, etc) it is unclear if those types of infractions are more serious – and therefore more deserving of custody – than cases that involve serious violence.

There was some provincial variation when examining these cases. Quebec always tended to reserve court for more serious cases than did the other provinces. However, Quebec also has one of the lowest uses of custody compared to all the other provinces. BC, on the other hand, tended to have many minor cases (indeed, roughly three quarters of the FTC cases only had FTC convictions) but used custody much more than other provinces.

serious the offence, the longer the probation sentence and the more conditions were placed on youths. In a multiple regression analysis examining factors that predicted the number of conditions placed on youths, the only two significant predictors were the type of offence and whether or not there was a second offence within the case (typically the second offence was an administration of justice offence). The more serious the offence, or the presence of a second offence within the case, resulted in more probation conditions being placed on the youth. Gender, age, whether or not probation was the most serious disposition the youth received, and the length of the probation sentence were not significant predictors of the number of conditions placed on youths (page 38).

SECTION III: POLICY RECOMMENDATIONS

Proportionality

Within the cases examined here, judges appeared to use proportionality when sentencing under the YOA. Generally, the more convictions for FTC or the more substantive offences within the case, the more likely custody will be used (see, for example, Tables 13 or 14). This sentencing pattern is consistent with Section 38 of the YCJA which says that the sentence should reflect the seriousness of the offence and the degree of responsibility of the offender.

However, when comparing FTC cases to other types of cases, there may be an argument that proportionality is no longer achieved. Cases with multiple FTC convictions tended to receive more severe sentences than cases with other types of convictions (see, for example, Table 13). In addition, there was clear effect of having a previous conviction for an administrative offence. Those who had a previous conviction for an administrative offence (as the most serious conviction in the case) were significantly more likely to receive a harsher sentence than any other type of previous conviction.

As another illustration, data from this report suggested that 29.2% of cases with only one conviction for FTC received custody. By comparison, data published from CCJS shows that 30.2% of cases with one robbery conviction received custody; 17.1% of cases with one conviction for a level two or three assault received custody; 10.8% of cases with one conviction for a minor assault received custody; and 16.3% of cases with one conviction for a break and enter received custody (Table 28). When looking at cases with multiple convictions, a larger proportion of cases receive custody – with failure to comply cases once again using custody more than most other types of cases. Only in robbery cases was custody used more often – 56.4% of robbery cases received custody compared to 52.5% of failure to comply cases (Table 28). The fact that FTC cases (which typically involve violating an order like a curfew) receive custody in larger proportions than serious assaults is surprising and, if this pattern exists under the YCJA, it should make one question whether this reflects “proportionality” as described under the new law.

Table 28: Percent of cases that received custody (Selected Cases*)

| | SINGLE CONVICTION CASE – PERCENT THAT RECEIVED CUSTODY | MULTIPLE CONVICTIONS WITHIN THE CASE* – PERCENT THAT RECEIVED CUSTODY |
|--------------------------------------|---|--|
| Failure to comply with a disposition | 29.2% | 49.8% |
| Robbery | 30.2% | 56.4% |
| Level two or three assault | 17.1% | 45.5% |
| Minor assault | 10.8% | 34.1% |
| Break and enter | 16.3% | 44.1% |

*Data for robbery, level two and three assaults, minor assaults, and break and enter were obtained from CCJS youth court data tables. When there are multiple convictions within a case, CCJS chooses the conviction that resulted in the most serious sentence (Youth Court Survey, Canadian Centre for Justice Statistics. (2003). Unpublished data. Tables 3.03 and 3.04). The failure to comply data were obtained from this report – as explained earlier, when there were multiple convictions within a case, the most serious conviction was chosen.

The above findings, however, do not control for previous convictions. It may be that the FTC cases typically have longer criminal records than other types of cases. Thus, while the FTC may have a less serious current offence compared to other cases (e.g. a violation of a curfew for FTC versus an aggravated assault), the FTC cases may receive harsher sentences than other

violence offences due to the criminal record. However, the results from the multiple regression suggested that even controlling for other case characteristics, there is a significant impact of having a previous administrative offence. Moreover, in a proportionality model like that in the YCJA, there is no suggestion that the criminal record should be *more* important than the nature of the current offence before the court. Thus, if this sentencing pattern holds under the YCJA it may be beneficial to provide education on Section 38 for those working within the YCJA. Further exploration around the role of the nature of the offence and the criminal history in driving the current sentence under the YCJA appears necessary.

