

YOUTH JUSTICE IN CANADA: JUST ICE?

A Thesis Submitted to the Committee on Graduate Studies in Partial Fulfillment of the Requirements for the Degree of Master of Science in the Faculty of Arts and Science.

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## ABSTRACT

### Youth Justice in Canada: Just Ice?

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Strategies to reduce youth crime have been extensively researched and custody is not found to be effective. In the past, custody was a frequently used sentence, and while under the YOA the number of youth in custody was four times higher than that of adults in Canada. The use of custody sentences in Ontario has decreased in recent years, however; it remains above the Canadian average. Currently, alternatives to custody are also being implemented. This study aimed to gather lived experiences of those with firsthand experience in the youth justice system (offenders and staff). These individuals have working knowledge of effective practices for reducing recidivism. Eighteen semi-structured interviews were conducted. Interviews were coded and analysed using Interpretive Phenomenological Analysis. A number of themes emerged, including various views on the benefits of custody, the importance of relationships, challenges of the job and the need for increased focus on prevention.

*Keywords:* Youth Justice, Rehabilitation, Treatment, Interpretive Phenomenology

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## Chapter 1

### Criminological Theory

There are a number of significant theories regarding criminality and reoffending; however there are only a few known predictors of criminal behaviour. It is important to have an understanding of the models that explain offending behaviour when attempting to determine the most effective strategies for rehabilitation. There are many theories on this topic; the most prevalent will be outlined below.

#### **The "Central Eight" and the "Big Four"**

The "Central Eight" and the "Big Four" (Andrews & Bonta, 2006) are not theories in the typical sense. However they are widely considered effective models for conceptualizing criminogenic risk factors. These factors have been found to have the most predictability when it comes to criminal conduct as well as recidivism rates and this has been demonstrated through a number of meta-analyses. The big four risk factors include: a history of antisocial behaviour, antisocial personality pattern, antisocial attitudes and antisocial associates. The central eight, include the big four as well as: family/marital status, education/employment status, substance abuse issues and leisure/recreation choices.

Gendreau, Little and Goggin (1996) conducted a meta-analysis that looked at the predictors of recidivism in adult offenders. Although they found eighteen factors that were correlated with recidivism, the most highly predictive were: a criminal history, antisocial personality, antisocial companions and antisocial attitudes. This provides supporting evidence for the big four. They further found that intellectual functioning, socioeconomic status and personal distress (e.g. anxiety and self-esteem) were very

minimally correlated with recidivism. These factors are an important part of many of the theories outlined below.

### **Classical Theory**

So called “Classical Theory” was the first formal theory of criminality and was developed as a response to the way that the judicial system was being operated in the 1700's. Classical theorists believed that there was too much room for interpretation within laws and that the judicial system was not consistent enough. Beccaria (1872) suggested that judges should not have the authority to interpret the laws as they have been defined by the legislators. At this time, the same crimes could have very different punishments owing to this interpretive power of the judiciary (Cullen & Agnew, 2006). Cesare Beccaria was the most well-known classical theorist; he argued that the system in this time period was unjust and ineffective in dealing with crime. The work of classical theorists was further based on the beliefs of Thomas Hobbes, who suggested that all people will naturally work to pursue their best interests and that they will take the route that provides the most pleasure and the least amount of pain (Cullen & Agnew, 2006).

Classical theorists believed that people would be less likely to partake in crime if the pain of punishment outweighed the reward, and that this would work as a deterrent. Crime would be less frequent, only if the punishment was certain and consistently applied. Beccaria (1872) further theorised that the punishment would be most effective if it were applied immediately after the crime had taken place. He suggested that the time in-between the crime and the sentence was important; the less time, the greater the association amongst the two events (Beccaria, 1872). Further, the certainty of

punishment had a greater effect on reducing crime than the severity of punishment (Cullen & Agnew, 2006).

One of the underlying beliefs of Classical Theory is that criminals are rational people who choose to take part in crime. Although we continue to see a number of aspects of Classical Theory in our system today, there are some critiques. The first critique is that Classical Theory assumes all individuals are motivated to take part in criminal activities to achieve their self-interests. Critics state that there are individual and group differences that determine varying levels of motivation toward crime; not all individuals are equally likely to partake in crime to achieve their goals (Cullen & Agnew, 2006).

The second critique is regarding the assumption that all individuals are rational and that they chose to take part in criminal activity. It is now understood that not all individuals will resort to crime, and not all offenders are rational. Further, it is suggested that not all crime is committed to achieve the offender's self-interest; some individuals commit crime for reasons other than personal gain. Cullen and Agnew (2006) note that this criticism has been recognized by the current criminal justice system and has led to separate courts for young offenders and individuals with mental health concerns.

A final critique of Classical Theory is that it assumes the time lapse between the crime and punishment, combined with the certainty of punishment, and the fit of the punishment to the crime, are the most important factors in whether or not an individual will engage in further criminal activity (Cullen & Agnew, 2006). More recent research has indicated that there are many other factors such as criminal associates and socioeconomic class that contribute to one's motivation or likelihood to take part in

crime. The results of this research have developed into new theories and will be outlined below.

### **Positivist Theory**

Positivist Theory is largely based on the work of Cesare Lombroso, and places a great emphasis on the biological differences in individuals. He noted that those individuals with certain biological characteristics, or deficiencies were those that were more likely to take part in delinquent behaviour. Lombroso based his theory on the work of Charles Darwin and believed that those who took part in crime did not successfully reach a higher level of evolution (Andrews & Bonta, 2006). Positivist Theory came about as response to Classical Theory to account for an increase in crime in the late 1800's even after there were changes made to the legal system, such as punishments being more public, improved consistency in sentencing and laws that were more clearly defined (Cullen & Agnew, 2006). Further, there was some evidence that those who received punishment for criminal acts were actually more likely to reoffend, which was in contrast to the beliefs of Classical Theorists who argued that punishment, when swiftly and appropriately applied, decreases recidivism. Lombroso developed the Positivist Theory and challenged Beccaria's belief that criminals were normal, rational individuals who chose to take part in crime to pursue their self-interests. He suggested that criminals were primitive, savage people and that it was this that led to their involvement in delinquent behaviour.

As reported in Andrews and Bonta (2006), Lombroso conducted studies, although with a limited sample size (383 male criminals and 80 female) regarding the differences between criminals and non-criminals and found that there were a number of traits (e.g. a

large jaw and cheek bones and an arm span greater than the individuals height) that could be used to identify those who were in the “primitive or savage” category (Cullen & Agnew, 2006). He believed these people were born criminals. Lombroso believed individuals who suffered from this poor genetic makeup lacked the ability to cope in the modern world (Andrews & Bonta, 2006). This school of thought could have negative effects on marginalized individuals who may appear less developed owing to lack of social resources such as income and status, and in hindsight worked to harden socio-economic and racial disparities. Critics of Positivist Theory suggest that biologically based theories are too simplistic and place too much emphasis on the fact that specific biological features create a direct link to crime. Lombroso came to identify that there were also environmental factors that contribute to criminal behaviour (Cullen & Agnew, 2006).

The work of Lombroso and other positivist theorists led to the creation of the positivist school of criminology which is still widely accepted today. Proponents of this theory originally believed that involvement in crime was based solely on biological factors. However, a number of studies indicated that there were few biological differences between criminal and noncriminal individuals and thus involvement in crime also includes social and psychological factors. Lombroso eventually came to the belief that about one third of criminals are born, and the remainder fall into three groups. The “occasional offender” is believed to be a harmless individual who is acting either in passion or in response to socioeconomic stress; the “habitual offender” indulges in criminal activity as a result of procriminal upbringing and interactions with other

criminals, and finally those who act criminally owing to mental disease or insanity (Andrews & Bonta, 2006).

Positivist theorists rely heavily on the scientific method of theory development and believe that all theories need to be developed and tested scientifically, against our observations of the world. The Classical and Positivist Theories of crime seem to be at odds with one another. The classical theorists believe that crime is a result of a rational decision made by an individual to increase pleasure, whereas positivists believe that individuals have little choice regarding their involvement with crime (Cullen & Agnew, 2006).

### **Differential Association/ Social Learning Theory**

In the mid-twentieth century Edwin Sutherland and Donald Cressey developed the Theory of Differential Association to explain why there were certain factors that seemed to be related to one's involvement with crime (Cullen & Agnew, 2006). This theory posits that criminal behaviour is a learned practice that is developed through interactions with others, and they specifically believe in the importance of intimate relationships and how they effect criminal behaviour. According to this theory, not only do criminals learn about various techniques from others, they also learn to develop values that rationalize the positivity of crime. Sutherland and Cressey believe that an individual becomes delinquent "because of an excess of definitions favorable to law violation over definitions unfavorable to violations of law" (Cullen & Agnew, 2006). Differential Association Theory includes two of the most predictive risk factors for recidivism (antisocial attitudes and antisocial associates) indicating that there is empirical evidence to support this theory. The results of a meta-analysis conducted by Gendreau, Little and Goggin (1996)

outlined earlier provides support for this theory as antisocial personality and companions were among the three most highly correlated risk factors with regard to recidivism.

According to Social Learning Theory, there is a chain reaction that leads to crime. This reaction begins with having antisocial associates and interaction and communication with these companions that causes the individual to develop antisocial attitudes/cognitions. Therefore, should a situation arise where an individual believes that it is okay to behave in a criminal way, they will behave criminally, completing the chain reaction with antisocial behaviour (Andrews & Bonta, 2006). This chain is in agreement with the beliefs of Ajzen and Fishbein's Theory of Reasoned Action that states that people will behave in accordance with their intentions. These theories highlight the importance of an individual's attitudes/beliefs; if one's beliefs have become antisocial through interaction with antisocial associates, their reasoning and behaviour will also be antisocial.

### **Anomie Theory**

Along with biological and social theories of crime, there are individuals who believe that struggles with criminality are associated with struggles with socio-economic class; the main theories related to this belief are Anomie Theory and Strain Theory. These theories suggest that an individual's experience of strain leads to their participation in delinquent or criminal behavior as this is a result of the social structures that are in place around them. Robert Merton was the founder of Anomie Theory and believed that those individuals who are part of a lower social class are more likely to take part in criminal behavior than those who come from the middle and upper classes (Andrews & Bonta, 2006). However, just living in poverty is not enough to encourage an individual to



violate social norms for goal attainment and Merton (1938) believed that a greater relationship between poverty and criminal behaviour was present when it was coupled with a culture's shared symbols of success and a structurally limited opportunity to obtain these cultural goals for certain groups.

Merton's theory was based on the belief that those societies that placed higher emphasis on the importance of goal attainment and less emphasis on the social norms that surround how to achieve these goals are more likely to have higher crime rates (Cullen & Agnew, 2006). Merton (1938) suggested that although individuals who are taking part in delinquent behavior know that they are violating the social norm, the need to be successful in terms of goal attainment is so greatly emphasized and valued in society that they are willing to make these violations. The cultural value that is placed on goal attainment is argued to be the driving force for criminal behaviour rather than the biological drives of a human being (Merton, 1938).

Merton also discussed that within societies there are certain groups who face increased pressure to commit crimes. This is owing to lower class individuals having a difficult time obtaining goals which are highly valued by society (such as monetary success) through legitimate and prosocial means. He referred to this as "strain". Merton suggested that there are five ways that an individual can respond to the strain or pressure that is placed on them by society and some of these include crime. When an individual is faced with social pressure to achieve certain goals, there are several ways that they can adapt or adjust to the values of the culture. The individual can conform, innovate, adapt, retreat or rebel. It is important to recognize that an individual may shift from one adaptation to another, based on the different social activities that they are engaging in.

Merton (1938) further pointed out that these adjustments are based on an individual's role in each situation and not based on personality traits.

Merton believed that an individual's social location accounted for a large portion of the variability in criminal behaviour. Social location refers to variables such as parental education, occupation, income and the socioeconomic characteristics of the neighborhood in which the individual resides (Andrews & Bonta, 2006). Merton suggested that individuals who have accepted the cultural goals but have not accepted the societal norms of attaining these goals have a strain toward "innovation". He noted that class structures that leave marginalized groups limited societal means to achieve highly valued social goals reinforce these feelings of marginalization and thus increases the development of antisocial beliefs and behaviours and as a result there is a tendency for greater criminal behaviour in these marginalized groups. Merton (1938) posits that individuals in this situation are asked to adhere to the same goals as all other classes, but are denied the ability to attain them legitimately, in part owing to lack of education and limited economic resources among other aspects of social capital. This type of structural inconsistency is believed to result in pathological personality disorders, antisocial conduct and revolutionary activities.

Andrews and Bonta (2006) postulate that according to this theory, those individuals who have goals that are greater than what is possible to obtain through prosocial behaviour will partake in deviant behaviour to relieve the pressure of goal attainment. They also noted that strain theorists believe that the underlying emotion that is related to criminal behaviour is not anger, hate or resentment, but it is the anomie or feelings of alienation that they experience based on their feelings of marginalization in

their social situation. An individual's criminal behaviour is rooted in these feelings of powerlessness and/or isolation. This theory attempts to remove the psychoanalytic and biologically reductionist aspects of understandings of criminal behaviour.

### **Strain Theory and General Strain Theory**

In 1992, Robert Agnew began to build on the classic theory of Anomie by extending the discussion of the strain-crime link and developed the General Strain Theory. Agnew noted that the pressure to obtain positively valued goals is only one type of strain and that strain can also include such events as loss of valued possessions or negative treatment by another (Cullen & Agnew, 2006). According to Agnew's General Strain Theory, people act in criminal ways owing to strain they may be experiencing in their everyday life and often this strain causes stress and/or anger and the individual participates in antisocial activities to cope with or reduce this strain (Cullen & Agnew, 2006). It is important to note that General Strain theorists do not believe that all people will respond to strain in a criminal manner. However, they believe that there are some who are more apt than others to deal with strain in an antisocial way. Individuals who are lacking verbal skills to communicate with others, or have few social supports are more likely to engage in delinquent behaviour to deal with their perceived strain. It is also noted that criminal behaviour is more likely to take place as a coping mechanism in an environment where potential for consequences for such behaviour is low.

Strain, in general is referred to as an event or situation that is not enjoyed or well tolerated by the individual (Cullen and Agnew, 2006), however there are more specific types of strain including subjective and objective strains, experienced strains, vicarious strains and anticipated strains. Objective strain refers to situations or events that are

disliked by the majority of members of a given group of people (Agnew, 2001).

Subjective strain, on the other hand, refers to events or conditions that are disliked by the idiosyncratic individual who is experiencing it (Agnew, 2001). The difference between objective (e.g. poverty, socio-cultural issues) and subjective strain (e.g. how people perceive these conditions) is important as people differ in what they consider to be stressful or displeasing, as well as the magnitude of stress that a situation causes.

Lazarus's Theory of Psychological Distress also suggests that the significance of each stressful event is determined by a person's appraisal. This is different for each individual and is based on their personal and situational factors (Krohne, 2002).

Strain Theory considers experienced, vicarious and anticipated strains that an individual may feel and General Strain Theory deals most often with experienced strain (an individual's actual experience with a particular strain) as this type of strain seems to have the greatest link to criminal activity (Cullen & Agnew, 2006). Vicarious strain is an event or situation that takes place near or around the individual and it is particularly stressful when the event happens to a close family member or friend (Cullen & Agnew, 2006). It can result in criminal activity as a coping behaviour. This relationship to increased criminal activity may be associated with seeking revenge or attempting to prevent such events in the future (Cullen and Anew, 2006). It is further noted that the likelihood of criminal behaviour after experiencing vicarious strain is most likely to occur when the individual cares about the person involved, that they have taken responsibility for protecting others and they feel that the strain is unjust. Finally, anticipated strain refers to situations where an individual feels that the strains that they are currently experiencing will continue or get worse in the future or that new strains are likely to be

experienced. Coping may take on a criminal form when the individual is attempting to prevent this anticipated strain, seek revenge on those they feel responsible for creating these strains or to deal with unwanted negative emotion associated with the anticipated strain (Cullen & Agnew, 2006).

Agnew suggests that not all strains lead to criminal activity, however there are some strains that are more likely to lead an individual to indulge in antisocial behaviour. Agnew believes that strain is most likely to lead to crime when it is seen as high in magnitude or unjust, when it is associated with low social control, or when the strain creates pressure or incentive for criminal coping behaviour (Cullen & Agnew, 2006). Further, it has been found that criminal behaviour is even more apt to be used as a coping mechanism when two or more strains are experienced by an individual within a short time frame. Agnew suggests that strains increase the likelihood of crime because they lead to negative emotions. These emotions then create pressure for action to correct the experience and when clouded by negative emotions the individual struggles to deal with the strain in a legal and prosocial manner. Furthermore, strain increases the likelihood of criminal behaviour because it can reduce the individual's level of social control.

Finally, the experience of strain might foster the social learning of criminal behaviour. Those who are experiencing strain may begin to form or become part of criminal groups as they might experience this group membership as a solution to their problems. The other members of these groups will model their procriminal beliefs and behaviours and increase the chances that the individual will take part in delinquent acts (Cullen & Agnew, 2006).

### **Subcultural Theories**

Subcultural theorists are interested in determining if an individual's membership in a specific group has an influence on criminal behaviour. Subcultural theories often look at lower socio-economic, religious, or racially marginalized communities and most frequently the young males in these communities and their urban sub-culture as it relates to crime. Proponents of this theory believe that communities viewed by the mainstream as "lower-class" or marginal devalue or are excluded from the traditional and conventional rules of society and routes to success and that they tend to value pleasure-seeking and destruction (Andrews & Bonta, 2006). Albert Cohen specifically looked at the culture of marginalized boys and their involvement with gangs (Cullen & Agnew, 2006).

Cohen based his Subcultural Theory on the basic belief that all human action, not just the action of delinquent individuals is based on the need to solve problems. There are some problems that we encounter regularly and have solutions ready for, and there are problems that take more effort to solve (Cullen and Agnew, 2006). The societal norms and conventional values of our culture often direct the type of solution that an individual should employ, however when we cannot solve our problems in the way outlined by social norms, we tend to look for a subculture with a different frame of reference. Cohen believed that one of the problems that people face that lead them to delinquent subcultures are related to status problems. One's ability to achieve status depends on the criteria for status among their social group and the values or norms that their peers in this group use to evaluate others (Cullen & Agnew, 2006).

One of the solutions to this problem is for people who are experiencing the same concerns to join together and create a new set of criteria for status that they all possess.

Often to gain status in this group the individual must lose status in another group. The new group tends to hold hostile images of the old group. Cohen further states that a marginalized male is more likely to find himself at the bottom of the mainstream "status hierarchy". When he attempts to make his way into the middle-class, he often finds himself with a status problem and goes looking for a solution, ultimately leading him to a criminal subculture, or more specifically, a gang (Cullen & Agnew, 2006).

As Merton suggested in his Anomie Theory, there may be differences in one's ability to access legitimate means of achieving their cultural and/or socioeconomic goals. He stressed the importance of availability of means based on class, whereas Cloward and Ohlin believed that those individuals who take part in criminal activity have been exposed to, and have internalized a different set of values and beliefs than what is conventional in the middle-class. These people have developed an anti-conventional and procriminal set of values and beliefs. These theorists considered only class position when assessing the availability of legitimate means (Andrews & Bonta, 2006) and thus personal factors such as intellect were not considered in their models.

David Matza expressed concern with the focus on marginalized subcultures; he believed that these theorists were over-predicting delinquency among lower class males and that the theory did not even attempt to explain the antisocial behaviour that was exhibited in other social groups. He further suggested that it was difficult to determine what a delinquent culture was and that these subcultures should be determined by their procriminal behaviours and attitudes and not on geography, age, sex, race or class (Andrews & Bonta, 2006). Matza believes that there is very little difference between delinquent and non-delinquent boys, aside from their procriminal attitudes and beliefs.

Sykes and Matza in collaboration theorized that not all criminals are committed to criminal values, but that they have become part of an antisocial subculture when a criminal set of verbalizations has made delinquent behaviour acceptable. These verbalizations have been referred to as "techniques of neutralization", "rationalizations for law violations", and a "vocabulary of motives for legal action" (Andrews & Bonta, 2006). Sykes and Matza suggested that the values of these criminal subcultures were in opposition to those of the middle class and individuals in these subcultures approved of acts such as theft and aggression (Cullen & Agnew, 2006).