Previous Sentences

Results from the regression analysis (Table 18) suggested that the major predictor of the current sentence for the FTC conviction was the previous disposition. This is consistent with other findings (Matarazzo et al, 2002). Clearly the YCJA does not suggest that the previous disposition should be driving the current disposition. There should perhaps be greater education for those working in the field on the lasting effect a disposition has on a youth.

Restrictions on Custody

There is another question about the use of custody with these cases and Section 39 of the YCJA. Section 39 states that custody can only be imposed if one or more of four conditions are met:

- it is a violent offence,
- the youth has previously failed to comply with non-custodial sentences,
- the youth has been found guilty of an offence where an adult could serve over two years and there is a history of findings of guilt, or
- “in exceptional cases where the young person has committed an ... offence, such that the imposition of a non-custodial sentence would be inconsistent with the purpose and principles [of sentencing]” (Section 39(1)).

The second provision – that the youth has previously failed to comply with non-custodial sentences suggests that there needs to be at least *two failed sentences* in the past. Looking at cases with only one previous case before the current FTC conviction (35% of the sample, N=3180), one sees that 33.6% of them received a custodial sentence (Table 29). Once again, those with two or more FTC convictions were more likely to receive custody than cases with one FTC conviction and one other type of conviction (38.3% and 26.8% respectively). Under the YCJA it could be argued that, depending on the type of other convictions present, the use of custody for these cases is now prohibited. Table 29 shows that there are 360 cases (11%) that only had FTC convictions yet received custody. Certainly there could be a strong argument for the prohibition of custody for those “FTC only” cases. Thus, it would be valuable to explore whether this sentencing trend still exists under the YCJA.

Table 29: Type of Sentence by Convictions (Cases that had only one previous case before current FTC case)

| | Most Serious Conviction in Case (Cases that had only one previous case before current FTC case) | | | | | Total |
|----------------|--|---------------|------------------------|--------------------------|-------------------------|----------------|
| | 1 FTC | 2+ FTC | 1 FTC and 1 non-FTC | 1+ FTC and 2+ non-FTC | 2+FTC and 1+ non-FTC | |
| Custody | 19.1% | 38.8% | 26.8% | 49.9% | 58.4% | 33.6% |
| Probation | 43.5% | 37.0% | 58.9% | 45.8% | 37.2% | 45.4% |
| Fine/CSO/Other | 37.4% | 24.2% | 14.3% | 4.3% | 4.4% | 21.0% |
| Total | 100% (1190) | 100% (343) | 100% (683) | 100% (461) | 100% (503) | 100% (3180) |

Clearly then, it would be wise to explore whether or not these various sentencing patterns still exist under the YCJA. Generally, however, one way in which to reduce the number of cases with FTC charges might be to have a review of the sentence first before charging the youth with FTC. A forced review might help to identify if there are conditions that are problematic for the youth. Once in youth court, there should be education and discussion about the various sentencing provisions of the YJCA (Sections 38 and 39 in particular). Focusing in particular on what should drive the current disposition and how to achieve “proportionality”. There should also be discussion around how serious people see these FTC cases as they are currently relying heavily on custodial sanctions – the most expensive of our limited resources.

APPENDIX A: ADDITIONAL TABLES

Table A1: Most serious sentence given for the failure to comply conviction by type of case

| | Type of Case | | | | Total |
|------------------|-----------------------|--|---|--------------------------------------|--------------------|
| | Single FTC conviction | Multiple failure to comply convictions | Other administrative offences / criminal code charges | Criminal offence with FTC conviction | |
| Secure custody | 19.6% (1,187) | 25.8% (873) | 29.8% (331) | 29.7% (1,555) | 25.0% (3,946) |
| Open custody | 24.5% (1,485) | 28.0% (948) | 34.4% (382) | 31.5% (1,647) | 28.3% (4,462) |
| Probation | 29.4% (1,784) | 26.8% (908) | 24.2% (269) | 32.5% (1,700) | 29.5% (4,661) |
| Fine/ CSO/ Other | 26.5% (1,606) | 19.5% (660) | 11.6% (129) | 6.2% (326) | 17.2% (2,721) |
| Total | 100.0% (6,062) | 100.0% (3,389) | 100.0% (1,111) | 100.0% (5,228) | 100.0% (15,790) |