They posit that people who engage in delinquent behaviour do not necessarily believe that this behaviour is acceptable, or value this behaviour, but that they have taken part in a process of neutralization that allows them to believe that in this situation their behaviour is justified (Cullen & Agnew, 2006). This is a method that all individuals are said to take part in. Most people participate in this neutralization process when making behavioural decisions in moral situations for example, when a mother chooses to steal groceries in order to feed her starving children (Andrews & Bonta, 2006). The difference is that people who take part in delinquent behaviour tend to make greater use of this technique. When using these verbalizations to neutralize negative feelings associated with behaviour that is criminal, or outside the social norm, guilt is neutralized by using the techniques of: the "denial of responsibility", the "denial of injury", the "denial of a victim", the "condemnation of condemners" and the "appeal to higher loyalties" (Cullen and Agnew, 2006).

In their book, *The Psychology of Criminal Conduct*, Andrews and Bonta (2006) suggested that based on the thoughts of subcultural theorists there seemed to be three



predictors of criminal activity. These predictors are as follows: "personal association with delinquents or groups within which procriminal sentiments are endorsed", "personal endorsement of antisocial/procriminal sentiments", and "having acquired the skills necessary to conduct some criminal acts and/or having access to the necessary materials or resources". There is empirical evidence to support all three of these predictors (Andrews & Bonta, 2006) suggesting that this theory may be able to be used in order to predict some criminal activity. All of the theories discussed above have been interested in what makes an individual participate in criminal activity. Below is a theory that looks at the issue from another perspective.

### **Control Theory**

Control theorists are interested in asking why people don't commit crime; they look at an individual's absence or presence of control. This theory looks at the attachment that individuals develop with social conventions, and how this attachment prevents them from committing crime (Andrews & Bonta, 2006). Individuals who do take part in delinquent behaviour have had their ties with conventional bonds disconnected in some way (Cullen & Agnew, 2006). Walter Reckless was a Control theorist who suggested that individuals have both internal and external sources of control. External controls come from the social pressures that one faces to conform to the social norms. When these external controls have greater strength, the individual has a greater sense of belonging to non-criminal groups. Inner controls, or inner containment, refer to an individual's level of self-control. According to Reckless, there are five indicators of self-control; a positive self-concept, commitment to long-term and legitimate goals, setting realistic objectives, having a high tolerance for frustration, and identifying with

lawfulness. Reckless notes the importance of social groups to young people over the importance of social class, socioeconomic status and subcultural membership (Andrews & Bonta, 2006).

Travis Hirschi, another Control theorist, believes that crime is related to individual differences in levels of “morality”. Hirschi believes that the answer as to why people do not commit criminal offences is in the bonds that people form with prosocial people, institutions and values. He states that an individual’s level of morality and the bonds that they develop are expressed by their attachment, commitment, involvement and their belief in the validity of the law (Andrews & Bonta, 2006). By attachment, Hirschi means the extent to which an individual has formed attachments with others (Cullen & Agnew, 2006); this means the level of psychological affection that one develops for prosocial others and institutions in their culture (Pratt, Gau & Franklin, 2010). It is believed that those individuals who form better attachments with adults such as parents and teachers in their younger years develop greater social control.

The bond of commitment refers to the significance of the social relationships that each individual values. People do not want to risk these social relationships by taking part in delinquent behaviour. The more that a person feels they have to lose, the more likely they are to obey the law. Involvement refers to the extent to which people are taking part in prosocial activities; Hirschi believes that those people who are busy partaking in these prosocial activities are not taking part in antisocial or criminal activities.

Finally, an individual’s belief in the validity of the law refers to the extent to which an individual identifies with the values that are associated with the laws. The more

that an individual identifies with these values, the less likely they are to violate the law and become involved in delinquent behaviour (Pratt, Gau & Franklin, 2010). Hirschi believes that in combination these four social bonds work together to control an individual's behaviour. As noted above, when an individual becomes involved with criminal behaviour it is a result of a severed bond with the conventional rules to society.

### **Conclusion**

The theories outlined above provide valuable insight into some of the reasons why an individual might take part in criminal activity. Although some of the theories seem to be outdated, such as the purely biologically based reasoning for involvement in crime, others seem to have strong roots in practice. It is generally accepted that one strong factor leading to crime is having anti-social associates and this belief stems from Social Learning Theory. Criminal values and anti-social behaviour are learned from peers and leads to involvement in crime. Because of this belief a large portion of treatment in the youth justice system in Canada is focused on pro-social beliefs and teaching positive social skills. Risk factors such as low socio-economic status, race, and gender are considered when working with youth suggesting there are some roots in Anomie, Strain and Subcultural theories.

In order for professionals to recognize the most effective ways to reduce recidivism rates in youth it is imperative that they have a solid understanding of the relevant theory. Current youth justice policy in Ontario does not seem to be based on the information of any one theory but rather on segments of information from a number of these theories. There are aspects of this policy that seem to be effective such as introducing the use of youth justice diversion however there are still areas of concern

such as the high use of custody and detention. The aspects of the system that are working and those that are not effective will be discussed in later chapters.

## **Chapter 2**

### **The History of Youth Justice in Canada**

Prior to 1908 youth were treated similarly to adults in the system. They were understood to be miniature adults and were expected to complete the same tasks as their older counterparts and were expected to take on the hardships of adulthood at a very young age (Department of Justice, 2004). The system in Canada was greatly influenced by the British system, owing to the large number of English settlers (Carrigan, 1998). At this time, youth were often sentenced to the same harsh consequences as adults for very minor offences and this would include young children being hung for petty theft. Most juvenile crime was fairly minor and included criminal acts such as theft, drunkenness, and vandalism. Frequently however, young people were going into custody and they were housed in the same prisons and even the same cells as hardened adult offenders. For example, in Halifax for the period of February to December 1847, 30 teenage boys were sentenced to custody in Rockhead Prison for crimes such as larceny, assault, trespass and disorderly conduct (Department of Justice, 2004).

It was generally accepted that children under seven years could not be held responsible for crime as they had not yet developed the capability to understand the severity of their actions. Further, it was accepted that those delinquents up to the age of fourteen were not to undergo severe consequences for their actions, except in special circumstances. However, these loose guidelines were not followed by all involved in the law and many children received harsh punishments including whipping and incarceration.

Reports from the late 1860's indicate that although the majority of youth crime was minor; there were some trends as crime took place more readily in urban centres rather than rural areas, boys committed crime more often than girls, and common among many young offenders was the neglect that they experienced from their parents. These youth also frequently struggled with truancy, lack of interest in school, and mental and emotional concerns. At this time, authorities believed that youth should be held to the same standard as adults and that in sentencing age should not be a factor.

After some time with these practices in place in Canada, it became clear that the consequences being given to young offenders were not effective. Young offenders were being corrupted by the older criminals in the system and that many young offenders continued their offending and became involved in more serious criminal offences after incarceration (Department of Justice, 2004). At this time it seemed that ideas and attitudes around young offenders were changing. Enlightenment thinkers such as Cesare Beccaria began advocating for improvements throughout society and specifically changes in the penal systems internationally. As a result of individuals such as Beccaria, the Canadian Government began to rethink the justice system. In Nova Scotia in 1816 legislation recognized that sentencing individuals for minor crimes was ineffective and that reformation rather than punishment for offending should be the objective of incarceration. This type of thinking led to changes in ideas about how young people should be treated and dealt with in the justice system (Department of Justice, 2004).

Specifically, Charles Duncombe, chairman of commission for Canada wrote a report in 1836 outlining that prisons should be about reformation and not punishment, and further, he suggested that there needed to be significant changes in the way that

young offenders were being treated. He suggested that the municipal government had an obligation to reach out to these children to help and protect them; youth should be able to look to the authorities, as well as the community in general for help and guidance.

Around the 1880's people started to believe that youth were at a different stage than adults developmentally and that they could not be held cognitively and morally responsible in the same way (Department of Justice, 2004). This led to the introduction of the first youth court in Canada and the introduction of the Juvenile Delinquents Act in 1908.

### **Juvenile Delinquents Act (1908)**

The Juvenile Delinquents Act (JDA) set out to ensure that young offenders were treated differently than adults and to guarantee that youth were seen in separate courts. In 1909 the first youth court was opened in Winnipeg, and by 1925 there were 32 operational youth courts in Canada (Carrigan, 1998). Although it did not contain an explicit statement of purpose or principles, section 38 of the Juvenile Delinquents Act did contain the following indication by Parliament of its legislative intention:

“This Act shall be liberally construed in order that its purpose may be carried out, namely, that the care and custody and discipline of a juvenile delinquent shall approximate as nearly as may be that which should be given by his parents, and that as far as practicable every juvenile delinquent shall be treated, not as criminal, but as a misdirected and misguided child, and one needing aid, encouragement, help and assistance.”

Under the Juvenile Delinquents Act, a Youth Court judge could order that a 14- year-old who had committed an indictable offence be transferred to ordinary/adult court if the judge was satisfied that the good of the child and the interest of the community required it (Department of Justice, 2004). However, generally, the JDA took a social welfare approach to youth crime. Youth who were held in custody were no longer to spend time

in adult prisons and instead they served their time in detention homes and shelters that were designed specifically to house youth (Carrigan, 1998). Youth who were under the age of twelve were only to be held in custody facilities when all other options were exhausted. The philosophy was that youth are best served in their homes with their parents as their guardians. This act also took the privacy of youth into consideration and neither the names of the youth who were being sentenced or their parents were to be named.

With the social welfare of the youth in forefront, a family-centered approach to care was often taken and court proceedings were kept as informal as possible. Often the issue could be settled outside of the court with a group of caring people who were concerned with the wellbeing of the youth. These groups focused on the needs of the offender, proper assessment and alternatives to custody (Carrigan, 1998). In many cases youth were dealt with in a manner that was the least punitive. Although there were some courts that operated in this way consistently, there were many problems with the JDA. Not all courts held their youth cases separately from the adults, and not all professionals dealing with youth were trained to do so. Further, there were situations where the police involved with the case were not happy with the leniency in which the youth were being dealt with and they felt that the courts were interfering with their ability to deal with the youth (Carrigan, 1998).

In 1929 amendments were made to the Juvenile Delinquents Act. There was still a social welfare approach to dealing with youth crime, however the provisions of the act were expanded and sentencing options were expanded to include parole for youth (Carrigan, 1998). There continued to be some concerns with this Act, including the

inconsistency with which it was applied across the country and the power that officials had over youth. This power could be used for the benefit of the youth, or to their detriment. Some young people were still ending up in adult jails because there were no youth facilities available and there was great variability in what sentences youth would receive for similar offences as it was dependent on the views and beliefs of the judge (Carrigan, 1998). In some areas there were concerns that the judges were far too lenient and youth were reoffending too often before being sent to a detention facility. Conversely there were some judges that were too rigid and youth were being sent to prison. There also became concern that the JDA was too focused on the social welfare process and not focused enough on the judicial process.

In 1961 a committee was appointed to review the problem of juvenile delinquency in Canada. Their 1965 report made a number of recommendations, including increased judicial treatment for youth, limitation on the power of the courts and more sentencing options, further training for officials and mandatory pre-sentence reporting, among other suggestions. They also suggested that the maximum age to be considered a juvenile be consistent across the country (Carrigan, 1998). This report opened up discussion regarding the JDA and eventually led to the development of the Young Offenders Act of 1984.

### **Young Offenders Act (1984)**

The Young Offenders Act (YOA) was adopted by Parliament in 1982 and came in to full effect in 1985. Although the Act had the goal of improving the treatment of youth in the justice system, a focus on respecting young offenders' rights and making sure that they were provided with the same basic rights and freedoms that are provided to adult



offenders in Canada (Department of Justice, 2004) there were still concerns with the act that needed to be addressed.

During the time that the YOA was in effect three amendments were made (The Standing Committee on Justice and Legal Affairs, 1998). These amendments were put into place in response to public demand. In 1996 the Standing Committee on Justice and Legal Affairs (later referred to as “the committee”) took on a broad, in-depth inquiry into the youth justice system in Canada. The committee compiled a report and made 14 recommendations to the Minister of Justice. The following is a brief review of the issues discussed and some of the recommendations made. The committee recognized that the majority of youth crime is minor and temporary with only a small percentage of young offenders being involved in serious, persistent criminal acts. They also recognized that youth in Canada were being sentenced to custody at higher rates than those in any other industrialized country, and even with such high rates of incarceration, the reoffending rates remained quite high (The Standing Committee on Justice and Legal Affairs, 1998).

Research indicated that youth who were involved in serious offending primarily came from multi-problem families and had a history of antisocial behaviours. Research also indicated that punishing these high risk youth with harsh sentencing did not serve to discourage future reoffending. Social intervention was seen as a more effective approach to rehabilitation for these youth. At this time individuals were suggesting that there was a greater need for community based-social interventions and alternatives to the formal youth justice system. They felt that placing youth in detention exposed those low risk youth to antisocial peers and they felt that judicial proceedings should be reserved for

offenders that were a threat to society (The Standing Committee on Justice and Legal Affairs, 1998).

Throughout the consultative process, the committee became aware that there was disparity between the public perceptions of youth crime and the youth justice system and the actual reality. Thanks in large part to the proliferation of alarmist conservative viewpoints in certain media publications, the public believed that youth crime was on the rise and they especially believed that violent crime was increasing and that youth judges were too lenient. However, in reality the majority of youth crimes in Canada at that time were property offences. The violent crimes in Canada represented only a small proportion of crime, and at the time only 19% of youth charges were violent compared to 29% for adults. In 1995 there were roughly 2.5 million youth between the ages of 12 and 18 in Canada, of these, 65 were charged with homicide. Finally, there was a 2.4% increase in violent youth crime in 1995, but the majority of these offences were minor assaults between peers, with the increase in charges partly owing to a change in the reporting of police and a decreased tolerance for aggressive acts between youth (The Standing Committee on Justice and Legal Affairs, 1998).

It was noted that the number of young offenders that were being sent to custody in Canada at this time was four times that of adults, ten to fifteen times that of European countries and twice that of the United States. In 1994-1995, 34% of youth court cases that had a finding of guilt resulted in a custodial sentence. Property crimes accounted for 43% of these sentences and violent crimes accounted for 18%. The fact that non-violent offences were receiving similar sentences to those more violent cases was a cause for concern.

At the time that this conversation was taking place, a number of judges were discussing the concern that there was a lack of sentencing options available to them. They felt that giving short custodial sentences was often the only viable option that they had. The public view at this time was that harsh sentencing would deter youth from further involvement in the system. However, there had been no evidence to suggest that Canada's high rate of custodial dispositions was leading to a reduction in recidivism for youth. Actually, the committee reported that "of the young offenders convicted in youth court in Canada in 1993-94, 40% were repeat offenders and 25% were persistent offenders with three or more prior convictions suggesting that continued crime was a concern (Doherty & Souza, 1995). Moreover, a significant proportion of adults serving sentences in provincial jails and federal penitentiaries "graduated" from the youth justice system" demonstrating that harsh sentences do not have an impact on the incidence of crime following release from custody (The Standing Committee on Justice and Legal Affairs, 1998).

It was recognized that the majority of youth who are in conflict with the law came from families of poverty, substance abuse and neglect. Based on this knowledge it was determined that prevention strategies such as community programs should be in place for these youth as a preventative measure. It was also recommended at this time that custodial sentences be reserved for those high risk youth considered to be a threat to their communities.

In 1995, 80% of the youth justice budget was being spent on operating open and closed custody facilities. This left few resources for community alternatives, and owing to this, punishment for minor offences was often quite harsh. According to the Co-Chair

of the National Crime Prevention Council, less than 1% of the criminal justice budget was going to crime prevention at this time (The Standing Committee on Justice and Legal Affairs, 1998). Further, there was a lack of supports or re-integration programs for those young offenders being released from custody. The committee recommended that consideration be given to shifting, “resources away from custodial institutions and into community-based services in support of children and families.”

There were many advocates for alternatives to the traditional approach to youth crime. These people were aware of the limitations of the Young Offenders Act to reduce the rates of recidivism. They were also aware that minor offences were common among adolescents and that few of these offenders proceeded to a life of serious, persistent crime. It was believed that meeting these low risk youth with harsh punishment could have negative effects on their recidivism and they suggested that judicial proceedings be reserved for those more violent youth.

This is not to say that these individuals believed that there should be no consequences for minor offences; but they felt that alternatives to harsh punishment should be more widely utilized. The importance of using police diversion was highlighted; this strategy could be used to reduce the numbers of youth who are seen in the court room. It was noted that a youth who is involved in a minor discretion is often deterred from further criminal activity by the warning of a police officer and a report to the youth’s parents. In other countries police cautions are used more widely, and a report from Australia shows that of youth who are provided with a caution 70-85% do not come to the attention of the police again (The Standing Committee on Justice and Legal Affairs, 1998). After learning about various alternatives to the traditional approach to

youth justice the committee recommended that “the youth justice system be reformed to accommodate alternatives... such as police cautioning, family group conferencing and circle sentencing”.

On 12 May 1998, the federal government released its response to the 1998 Renewing Youth Justice report in a document entitled “A Strategy for the Renewal of Youth Justice”. This document addressed each of the recommendations made in the 1998 report and outlined how the government intended to reform the juvenile justice system. The strategy focused on three areas: youth crime prevention, providing young people with meaningful consequences for their actions, and the rehabilitation and reintegration of young offenders. Although these changes were set to take place, it started to become clear that perhaps the next steps for youth justice included the writing of a new Act, and in 2002 the Youth Criminal Justice Act was developed.

### **Youth Criminal Justice Act (2003)**

The first amendment of the Youth Criminal Justice Act (YCJA) was introduced in 1999; however, owing to a number of governmental proceedings the Act was not implemented until April 1<sup>st</sup> of 2003. The YCJA was implemented with the goal of dealing with some of the concerns that were brought up regarding the Young Offenders Act. The YCJA was to use the formal justice system less regularly as there was concern that the court system was being used too frequently for minor offences in the YOA (Department of Justice, 2013). The YCJA was aimed at reducing the number of youth that were going into custody and increasing the focus on reintegration practices for youth who are returning to the community following time in custody (Department of Justice, 2004). Concerns regarding the disparity in sentencing in YOA were also to be addressed

in the YCJA (Department of Justice, 2013). The new act aimed to provide more guidelines around sentencing, and the Act stated that there are “purpose, principles and factors” that need to be considered by the youth court judge when sentencing a youth under the Young Offenders Act. This act also includes more sentencing options for judges and changes the process in which youth are tried as adults. Under the YCJA, youth are no longer transferred to the adult system. They are all tried in the youth court, however for certain offences, youth can receive an adult sentence (Department of Justice, 2004). Revisions to the Youth Criminal Justice Act were adopted by Parliament in 2012 and addressed some key concerns with the Act.

The 2012 amendments to the Act were aimed at improving the way that violent and repeat offenders were managed. The legislation is intended to ensure that youth who commit minor offences are dealt with through extra-judicial measures where appropriate. Extra-judicial measures include warnings, police cautions, crown cautions, referrals to community agencies, and extra-judicial sanctions (Department of Justice, 2013). These alternatives to the formal justice system are to be used in all situations where the youth can be held accountable in this manner. They are to be used both for first time non-violent offenders, as well as for youth who have previously received an extra-judicial measure. Under the YCJA police constables are encouraged to consider the use of an extra-judicial measure before laying a charge.

Since the induction of the Youth Criminal Justice Act the number of youth who have received charges has dropped dramatically. In 1993, while still under the Young Offenders Act, 63% of youth who were accused of committing a crime were charged whereas this number decreased to 48% in 2010. At this time the remainder of the youth

were diverted out of the formal system (Department of Justice, 2013). As a natural result, the use of court proceedings has also dropped since the YJCA has been in effect; however, the majority of cases that come before the courts continue to be considered less serious, for example, breach of probation. With the decrease in court cases there has been a subsequent increase in the amount of conferencing that takes place regarding appropriate action for youth crime. These conferences may involve a number of stakeholders including: the youth, the youth's family members, community members, the victim and professionals. The conference group is not considered a decision making body and recommendations are simply presented to the Judge (Department of Justice, 2013).