Table A2: Most serious sentence for FTC conviction by type of criminal offence in case

| | Type of Offence in Cases with Other Criminal Charges | | | | | Total |
|------------------|--|-------------------------|---|-------------------|-----------------|-------------------|
| | Minor assault | Other violence/ weapons | Possession of stolen property / theft under | Other property | Drugs | |
| Secure custody | 30.4% (231) | 36.5% (249) | 29.3% (590) | 28.1% (401) | 24.3% (84) | 29.7% (1,555) |
| Open custody | 28.9% (219) | 28.7% (196) | 31.4% (633) | 35.4% (506) | 27.0% (93) | 31.5% (1,647) |
| Probation | 34.7% (263) | 29.5% (201) | 32.5% (654) | 31.5% (450) | 38.3% (132) | 32.5% (1,700) |
| Fine/ CSO/ Other | 6.1% (46) | 5.3% (36) | 6.8% (136) | 5.0% (72) | 10.4% (36) | 6.2% (326) |
| Total | 100.0% (759) | 100.0% (682) | 100.0% (2,013) | 100.0% (1,429) | 100.0% (345) | 100.0% (5,228) |

Table A3: The most serious, most recent conviction and the most serious sentence for the current FTC conviction (Cases that had two previous cases before the FTC conviction)

| | | | | Total |
|--|--------------------|--------------|----------------------------|----------------|
| | Other/ fine/CSO | Probation | Open/ secure custody | |
| other | 27 29.0% | 30 32.3% | 36 38.7% | 93 100.0% |
| YOA offences | 124 23.2% | 166 31.1% | 244 45.7% | 534 100.0% |
| admin of justice | 37 20.6% | 60 33.3% | 83 46.1% | 180 100.0% |
| drugs | 11 18.3% | 25 41.7% | 24 40.0% | 60 100.0% |
| mischief/poss stolen prop | 45 22.5% | 74 37.0% | 81 40.5% | 200 100.0% |
| theft under | 52 27.8% | 65 34.8% | 70 37.4% | 187 100.0% |
| theft over/other thefts/other property | 35 21.6% | 61 37.7% | 66 40.7% | 162 100.0% |
| B&E | 50 24.9% | 58 28.9% | 93 46.3% | 201 100.0% |
| other violence (threats mainly) | 19 20.2% | 31 33.0% | 44 46.8% | 94 100.0% |
| minor assault | 36 16.7% | 82 38.0% | 98 45.4% | 216 100.0% |
| attempt murder, robbery, sex assault, assault 2/3 | 35 21.3% | 59 36.0% | 70 42.7% | 164 100.0% |
| Total | 471 22.5% | 711 34.0% | 909 43.5% | 2091 100.0% |

Chi-square = 20.19, df=20, non-significant

Table A4: The most serious, most recent conviction and the most serious sentence for the current FTC conviction (Cases that had three or more previous case before the FTC conviction)

| | | | | Total |
|--|--------------------|--------------|----------------------------|----------------|
| | Other/ fine/CSO | Probation | Open/ secure custody | |
| other | 27 17.8% | 36 23.7% | 89 58.6% | 152 100.0% |
| YOA offences | 222 17.8% | 296 23.7% | 732 58.6% | 1250 100.0% |
| admin of justice | 70 14.2% | 106 21.5% | 317 64.3% | 493 100.0% |
| drugs | 29 31.9% | 17 18.7% | 45 49.5% | 91 100.0% |
| mischief/poss stolen prop | 75 21.4% | 82 23.4% | 194 55.3% | 351 100.0% |
| theft under | 65 19.2% | 82 24.2% | 192 56.6% | 339 100.0% |
| theft over/other thefts/other property | 41 15.0% | 62 22.6% | 171 62.4% | 274 100.0% |
| B&E | 52 17.8% | 54 18.5% | 186 63.7% | 292 100.0% |
| other violence (threats mainly) | 19 14.6% | 36 27.7% | 75 57.7% | 130 100.0% |
| minor assault | 49 17.4% | 65 23.0% | 168 59.6% | 282 100.0% |
| attempt murder, robbery, sex assault, assault 2/3 | 36 12.6% | 67 23.4% | 183 64.0% | 286 100.0% |
| Total | 685 17.4% | 903 22.9% | 2352 59.7% | 3940 100.0% |

Chi-square = 36.14, df=20, p<.05

Table A5: Number of Failure to Comply (FTC) and other Criminal Convictions in Cases by Province and Gender

| | | | | | | | | Total |
|--------|-----------------------------|-------------------|---------------|---------------|----------------|----------------|----------------|---------------|
| | | eastern provinces | Quebec | Ontario | Manitoba/Sask | Alberta | BC | |
| male | one FTC conviction only | 196 27.2% | 256 31.6% | 764 28.3% | 282 26.7% | 500 42.8% | 353 50.5% | 2351 32.9% |
| | two or more FTCs only | 55 7.6% | 116 14.3% | 186 6.9% | 98 9.3% | 154 13.2% | 136 19.5% | 745 10.4% |
| | one FTC and one non-FTC | 196 27.2% | 128 15.8% | 675 25.0% | 205 19.4% | 176 15.1% | 81 11.6% | 1461 20.4% |
| | one FTC and two+ non-FTCs | 97 13.5% | 130 16.1% | 556 20.6% | 245 23.2% | 136 11.7% | 55 7.9% | 1219 17.0% |
| | two+ FTCs and one+ non-FTCs | 177 24.5% | 179 22.1% | 518 19.2% | 225 21.3% | 201 17.2% | 74 10.6% | 1374 19.2% |
| | Total | | 721 100.0% | 809 100.0% | 2699 100.0% | 1055 100.0% | 1167 100.0% | 699 100.0% |
| female | one FTC conviction only | 59 31.4% | 26 48.1% | 256 32.8% | 118 34.4% | 174 48.3% | 173 53.9% | 806 39.4% |
| | two or more FTCs only | 18 9.6% | 11 20.4% | 107 13.7% | 50 14.6% | 66 18.3% | 88 27.4% | 340 16.6% |
| | one FTC and one non-FTC | 56 29.8% | 4 7.4% | 175 22.4% | 61 17.8% | 33 9.2% | 32 10.0% | 361 17.6% |
| | one FTC and two+ non-FTCs | 16 8.5% | 2 3.7% | 103 13.2% | 46 13.4% | 35 9.7% | 8 2.5% | 210 10.3% |
| | two+ FTCs and one+ non-FTCs | 39 20.7% | 11 20.4% | 139 17.8% | 68 19.8% | 52 14.4% | 20 6.2% | 329 16.1% |
| | Total | | 188 100.0% | 54 100.0% | 780 100.0% | 343 100.0% | 360 100.0% | 321 100.0% |