With the decrease in charges under the new act, there was also a significant decrease in the number of youth going into custody. This was a drastic improvement over the number of youth that were being incarcerated under the YOA (Department of Justice, 2013). Prior to 2003, Canada had one of the highest youth incarceration rates in the Western world and at this time youth were being held in custody for minor offences and it was suggested that intrusive measures were used in attempt to meet the youth's needs for psychological and social intervention. One of the main goals of the YCJA was to remedy this problem and decrease the number of youth being placed in custody and incorporate reintegration strategies into the Act for youth who do serve time in custody.

In order to decrease the number of youth being incarcerated, the YCJA includes a purpose and set of principles that guide youth court judges in assigning sentences that meet both the needs of the youth and the community. Under the YCJA a youth cannot receive a sentence that is more severe than what an adult would receive, the youth must receive a sentence that is similar to other comparable youth cases, the sentence needs to

be proportionate to the seriousness of the offence and the degree of responsibility of the youth, and finally the sentence needs to be the least restrictive option (keeping in mind proportionality) and the most likely to promote rehabilitation and a sense of responsibility (Department of Justice, 2013). Further, a youth can only receive a custody sentence if: they have committed a violent offence (they caused, attempted to cause, or threatened to cause bodily harm); they have failed to comply with their community sentence; they committed a serious indictable offence and had a pattern of findings of guilt; or there were exceptional conditions where the youth committed an indictable offence and any other sentence would be inconsistent with the purpose and principles of sentencing (Department of Justice, 2013).

These provisions make custody sentences less frequent; however, in 2012 amendments to the Act changed the definitions for both “violent offence” and “pattern” which could lead to an *increase* in incarceration. After the amendments, a violent offence is now defined as “an offence in which a young person causes, attempts to cause, or threatens to cause bodily harm or endangers the life or safety of a person by creating a substantial likelihood of bodily harm” (Department of Justice, 2013). Further, pattern is now defined in such a way that extra-judicial sanctions can be included in the development of a pattern. It would appear that a more conservative government, interested in appeasing its voting base was attempting to push its “law and order” agenda by overturning the more progressive attempts to replace punishment with sanctions that actually work.

Further changes to the way that custody sentences are served have been made in the YCJA. Under this act a youth must serve a portion of their sentence (as decided by



the judge) in the community under the supervision of a youth worker. This worker begins reintegration planning with the youth when they enter the facility and is charged with the responsibility of overseeing the plan's implementation when a youth is released into the community (Department of Justice, 2013). With the new act the number of youth who are receiving a custody sentence has dropped by 63%; however, more than half of these youth continue to be convicted of non-violent offences.

Finally, under the YOA the number of youth who were being placed in detention was a concern, and often it was believed that this was being used as a means to meet youths' social-welfare needs, resulting in youth being detained for offences in which adults would not be detained. Because of this, the YCJA included minor provisions that stated that detainment could not be used as a substitute for child protection, mental health or social measures (Department of Justice, 2013). The judge is now required to explore whether or not there is a responsible adult who can tend to the youth in the community as an alternative to detainment. In the first version of the Act it also stated that if the youth's charge could not lead to a custody sentence the youth could not be detained pre-trial; however it was found that this provision was difficult to manage as there were many ways that it could be interpreted and resulting in an increase in the number of youth being held.

In Canada in 2009/10 the number of youth being detained was 15% higher than it was in 2003/04. Furthermore, 75% of those youth were accused of committing a non-violent offence, the most common being breach of probation. As a result the 2012 amendments attempted to guarantee that managing youth in the community was a viable option while still ensuring that youth who needed to be detained could be (Department of

Justice, 2013). Other minor amendments to the YCJA were made in 2012. These changes included a process for the Crown to apply for adult sentences for youth, guidelines around who can receive an adult sentence, guidelines surrounding the publication of a young offenders name and the recognition of the needs of the victim (Department of Justice, 2013). Currently, the Youth Criminal Justice Act continues to be in effect in Canada while the effects of the 2012 amendments remain to be seen, but the trends tend to provide reasons to be very discouraged.

### **Chapter 3**

#### **Sentencing Options for Youth Court Judges in Canada**

Under the Youth Criminal Justice Act there are a number of sentencing options for youth court judges when sanctioning a youth for their crimes. Under the new act (2004) there are more alternatives provided to judges and there are varying degrees of invasiveness. The current thinking is that the best option for youth is the one that is least intrusive, as this will increase the chances of rehabilitation. At present, the alternatives for youth sanctions include: absolute discharge, conditional discharge, judicial reprimand, fine, attendance order, restitution, compensation, community service, probation, intensive support and supervision program, intermittent custody, deferred custody and supervision order, custody and supervision, and intensive rehabilitative custody and supervision.

When the YCJA was enacted the approach to sentencing in Canada changed. This was owing to some concerns that arose from the Young Offenders Act. The new principles of youth sentencing were set in place to deal with Canada having the highest custody rate of all Western countries. There were: more youth being placed in custody than adults; youth spending longer time in custody than adults for the same crimes;

variability in custody sentences between provinces; youth in custody primarily for non-violent crimes (80%); and all over Canada, many first time offenders were being sentenced to custody (YCJA Explained, 2002). With these immense and embarrassing issues in mind, the overarching goal of the YCJA was to utilize meaningful, fair and effective responses to less serious youth crime.

Under the YCJA, the purpose of sentencing is to hold the youth accountable by imposing the most meaningful consequences for that young person while promoting their rehabilitation and reintegration back into society. There are a number of principles that must be considered when a youth sentence is being served: proportionality; the sentence must not exceed the sentence that an adult would receive; similar sentences in similar cases; alternatives to custody; and least restrictive alternatives; most rehabilitative alternatives; and acknowledgement of harm done. Further, special attention is to be paid to youth who are of aboriginal background (YCJA Explained, 2002). The sanctions that are chosen need to follow the guidelines reviewed in Table 1.

Table 1
<i>Sentencing Principles</i>
<p><u>Youth Sentences Should:</u></p> <ol style="list-style-type: none"> <li>1. Reinforce respect for social values</li> <li>2. Encourage the repair of harm done to the victims and the community</li> <li>3. Be meaningful for the individual young person, given his or her needs and level of development</li> <li>4. Where appropriate, involve the parents, the extended family, the community and social or other agencies in the young person's rehabilitation and reintegration</li> <li>5. Respect gender, ethnic, cultural and linguistic differences</li> </ol>

6. Respond to the needs of Aboriginal young persons and of young persons with special requirements.

YCJA Explained (2002), page 3.

When considering proportionality, the sentence that is handed to the youth must be proportionate to the crime that was committed and to the degree of responsibility of the young person at hand. The purpose of this principle is to ensure that those less serious crimes are met with less severe sentences, and those more serious crimes result in more serious sentences. When determining the degree of responsibility, the youth court must consider the degree to which the young person took part in the offence, the harm done to the victim and whether or not it was intentional or foreseeable, any previous findings of guilt and any other circumstances pertaining to the young person that are relevant to the offence (YCJA Explained, 2002). The court must also consider the reparation of harm that the youth has already made to the victim or the community and any amount of time that the youth has spent in a detention facility prior to sentencing.

The second principle is that the sentence must not exceed the sentence that an adult would receive. This consideration is owing to the shocking reality that under the Young Offenders Act, there were many cases where a youth would receive sentences that were *more* severe than the sentences adults were receiving for the same crimes. Further to this principle, the YCJA ensures that similar sentences are handed out for similar cases. This is in attempt to certify that there is some level of consistency in sentencing, something that was not seen under the YOA (YCJA Explained, 2002). The principle does not require that each youth necessarily receives the same sentence but allows for individualized rehabilitation for youth increasing the meaning that the sentence has for the young person. Keeping in mind similar sentences, the youth court also needs to

consider all other available sanctions before considering a custody sentence, and particular attention needs to be paid in cases that involve a young person of Aboriginal background (YCJA Explained, 2002).

And finally, according to the principles laid out in the YCJA, the youth court must hand out the least restrictive and most rehabilitative alternative while acknowledging the harm done. When considering the sentence the court must impose the sanction that is: the least restrictive while still accomplishing the purpose of sentencing, the most appropriate to promote rehabilitation and reintegration, the best able to promote accountability in the youth, and an acknowledgment of the harm done to both the victim and the community (YCJA Explained, 2002). These considerations ensure that criminal law will be used with restraint, that non-custodial sentences will be used whenever possible and that the sanction will instill a sense of responsibility in the young person.

The above mentioned principles were included very intentionally in the YCJA to deal with the concerns that arose while Canada was operating under the Young Offenders Act. While youth court officials are following the principles of the YCJA it was envisioned that less youth will be sentenced to custody, and those that are will spend less time in these facilities. Youth will also receive the sanction that is best suited for their circumstances and development in order to provide them with the most effective intervention. One of the concerns with the YOA was that there were not enough sentencing options for youth court judges. In order to address this concern the YCJA included more alternatives for youth sentencing. These options are outlined below.

### **Sentencing Options in Canada**

## **Non-Custodial Sentences.**

### ***Reprimand.***

A reprimand is a new sentencing option included in the YCJA. It is a stern lecture by the judge, delivered to a youth in court. Reprimand is considered appropriate for minor offences where the judge feels that the experiences of being apprehended, made to endure the court process and being reprimanded by the judge seems to be enough to hold the youth accountable for their actions.

### ***Absolute Discharge.***

If a judge imposes an absolute discharge the young person is considered to not have committed the offence. A youth court judge can impose this sentence if they feel that it is not contrary to public interest and it is in the best interests of the young person. The young person cannot be charged at a later time for this offence.

### ***Conditional Discharge.***

If a Judge imposes a conditional discharge the young person has to follow certain conditions for a specified amount of time and if successful the discharge becomes absolute. The conditional discharge may require the youth to be supervised by a provincial director and if they commit a new offence or do not follow conditions they can be convicted of the original offence and sentenced.

### ***Fine.***

The youth court can order the young person to pay a fine up to \$1000, the youth's ability to pay the fine must be considered and the youth court has discretion in fixing the terms and timeline for payment.

### ***Compensation.***

Compensation can be awarded to a victim by the court. In this case the youth is required to pay an amount set by the court for loss, damage or injury. The youth's ability to pay the fine must be considered and the youth court has discretion in fixing the terms and timeline for payment.

***Restitution.***

The youth court can order restitution of property to the person who owned the property at the time of the offence. The amount of restitution to be paid is to be equal to the replacement value of the property, the cost of medical bill, or the lost income from injury.

***Reimbursement for Innocent Purchaser.***

If the court orders the youth to reimburse the property owner, they can also order that the youth reimburse an innocent purchaser who unknowingly purchased stolen property.

***Personal Service.***

The court may order the youth to compensate a victim through personal service, for loss, damage or injury suffered by the victim. This order requires the consent of the victim and the work cannot interfere with the youth's work or education.

***Community Service.***

The youth court can order a young person to take part in community service that cannot exceed 240 hours and can be completed within a twelve month period.

***Prohibition Order.***

Judge may impose prohibition, seizure or forfeiture if it is authorized under federal legislation. If an indictable offense was committed and violence was used and the offense is punishable by more than 10 years custody the judge must prohibit the young person

from possessing a firearm, crossbow, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited ammunition or explosive substances.

***Probation.***

A youth court judge may order a youth to be placed on probation with or without conditions up to two years. The conditions placed on a probation order vary from youth to youth in order to ensure individualized services that are appropriate for each young person. The court must ensure that the conditions placed on each youth are realistic and attainable.

***Intensive Support and Supervision Order.***

New to the YCJA the ISSP program allows for young persons to remain in the community under a high level of support and supervision. The ISSP program provides closer monitoring than probation and is intended as an alternative to custody and conditions similar to a probation order can be placed on an ISSP order. The support component is intended to be rehabilitative in nature and addresses the youth's specific needs.

***Attendance Order.***

New to the YCJA a youth court judge can order the young person to attend a program in the community up to 240 hours in a 6 month period. This sentence is an alternative to custody and programs are designed to address circumstances underlying criminal behaviour.

***Custodial Sentences.***

***Deferred Custody and Supervision Order.***



This is a new option under the YCJA where a youth serves their custody sentence in the community. The youth is to serve their sentence following conditions laid out by the court, if the youth fails to abide by these conditions they may be required to serve the remaining time in a custody facility. The timeframe for a deferred custody and supervision order cannot exceed six months. If a youth is convicted of committing a serious violent offence, this sanction is not an option.

***Custody and Supervision Order.***

Under the YCJA all custody orders include a period of time that is served in the community. This is to ensure that the youth receives the supervision and support that they need in order to transition back into the community. While under supervision in the community there are a number of mandatory conditions that must be met, with other conditions being added as required for support and to manage risk. If a youth is believed to cause death or serious harm while on the supervision order, they can be required to serve the remainder of the sentence in custody.

The maximum length of time a youth can be sentenced is two to three years. Two years is the maximum unless the offence is one that an adult can receive life imprisonment. Murder is the only offence in the YCJA that must result in a custody sentence, with a maximum sentence being ten years for first degree murder and seven years for second degree murder.

***Intensive Rehabilitative Custody and Supervision Order.***

This is a new order that is a special youth sentence designed to provide treatment to the most serious violent youth offenders. It is considered to be a therapeutic sentencing option. This order can only be imposed if the following conditions are met:

- The young person has been found guilty of murder, attempted murder, manslaughter, aggravated sexual assault or has a pattern of repeated, serious violent offences;
- The young person is suffering from a mental or psychological disorder or an emotional disturbance;
- An individualized treatment plan has been developed for the young person; and
- An appropriate program is available and the young person is suitable for admission.

Youth aged 12-17 can be ordered to this sanction if the requirements are met, and the maximum length of the order varies based on the offence (YCJA Explained, 2002; Sentencing In Canada, 1999).

### **Sentencing Considerations**

The length of a youth sentence depends on the type of offence as well as on the number of offences a youth has committed. In general, a youth cannot receive a sentence greater than two years for a single offence. If a youth has been convicted of a crime in which an adult could receive life imprisonment the youth can be sentenced to three years custody, except for the case of murder. The maximum sentence for second degree murder is seven years and ten years for first-degree murder. The sentence imposed can be comprised of more than one sanction, but combined, must not exceed two years, unless probation is to follow release from custody (YCJA Explained, 2002). When a youth is convicted of more than one offence, the combined sanction is not to exceed three years, except in the case of first or second-degree murder.

While a decision about sentencing is being made, it is important that the youth court judge be provided with all of the necessary information to make the most appropriate and effective decision. In Canada there are a number of sources that provide information to aid in the decision making process. These sources include: pre-sentence reports, conferences, victim impact statements, medical and psychological reports, and submissions and representations (YCJA Explained, 2002).

A pre-sentence report is a document that is created by the provincial director “on the personal and family history and present environment of a young person” (YCJA, 2014) that the youth court must consider prior to sentencing. The pre-sentence report is to include: the results of an interview with the young person, and where possible, the parents and extended family, the results of an interview with the victim, the recommendations from any conferences, any information that is applicable to the case, any information that will assist the court in determining whether there is an alternative to custody and any information the provincial director considers to be relevant (YCJA, 2014).

A youth court judge can also refer a matter to a conference in order to receive advice on what would be an appropriate sentence for the youth. A conference can involve a number of people including both professionals and community members. Some examples of people who might be involved in a conference are the young person’s parents, the victim, community agency members, professionals and people who are familiar with the young person (YCJA Explained, 2002). Victim impact statements can be read during court proceedings. These statements are to describe the harm that was done to, or the loss that was suffered by the victim as a result of the offence. In the case

where a victim impact statement is read in court the judge must consider what has been said when determining sentencing.

Medical or psychological reports can also provide information to youth court judges. At any point during the proceedings a youth court judge can require that a medical, psychological or psychiatric report be prepared on the young person in order to aid in determining the most appropriate sentence. Finally, the court must consider any submissions or representations made by the parties to the proceedings, their agents, counsel and the young person's parents (YCJA Explained, 2002).

Once a decision has been made, the court must include in the record of the case the reason for the sentencing decisions that were made; this record must be made available to all parties to the proceedings. If the court has determined that a custodial sentence is appropriate, they need to include in the record of the case the reasons why they found that a non-custodial sentence would not be adequate in this case (YCJA Explained, 2002). Again, these requirements are aimed at ensuring that custodial sentences are used only when no other alternative is appropriate as keeping youth out of custody is a main objective of the Youth Criminal Justice Act.

As outlined above, the YCJA was intended to solve some of the massive problems with the YOA, particularly the overuse of custody sentences. With the addition of several new sentencing options the youth court judges have more flexibility in how they choose to respond to youth crime. Under the YCJA the judge is expected to consider the life circumstances and developmental stage of the individual and is charged with the responsibility of ensuring that the youth receives the sanction that provides the most effective rehabilitation strategy while still holding them accountable for their actions.

## Chapter 4

### **Youth Justice in Austria and the United States: An Example of the Welfare and Justice Models**

The majority of youth justice systems were built utilizing aspects of two models of youth justice: the Welfare Model and the Justice Model with the welfare approach being most common in the beginning of the twentieth century. These models have been described as falling on opposite ends of the spectrum of youth justice practices (Walsh, 2014) and have ties to the political landscape of a country.

The politically right of centre (conservative) ideology of crime is associated with the Justice model and highlights the need for punishment and deterrence strategies and in general, “eye for an eye” thinking. While the more progressive and centrist (liberal) ideology emphasizes the rights of the accused individual, humane punishment, and rehabilitation. The conservative’s approach criticises this position as being “soft on crime” and instead focuses on policies deemed to be retributive. Although there is an overwhelming abundance of evidence that suggests that deterrence and punishment strategies are not effective, the majority of governments in the Western World still believe, against all indications, that punishment works. Unfortunately it appears that ideological commitment trumps reasoned argument supported by respected peer reviewed research findings by experts in criminology.

The conservative focus on punishment can be socially appealing to some members of the public especially in times of social tension or economic unpredictability (Hardisty, 2009). During difficult times people feel insecure and they find comfort in blaming others. Unfortunately, in Western countries, marginalized individuals are often

those who become “the other” and are singled out as a source of criminal threat for reasons of political expediency (Hardisty, 2009). Youth and especially those youth of colour are often easy targets in this political charade. During trying economic times, the conservative model of law and order becomes particularly attractive to the general public who are convinced by shrill messages stoking up reactions to fear-engendering-messages. The strategy of distraction preying on baser inclinations is often depressingly effective.

The Western industrialized world was been a largely conservative society in the 1950’s and it took a very strong liberal movement to effect change. In the 1960’s and 70’s throughout the industrialized world the progressive voices were gaining more support and were shifting the focus regarding matters of crime towards prevention as well as education and training for those coming into contact with law enforcement (Hardisty, 2009). However, in the late 1970’s there was a conservative backlash and messages regarding chaos in the streets and in people’s private lives were being publicized as a way to induce fear in the general public and support a swing back to “tough on crime” strategies.

The conservative’s “law and order” agenda is guided by their view of human nature. They believe in biologically driven characteristics of individuals which suggests that people who act against lawfulness are driven by their inferior biological nature to do so, rather than as a reaction to laws that expressly create social and economic hardship as a structure in modern industrial capitalist states. They believe that there are two groups of people: good people who are worthy and bad people who are not (Hardisty, 2009). The unworthy people are untrustworthy and anti-social owing to their natural weakness, self-indulgence and lack of will. Those “good” people are socially responsible, are able to

resist the temptation to be bad and choose to live a good life. The conservative ideology emphasizes the importance of an orderly society and enforces the idea that these “bad” people need to be punished for their sins. The conservative leaders reinforce these ideas by suggesting that crime is on the rise and that punishment and “tough on crime” strategies will work, even though research tells an opposite story.