Males: Chi-square=498.25, df=20, p<.001

Females: Chi-square=187.05, df=20, p<.001

Table A6: Type of Most Serious Conviction by Province and Gender

| | | | | | | | | Total | |
|--|---|---|---------------|----------------|-----------------------|---------------|---------------|----------------|--------------|
| | | Eastern provinces | Quebec | Ontario | Manitoba/Saskatchewan | Alberta | BC | | |
| male | attempt murder, robbery, sex assault, assault 2/3 | 47 10.0% | 73 16.7% | 220 12.6% | 61 9.0% | 42 8.2% | 19 9.0% | 462 11.4% | |
| | minor assault | 54 11.5% | 40 9.2% | 195 11.1% | 56 8.3% | 31 6.0% | 15 7.1% | 391 9.6% | |
| | other violence (threats mainly) | 26 5.5% | 48 11.0% | 95 5.4% | 14 2.1% | 13 2.5% | 9 4.3% | 205 5.1% | |
| | B&E | 84 17.9% | 66 15.1% | 239 13.7% | 122 18.1% | 61 11.9% | 32 15.2% | 604 14.9% | |
| | theft over/other thefts/other property | 76 16.2% | 64 14.6% | 136 7.8% | 68 10.1% | 36 7.0% | 18 8.6% | 398 9.8% | |
| | theft under | 39 8.3% | 5 1.1% | 178 10.2% | 93 13.8% | 72 14.0% | 36 17.1% | 423 10.4% | |
| | mischief/poss stolen prop | 47 10.0% | 27 6.2% | 259 14.8% | 97 14.4% | 89 17.3% | 35 16.7% | 554 13.7% | |
| | admin of justice | 39 8.3% | 22 5.0% | 183 10.5% | 84 12.4% | 101 19.7% | 26 12.4% | 455 11.2% | |
| | drugs | 28 6.0% | 64 14.6% | 96 5.5% | 10 1.5% | 14 2.7% | 6 2.9% | 218 5.4% | |
| | other | 30 6.4% | 28 6.4% | 148 8.5% | 70 10.4% | 54 10.5% | 14 6.7% | 344 8.5% | |
| | Total | 470 100.0% | 437 100.0% | 1749 100.0% | 675 100.0% | 513 100.0% | 210 100.0% | 4054 100.0% | |
| | female | attempt murder, robbery, sex assault, assault 2/3 | 6 5.4% | 2 11.8% | 47 11.3% | 26 14.9% | 10 8.3% | 4 6.7% | 95 10.6% |
| | | minor assault | 19 17.1% | 3 17.6% | 80 19.2% | 35 20.0% | 12 10.0% | 10 16.7% | 159 17.7% |
| other violence (threats mainly) | | 13 11.7% | 5 29.4% | 27 6.5% | 4 2.3% | 2 1.7% | 3 5.0% | 54 6.0% | |
| B&E | | 6 5.4% | 1 5.9% | 23 5.5% | 14 8.0% | 5 4.2% | 1 1.7% | 50 5.6% | |
| theft over/other thefts/other property | | 24 21.6% | 2 11.8% | 38 9.1% | 13 7.4% | 15 12.5% | 3 5.0% | 95 10.6% | |
| theft under | | 10 9.0% | 0 .0% | 63 15.1% | 22 12.6% | 16 13.3% | 11 18.3% | 122 13.6% | |
| mischief/poss stolen prop | | 11 9.9% | 1 5.9% | 36 8.6% | 10 5.7% | 15 12.5% | 8 13.3% | 81 9.0% | |
| admin of justice | | 15 13.5% | 1 5.9% | 81 19.4% | 43 24.6% | 32 26.7% | 11 18.3% | 183 20.3% | |
| drugs | | 1 .9% | 2 11.8% | 6 1.4% | 0 .0% | 4 3.3% | 2 3.3% | 15 1.7% | |
| other | | 6 5.4% | 0 .0% | 16 3.8% | 8 4.6% | 9 7.5% | 7 11.7% | 46 5.1% | |
| Total | | 111 100.0% | 17 100.0% | 417 100.0% | 175 100.0% | 120 100.0% | 60 100.0% | 900 100.0% | |

Males: chi-square=396.05, df=45, p<.001

Females: chi-square = 108.93, df=45, p<.001 (Note small Ns in many of the cells)

Table A7: Most Serious Sentence for FTC conviction by Province and Gender

| | | | | | | | | Total |
|--------|--------------------|----------------------|---------------|----------------|-------------------|----------------|---------------|----------------|
| | | eastern provinces | Quebec | Ontario | Manitoba/ Sask | Alberta | BC | |
| male | custody | 351 48.7% | 323 39.9% | 1597 59.2% | 464 44.0% | 365 31.3% | 364 52.1% | 3464 48.4% |
| | probation | 302 41.9% | 295 36.5% | 922 34.2% | 298 28.2% | 203 17.4% | 239 34.2% | 2259 31.6% |
| | fine/CSO/ other | 68 9.4% | 191 23.6% | 180 6.7% | 293 27.8% | 599 51.3% | 96 13.7% | 1427 20.0% |
| | Total | 721 100.0% | 809 100.0% | 2699 100.0% | 1055 100.0% | 1167 100.0% | 699 100.0% | 7150 100.0% |
| female | custody | 78 41.5% | 19 35.2% | 383 49.1% | 140 40.8% | 79 21.9% | 152 47.4% | 851 41.6% |
| | probation | 94 50.0% | 23 42.6% | 347 44.5% | 113 32.9% | 83 23.1% | 139 43.3% | 799 39.1% |
| | fine/CSO/ other | 16 8.5% | 12 22.2% | 50 6.4% | 90 26.2% | 198 55.0% | 30 9.3% | 396 19.4% |
| | Total | 188 100.0% | 54 100.0% | 780 100.0% | 343 100.0% | 360 100.0% | 321 100.0% | 2046 100.0% |

Males: Chi-square = 1174.55, df=10, p<.001

Females: Chi-square = 427.85, df=10, p<.001

Table A8: Most serious conviction ever in a youth's history by province and gender

| | | eastern provinces | Quebec | Ontario | Manitoba/ Sask | Alberta | BC | Total | |
|---|--|--|---------------|----------------|-------------------|----------------|---------------|----------------|--------------|
| male | attempt murder, robbery, sex assat assault 2/3 | 112 15.5% | 226 27.9% | 578 21.4% | 210 19.9% | 199 17.1% | 158 22.6% | 1483 20.7% | |
| | minor assault | 136 18.9% | 100 12.4% | 525 19.5% | 151 14.3% | 202 17.3% | 106 15.2% | 1220 17.1% | |
| | other violence (threats mainly) | 87 12.1% | 97 12.0% | 273 10.1% | 63 6.0% | 64 5.5% | 73 10.4% | 657 9.2% | |
| | B&E | 152 21.1% | 133 16.4% | 396 14.7% | 314 29.8% | 239 20.5% | 121 17.3% | 1355 19.0% | |
| | theft over/other thefts/other proper | 78 10.8% | 65 8.0% | 164 6.1% | 86 8.2% | 85 7.3% | 47 6.7% | 525 7.3% | |
| | theft under | 30 4.2% | 5 .6% | 183 6.8% | 58 5.5% | 93 8.0% | 59 8.4% | 428 6.0% | |
| | mischief/poss stolen prop | 42 5.8% | 30 3.7% | 268 9.9% | 76 7.2% | 165 14.1% | 59 8.4% | 640 9.0% | |
| | admin of justice | 14 1.9% | 4 .5% | 97 3.6% | 27 2.6% | 35 3.0% | 12 1.7% | 189 2.6% | |
| | drugs | 18 2.5% | 79 9.8% | 59 2.2% | 12 1.1% | 22 1.9% | 15 2.1% | 205 2.9% | |
| | YOA offences | 19 2.6% | 15 1.9% | 33 1.2% | 16 1.5% | 11 .9% | 17 2.4% | 111 1.6% | |
| | other | 33 4.6% | 55 6.8% | 123 4.6% | 42 4.0% | 52 4.5% | 32 4.6% | 337 4.7% | |
| | Total | 721 100.0% | 809 100.0% | 2699 100.0% | 1055 100.0% | 1167 100.0% | 699 100.0% | 7150 100.0% | |
| | female | attempt murder, robbery, sex assat assault 2/3 | 32 17.0% | 13 24.1% | 135 17.3% | 88 25.7% | 42 11.7% | 58 18.1% | 368 18.0% |
| | | minor assault | 42 22.3% | 12 22.2% | 220 28.2% | 94 27.4% | 100 27.8% | 60 18.7% | 528 25.8% |
| other violence (threats mainly) | | 32 17.0% | 10 18.5% | 81 10.4% | 19 5.5% | 22 6.1% | 34 10.6% | 198 9.7% | |
| B&E | | 12 6.4% | 3 5.6% | 55 7.1% | 30 8.7% | 32 8.9% | 17 5.3% | 149 7.3% | |
| theft over/other thefts/other proper | | 22 11.7% | 6 11.1% | 58 7.4% | 31 9.0% | 28 7.8% | 22 6.9% | 167 8.2% | |
| theft under | | 17 9.0% | 0 .0% | 90 11.5% | 27 7.9% | 54 15.0% | 58 18.1% | 246 12.0% | |
| mischief/poss stolen prop | | 12 6.4% | 2 3.7% | 44 5.6% | 25 7.3% | 38 10.6% | 21 6.5% | 142 6.9% | |
| admin of justice | | 12 6.4% | 1 1.9% | 52 6.7% | 17 5.0% | 16 4.4% | 10 3.1% | 108 5.3% | |
| drugs | | 3 1.6% | 5 9.3% | 11 1.4% | 3 .9% | 10 2.8% | 12 3.7% | 44 2.2% | |
| YOA offences | | 1 .5% | 1 1.9% | 21 2.7% | 5 1.5% | 5 1.4% | 24 7.5% | 57 2.8% | |
| other | | 3 1.6% | 1 1.9% | 13 1.7% | 4 1.2% | 13 3.6% | 5 1.6% | 39 1.9% | |
| Total | | 188 100.0% | 54 100.0% | 780 100.0% | 343 100.0% | 360 100.0% | 321 100.0% | 2046 100.0% | |