It cannot be dismissed that the worldview of the political leaders will undoubtedly effect public policy. More progressive and educated leaders who believe in the social generation of individuals will tend to focus efforts on prevention and education to safeguard marginalized people from becoming involved with activities that promote crime. Further, focus on education and rehabilitation are also parallel to more progressive thinking. A conservative or right-wing leader who believes that all people are biologically driven to be either good or bad will have a different approach to dealing with criminal behaviour. Rather than having a focus on prevention, they would have a reactionary response to crime that is intended to deter others from following suit. Deterrence strategies include punishment and isolation of the individual and have been demonstrated to have little or no effect.

Hardisty (2009) argues that the majority of the population in the United States share a traditional conservative worldview of themselves and of others or sinners stemming in part from an attachment to Protestant Christian Ideologies. They work hard to be “good” people and become angry when they feel that “bad” people have access to privileges that should be reserved only for those who live according to the rules. This more conservative world view serves to support a conservative government and as such, tough on crime legislation. It is important to note that the two models discussed below

have ties to politically “left” and “right” forms of ideology. The welfare model is a progressive approach to youth crime and the Justice model is a reactionary tactic. See Table 1 for a look at some of the countries that adopt either the Welfare or Justice model.

Table 1

*Youth Justice Statistics*

Country	Model	Age of Criminal Responsibility	Age of Criminal Majority	Incarceration Rate	Youth Incarcerated Per 100000 Youth
Canada	Modified Justice	12*	18*	899***	7***
Austria	Welfare	14*	18*	114*	
US	Justice	6+*	15-17*	104, 413*	336*
England and Wales	Welfare	10*	18*	2869*	46.8*
France	Welfare	13*	18*	751*	18.6*
Russia	Justice	16*	18*	20,831**	17**

Note: \* (Hazel, 2008), \*\* (Dutkiewicz, 2009), \*\*\* (Statistics Canada, 2011).

**The Welfare Model**

The Welfare Model focuses on treatment over punishment, and the care and protection of young people (Walsh, 2014). Under the Welfare model, youth cannot be held totally responsible for their actions as they are a product of their environment (Hazel, 2008) and their upbringing (Walsh, 2014). In this model the goal of the justice system is to identify and treat any dysfunctional aspects of the youth’s environment in order to decrease the chance of future offending, rather than simply imposing consequences for the actions taken by youth.



The Welfare Model relies on the idea that it is the State's responsibility to protect their children and it was this model that was dominant in many countries up until the 1980's. The Welfare Model was criticised for not taking into account individual responsibility and fostering dependence on the State (Hazel, 2008), and toward the end of the twentieth century doubts regarding the effectiveness of the welfare model began to surface. At this time, questions arose about the permissiveness of the model and its inability to hold youth accountable for their actions (Walsh, 2014). There was also concern that a model based solely on welfare did not have the capacity to deal with those youth who were returning to the justice system repeatedly (Walsh, 2014). The demise of the welfare system was partly owing to an ideological shift to the political right by many English-speaking states and partly to the unwillingness of these governments to adequately fund a system that would ameliorate the structural inequalities of a hierarchical capitalist economy. In fact, their aim was to keep structural inequity intact. These trepidations led to a number of countries moving toward an approach that more heavily relied on the Justice Model.

### **The Justice Model**

The Justice Model focuses on determining the degree to which a young person is guilty of a crime and imposing punishment that is appropriately matched. In this model it is the punishment that is hypothesised to deter youth from further crime (Hazel, 2008). Countries that have a justice system based on the Justice Model tend to focus more on the offence, rather than the offender (Doob & Tonry, 2004). The main concern of the Justice Model is retribution, to ensure that the actions of the young person are dealt with appropriately, rather than focusing on the needs of the youth. This emphasis on the

offence has been thought by those who propound this view to lead to the equality of sanctions rather than the individualized treatment needs of youth (Walsh, 2014). An odd notion of equality indeed.

The Justice Model started to gain popularity in English-speaking nations during the 1970's and 80's – earlier in some US states. The model emphasizes the importance of rights and responsibilities; youth have the right to due process, but also hold responsibility for their actions (Hazel, 2008). In some countries where the Justice Model is known for harsh punishment and mandatory minimum sentencing, this process may be used as a means to satisfy an uninformed general population that their safety was being addressed. Although strategies such as “scared straight” and wilderness programs do not prove to be effective, their harsh nature tends to be popular in certain tabloid media and members of society are often convinced by these messages to see them as an effective way to curb youth crime (Bishop & Decker, 2006). The popularity of these programs despite lack of evidence is related to the conservative worldview discussed above, and its popularity in corporate media who often support a similar worldview.

The justice system in Austria is seen as a welfare approach to crime, one that focuses on education and treatment, whereas the model in the United States is one of crime control with its roots in the Justice Model. With the introduction of the Youth Criminal Justice Act, Canada has placed itself somewhere in the middle, with its policy falling under a “Modified Justice” Model. In this type of model there is a focus on both welfare and punishment, where treatment and consequences can be delivered by both social institutions and the justice system (Hazel, 2008). The system in Canada has been reviewed previously in this narrative. Below is an outline of the systems in Austria and

the United States in order to demonstrate how the two extreme ends of the spectrum operate.

### **Austria**

Austria is a European country that joined the European Union in 1995 (Bruckmüller, 2006) and is a Democratic Republic (Edelbacher & Fenz, 2002). In Austria youth crime is dealt with under the federal legislation; the Juvenile Court Act. Juveniles are considered to be those aged 14-19; with those aged 20 and 21 referred to as “young adults” who are expected to behave more responsibly. However it is recognised that the transition into adulthood that takes place during this time can be difficult. Youth who are under the age of 14 at the time of an offence cannot be held responsible for their actions, even in very serious cases (Edelbacher & Fenz, 2002). According to a cross national comparison conducted by Hazel (2008), Austria takes a welfare approach to youth crime, which is characterized by diagnosis and treatment that is overseen by social workers.

There have been special considerations made for young people for a very long time in this country. As far back as 1852 there were special provisions made for youth in the Penal Code (Edelbacher & Fenz, 2002). In 1907 a politician named Franz Klein began trying to create a juvenile justice system that was separate from that of adults. Based on his efforts there were a number of provisions introduced that would aid youth who were subject to criminal proceedings. At this time defense counsel appointment was mandatory for grave offences and pre-trial detention was limited (Edelbacher & Fenz, 2002). The first edition of the Juvenile Court Act came about in 1928 in Austria and this act was built on the idea of education for youth (Bruckmüller, 2006). Youth court judges were asked to substitute legal consequences with education whenever possible

(Edelbacher & Fenz, 2002). The year 1988 saw a reform of the Juvenile Court Act. The new Act, entitled the “Juvenile Justice Act” was aimed at decriminalisation while at the same time providing justice to the victims of crime (Bruckmüller, 2006). At this time, immunity was granted to those youth aged 14 and 15 who committed misdemeanor crimes and the age for criminal majority was raised to 19. Further changes to the act included special regulations regarding custody, strict guidelines on release of information for minors and shorter sentences for young people with no minimum sentences. More recent changes include the introduction of special considerations for “young adults” who commit crime as this is seen as a difficult time where youth are adjusting to adulthood (Bruckmüller, 2006).

Currently in Austria it is understood that for many youth, delinquency is a phase that generally passes without need for intervention and if necessary "soft" interventions are preferred with custody being avoided as long as possible as prisons are not deemed to be constructive in terms of reforming youth (Edelbacher & Fenz, 2002). In 2002 the total population of Austria was 8,081,957 (World Bank, 2014), the population of youth between the ages of 14 and 18 in 2003 was 378,700 (Bruckmüller, 2006) and of these youth, there were merely 114 youth under the age of 18 being held in prison, making up 1.5% of the total prison population (Hazel, 2008).

Austria places a strong emphasis on crime prevention and The Criminal Advisory Service deals with crime prevention and creating awareness of social problems. They also organize events for youth such as sports, training events and facilitate contact between rival juvenile groups if necessary. They explain the legal implications of youth's actions as they found that many youth are not aware of the significance of their

actions and have difficulty understanding consequences and implications. They find this strategy to be more effective than deterrence and punishment methods (Edelbacher & Fenz, 2002).

Some of the specific strategies that are in place in Austria include school programs where social workers and teachers aim to educate youth on communication, conflict resolution and cooperation. These programs include role playing components where conflict resolution is practiced and adult led discussions regarding communication and conflict (Bruckmüller, 2006). These skill building activities aim to decrease communication and conflict issues for youth going forward. Prevention strategies in the schools begin as early as pre-school (Bruckmüller, 2006).

There are also youth led programs in the schools where older children are trained by teachers to problem solve and these mentors then work with younger children who are experiencing conflict to help them resolve issues and learn pro-social skills. The schools begin to deliver drug-prevention programs to youth in secondary schools as a prevention measure. Youth are introduced to the roots of addiction as well as informed about community help centres in their area (Bruckmüller, 2006). Finally, prevention is further promoted in public places and where park areas and sporting events are supervised, either by the police or by adults who offer mentorship on interacting peacefully with others and negotiating conflict. Programmes for youth and their parents are available through a number of avenues to continue the development of skills that will curb youth crime.

Regardless of the amount of time and effort that is placed on prevention, there is still youth crime in Austria and there are situations where charges are laid and youth court proceedings take place. When a conviction is handed to a youth, officials pay

attention to a number of factors. It is imperative that the sentence imposed fits the offender's level of responsibility as well as the severity of the offence. The personality of the offender and the motivation that led to the act taking place are also considered (Bruckmüller, 2006). It is important that the future of the youth offender is not jeopardized as a result of the sentence, thus the offender's future quality of life must also be considered. In order to ensure that the above mentioned deliberation can be made, a youth inquiry is conducted to aid the court in making pre-trial detention, as well as, sentencing decisions. When a youth inquiry is conducted, the following are researched and reported on: development of the youth, family circumstances, living conditions, and any other circumstances that lead to an understanding of the youth's mental, physical and spiritual state (Bruckmüller, 2006; Edelbacher & Fenz, 2002).

After such an inquiry has been conducted and considered by the court, sentencing can be imposed. During this process, both the court and the public prosecution are charged with the responsibility of imposing the sentence that causes the least impact or interruption to the young person's life, while at the same time has the greatest preventative outcome. Options for youth sanctions include: immunity, diversion, conviction without sentence, conviction with suspended sentence, fines and imprisonment (Bruckmüller, 2006).

Immunity is always granted to those youth who are under the age of 14, as noted above as they are not believed to be responsible for their actions. Further to this group, youth who are understood to be of "delayed maturity" can be granted immunity at any age under the Juvenile Court Act. One is considered to be of delayed maturity when they cannot distinguish between right and wrong, or when they are not able to act according to

general social rules. Delayed maturity is demonstrated by “an unusual level of developmental retardation” which is a result of psychological or social deficits, neglect or illness (Bruckmüller, 2006). Finally, youth who are under the age of 16 who have committed a misdemeanour can be granted immunity if the youth is without serious guilt and does not show a need for intervention by juvenile penal law to prevent future criminal behaviour.

The court can also choose to impose diversion as an option. In this case there is a consequence, but there is no criminal record. Diversion can be used when there are no grounds to completely drop the case but there is also no need to have the youth take part in criminal proceedings. This option is available to juveniles who have committed a crime that is punishable by either a fine or less than five years in prison but this option is not available to young adults (Bruckmüller, 2006).

Further to “soft” options such as immunity and diversion the courts have the ability to impose a mild sanction such as a conviction without a sentence, or a conviction with a suspended sentence (Bruckmüller, 2006). If a youth is convicted without a sentence, it is believed that having the official conviction is enough of a consequence that the youth will be prevented from committing further criminal acts. A more severe option is to convict with a suspended sentence. In this case the court does not impose a sentence at the time of the hearing, but is able to place a probationary period on the youth (between one to three years). If the youth does not abide by the conditions during this time period, a sentence can be imposed retrospectively.

Finally, the youth court is able to order that the young offender pay a fine or serve time in a custody facility. When contemplating these options the court must take into consideration the minimum and maximum punishments that are written in the Penal Code (Bruckmüller, 2006). For both fines and imprisonment, the maximum that a minor can receive is half that of an adult offender. In order to avoid the overuse of prison, shorter prison terms (less than six months) can be replaced by fines (if the maximum prison sentence is less than five years). When considering the use of a fine, the individual's personal circumstances must be taken into account and the financial ability of the minor to pay the fine is considered (Bruckmüller, 2006).

In Austria, the minimum prison sentence for a young person is one day and any time spent in pre-trial detention or police custody must be subtracted from the sentence. There are no minimum sentences for youth crimes and any maximum Penal Code sentence must be halved when imposed on a youth offender (Bruckmüller, 2006). If a youth is sentenced to prison, the enforcement is guided by the Act on the Enforcement of Penal Sanctions, just as adults are. However, there are three considerations made for minors; education, a diet appropriate to their developmental needs and physical exercise and fresh air (Bruckmüller, 2006). Further, when youth are in prison their visiting hours and right to receive mail are greater than for adults in order to help youth maintain important relationships.

Generally, the prison environment for minors is relaxed, the doors to common areas in the prison are rarely locked, and often the gates to the prison are left unlocked during the day. While youth are supervised, it is in a limited capacity in certain situations, such as when they are employed outside of the prison. While in prison,



incentives for good behaviour involve rewards whereby the youth enjoy greater choice and for example they may be able to wear their own clothes or use their own sporting equipment or electronics (Hazel, 2008).

While in prison each youth is appointed a mentor who is a guard who is charged with the responsibility of watching over that prisoner (Bruckmüller, 2006). This mentorship program is designed to provide youth with someone who they can confide in, allowing for the guards to learn about and deal with conflicts within the prison easily and promptly. Finally, enforcement of prison sentences are supervised by a social worker and treatment is provided to the offender as necessary. Imprisonment is meant to be used as a last resort for youth in Austria. In 2003 minors (aged 14-17) made up 2% of the total prison population and young adults (18-21 years) were 6% of the population (Bruckmüller, 2006). In the same year, 17% of police charges were laid against youth (Bala & Roberts, 2006) and 22% of guilty youth cases received a custody sentence (Brennan, 2012).

Pre-trial detention is also supposed to be used rarely in Austria. Only the judge has the authority to assign a youth to pre-trial detention, and the maximum length of stay is three months; however, for situations where there are mixed courts or jury trials the time can be extended to six months and in extraordinary circumstances, up to one year (Bruckmüller, 2006). Pre-trial detention is not to be used if it is being used to serve a purpose that can be dealt with by family law or youth welfare law that will involve more mild measures. Regardless of the fact that this measure is to be used only rarely, there are still a great number of youth being placed into pre-trial detention in this country. According to Bruckmüller (2006), in 2003 approximately 1440 minors and 1380

adolescents were required to reside in detention facilities pre-trial. This option seems to be used far too regularly considering that there were only a combined 1742 (including: suspended penalties, penalties suspended in part, and non-suspended penalties) youth sentenced to custody during the same year (Bruckmüller, 2006).

Although the Austrian juvenile justice system does have its concerns, it is considered to be a system that is successful (Edelbacher & Fenz, 2002). It is noted that there is a focus on crime prevention as well as what will be most beneficial for the youth in terms of rehabilitation and future reintegration into society when a sentence is imposed. The number of youth that are placed in custody facilities is lower than in many other countries and in recent years the youth crime rates are decreasing overall (Bruckmüller, 2006). This story of success is similar to what the experience of youth involved in the justice system in the United States, where incarceration rates are higher than any other country in the industrialized west (Hazel, 2008) and youth are often subjected to very negative environments in youth facilities (Mendel, 2011).

### **The United States of America**

Currently the United States Juvenile Justice System operates under the Federally legislated Juvenile Justice and Delinquency Prevention Act. This Act came into effect in 1974 and was reauthorized in 2002 (OJJDP, 2014). The Act ensures that youth will not be placed in institutions with adult offenders and that those youth who commit status offences (offences that would not be illegal if committed by an adult) will not be institutionalized (Livers, 2014). The United States takes a crime control approach to

youth crime (Hazel, 2008) which emphasises the importance of the legal process, punishment, accountability, incarceration and “protection” of the society as a whole.

The United States has a similar history as Canada when it comes to youth justice. In the 1800's youth were held in the same facilities as adults and were sentenced at as young as seven years of age (Department of Juvenile Services, 2014) and in Colonial times children who were over the age of five were treated as adults (Livers, 2014). In the early 1800's advocacy groups such as the Society for the Prevention of Juvenile Delinquency began suggesting that youth be treated separately from adults; this advocacy led to juvenile facilities being opened in many major cities in the United States (Livers, 2014). The first Juvenile centre to open its doors was The House of Refuge, located in New York (Department of Juvenile Services, 2014).

The first youth court opened in 1899 and was located in Cook County, Illinois (Department of Juvenile Services, 2014; Livers, 2014) This court was different from the adult courts as it took a civil approach to dealing with crime rather than the traditional criminal approach. This civil approach allowed the courts to focus on the rehabilitation of young offenders (Livers, 2014), and in doing so, they were able to concentrate on the youth, rather than the offence that they committed (Department of Juvenile Services, 2014). However, there were concerns with the “unfair” treatment of young people under this system as there were no established rules for the judges to follow concerning youth matters (Livers, 2014). Juveniles who were before the courts had no constitutional rights leading to great variation in the treatment of youth (Department of Juvenile Service, 2014).

In 1967 the U.S. Supreme Court ruled that youth were entitled to the same due process that adults were (Livers, 2014). This began the makings of youth justice legislation, and the enactment of the Juvenile Delinquency Prevention and Control Act in 1968. This Act made it mandatory for each state to develop infrastructure to deal with youth crime in order to receive federal funding (Department of Juvenile Services, 2014). This Act was followed up with the Juvenile Justice and Delinquency Prevention Act in 1974 and along with the previously mentioned goals of keeping youth separate from adult offenders and keeping status juvenile offenders out of prison, this act aimed to keep youth out of adult jails unless there were extenuating circumstances. It also sought to reduce the number of minority youth that were coming into the youth justice system (Department of Juvenile Service, 2014).

As time went on the number of juvenile offences were increasing in the United States and there was a push for a public safety agenda (Livers, 2014). This shift in thinking was likely related to the change in government. In the years prior to 1980 the Democratic party was more regularly the governing party in the United States and espoused a more liberal platform, However, in 1980 Ronald Reagan, a Republican, came into power, beginning a time when Conservative ideology would govern the United States. Owing to this ideologically driven momentum for “public safety”, there were changes made to the youth justice system where state legislatures were passing laws to become tougher on youth crime (Livers, 2014). Reinforcing this increase in public concern for “safety” were a number of publicized school shootings in the 1990’s. The public began to fear (or were manipulated into fearing) a new generation of young

criminals and as a result, every state passed new laws that made the process for trying youth as adults in criminal court one that was easier (Livers, 2014).

The United States is a Federal Republic comprised of a national government, fifty state governments and a number of local governments. Owing to the way that the United States Government is operated, there is a great deal of variability in how a youth matter is dealt with across states. Although there is variability, in general when a youth has been accused of committing a crime they are referred to the juvenile court by police, parents, school officials, the victim, probation officers or social service agencies. There is then an intake process and the decision is made to either deal with the matter formally or informally (Stafford & Kyckelhahn, 2002).

Formally processed cases tend to be those more serious offences, although the number of cases that are being sent to youth court has increased over the past 30 years in the United States. In 2000 the proportion of youth referred to the justice court was 71%, up from 58% in 1980. This 71% represented 1.6 million cases being dealt with by the courts (Bishop & Decker, 2006). Youth may be held in secure detention while they are waiting for their case to be processed formally. In the case that a matter is being dealt with by the juvenile court a delinquency petition is filed and this outlines the charges and requests that the court define the youth as a delinquent. After a youth has been defined as a delinquent by the juvenile court, a disposition plan is created. There are a number of options for this plan including; fines, restitution, probation, institutionalisation, community service, and referral to a community based treatment program (Stafford & Kyckelhahn, 2002).

In the recent past there has been a shift from protective rights for youth to liberating rights for youth. This shift has been a result of the belief that youth can actually make choices that are just as effective as those made by adults, a belief that was not previously held. Protective rights were previously in place for youth because there was a belief that youth lacked the capacity to care for themselves and make effective decisions. This shift in thinking has moved the US from having a somewhat welfare approach to youth crime to having a more criminal control approach that focuses heavily on holding youth accountable for their crimes and punishing them (Stafford & Kyckelhahn, 2002). Although there is still a push for being tough on youth crime in the United States, there has been more of an effort made to keep youth out of the large institutions and place them in smaller facilities or community based interventions within the last ten years (Department of Juvenile Services, 2014).