Males: chi-square= 571.76, df=50, p<.001

Females: chi-square=172.13, df=50, p<.001 (Note: small N in many cells)

Table A9: Most serious, most recent conviction before FTC conviction by province and gender

| | | eastern provinces | Quebec | Ontario | Manitoba/Sask | Alberta | BC | Total |
|--------------------------------------|---|---|---------------|----------------|----------------|----------------|---------------|----------------|
| male | attempt murder, robbery, sex assault, assault 2/: | 48 6.7% | 112 13.8% | 285 10.6% | 88 8.3% | 69 5.9% | 59 8.4% | 661 9.2% |
| | minor assault | 76 10.5% | 60 7.4% | 331 12.3% | 75 7.1% | 92 7.9% | 36 5.2% | 670 9.4% |
| | other violence (threats mainly) | 43 6.0% | 55 6.8% | 149 5.5% | 26 2.5% | 25 2.1% | 36 5.2% | 334 4.7% |
| | B&E | 104 14.4% | 95 11.7% | 299 11.1% | 186 17.6% | 122 10.5% | 70 10.0% | 876 12.3% |
| | theft over/other thefts/other proper | 100 13.9% | 98 12.1% | 180 6.7% | 99 9.4% | 81 6.9% | 39 5.6% | 597 8.3% |
| | theft under | 40 5.5% | 8 1.0% | 264 9.8% | 96 9.1% | 147 12.6% | 75 10.7% | 630 8.8% |
| | mischief/poss stolen prop | 63 8.7% | 51 6.3% | 310 11.5% | 98 9.3% | 184 15.8% | 77 11.0% | 783 11.0% |
| | admin of justice | 54 7.5% | 37 4.6% | 244 9.0% | 110 10.4% | 107 9.2% | 36 5.2% | 588 8.2% |
| | drugs | 22 3.1% | 93 11.5% | 95 3.5% | 20 1.9% | 30 2.6% | 22 3.1% | 282 3.9% |
| | YOA offences | 140 19.4% | 141 17.4% | 406 15.0% | 194 18.4% | 242 20.7% | 220 31.5% | 1343 18.8% |
| | other | 31 4.3% | 59 7.3% | 136 5.0% | 63 6.0% | 68 5.8% | 29 4.1% | 386 5.4% |
| | Total | 721 100.0% | 809 100.0% | 2699 100.0% | 1055 100.0% | 1167 100.0% | 699 100.0% | 7150 100.0% |
| | female | attempt murder, robbery, sex assault, assault 2/: | 19 10.1% | 5 9.3% | 63 8.1% | 43 12.5% | 15 4.2% | 25 7.8% |
| minor assault | | 31 16.5% | 10 18.5% | 153 19.6% | 51 14.9% | 49 13.6% | 36 11.2% | 330 16.1% |
| other violence (threats mainly) | | 13 6.9% | 8 14.8% | 37 4.7% | 7 2.0% | 8 2.2% | 14 4.4% | 87 4.3% |
| B&E | | 6 3.2% | 2 3.7% | 35 4.5% | 22 6.4% | 14 3.9% | 8 2.5% | 87 4.3% |
| theft over/other thefts/other proper | | 18 9.6% | 8 14.8% | 53 6.8% | 28 8.2% | 23 6.4% | 9 2.8% | 139 6.8% |
| theft under | | 14 7.4% | 0 .0% | 92 11.8% | 39 11.4% | 63 17.5% | 49 15.3% | 257 12.6% |
| mischief/poss stolen prop | | 10 5.3% | 0 .0% | 54 6.9% | 28 8.2% | 29 8.1% | 22 6.9% | 143 7.0% |
| admin of justice | | 25 13.3% | 3 5.6% | 98 12.6% | 46 13.4% | 43 11.9% | 13 4.0% | 228 11.1% |
| drugs | | 3 1.6% | 5 9.3% | 11 1.4% | 3 .9% | 7 1.9% | 6 1.9% | 35 1.7% |
| YOA offences | | 45 23.9% | 12 22.2% | 167 21.4% | 71 20.7% | 94 26.1% | 137 42.7% | 526 25.7% |
| other | | 4 2.1% | 1 1.9% | 17 2.2% | 5 1.5% | 15 4.2% | 2 .6% | 44 2.2% |
| Total | | 188 100.0% | 54 100.0% | 780 100.0% | 343 100.0% | 360 100.0% | 321 100.0% | 2046 100.0% |