Also, recently there have been changes in the death penalty and life sentences for juvenile offenders in the United States. In 2005 The U.S. Supreme Court abandoned the death penalty for young offenders, and in 2010 the Supreme Court put limits on life sentences. Life sentences without parole were reserved for those people under the age of 18 who committed murder (Livers, 2014) and in 2012, it was decided that youth under the age of 18 who committed murder would not receive mandatory life sentences without parole. Each youth court case that involved murder would be reviewed on its own terms and taking into consideration the age of the child as well as other life circumstances (Livers, 2014).

In the United States the age for a youth to be considered a juvenile in the justice system varies depending on the state. The majority of the states use the maximum age of

17 at the time of the offence, however two states (New York and North Carolina) have the maximum age set as low as 15 years (OJJDP Statistical Briefing Book, 2014). Youth crime in the U.S. reached an all-time high in 1996 when there were over 8000 arrests per every 100,000 youth. In the years since, there has been a dramatic decline in the number of youth arrests with there being less than 4000 arrests per every 100,000 youth in 2011. The Federal Bureau of Investigation reported that in 2012 the number of juvenile arrests in the United States continued to decrease and was down 10.4 percent from 2011 (U.S. Department of Justice, 2013). In the same year adult arrest rates dropped only 0.9%. The National Institute of Justice (2014) noted that in 2009, 22% of all youth who were arrested were dealt with by law enforcement and were released into the community, 67% (down 4 % from 2000) were referred to youth court, and 9% were directly referred to criminal court.

In 2011, the number of youth committed to residential placements in the United States was 61,412 (OJJDP Statistical Briefing Book, 2014). In 2008 the United States placed more youth in residential facilities than any other country with a juvenile incarceration rate of 336 per 100,000 youth (Hazel, 2008). The United States was followed by South Africa, where the juvenile incarceration rate was 69 per 100,000 youth. Young offenders in the United States are placed in pre-trial detention in 18% of cases. In the year 2000 over 640,000 youth were held in pre-trial detention, and these youth were more likely to be male than female and more frequently black than any other race (Bishop & Decker, 2006). This high number of youth being placed into residential facilities is a concern owing to exposure to abuse by both staff members and other youth (Mendel, 2011) and the negative impacts that spending time in these American facilities

can have on youth's psychological and physical health (Holman & Ziedenberg, 2006). This topic is further discussed in Chapter 5.

Despite the high number of youth that are going into facilities, as mentioned above the juvenile crime rate is decreasing in the US. This decrease could be related to the increased focus on using evidence based prevention and intervention strategies with American youth. Prevention in the United States focuses both on early intervention for those young children who are at risk, but have not become involved with the law, as well as prevention for youth who have been identified as having problem behaviour or have been diverted after a first offence (Bishop & Decker, 2006). Early intervention strategies tend to target communities that are at risk, in programs such as "Communities That Care". Programs like these receive funding for community led boards to determine what resources exist in the community and what gaps there are. They are then asked to make a delinquency prevention plan by building on the resources that the community has and implementing new programming (from previously researched options) in order to carry out the plan (Bishop & Decker, 2006).

Further to these early intervention programs, there are prevention strategies that focus on those youth who have had minor conflicts with the justice system, with the goal of curbing any future indiscretions. One of the most widely used prevention strategies is the use of "Teen Courts", used mostly for first time offenders. Youth can be referred to this informal court in lieu of formal court processing. In order to be accepted into the Teen Court the youth must accept responsibility for their crime and agree to follow through with the Teen Court ruling and in response their charges are in turn, dropped (Bishop & Decker, 2006). Teen Courts are made up of adolescents; they are the judge,



jury and attorneys. The belief behind the implementation of these courts is that judgement by a group of peers may have more influence on future offending than judgements made in the formal justice system. Sanctions in these court rooms often include community service, letters, essays or restitution. In 2006 there were approximately 700 Teen Courts in the United States and they dealt with an estimated 100,000 youth that year. These courts are serving as one of the most used alternatives to the formal justice system for youth in the US (Bishop & Decker, 2006).

Although the above strategies may have some positive impacts, there have also been some less effective initiatives in the US such as “Scared Straight” and “Zero-Tolerance” for example. In “Scared Straight” programs youth are required to spend a day in an adult prison where the inmates interact with them in order to relay the negative experiences of prison and intimidate youth in order to deter them from future offending (Bishop & Decker, 2006). As discussed in chapter five of this report, there is no evidence to suggest that prevention programs such as these decrease the recidivism rates of youth that take part in them. Finally, prevention in the US also includes the recent introduction of zero-tolerance policies in the schools. Under these policies, youth experience automatic suspension or expulsion from school if they bring weapons onto school property. Many schools grew the policies to include indiscretions such as fighting, possessing drugs or cigarettes and minor acts of violence. These policies have received some criticism as very minor acts, such as having a butter knife have led to school expulsions. Further the programs have not shown signs of decreasing offending, but in some cases have led to increases in school dropout rates and acts of delinquency (Bishop & Decker, 2006).

Although the United States has experimented with a number of strategies to reduce youth crime, there is a reliance on “quick fixes” that do not seem to have any great impact on crime reduction (Bishop & Decker, 2006). Further, the US is criticised for the over-reliance on youth custody and harsh consequences for transgressions. The United States continues to move away from a welfare model and toward a crime reduction model in youth justice (Stafford & Kyckelhahn, 2002) which is not well supported by peer-reviewed research conducted in this field.

### **Conclusions**

As demonstrated above, those countries that adopt a Welfare Model to their justice system operate very differently from those that adopt a more “justice” oriented approach. Although there are some concerns with a welfare approach, in general it seems to have more positive outcomes for youth and provides greater promise for their futures. Youth in countries that take a welfare approach spend less time in custody and are involved in more community based treatment and prevention strategies, whereas youth who are involved in Justice Model systems are more apt to spend time in detention and custody and may be involved in “quick fix” prevention strategies that are not rooted in evidence based practise. Canada, as outlined in chapter three, has opted for a middle of the road approach to youth justice where there is a focus on both the offence and the offender when treatment and sanctioning are being considered.

## **Chapter 5**

### **Ineffective Rehabilitation/Treatment Options**

Since youth have been held accountable for their actions under the justice system in Canada there have been a variety of treatments that have been utilized in order to

rehabilitate them. As discussed previously, some of these options were quite harsh and have been amended over time. This chapter will focus on some treatment options that have been found to have mixed or negative results in terms of helping to reduce recidivism rates in criminalized youth. Specifically, there will be a review of literature on boot camps, custody and the use of detention (or remand) in the youth justice system.

### **Boot Camps and Scared Straight Programs**

Boot camps are military style incarceration facilities that a number of countries, including Canada, have put into practice in the youth criminal justice system in the past. These facilities were designed to instill fear and to provide some “tough love” that would build character in youth who were prone to delinquency (Cullen, Belvins, Trager & Gendreau, 2005). Because of this goal, boot camps were often quite harsh. Canada opened its first boot camp, Project Turnaround, in Ontario in 1997 with the goal of putting all of the system’s best practices into a military style setting. Project Turnaround was highly structured with dawn to dusk programming and little free time (Wormith, Wright, Sauve & Fleury, 1999). After operating this boot camp, research indicated that the youth that took part in these programs were not any better off when they returned to the community than those youth who had spent time in a custody facility (Dobb, Sprott & Webster, 2010; Latimer, Dowden & Morton-Bourgon, 2004). However, the use of these facilities was supported by many in the general population and was popular at the time, arguably owing to an uninformed, almost religious belief in “common sense corrections” (Cullen, Belvins, Trager & Gendreau, 2005).

It is important to note that the general public seems to have very little understanding of the youth criminal justice system, as well as the prevalence and severity

of youth crime in Canada. Many report that they get their information from the media, which tends to focus on high profile cases and are at times reported by conservative tabloid style media outlets. This likely has a significant impact on the public opinion that harsher sentences are necessary. Further, it is noted by Mackenzie (2001) that the popularity of boot camps worldwide in the 1980's was in part owing to the harsh treatment in them being attractive to tabloid style media. Programs like this attempt to demonstrate to the public that politicians are being "tough on crime" which is attractive to those who have a belief system that values military culture and punishment. These programs further aim to show the public that the government is financially responsible as short sentences in boot camps were vainly believed by conservative governments to have considerable effects on recidivism.

Despite the popularity of boot camps and wilderness program, there is considerable research that indicates that they are no more effective than more traditional sentencing options, and that they can even have negative effects on youth recidivism. Lipsey, Wilson and Cothorn (2000) were interested in what types of interventions were effective for youth and conducted a meta-analysis of 200 studies of interventions for both youth who were being held in institutions, and those who were not. All youth considered were serious offenders. While conducting this meta-analysis they also came across those interventions that showed the least effectiveness for youth. They found evidence to suggest that wilderness/challenge programs were among those that were not effective. The Roots of Violence (Dobb, Spratt & Webster, 2010) document also found that wilderness programs do not work to reduce recidivism rates.

A further meta-analysis conducted by the Department of Justice Canada found that those youth who took part in a wilderness program or a boot camp program demonstrated *higher* rates of recidivism after program completion (Latimer, Dowden & Morton-Bourgon, 2004). This research was supported by the work of Wright and Mays (1998) who found that youth in Oklahoma who spent time in boot camps had higher recidivism rates than those who were sentenced to probation or to the typical incarceration experience. These findings suggest that programs highlighting scare tactics and military components are not only ineffective in reducing recidivism, but may be related in some way to youths continued involvement with the justice system. Boot camps teach “might is right” and encourages bullying as a method to get youth to comply with staff. This models bullying behaviour and may encourage further criminal conduct in the youth as they have been provided with an education on how to be intimidating and cruel. Wright and Mays (1998) suggested that in order for the boot camp to be effective there needed to be less emphasis placed on the military components of the boot camp and greater focus on the reintegration of these youth back into the community, something that has worked its way into the Youth Criminal Justice System currently in Canada.

A similar study conducted by MacKenzie, Wilson and Kider (2001) looking at the effectiveness of boot camps in the United States found that the reoffending rates of youth that took part in the boot camp was no lower than those youth who were sentenced to an alternative such as traditional custody or probation. This information points to the need to offer alternatives to harsh sentences.

Andrews, Zinger, Hoge, Bonta, Gendreau and Cullen (1990) suggest that there is no evidence that "scared straight" tactics are effective, and that there is nothing to suggest

that the fear of punishment is in any way related to youth involvement in criminal activity. This finding is further supported by the "Roots of Violence" document released by the Canadian Government, as noted in a review by Dobb, Sprott and Webster (2010), that stated that strategies that are based on deterrence do not work (including boot camps and scared straight techniques) that were used in Canada in the 1990's.

Further to the effects of boot camps on recidivism, it is important to discuss the emotional turmoil that is reported to have been experienced by those who spent time in boot camps. Lutze and Brody (1999) looked at the comparison between the type of punishment that is used in boot camps and the eighth amendment (prohibiting cruel and unusual punishment) in the United States. They suggest that the discipline used in boot camp settings could be considered cruel and unusual punishment. In their article, they discuss that the use of both humiliation and intense physical challenges in boot camps may lead to emotional and physical abuse of the inmates. Officers have been reported to use verbal humiliation by name calling and questioning the sexual orientation of inmates when they struggle with the physical demands of the challenges (Sechrest, 1989). Lutze and Brody (1999) also conveyed that inmates have been threatened with the potential for sexual abuse if they return to a traditional custody facility after failing to successfully complete the boot camp sentence.

It is further suggested that the experience of being in a boot camp can be particularly harmful for those inmates who have experienced abuse in their past. Humiliation and other forms of abuse are well established as part of the boot camp experience (Benda, 2005) and as a result can begin a process of re-traumatization for those individuals who have a history of sexual, emotional, and physical abuse.

Similar to boot camps, scared straight programs were intended to instill fear in youth with a belief that their involvement would lead to their decrease in criminal activity. A review conducted by Petrosino et al. (1997) looked at a number of studies focusing on scared straight and other programs for youth who are in conflict with the law. These programs consisted of youth taking trips to adult prisons where they would often have confrontational communications with prisoners in the jail. These programs were based on a deterrence model, and aimed to keep youth out of the system by scaring them. It was based on the premise that after visiting an adult prison, they would not want to find themselves there in the future. The conclusions of their study indicated that these programs did little to deter youth from crime and that the programs may have actually caused more problems. The majority of the studies found that youth who were involved in control groups had lower recidivism rates than those who took part in the scared straight programs. Only one study found any positive results. At the six month follow up those who took part in the scared straight program had higher recidivism rates, but at nine and twelve months, their rates were lower than the controls. However, the authors of this study mentioned that there was a very high attrition rate at the nine and twelve month follow ups, which may have influenced the results. This study indicates that scared straight programs may well have the opposite effects of what was intended.

The negative effect of scared straight programs and boot camps on youth has been taken seriously in Ontario and currently boot camps are not a sentencing option for youth. However; youth are still sentenced to custody facilities in Ontario quite regularly. According to Statistics Canada, in 2011/2012 over 20% of guilty youth cases in Ontario resulted in a custody sentence. Ontario has the highest percentage of youth sentenced to

custody in Canada and is well above the Canadian average of 15%. This high number of custody sentences is concerning when one considers the evidence that suggests that there are many negative consequences for youth who spend time in custody.

### **Custody**

Spending time in a custody facility has been found to have negative effects on prisoners, including youth, in a number of ways. There is research that suggests spending time in custody can lead to increases in recidivism, trauma and emotional turmoil.

Taking all of this into consideration, it is difficult to classify this sentencing option as one that is effective, or even humane. Owing to the widespread use of custody as a “rehabilitation” method for criminal behaviour it has been researched extensively.

Overwhelmingly, the findings point to the conclusion that custody is not an effective strategy for decreasing recidivism rates of offenders, or changing the antisocial attitudes that arguably led them to crime in the first place.

A meta-analysis conducted by Gendreau, Goggin and Cullen (1999) looked at the effects that prison sentences had on offender’s recidivism rates. They found that there is no evidence to suggest that spending time in prison reduces recidivism, and in fact, those who spend more time (30 months average) than less time (12 months average), and those that were incarcerated rather than receiving a community sentence had increases in recidivism rates post-release. Further support for the finding that longer times in prison are not related to decreases in recidivism comes from a report out of the United States. Laudano (2013) completed an analysis of data that was collected from three US states and found that there was no evidence to suggest that longer periods of time in prison were



related to decreases in recidivism. The author argues that longer prison sentences do not aid in increasing public safety, but do cause significant strain on taxpayer dollars.

A report by Mendel (2011) looking at the use of correctional facilities in the United States also found that recidivism rates are high among those youth that have been incarcerated. Mendel (2011) conducted a recidivism analysis for youth leaving custody in 38 states. He found that spending time in a youth custody facility did not deter young people from committing further criminal acts upon release. Seventy to eighty percent of youth were rearrested within two or three years of release, 45-72% had new convictions within three years and 26-62% were incarcerated on new criminal charges within three years of release. Lipsey (1995) also conducted a meta-analysis that included over 400 studies looking at the effectiveness of treatment with juvenile offenders. Although Lipsey did find that there are a number of treatment options that do show positive results, he also found that deterrence strategies such as shock (military style) incarceration were not effective. These strategies were found to have negative effects and led to increases in delinquency.

Perhaps, one of the reasons behind the lack of decreases in recidivism is related to the issue of lack of programming for incarcerated youth, as pointed out in a recent report by the Ontario Provincial Advocate for Children and Youth (2013). In this report it was noted that 59% of youth in the Roy McMurtry Youth Centre commented that they were either not in a program at all, they were on a waitlist for the program they were interested in, or the program that they wanted was cancelled. They commented that the process to get into programming is quite slow and they have been on waitlists for one to three months. This programming issue is further complicated by short stays in custody. Youth

reported that they were not receiving programming because they weren't at the youth centre long enough to be involved in programming. If youth are not able to take part in rehabilitative programming while in a custody facility, it seems unlikely that they will be successful in making changes that will lead to reductions in criminal behaviour. It appears that in practice, programming for detained youth is not a priority and this belies a sub-cultural belief in punishment within youth facilities and a convenient reduction in costs to the system.

Further to the findings that incarceration is not effective in reducing recidivism is the ongoing concern about the risks that are associated with spending time in prison, especially for youth. In her article regarding setting standards for youth in custody in Canada, Cesaroni (2001) notes that institutional abuse (abuse that occurs while under the care of the government or while residing in a government run facility) is a reality for youth in Canada. Inmate-on-inmate violence, physical restraint, and placement in isolation are all prevalent in Canadian youth custody facilities. The Law Commission of Canada suggested that the high rate of institutional abuse experienced by Canadian young offenders may be related to the power imbalance between the youth and the staff; a lack of supervision and monitoring within the facilities; and institutional life leading to youth suffering from disconnection, degradation and powerlessness. Further, the Ombudsman of British Columbia (McCallum, 1994) states that youth isolation from family and friends, along with their feelings of alienation and concern with negotiating the legal system may increase the prevalence of violence within institutional settings. The Ombudsman further noted that although peer-on-peer abuse does take place outside of

government run facilities, the difference lies in the detained youths' inability to remove themselves from the situation.

In addition to the above concerns, there are reports that inmate-on-inmate violence has been condoned, or even encouraged by some of the staff members that work in youth custody facilities. Dobb (1999), as cited in Cesaroni (2001) noted that there is also evidence of staff members taking part in spreading rumors leading to assault, turning a blind eye to violence, and even bribing youth to assault other young offenders. Moreover, youth are not only experiencing physical violence from other incarcerated young offenders, there are times when physical restraint is used unnecessarily by youth officers (Cesaroni, 2001). It is understood that there are times when physical restraint is required for the safety of the inmate themselves, or those around them; however, there are situations when extreme force and aggressive behaviour by staff members have led to injury (Cesaroni, 2001). Similar results are described in the United States, with reports from a governor's task force in New York stating that the juvenile justice system in New York is unsafe (Mendel, 2011). In his study with male young offenders, Dobb (as cited in Cesaroni, 2001) found that 54% of the male youth sampled reported that they had witnessed what they would consider to be excessive use of force by staff when dealing with another youth.

In a report by the Ontario Office of Child and Family Service Advocacy (Snow & Finlay, 1998) young people spoke about their experiences in care in Ontario. Included in this report were Phase I (12 to 15 years of age) and Phase II (16 to 17 years of age) young offenders, some of whom reported experiencing verbal abuse such as name-calling and labelling by staff members. The youth further discussed their experiences of physical

restraint (although they understood that at times the use of physical intervention was necessary) they also believed that its use was often disrespectful and at times a pretext for abuse. Finally, the youth mentioned that there is a lack of debriefing or follow-up after a physical restraint, suggesting that staff just want to forget about it (Snow & Finlay, 1998).

When discussing the negative impacts of custody on youth it is important to mention the trauma that may be experienced by juveniles who are leaving their families. Doob and Cesaroni (2004) reported on the work of Frydenberg (1997) who noted that, for youth, coming into a custody facility is considered to be a very traumatic experience, topped only by the death or divorce of their parents. When asked, youth who have made the transition into a custody facility said that the experience was sad, embarrassing, and scary and that they felt lost and nervous (Snow & Finlay, 1998). For many young offenders this is their first time away from their parents, and unfortunately, owing to being placed in facilities that are quite a distance from home, coupled with poverty issues, visits from family can be difficult to coordinate (Cesaroni, 2001).

A recent report on the Roy McMurtry Youth Centre in Ontario, written by the Provincial Advocate for Children and Youth (2013) provides an inside look into one of Ontario's youth custody facilities from the perspective of incarcerated youth. The report highlights a number of concerns in addition to the programming concerns discussed above. These include: prevalent peer-on-peer violence, staff having a tendency to use containment methods (and excessive force) rather than alternative strategies, difficulty with coordinating family visits, and some issues with meeting basic food and care needs. The report indicates that these issues have been ongoing since the facility's opening in

2009 and that rather than introducing sustainable solutions, the facility responds to youth complaints by putting a solution into practice that it is not effectively monitored or continually applied, and results in similar problems arising again. Although this report cannot be generalized to all youth custody facilities in Ontario, or Canada, it does provide some insight into the problems that youth face while incarcerated.

When considering the use of custody as an appropriate sentence, especially for youth, the above information must be considered. If there is no rehabilitative value in a prison sentence, it would not seem reasonable to subject a youth to this traumatic experience. Arguably, the only appropriate time for a youth to receive a custody sentence would be for incapacitation for the safety of the community and the individual offender. Even with this knowledge, youth continue to be held in custody facilities and not only following conviction of a crime. In Canada, youth are held in pre-trial detention at an alarming rate. According to Statistics Canada, 81% of all youth custody admissions are for pre-trial detention (Perreault, 2014). The high rate at which this option is being utilized is a cause for concern owing to the number of negative effects that detention can have on youth.

### **Detention**

Pre-trial detention is the event in which the court allows a young person to be held in custody prior to being convicted of a crime (Department of Justice, 2013). According to the Youth Criminal Justice Act a youth can only be detained in custody if:

“the youth has been charged with a “serious offence” (i.e., an offence for which an adult could be imprisoned for five years or more if convicted) *or* has a history of outstanding criminal charges or findings of guilt under the YCJA; *and* if the court is satisfied that detention is necessary to ensure the young person’s attendance in court, to protect the public, or in exceptional circumstances, to maintain public confidence in the justice system; *and* if releasing the youth into

the community with conditions would not be sufficient to address the court's concerns (Department of Justice, 2013).”

Even with these strict guidelines, Statistics Canada reported that 11,530 youth were placed in pre-trial detention in 2011/2012 (Perreault, 2014). In the same timeframe only 1,111 youth were sentenced to secure custody and 1,213 youth were sentenced to open custody. These numbers suggest that the use of pre-trial detention is far too routine, is not following the guidelines, and the consequences of its use are not being properly considered.

One of the concerns with the regular use of detention is the negative effects that it can have on youth emotionally. When a youth is held in a detention facility they are away from their friends and families, they are unsure of their futures in terms of how their transgressions will be handled, and they are uncertain how long they will be in the facility. A study conducted by Freeman and Seymour (2010) looked into this time of uncertainty for adolescents who were being held in a remand home in Ireland. This study found that although there is research to indicate that devoting time to activities while in a detention facility can lead to better coping and greater levels of well-being (Cope, 2003), there is little time devoted to structured activities in remand facilities. It was also noted that when there was time for structured activities, often the youth who were in the facility for detention were not able to access these activities owing to their status as being on remand, and others were hesitant to take part in activities as they were not sure how long they would be staying in the facility (Freeman & Seymour, 2010). Youth who took part in this study suggested that they would like to be involved in programming such as

employment skills and leisure activities as it would help them to cope with their situation by filling their days.

Similar to the concerns noted above regarding the use of custody, the youth who are placed in detention facilities are removed from their families and communities while they are in remand. Youth who are in detention facilities reported that they would like to have someone to turn to, and they would prefer to speak with their families. However at the same time, many of the youth disconnect from their families while they are in detention as a coping mechanism (Freeman & Seymour, 2010). For many young people, the uncertainty of when they will return home to their families makes it difficult to interact with them, and detaching themselves makes dealing with this ambiguity a little bit easier.

It has been found that subjecting youth to a detention facility can have serious negative impacts on both their psychological and physical well-being (Holman & Ziedenberg, 2006). Although there are a number of youth who enter detention facilities with ongoing mental health concerns, there is research that indicates that being placed in this environment can exacerbate the problem. One of the causes for this is the fact that many detention centres are overcrowded and consumed by violence and chaos, an environment that is not healthy for any individual, especially those with mental health concerns. It has been suggested that the transition to detention itself can lead to increases in mental health problems in detention facilities (Holman & Ziedenberg, 2006).

Further, youth who are held in detention facilities are at greater risk for self-harm. According to a report written by the Office of Juvenile Justice and Delinquency

Prevention (1994) 970 youth (1.56 youth per 100) residing in 939 residential facilities had attempted suicide, made a suicide gesture, or engaged in self harm behaviour resulting in an average of 2.4 suicidal incidents per every 100 youth in the 30 days prior to the writing of the report. It was found that both the individual rate and the incident rate were higher in detention centres than in any other type of residential facility. Data indicated the rate of suicidal behaviour was associated with staff turn-over, crowding, and the percentage of youth that are in their own rooms (OJJDP, 1994), suggesting that less experienced staff do not deal as well with this behaviour and that allowing youth to spend unsupervised time in their rooms alone may contribute to increases in suicidal ideation.

Although it may be troublesome to allow youth to spend large amounts of time alone, there is also evidence to suggest that it is not beneficial to have delinquent youth grouped together in one facility. Holman and Ziedenberg (2006) report that bringing youth together for treatment may lead to increases in future offending and they argue that youth are brought together in the greatest numbers when they are placed in detention (or custody) facilities. Dishion, McCord and Poulin (1999) found that grouping youth can lead to increases in: problem behaviour; self-reported and police reported violent behaviour; and the probability of using substances in the future. They argued that these escalations in negative behaviour were a result of “deviancy training”; a phenomenon whereby youth take part in conversations regarding rule-breaking and receive positive reactions by their peers especially in custodial facilities. Youth whose peer relationships are characterized by deviancy training have greater probability of taking part in future delinquent acts, whether or not they are already involved in problem behaviour. Placing youth together for the purpose of pre-trial detention may have more negative



consequences than positive, especially when considering the consequences for youth who have not been convicted and often are in detention owing to accusations of quite minor offences. Detained youth in Canada are held in the same facilities as those who have been convicted and are spending time in custody, leading to low risk offenders being mixed with youth who have been charged and/or convicted of more serious offences. It is important to consider the effects of “deviancy training” when choosing where detained young people are to be placed.

Finally, the decision to place a youth into pre-trial detention should not be made lightly as it can have serious negative effects on the youth’s future life of criminal behaviour. It has been found that youth who are placed in detention facilities are more likely to continue in the youth justice system than similar youth who were not detained while awaiting trial (Frazier & Cochran, 1986). Frazier and Cochran (1986) noted that young people in their study who were detained were more likely to: have a petition filed at intake; have a petition filed by the state’s attorney; and receive formal judicial intervention than those youth who were not detained. Further, youth who are detained pre-trial have been reported to be three times as likely to be committed to a juvenile justice facility as those similar youth who were not.

## **Conclusion**

The above rehabilitation options for youth, as stated, have not been found to have positive results. When youth are required to take part in these methods, they are at increased risk for a number of negative consequences. Youth who are held in residential facilities for either custody or detention are removed from their family home, often for

the first time, and are immersed in an overwhelmingly negative environment in which they must navigate on their own. Youth in these facilities and in boot camps or scared straight programs are subject to abuse both in its physical and emotional form and are not ensured solace by the staff members, as at times these are the very people who are perpetrating the abuse.

Further to the abuse and trauma that youth are subjected to, there are more negative effects related to these rehabilitation strategies. Youth who take part in these programs are not found to have lower recidivism rates than those youth who are consequence in the community, and in many cases the recidivism rates of youth in custody, detention, or boot camp are actually higher than those of similar youth who are dealt with in the community. These are all important factors to consider when decisions are being made regarding youth. Further, it cannot be ignored that there is an abundance of research that indicates the many problems with incarceration. Why do systems routinely utilize these methods in the face of such overwhelming evidence against it? Perhaps it is related to the deep rooted need to punish those who are marginalized or “otherized” as a result of historically conservative and/or religiously oriented worldviews. If the youth justice system has the aim to provide effective measures to reduce recidivism and address the underlying factors that are leading youth to crime, there are a number of options that can be used that have been found to have positive effects. Some of the most utilized options will be outlined in the following chapter.

## **Chapter 6**

### **Effective/Promising Treatment Options**

Although there continues to be debate in the field of crime reduction regarding the most effective treatment options there is evidence to suggest that there are practices that tend to be more successful. The previous chapter reviewed some of the options that are not effective and in this chapter I will discuss some of the more promising practices.

### **Evidence Based Programming**

Currently in Ontario, using evidence based programming is considered to be the most effective strategy for reducing recidivism rates of young people who are in conflict with the law. There are numerous programs that fall under the category of “evidence based practice” consequently rather than reviewing specific programs, the characteristics of these programs will be discussed.

In order to determine what constitutes an effective program individuals at the London Family Court Clinic were asked to review the research on correlates of anti-social behaviour and characteristics of effective programs. They were interested in providing some examples of effective programs. The findings will be reviewed below as their document is one that was disseminated to all those working in the youth justice system in Ontario and is still regarded as relevant and important. In particular the emphasis is placed on the "what works" literature.

The YCJA has the clear goal of diverting "low-risk" young offenders out of the system so that greater attention can be given to those "high-risk" offenders who may be potentially dangerous. In order to best treat these young offenders we must be able to identify the risk factors that make a youth vulnerable to criminal activity and programming must address these factors. Cunningham, Baker, Mazaheri, Ashbourne, Brunshot and Currie (2004) noted that there are conditions that predispose a youth to

crime (e.g. family or community) and these are called risk factors. On the other hand, there are conditions that may reduce this risk (e.g. caring adults or pro-social activities) and these are naturally called protective factors. Research has found that exposure to multiple and persistent risk factors across developmental stages is more strongly correlated with later delinquency than any one risk factor on its own (Ammerman & Hersen, 1997). If treatment is to be effective it is important that crime prevention strategies take these risk factors into account.

There are four broad risk factors that have been identified: personal risk factors, family risk factors, socio-economic and community risk factors and educational risk factors. Personal risk factors are generally considered to be mostly biologically based and include such things as temperament and intelligence though most social scientists would disagree that such are purely biological. Family risk factors include the capacity, style and availability of parenting values and attitudes. Socio-economic and community risk factors are considered owing to the increased chance of the interaction with anti-social peers and negative environments. And finally, educational risk factors refer to the academic and behavioural presentation of a youth in the school setting and the correlates of either effective or sub-standard educational systems or experiences (Cunningham et al., 2004).

When programming for young offenders is being delivered, Cunningham et al. (2004) suggest that it is essential that a holistic approach be taken and service providers take into consideration all aspects of a youth's life (the biological, the social and the psychological) in order to best meet their needs. Programs that tend to be the most effective are those that are implemented with quality by staff members who are caring

and knowledgeable. These people set high standards and expectations for themselves in their interactions with youth and also recognize the importance of including parents/guardians in the programming and encourage community involvement. Further, the most effective programs tend to take a holistic approach to working with youth where all aspects of their day-to-day life are considered. These programs are long-term and include aspects of support for youth and on-going follow-up once the youth have completed the program.

Cunningham et al, (2004) found that promising programmes for youth have systemic assessments that emphasize factors relevant to the youths criminality so they can appropriately target treatment and pay attention to relapse prevention. These programs also include high levels of therapeutic integrity and styles of service delivery that match the learning style of the youth (Andrews et al., 1992 As cited in Cunningham et al., 2004).

The types of programs that tend to be most effective when they are implemented properly are cognitive behavioural approaches and ecological/systems approaches. Cognitive behavioural interventions tend to be more effective in terms of reducing reoffending behaviour than those approaches that are psychotherapeutic (Cunningham et al., 2004). This approach involves looking at the youth's environment and modifying their thinking so that they can be prepared to respond differently to issues in their day to day living. This school of thought encourages social workers to challenge the young person's current pattern of thinking and behaving and teach them a prosocial replacement. This change in thinking will lead to reductions in anti-social behaviour and criminal activity.

Ecological/systems approaches recognize that the socio-ecological context that the juvenile is involved in affects them in a meaningful way. These approaches view youth "in context" and aim to intervene with those systems that are influencing them. Work may be done with the youth's family, peers, school, community etc. These approaches with adolescents attempt to influence the systems that are driving the criminal activities through solution-oriented interventions. This is a holistic approach to rehabilitation that may have greater generalizability to the youth's day-to-day life and experiences and therefore help them to better maintain change over time.

It is important to keep in mind that programs are only effective if they are delivered properly and one of the most challenging steps after finding a program is implementation. Programmes must be delivered with integrity and fidelity to the original model as they have been researched and determined to be effective only if they are delivered as designed. They need to be delivered equally well across the province in both institutional and community settings in order to ensure quality of care for all youth in the system. The most effective way to ensure that this is being achieved is to have ongoing staff training and supervision.

When considering program implementation Cunningham et al. (2004, as cited in Lipsey, 1992) and Hollin (1995) note that it is important that both the participants and the professionals see the program as relevant. When people do not see the relevance of a program the chance of non-compliance behaviours is increased and the program may be altered. Owing to this, ongoing monitoring and evaluation of the programme is important for programme integrity. Cunningham et al. (2004) report that the Correctional Service of Canada has opted to address program integrity and standardization through site

accreditation. This process ensures that program providers have sufficient education and training, are adequately supervised, outcomes are monitored, the culture of the institution is supportive of the treatment programme, and the non-treatment staff understand the program.

If a programme is found to be effective and program integrity has been safeguarded it is important that a high degree of fidelity to the original programme model remains. Programme fidelity is the extent to which a programme is delivered in accordance with the original model and is enhanced by all factors that contribute to programme integrity. These factors include clear manuals for implementation and training but also staff buy-in, supervision and monitoring of outcomes (Kovaleski, Gickling, Morrow & Swank 1999, as cited in Cunningham et al., 2004). Program delivery that closely adheres to the original model have better outcomes than those that adhere loosely. Maintenance of programme fidelity over time is very hard to accomplish. Programmes often drift over time owing to the demands of routine tasks such as administrative responsibilities. It is also noted that there are times when the staff that are delivering the programme do not fully agree with the program goals. This could be based on their own education or professional biases (Vennard, Sugg and Hedderman, 1997, as cited in Cunningham et al., 2004). When facilitators don't agree with the program they are more apt to make changes.

Effective staff members are essential to the youth's success. Staff members who are committed, adequately trained and properly supervised are likely to have clients with lower recidivism rates (Roush, 1993 & Gendreau et al, 1999, as cited in Cunningham et al., 2004). Features that are associated with successful implementation of a program

include having staff people that: have immediate access to the person responsible for initiating the programme; understand the theory behind the program; have the technical/professional skills that are needed to implement the programme; believe they can run the programme effectively; are provided with the adequate time, resources and feedback to run the programme efficiently and; participate directly in designing the programme.

Andrews (1994) notes that successful staff members have a number of shared qualities including being: caring, concerned, interested, interesting, enthusiastic and engaged. They are able to develop appropriate relationships and can help to model prosocial behaviours. These people are assigned the task of re-socializing the young person through their routine and daily interactions. A valuable staff member not only demonstrates prosocial behaviours, they also reinforce positive behaviors of the youth and recognize that this method is more effective than punishing negative or antisocial behaviour. These effective staff also acknowledge that the young people that they work with may have good reasons to be wary of using these new behaviours and are supportive and encouraging of the youth. It is further suggested that having an appropriate staffing ratio is important. If service providers are suffering from a staffing shortage (which is often common owing to high staff turnover and/or underfunding) the custodial programming is limited to only meeting the youths basic needs and interferes with best practices and limits effective programming.

Finally, when implementing effective programmes it is important to consider dosage. This refers to how much of the programme is delivered to the youth. The literature review by Cunningham et al. (2004) notes that more programming is better;



however, it is important to determine how much is enough. There has been some difficulty within the youth justice system in making sure that youth have received the appropriate dose of programming. This is owing to the regular transfer of youth from facility to facility, owing in part to completing different levels of their sentence (closed/open custody) or for administrative reasons and staffing and funding shortages.

It is known that repeated exposure to a subject helps with learning thus it makes sense that the more exposure a youth gets to information the more likely they are to assimilate it into their way of thinking. However we also know that changes in their learning and inconsistency in messages can delay learning. Consequently, when a youth is praised for a behaviour in one setting and reprimanded for it in another it may lead the youth to learning more about manipulating authority figures than any other message. It is suggested that programme consistency and continuity from facility to facility would be the best suited plan for the youth and their eventual success. It is suggested that the same programmes should be available at all facilities. This would ensure that youth get the appropriate dosage and continuity of service. The programme should follow the young person so that they can pick up from where they left at the last facility and if they are released into the community they should be able to complete the program with a community agency.

Further to the importance of implementing evidence based programs as outlined in the above review, there are a number of strategies that have been found to have positive effects on youth. There is research to suggest that certain approaches as well as specific programs are effective in reducing recidivism in youth. It is important for youth to have positive relationships with adults in their lives. It has also been shown that

approaches such as Positive Youth Justice and the Risk, Needs Responsivity Model are effective measures in working with young offenders. They are outlined below.

### **The Risk, Need and Responsivity Model**

The Risk, Need, Responsivity (RNR) model is one that is gaining popularity in Ontario. This model posits that when offenders are paired with the appropriate classes of service the service that they receive is more effective (Andrews, Bonta & Hoge, 1990).

The principles of classification include risk, need, responsivity, and in some cases professional override (the process whereby the professional considers the risk, need, and responsivity and make appropriate decisions based on these factors).

The risk principle states that those offenders who are higher risk should be those that receive higher levels of service. It has been found that those youth who are at a greater risk to reoffend respond better to an increased intensity of service and because of this these individuals should take up the majority of an agency's time and resources. It is important that services provided to these youth focus on the specific risk factors of each individual. Risk levels of offenders are determined by examining factors that are related to reoffending. These factors can be either static (e.g. gender, race etc.) or dynamic (e.g. socio-economic status, housing situation etc.). An important point regarding the risk principle is that although more intense service is necessary for high risk offenders, too much service for low risk offenders can actually have detrimental effects including increases in the probability of recidivism. Support for the risk principle comes from Sperber, Latessa and Makarois (2013) who looked at the amount of service provided to low and high risk offenders and its effects on their recidivism rates. This research

confirmed that while more intense service with high risk offenders decreases future recidivism rates, the same is not seen for lower risk individuals.

The “need principle” states that services for each client should be targeted at the criminogenic needs of that particular client. Criminogenic needs are assessed based on the individual’s dynamic criminal risk factors (ex. substance use, antisocial associates etc.) and treatment focuses on these needs. The philosophy behind this principle is that if the goal of service is to reduce the offenders offending then it is most appropriate to address the factors that encourage delinquent behaviour. Although there is not as much research on the “need principle” targets for service include: antisocial attitudes, antisocial associates, increasing self-control and reducing chemical dependencies. Programming to address these needs may include substance education, anger management or development of healthy relationships.

The responsivity principle aims to ensure that the approach that service providers take with a client is appropriately matched with their learning styles and their abilities (Dowden & Bonta, 1999). Cognitive behavioural therapies and social learning strategies seem to be effective with many offenders (Dowden & Bonta, 2004) and these strategies include modelling anti-criminal behaviour, practicing new skills and role playing. Dowden and Andrews (2004) also suggest that there are five aspects to effective treatment delivery which are further discussed below, these include: authority, anti-criminal modelling and reinforcement, concrete problem solving, advocacy, and quality of relationship.

In order to be authoritative the service provider must be firm but fair. They need to distinguish between rules of treatment and requests of the clients and they need to

monitor the client's progress. Dowden and Andrews (2004) note that effective treatment rewards compliance with the program. The facilitator is responsible for modelling and reinforcing anti-criminal patterns and demonstrating and reinforcing prosocial styles of thinking, feeling, and acting. Within treatment problem solving needs to focus on giving the client skills to remove obstacles and increase the rewards in their everyday living. It is also important that the service provider advocate for the offender by referring them to other agencies as required and it is best when all of the above is accomplished while relating to the offender in an open, enthusiastic, and caring manner (Dowden & Andrews, 2004).

Finally, Andrews, Bonta and Hoge (1990) believe that there is one last principle: professional override. This refers to the process whereby the professional considers the risk, need, and responsivity of the client and then proceeds to make appropriate decisions based on these factors. This reminds professionals that the previous three principles are to be used to guide them to a decision but that they must make the best, informed choice for their client.