Males: chi-square=632.98, df=50, p<.001

Females: chi-square=198.83, df=50, p<.001 (Note: small N in many cells)

Table A10: Most serious, most recent sentence before FTC conviction by province and gender

| | | Province | | | | | | Total |
|-------------------------|-------------------------|-------------------|---------------|----------------|----------------|----------------|----------------|----------------|
| | | eastern provinces | Quebec | Ontario | Manitoba/Sask | Alberta | BC | |
| male | Custody | 298 41.3% | 229 28.3% | 1102 40.8% | 361 34.2% | 266 22.8% | 264 37.8% | 2520 35.2% |
| | Probation | 392 54.4% | 483 59.7% | 1438 53.3% | 533 50.5% | 498 42.7% | 392 56.1% | 3736 52.3% |
| | Fine | 12 1.7% | 8 1.0% | 38 1.4% | 27 2.6% | 160 13.7% | 13 1.9% | 258 3.6% |
| | Community service order | 11 1.5% | 64 7.9% | 79 2.9% | 104 9.9% | 181 15.5% | 14 2.0% | 453 6.3% |
| | Other | 8 1.1% | 25 3.1% | 42 1.6% | 30 2.8% | 62 5.3% | 16 2.3% | 183 2.6% |
| | Total | 721 100.0% | 809 100.0% | 2699 100.0% | 1055 100.0% | 1167 100.0% | 699 100.0% | 7150 100.0% |
| | female | Custody | 70 37.2% | 7 13.0% | 262 33.6% | 92 26.8% | 64 17.8% | 126 39.3% |
| Probation | 110 58.5% | 38 70.4% | 474 60.8% | 193 56.3% | 164 45.6% | 173 53.9% | 1152 56.3% | |
| Fine | 3 1.6% | 2 3.7% | 5 .6% | 3 .9% | 39 10.8% | 4 1.2% | 56 2.7% | |
| Community service order | 2 1.1% | 4 7.4% | 30 3.8% | 44 12.8% | 71 19.7% | 12 3.7% | 163 8.0% | |
| Other | 3 1.6% | 3 5.6% | 9 1.2% | 11 3.2% | 22 6.1% | 6 1.9% | 54 2.6% | |
| Total | 188 100.0% | 54 100.0% | 780 100.0% | 343 100.0% | 360 100.0% | 321 100.0% | 2046 100.0% | |

Males: chi-square=854.50, df=20, p<.001

Females: chi-square=293.19, df=20, p<.001 (Note: small N in many cells)

Table A11: Type of most serious conviction in a case by the number of FTC convictions (Row Percents)

| | Number of FTC convictions within cases | | | Total |
|-------------------------------------|--|---------------------|-------------------------------|----------------|
| | One FTC conviction | Two FTC convictions | Three or more FTC convictions | |
| Only FTC convictions in case | 3162 74.5% | 746 17.6% | 339 8.0% | 4247 100.0% |
| Violence conviction in case | 870 63.6% | 300 21.9% | 198 14.5% | 1368 100.0% |
| Property conviction in case | 1545 66.3% | 457 19.6% | 328 14.1% | 2330 100.0% |
| Admin of justice conviction in case | 399 62.2% | 141 22.0% | 101 15.8% | 641 100.0% |
| Drug conviction in case | 172 73.5% | 40 17.1% | 22 9.4% | 234 100.0% |
| "Other" conviction in case | 272 69.6% | 78 19.9% | 41 10.5% | 391 100.0% |
| Total | 6420 69.7% | 1762 19.1% | 1029 11.2% | 9211 100.0% |

Chi-square=127.76, df=10, p<.001