Support for the Risk, Need, Responsivity model comes from a number of meta-analyses. In their work, Andrews, Bonta and Hoge (1990) found support for the RNR model. In support of the risk principle all of the studies they reviewed found that for those individuals who were at a low risk to reoffend, more intense service was either unrelated to their outcome or was related to poorer outcomes than less intense service. Andrews, Zinger, Hoge, Bonta, Gendreau and Cullen (1990) found that interventions that followed the RNR principles were more effective than those interventions that less consistently applied these principles, suggesting the importance of adhering to these

guidelines and underlining the effectiveness of this model. Dowden and Andrews (2004) also conducted a meta-analysis that looked into what works in young offender treatment. They too found support for the Risk, Need, Responsivity model

They also found that the model is effective with female young offenders which is an area of research that is less often studied. The meta-analysis included 134 studies with the majority of participants being male offenders (84%). Overall offender treatment programs were found to be mildly effective. Those that were involved in the treatment groups had a 45.5% recidivism rate compared to a rate of 54.5% in the non-treatment groups. Further, human service programs were found to have a positive effect where criminal sanctions had a negative effect on recidivism (Dowden & Andrews, 2004). This study found support for the risk, need and responsivity model and demonstrated that when these principles were followed they were associated with greater reductions in recidivism. Although this model is well supported, it is also important to consider how alternative strategies can positively influence young people who have become involved with the youth justice system.

### **Building Relationships with Youth**

The therapeutic relationship is the foundation for therapy and change in almost any intervention setting. In psychological research the therapeutic relationship has been a topic of study for many years and has been noted as an important aspect of any recovery for a very long time. Well known authors in psychology such as Sigmund Freud (Horvath & Luborsky, 1993) and Carl Rogers (Horvath & Symonds, 1991) have discussed the importance of this relationship and outlined its purpose in effective treatment.

More recently the therapeutic relationship has been a topic of interest in relation to positive outcomes and specific intervention techniques. There is some evidence to suggest that although programs that rely heavily on facilitators following a program manual have grown in popularity (especially in the Cognitive Behavioural approach) they may be decreasing the therapist's flexibility and in turn their responsiveness to their clients. This interference with the development of the therapeutic alliance could be negatively related to treatment outcomes for clients as the development of the relationship is such an important part of making change and engagement in program material.

A meta-analysis that was conducted by Horvath and Symonds (1991) indicated that there was an association between the therapeutic alliance and positive therapeutic outcomes. It has also been found that the quality of the therapeutic relationship is more predictive of positive outcomes for both youth and adults than the *specific* intervention (Karver et al., 2006). These authors reported that the therapeutic relationship has a moderate to large relationship with outcomes and that the use of empathy and warmth by the therapist is predictive of positive treatment outcomes. Ross (2008) looked at the motivation of violent offenders and found that there was an increased pattern of alliance with the helping professional over time and that this relationship contributed to the offender's propensity to make change. There was also a significant association between the therapeutic relationship and positive outcomes for the offender.

Florsheim, Shotorbani, Guest-Warnick, Barratt and Hwang (2000) looked at the therapeutic alliance between delinquent youth and staff in community programs and treatment effectiveness. They found that the development of an immediate relationship with the counsellor was not associated with positive treatment outcomes. However,

although there was not an association between the clients working alliance scores and the staff's scores after three weeks, there was after 90 days. This suggests that the relationship may become more clinically meaningful over time. They hypothesized that antisocial youth may develop a false alliance whereby they develop positive alliances with counsellors very quickly but do not show any positive change. It was speculated that the importance of the relationship lies in its development over a period of time rather than a fast connection in the beginning. The maintenance or enhancement of the working alliance over time seems to point to the client's ability to sustain relationships. It was noted that the therapeutic alliance may actually mediate the relationship between the treatment process and the long-term outcomes for the youth. They suggested that the working alliance may actually facilitate the maintenance of the positive psychological change in the client.

Marshall (2009) discussed that there is actually a concern that some cognitive behavioural programs can interfere with the therapeutic alliance especially if they rely heavily on manuals for facilitation and closely adhere to the risk needs principles. This is owing to the limits on what can be discussed and how the materials are to be delivered when implementing manualized programs. They discussed that some offender literature over-manualizes treatment and that this practice can interfere with the therapist's ability to respond flexibly to the client and their unique needs which interferes with the responsivity principle. Further, there is concern that these manuals can encourage a more psycho-educational approach that emphasizes education rather than insight and discovery and the therapist may adopt a more confrontational style to teaching the material which has been found to be counter-therapeutic.

Ulrich, Ricciardelli and Brown (2012) discuss the discrepancy between the literature that highlights the importance of the relationship and the concepts that are introduced in youth rehabilitation literature. They point out that the relationship has been largely ignored in the field. It has been demonstrated that since the therapeutic relationship is important for positive outcomes there needs to be a greater focus placed on the relationship with youth offenders. They highlight the therapeutic alliance as described by offenders and suggest that this relationship is the common factor that underlies treatment outcomes across all therapeutic techniques. They also believe that the relationship may be used as an effective tool for predicting treatment outcomes across populations.

The therapeutic alliance can be built through the use of warm, open and enthusiastic interactions with the youth and that correctional intervention is most effective when therapeutic relationships are enhanced. Empathy, sincerity, warmth, respectfulness and confidence are noted as important characteristics of the therapist (Marshall, Serran, Moulden, Mulloy, Fernandez, Mann & Thornton, 2002). In the same study it was found that being empathic, warm, directive and rewarding were related to positive treatment outcomes in the rehabilitation of these offenders.

Ulrich, Ricciardelli and Brown (2012) interviewed 56 former Canadian adult inmates who were on federal parole and were part of the Cross Road's Day Reporting Centre (CDRC) to ask about their correctional experiences. They found that the majority of the participants spoke positively about the centre. They felt that the centre was a good buffer between prison and community living. The men commented on the long term support and understanding that was provided to them by their case manager. They



discussed the comfortable, flexible and non-oppressive relationship that they developed with these case managers. The clients held positive views of their case manager and they were often referred to as “really considerate”. Clients spoke about the Case Managers being people who did not judge them or look at them as criminals. They felt comfortable being open and honest with their Case Manager. Many of the participants spoke about how prison did not change them but it was with the support of the CDRC they were able to make change in their lives. They discussed that the CDRC case managers helped them to stay motivated towards making changes in a way that they had not previously experienced. Although this study was conducted with adults there is no reason to believe that the results are not generalizable to youth with regard to the therapeutic relationship.

Many of the participants noted that they had a renewed belief in themselves and in their abilities and they attribute this to their experiences in the CDRC and the interactions with their case managers. They also discussed an increase in their confidence as a result of their interactions with the CDRC. Ulrich, Ricciardelli and Brown (2012) suggest that strict adherence to and reliance on manualized Cognitive Behaviour Therapy programmes doesn't seem to be effective in enhancing success of offenders transition and reintegration. They put forward that the role of the therapeutic relationship between these offenders and their CDRC case manager was critical to the perceived success and positive changes experienced by the offenders. It was noted that the therapist needs to have the ability to make adjustments in order to meet the client's needs and they need to have a warm, empathic, respectful, and sincere interest in the client. This study outlines the great impact that individuals working in the field can have on youth and their

rehabilitation process and points to the importance of having a greater focus on the therapeutic relationship in youth justice research.

The importance of the therapeutic relationship has recently been recognized in youth justice in Ontario. A report by the Provincial Advocate for Ontario did note that youth workers in Roy McMurtry Youth Centre were being trained in “Relationship Custody” where staff people are encouraged to foster positive and professional relationships with the youth in their care (Provincial Advocate, 2013). In the same report it was noted that very few aspects of the relationship custody model were being implemented and it did not appear as though managers were encouraging its use.

### **Positive Youth Justice - Promising Practice**

Positive Youth Justice is based on the ideas of Positive Youth Development. In this model youth development is seen in a positive light rather than the traditional deficit view that suggests that there are many things that can go wrong during the development process. The basic philosophy behind Positive Youth Development is that any young person, even the most disadvantaged, can develop positively when they are given the chance to make connections with opportunities, supports, positive roles, and relationships (Butts, Bazemore & Meroe, 2010). Those individuals who believe in Positive Youth Development stress the importance of providing youth with the opportunity to take part in a wide range of pro-social activities. These activities increase their competency and develop a sense of responsibility, empathy, and belonging in the community. Positive Youth Development supports youth in their transition from adolescence to adulthood. It encourages youth to develop competencies and useful skills that help to build stronger connections with their community, family, and peers. Youth that are involved with

positive adults in building these skills are going to develop the positive assets needed for a productive and positive adulthood (Butts, Bazemore & Meroe, 2010).

The Positive Youth Development model would be one that is well suited for youth justice however there are some areas that would need to be altered to fit the justice system. It has not yet been amended to suit the justice system as some policy makers believe that young offenders are not like other youth and as such cannot be treated the same way. Justice oriented policy makers believe that young offenders need to be controlled (Butts, Bazemore & Meroe, 2010). Although there are some young offenders that may be extremely violent and are not well suited for this type of approach they are the minority and many offenders would benefit from a Positive Youth Development model just as well as typical youth. A second obstacle is that a strategy such as Positive Youth Development requires community partner's, family involvement etc. and cannot be provided just by youth workers. There needs to be a true community effort. The third complication and the biggest obstacle is that the current theory of practice in the youth justice system is that we need to work through the youth's deficits (focus on substance use, mental health, anger etc.). While the Positive Youth Development model looks at protective factors and building the youth's assets because development is the goal. It is recognized that other services may be required but proponents of this model believe that they should be implemented on a prescriptive basis rather than a programmatic basis (Butts, Bazemore & Meroe, 2010).

The theory behind Positive Youth Development is that youth are less involved in criminal activities when they are involved with others from the community, learning new skills and being rewarded for using these skills. These social bonds become internalized

by the youth and foster social control which in turn deters youth from taking part in delinquent behaviour (Butts, Bazemore & Meroe, 2010). In order to successfully implement Positive Youth Development into the justice system there would need to be a change at the institutional level. Positive Youth Development is not a program but it is a way of thinking that would need to be adopted by the entire system interacting with delinquent youth. Policymakers must be willing to question the current way of operating youth justice agencies and they would need to be open to discarding their old practices and allowing for a new model to emerge.

The typical view of the young offender is either one where they are the victim or the rogue. However, under the beliefs of the Positive Youth Development model all youth are seen as assets to their community and individuals with strengths that can be used to make a positive contribution to society (Butts, Bazemore & Meroe, 2010). The Positive Youth Development model to youth justice would include: aiding youth in developing new skills and competencies, actively encouraging youth to use their new skills, helping youth to take on new roles and responsibilities, developing self-efficacy and personal confidence, and shifting the public view of delinquent youth from liabilities to assets in the community. Youth workers would encourage youth to try out new opportunities and help them to develop their strengths so that they feel as though they have something to offer (Butts, Bazemore & Meroe, 2010).

While taking part in these activities youth would develop positive relationships with adults and this would lead to changes in their thinking and their behaviour. Youth would become active members of pro-social groups and they would develop and enjoy a sense of belonging and place a high value on service to others and being part of a larger

community. If youth justice programs were to adopt a Positive Youth Development model they would shift focus from a deficit-based model to a strengths based approach and would build on the assets that youth already possess (Butts, Bazemore & Meroe, 2010). This is unlikely to happen in any meaningful sense in jurisdictions that reinforce individualism as an unquestioned fact and that adopt a “justice model”.

Although Positive Youth Development is not currently integrated into the justice system it would have the youth’s parents involved throughout the whole process not just as an individual intervention. This would serve to foster relationships and attachment. Evaluations of programs with Positive Youth Development components have reported that youth who participate in relationships with positive adult-mentors have increased self-efficacy, social competence, and measureable reductions in problem behaviour (Butts, Bazemore & Meroe, 2010). This is an example of a very promising practice that is non-intrusive and could lead to positive outcomes for youth. It is something that has been implemented with at risk youth in the United States, but as demonstrated above, the benefits that Positive Youth Development could provide to the youth justice system should be considered.

## **Conclusion**

There are a number of strategies for working with young offenders that have been shown to be effective, some of which have been reviewed above. However there is still not adequate awareness regarding these practices and they are not implemented frequently enough. Alternatives to custodial dispositions are being used more than in the past but it seems that youth could still benefit from greater involvement in skill building and cognitive restructuring programs that encourage positive anti-criminal behaviour.

## **Chapter 7**

### **Methods**

The goal of the current research project is to understand the lived experiences of individuals involved in the Youth Justice System in Canada. A qualitative approach was taken to this study as it recognizes that participants are experts in their own experiences. A quantitative methodology would not be appropriate in this case as people's lived experiences do not translate well to being measured, quantified or standardized in any meaningful way and the goal of the current research is not to manipulate or predict variables. We are interested in gaining an understanding the participant's view of the phenomenon and how they make meaning of their experiences. As such, a qualitative methodology that emphasis empowerment and emancipation is the most appropriate approach to this research, especially with clients and staff involved in a system that involves so many contextualized conditions.

Individuals who have first-hand experience with the Youth Justice System in Canada, either as a professional within the system or as a youth in conflict with the law were invited to participate in a one-on-one, in depth and semi-structured interview with the researcher. These interviews took place in accordance with the participants schedule and in a place of their choosing. Consent of the Trent University Research Ethics Board was obtained to conduct this study. The interview protocol consisted of several open-ended questions that were aimed to obtain the participants views on the Youth Justice System and how it functions to serve youth who are in conflict with the law. Participants were also asked about other aspects of their experience including challenges faced while

involved with the system, what is effective in the system, general experiences, and areas of improvement.

Participants were encouraged to share their thoughts and opinions and were ensured that their identity would remain anonymous and that their opinions were valued. The researcher used techniques such as reflective listening and clarification to confirm that her understanding of what the participant was saying was correct. The researcher also provided the participants with the opportunity to guide the conversation and to address any issues that they felt were relevant to ensure that they did not feel limited to the research questions. It was made clear that the participants were the experts in their own experience and in their understanding of them.

### **Interview Participants**

Participants for the current study were chosen based on purposive sampling. Each individual had to meet specific criteria to participate. There were two separate participant groups involved in this study. One group consisted of adults (over the age of 18) who are not currently involved with the Youth Criminal Justice Act but have been involved in the youth system in the past. The second group of participants were individuals who have experience working in the youth justice field. These individuals have experience working in residential (custody) facilities and in day programs (eg. Probation, counselling etc.).

Invitations were extended to a wide range of professionals in the system by contacting a number of facilities and requesting that they distribute the invitation to their colleagues. A snowball sampling system was used to gather participants. Adults with

youth involvement in the justice system were invited to take part in the study through snowball sampling; posters were also placed in a number of adult Probation and Parole offices in the Peterborough area. Eighteen individuals took part in the study, thirteen were professionals in the system, four were adults that were in conflict with the law as a youth, and one individual was involved in the system as a youth and continued on to work in the system as an adult.

There were nine female professionals and five male professionals. Participants ranged in age as well as in number of years involved with the system and the job positions that they held. For the professional group the majority of participants had worked in a number of positions within the system throughout their career. Job roles included: Youth Counsellor, Youth Worker (guard), Probation Officer, Brief Therapist, Manager, and Executive Director. Further, the types of agencies that participants had experience in included: open custody, secure custody, attendance centre, probation, ministry and boot camps.

There were four male youth participants and one female. The types of offences committed by these youth varied as did the type of consequences they received, although all youth spent at least some time in a custody facility. Two of the four participants continued their offending behaviour into adulthood. All participants reported that they had not committed any crime in a number of years. Participation in this study was voluntary and no incentives were offered for participation.

### **Data Collection**



After a participant expressed an interest in taking part in the study the researcher contacted them and confirmed that they were eligible to take part in the study. She described the study as well as any potential benefits and risks. If the participant still had an interest in participating the researcher set up an interview at a time and place that was chosen by the participant. Upon arrival the participant was provided with an informed consent form that they were asked to read. The researcher went also through the consent form with each participant verbally. At that time the researcher took the opportunity to highlight important aspects of the consent form including: confidentiality; the participant's ability to refuse to answer any question or choose to end the interview at any time and withdraw from the study with no penalty; and the participant's right to ask any questions that they may have. Following the verbal reading of the consent form and after the participant had asked any and all questions that they had the participant was be asked to sign the informed consent form.

The participants were made aware of the very slight potential psychological risks involved in taking part in this study and were reminded that they had the right to withdraw from the study at any time and that they could choose not to answer any questions that were asked of them. Participants were then invited to share/disclose personal information about their experiences only to the extent that they were comfortable. Participants were also made aware of free counselling services in their area should they feel the need to discuss the memories/experience brought about by the interview.

Interviews were conducted with staff members until the researcher reached a point of saturation. This is the point where the investigator no longer finds information

that adds to their understanding of a category (Creswell, 2007). It has been suggested that saturation will occur by the time the 12th interview has been analysed (Guest, Bunce & Johnson, 2006). In the current study the researcher was confident that she had reached a point of saturation at 14 interviews. Although the researcher hoped to also reach this point with the youth data it was more difficult to recruit participants for this group. There are clear themes in the data collected from the five youth interviews; however, it cannot be definitively concluded that the point of saturation was not reached.

The researcher conducted the interviews and at times a research assistant was also present during the interview. The interviews were transcribed verbatim by the researcher and three research assistants. Two of the assistants were taking part in this study as a requirement for course completion. The third research assistant took part in the study out of interest in the topic and in the qualitative interview process in general. Each of the assistants signed a research assistant confidentiality agreement to safeguard participants against possible recognition. The researcher took notes during the interview outlining any information that was not evident through a tape recording (ex. Body language) in order to uncover important patterns of behavior and interactions. The interviews were conducted over a seven month span from September 2013 to May 2014. The interviewer has experience working in the Youth Justice System and as a result was able to engage in conversation with ease.

Participants were informed that their interview would be coded thus their confidentiality was secured. Any information given during the interview that identifies them or others was struck from the transcript. Interviews were recorded with the consent of the participant and ranged from approximately 25 minutes to 2 hours in length.

## **Analysis**

The analysis of the data was conducted using the broad method of Interpretive Phenomenological Analysis (IPA). Interpretive phenomenology is interested in the ways that individuals gather knowledge of their world (Willig, 2004). Phenomenological analysis looks at the way that human beings experience their world within a particular context and at a particular time. In the current study this would be while the participants are involved with the youth justice system as either a staff member or a client. Using this approach it is understood that the researcher cannot ever have direct access to the participants understanding of their world. IPA aims to understand the participant's experiences from their perspective but also recognizes that the researchers own views and experiences cannot be separated from how they understand or interpret what has been shared with them. This is why it is understood that the analysis that is developed by the researcher is an interpretation of what they have been told by their participants (Willig, 2004).

When using IPA researchers generally work with transcribed semi-structured interviews. Although less common, it is acceptable to use other forms of communication if they provide some insight into the participants experiences (eg. diaries and videos). In the current study all participants took part in a semi-structured interview which was later transcribed verbatim. One participant provided a written description of their experience following their interview and this piece of data was also analysed using IPA. Keeping in line with the philosophy of IPA interview questions were open-ended and were designed to provide participants with the opportunity to share their knowledge and experience.

Analysis of the data is conducted by adopting an idiographic approach. Each interview is analysed in detail on its own before the themes are integrated with other pieces of data. In the analysis of Interpretive Phenomenology the researcher reads and then re-reads the text. During this stage the researcher makes notes that are unfocused and reflect observations they have made regarding the text or associations, questions etc. that they may have. Once the researcher has completed this step they begin to identify themes within the text and these themes are labelled and are conceptual; they reflect what is being represented in the text (Willig, 2004). Subsequent to this, the researcher attempts to create some structure within the data. The themes that were developed in the previous stage are listed and the researcher begins to see the relationships between them. The themes naturally cluster together in groups and these groups represent the over-arching ideas in the participant's interview.

Once the researcher has created themes and clusters for each individual interview they can begin to look at the interviews together and determine which clusters are consistent throughout the cases. These clusters come together to create master themes (or meta-themes) within the group of data. During this process only the themes that are relevant to the quality of the participants experience are retained. This means that the interviewer must use their discretion in order to determine which themes will be discarded and which will remain in the data (Willig, 2004). Owing to the fact that the researcher has such an influence on the data and the understanding that their own experiences and views will influence how they interpret the information reflexivity is an important aspect of qualitative data analysis.

Researchers need to be aware of their own construction of meaning and how their contribution to the project influences the findings regarding the phenomenon under investigation (Willig, 2004). The process of reflexivity encourages the researcher to explore their involvement in the research process and acknowledge how they might inform and influence the project. Further, Van Den Hoonaard (2012) regards reflexivity as a process whereby the researcher can explore how their gender, culture, etc. may influence how the participants interact with them and what they choose to share with the researcher.

Willig (2004) notes that there are two types of reflexivity in qualitative analysis: personal and epistemological. Personal reflexivity is the process in which the researcher reflects upon the ways in which their own experiences, beliefs, values, political affiliations etc. have shaped their research. They recognize that these aspects of themselves can impact all areas of the research process, the phenomenon that you choose to study, the people that you invite to take part, the questions that you ask, the associations that you make and the research findings. Through the reflexivity process the researcher can also take the opportunity to reflect on the ways that taking part in this particular research project has changed them as an individual. Do they now think about this phenomenon in a new way, do they have different opinions on this group of people etc.?

Epistemological reflexivity encourages the researcher to consider the research design and how it may have affected the project. Did the design of the study have an effect on the scope of what could be found, were there more questions that could have been asked, or could they have been asked in a different way? In this process the

researcher also reflects on the assumptions that they have made throughout the timeframe study and what influence these assumptions may have had on the research design, implementation and analysis. Creswell (2007) discusses that this process of reflexivity in qualitative analysis inspires the researcher to be more transparent regarding their research process and it brings the researcher to some form of acceptance regarding the influence that their own experience brings to their data collection, analysis and writing.

With regard to the current study the researcher recognizes that her experience as a staff member within the Youth Justice System may have had an impact on both how the participants spoke to her and how she interpreted the information that was shared. It may be the case that the staff members and youth did not elaborate in ways that they would have had they been speaking to someone who was not familiar with the jargon and practices of the system. Although the researcher did try to keep this in mind during the interview process there may be areas where another individual would have asked for more information or clarification. Further, the information that the researcher saw as relevant and important may have been effected by her own personal experiences and beliefs regarding the Youth Justice System.

There were both men and women involved in this study and participants ranged in age. It is possible that participants adapted what they chose to share or how they chose to share it based on the interviewer being a young female. Further, some of the participants were known to the researcher which could have positive or negative effects. It might be that these individuals were more willing to share with the interviewer as they were comfortable with her and have a working relationship with her; however, it could also be

the case that participants who know the interviewer are less comfortable sharing due to this existing relationship.

Although there are safeguards in place such as reflexivity to provide credibility and accountability to the researcher there are still limitations to the IPA method that should be considered. Parker (2010) notes that when using this method there is the general assumption that what the participant has said is what they truly intended to say. Also, the researcher may try to dig beneath what has been said to uncover the real intention which may do away with the structure of the narrative and the cultural resources being used in the conversation. Further, the researcher assumes that what has been told to them is the empirical truth and is real. In this case the researcher doesn't notice how what was said is crafted in a certain way and for a certain audience. Willig (2004) also notes that IPA assumes that language provides participants with the tools that they need to effectively communicate their experiences to the researcher and it also assumes that the participants have the ability to use language in such a way that is sophisticated enough to convey their experience.

Keeping these limitations in mind the current research takes an Interpretive Phenomenology approach to analysis. The researcher is satisfied with the participant's ability to communicate effectively and directly using this narrative method. The transcribed interviews were coded in order to uncover themes and meta-themes within the data following the procedure described above. These themes and meta-themes were used to better understand how those with involvement in the youth justice system understand their experience.

### **Why not Grounded Theory?**

While phenomenological studies aim to understand the experiences and the meaning of these experiences for a group of people, Grounded Theory aims to move beyond describing a phenomenon to developing or discovering a theory (Creswell, 2007). In the Grounded Theory approach the philosophy is that the theory does not come from previous literature but is “grounded” in the data and comes from the participants experiences with the phenomenon. Therefore the theory is generated after the data is collected and analysed. This is in contrast to the typical scientific method where a theory is generated prior to collecting data and the theory is tested using quantitative measures.

In the Grounded Theory process the analysis is also “grounded” in the data. This means that the researcher has the ability to collect data, explore, and analyse the data, discover some of the linkages in the data, and then return to the field to collect more data. This process of moving back and forth between data collection and analysis is unique to Grounded Theory and as a result there is no systematic approach to analysis (Willig, 2004). The researcher knows that they have collected enough data to understand the phenomenon when they have reached theoretical saturation which is the point where no new categories or themes are emerging from the data.

The current study is one that is exploratory in nature as there are very few studies that have looked into what works in the Youth Justice System from the perspective of youth and workers. The aim of the current study is to gain an understanding of the experiences and beliefs of those involved in the system and not to develop a theory to explain the phenomenon or the beliefs that these individuals hold. Although Grounded



Theory may be an appropriate approach to take in future qualitative studies in this area it was not deemed to be appropriate for this research project.

### **Standards of Rigor in Qualitative Research**

When conducting qualitative research it is important to consider credibility, authenticity, and auditability. These are the three criteria for analyzing qualitative data. Research findings are regarded as credible if the participants agree with the description of the phenomenon that is brought forth and they believe that the analysis reflects their understanding and experience of the phenomenon. This process is used to ensure that the researcher has understood properly what the participants were saying in their contribution to the research. In order to assess the level of credibility in the data the researcher can take their interpretations back to the participants and gather their thoughts on the findings. However, it must be considered that the participants may not have made some of the connections that researcher made so complete agreement is not necessary. For the current research it is possible to go back to the participants; however, this is outside of the scope of this project. A modified version of this document will be distributed to the participants and comments or suggestions will be taken into consideration when preparing this study for publication. The complete version of this document will also be available to participants should they be interested.

Auditability is the process whereby the researcher fully describes the data collection and analysis process to the reader. This is to ensure that the researcher has confronted their biases and that all of the findings are logical and came directly from the data. The researcher can also demonstrate that their research is auditable by providing

quotes from the data with corresponding meaning units or line numbers that support the findings. Earlier in this chapter the reader will have seen a section devoted to the process of analysis. Further, there will be supporting quotes complete with line numbers throughout the analysis section of this report.

Finally, authenticity refers to the reader being able to see that the analysis of the data is in line with the researcher's interpretation of the data. Thus, the findings should match the reader's own experiences or what they think is reasonable. It is important that the reader believes that the analysis is logical and meaningful. It is possible to check the authenticity of this research by having other people read the paper and asking them for their opinion. This paper will be read by several experienced qualitative researchers and will likely be evaluated on the level of logic and reasoning in the analysis. The opinions of these individuals will be highly regarded and revisions to the document will be made in accordance with their suggestions to ensure that authenticity is maintained.

## **Results**

Staff members identified that the youth that are involved in the youth justice system have a number of complex needs and require specialized care and attention. Participants in this study were individuals who have firsthand experience with the youth justice system in Canada. In order to participate in the current project participants were required to have either direct experience in the youth system as a young person in conflict with the law, or as a professional who has work experience with young offenders in Canada.

Talking with those professionals who have worked in the youth system revealed that there are a number of challenges that are faced on a daily basis by staff members.

These troubles exist on a structural level as well as on the front lines working with the youth. Comments were made regarding what they see with youth in terms of their criminal history, life experiences and what works best for them in terms of rehabilitation. They also discussed areas for improvement in the system, as well as some of the concerns that they have with the way that youth are currently treated.

Staff members that were interviewed worked at numerous locations and held a variety of positions including: Executive Director, Probation Officer, Youth Counsellor, Youth Worker (secure custody and open custody), High Level Management in the Ministry of Children and Youth Services, Group Home Worker and Program Manager. The daily duties of these individuals range from basic care and supervision to community supervision, counselling and management of community and residential facilities.

The adults who were in conflict with the law as youth that were interviewed had varying experiences in the youth justice system and in many ways have similar views to the staff people who are charged with the care and supervision of young offenders. A broad overview of the interviews indicate that there are a number of concerns with the way that the Youth Justice System operates in Canada. Those who are tasked with implementing the Youth Criminal Justice Act have a rich knowledge and intimate experience that, if recognized, could lead to significant improvements in the treatment and care of at risk youth.

After reviewing the data from the professionals a number of meta-themes emerged. The first meta-theme that emerged was “Challenges and successes: Professionals have insight into possible improvements”. The second meta-theme is titled “The majority of professionals agree the concerns regarding custodial sentences far

outweigh the potential benefits. Community based sentencing should be utilized whenever possible”. The third meta-theme is “Criminal youth have a history of complex and pervasive contributing factors, however effective strategies foster positive change”. The fourth meta-theme that was revealed is “Factors that help or hinder success for criminalized youth are similar, however definitions of “success” are idiosyncratic”. And finally, the fifth meta-theme to emerge from the data is titled “Those individuals who work in the system acknowledge that there are many challenges to their job, but find motivation in the positive aspects of their work”.

Each of the above meta-themes and the themes that comprise them will be discussed in the pages to follow. Owing to the fact that there were only five youth participants separate analyses and detailing of subsequent meta-themes will not be discussed in this paper. Data from this group of participants will be treated as preliminary and any information that supports or contradicts the reports of the professional group of participants will be included following the presentation of each meta-theme. Throughout the results section of this paper relevant quotes from the interviews will be provided. Quotes will be identified by the interview number as well as the line numbers where the quote can be found in the transcript.

**Meta-Theme 1: Challenges and successes: Professionals have insight into possible improvements.**

One of the principle objectives of this research was to identify sources of challenge for both youth and professionals in the system and to gather suggestions for improvement from those who have firsthand knowledge and experiences. While there

were numerous challenges and barriers identified, the staff members also wanted to recognize the successes of the system.

*Successes of the system*

Throughout the interviews there was discussion regarding what is not done very well in the system and how things can be improved, however staff recognized successful aspects. It was noted by professionals that there is a greater propensity toward providing support to the youth in the justice system now than in the past. There are people working in the system who want to help youth (014: 597), the judges tend to be more compassionate and empathic (016: 326) and in general the professionals in the legal system are dedicated, well informed and ensure that youth are treated well (012: 1124-1125). In addition, there are good services available to youth (004: 293-295) even before they enter the legal system however the parents and youth who require these services are not seeking them out (013:274-278). The services available for youth are better compared to those offered in the past (006: 198-202) and in general the Youth Criminal Justice System is more of a supportive system now than in previous versions (012: 225-226).

The Youth Criminal Justice Act also supports alternatives to custodial sentences and diversionary tactics to keep youth out of the system. Participants noted that it is a benefit that there is a push to keep youth out of the system and to utilize alternative measures to deal with criminal activity.

“The introduction of things like, EJM [Extra Judicial Measures], EJS [Extra Judicial Sanctions], and a lot more push to use those sort of early intervention programs. Things like youth justice committees, that makes sense to me in the sense of resource use, not pulling kids into the system in a way that they don't need to, but still addressing behaviours” (004: 291-294).

Participants discussed that the Youth Criminal Justice Act seems to encourage “Using and creating an innovative community approach” to youth crime (012: 541-542)

and that this is a benefit to youth. The YCJA tends to lean toward a community sentencing approach rather than custodial sentencing (012: 796-799).

An additional benefit to the system as it functions now is the increase in collaboration between agencies and stakeholders (002: 393-394) as well as community partners (006: 207)). In some areas there is also a court system that operates like a “well-oiled machine” (007: 435) because the professionals in the area work well together and have developed a system. Further, two participant’s (010:474; 012:796-798) believed that serious and violent offenders are dealt with well in the current system.

“I think the Act has struck a balance between reserving very lengthy sentences and a transfer to the adult system. For the more serious offenders, where it’s in society’s interest to really show them, you can’t do that and just get away with it” (012: 796-798).

Participant 013 felt that in general the way that youth are dealt with in the system isn’t “terribly bad” (013:572). Finally, two participants who have been working in the system for a number of years feel that there is a greater focus on the underlying issues leading to crime (006: 198-202) and an increased focus on the needs of the youth (007:287-289) than there has been in the past.

The above were discussed by participants as successes of the system. There were also benefits that they mentioned regarding community sentencing, custody and other specific aspects of the system that will be discussed later in this section.

#### *Barriers/concerns/challenges in the system*

The youth justice system is in place in order to serve youth by rehabilitating those who have found themselves in conflict with the law. Although there are aspects of the system that work well, there are also facets that act as barriers to the most effective treatment for youth according to participants. When professionals who work in the youth

justice system were asked about the court experience for youth, one of the most common responses was that the court system simply takes too long (015: 743; 004: 307; 010: 264-266; 005: 314-315; 016: 309-310, 013: 591-592; 012: 966) . Staff members recognize that adolescents are focused on the “here and now” and need immediate responses (005:362). When it takes too long for youth to receive their sentence there are a number of issues that arise. Youth no longer connect the consequence with their crime (010: 349), they view the process as a “joke” because the event took place so long ago (012: 970), they don’t even remember why they are in court (016: 264-266, 309-310; 013: 592), and by the time they receive their sentence they may have changed as a person (012: 968-972). Participant 012 discusses the importance of speedy court procedures because of most teen’s tendency to develop from one phase to another.

“By the time it actually shows up in court, the kid could have actually changed personality. Actually, believe it or not. They may be on a completely different track. They-, frankly it’s become an irrelevant joke, and the whole thing of a bunch of people standing around, briefcases and cops and everything, it’s just a weird, you know, Disneyland kind of world, which has no relationship to that young person in there” (012: 968-972).

Youth participants also noted that the court process took a long time and participant 005 mentioned that as a youth in the courtroom he did not feel as though he was involved in the process “it was happening, but... it was not an actually involved thing at all” (005: 202).

“[I] got to go to court lots of times and (inaudible), but even then, like the trials took quite a while, there was always remands and shit, by the time you get sentenced you forget what the hell you’re even getting sentenced for” (005:281-283).

“It felt like a long time, waiting and waiting to find out what’s happening, you know the first time you are kinda scared or whatever, yeah confused like how, how everything is going to go down” (011: 69-71).

Along with the court process taking so long, there were a number of professionals who felt that the variability in sentencing and the subjectivity of judges is a concern. Participants noted that the sentence that two youth receive for similar crimes can depend not only on the geographical area that the youth resides in (016: 308) but also on the particular judge that is in the courtroom that day. Participants understood that judges have different theoretical approaches and that every courtroom runs differently (008: 420-433) but they believe that this is a problem. They believe that there is too much variability and subjectivity (014: 552) in the court process and that the inconsistency (010: 342) in sentencing reduces effectiveness. One staff person noted that the subjectivity of the judge can have negative consequences for youth and in particular this has been an issue when youth are from small towns where the criminal history of their parents may influence the judge's decision.

“I actually had a judge tell me behind the scenes that “oh yeah, you know, I kind of uh you know, was a little rough around her than I should of been”. And I questioned that judge, I was like well “what do you mean?” And she said “well, you know, I mean I know uh her parents and they are both like in the sys- like heavily involved in the criminal justice system as well”. So, and that was the end of the conversation but I mean that led me, led me to believe like okay great, so this poor child has to suffer for what her parents have instilled on this judge” (014: 557-562).

In addition to these concerns, participants who were involved in the system as youth noted that there was very little support for youth in the courtroom. Some had to face this experience on their own as their parents were not involved and it was a very scary experience for them. Another youth said that they did have someone there to help them through the process, but that the information that they provided was quite basic and not particularly helpful.



“I struggled, felt like a sheep thrown in with wolves, it was like I had no idea or support and, all I remember about it was that, all I remember is judges yelling at me” (009: 107-109).

“I had duty council which somewhat told me I would probably be going to jail or, at least the first time I didn’t go to jail.... I had a duty councillor who sort of explained it [the court process] to me, yeah... well he just told me I should try to clean up, kind of self-explanatory stuff though, not really I guess, yeah” (011: 44-51).

Along with the court proceeding taking too long from onset to hearing and the degree of variability being a concern, more than half of the participants in the study noted that at times the YCJA may be too lenient (001: 212, 006: 292-293, 007:377-379, 003: 243-252, 010: 479, 013:575-549, & 016: 333-334). They believe that alternative measures such as Extra Judicial Sanctions, Extra Judicial Measures, Diversion, and Community Service Orders are not enough for some youth. None of these participants advocate for increased use of custodial sentences and they believe that for non-violent and first-time offenders these measures should be utilized, but they did feel that repeatedly diverting youth out of the system may not be serving the best interests of more serious and persistent offenders. Participant 007 noted that when youth are diverted they are missing out on valuable resources that are only available to them once they enter the system and participant 010 expressed concern that some of the less intrusive sentencing options for youth do not provide them with the level of treatment that they require.

“I also wonder about the kids that are getting measures and sanctions and they are missing out on some valuable resources that because of the (tsk) um the way the act is, we don’t want to be intrusive so we just automatically giving them measure of sanction and they deal that and that’s the end, keep them out of our system...” (007: 377-379).

“A lot of youth are um being diverted, there is absolutely a place for a diversion but once a youth has ah, you know, established a pattern of history that they’re not getting the message, that the diversion programs aren’t successful or if you’ve

done something substantial, they should move where they belong, um, sentencing options like community service doesn't really rehabilitate" (010: 260-264).

Other participants agreed that for more violent and serious offenders, repeated diversionary tactics don't seem to be working and that some professionals feel as though they no longer have the ability to effect change or to hold youth accountable (001: 422-424, 006: 309-311). Again, none of these workers advocated for increased use of custodial sentences for youth, but they did feel that it was important to "have the sentence fit the crime" (005:415) and they were not sure that the Youth Criminal Justice Act adequately does this in all cases.

"I do hear repeatedly I would say, a sense of frustration around no one trying to hold kids accountable anymore because they'll get off or you know what they'll, what they'll get is minimum or nominal" (006: 309-311).

Further to appropriate sentencing, youth workers noted that at times there are not adequate programming for youth either. They believe that providing youth with programs to help them in their rehabilitation is an important part of the process but feel that this is not consistently happening. It was noted that treatment is not delivered in a youth friendly way (015:322-323) and there needs to be more programming available to youth who are in residential facilities (014: 542). Further, programming is not provided to youth while they are awaiting trial (004:318-321; 003: 313-316) and as noted above it can take a very long time for a youth to be sentenced and they may benefit from programming during this time. The workers suggest that there is supposed to be programming for youth while they are in custody but they are not confident that these programs are actually taking place (016: 208-209; 010: 250-253; 007: 204-210). Participant 007 noted that when she worked in a custody setting the programming was planned but often more pressing matters would get in the way.

“We try to do a lot of programming with the kids I mean it was on our papers that we did life skills, anger management and this and that but did we actually do it? Really? Because it was always a crisis you know when you got eight kids living together so the staff would get ready to do um program and somebody got into crisis so that was the end of doing the program” (007: 204-210).

A further challenge that was reported by youth workers was that there is a lack of collaboration and communication between youth agencies in the justice system (001: 607-608; 013: 548-549; 016 372-374). They recognize that if they are to best serve the youth in their care they need to work with other agencies involved, however in practice this doesn't seem to be the case. Participant 013 noted that there seems to be a “huge disconnect” (013: 474) from the top down in terms of what is best for each youth. She noted that:

“The judge tries to take this holistic approach, saying “go do all these things and you will be rehabilitated” and then it will get filtered down, well, the probation officer might only think that this person needs only a couple of those things because, after speaking with the youth, those, you know, other factors are not really important anymore the youth are saying it is not a significant part of their life” (013: 479-483).

She also suggested that every person working with the youth is “doing their own thing” (013: 504). One of the possible reasons for this lack of collaboration may be owing to a barrier regarding confidentiality in the system and not so much a result of the professionals' inability to collaborate.

Participant 016 notes that confidentiality gets in the way of having open discussions with services such as Ontario Works and Children's Aid. There are times that the youth request that staff speak to these services on their behalf, but they are unable to provide the youth with support in this way. A number of the participants noted that one of the barriers that they face working in the system is confidentiality (013: 543-547; 016: 386; 007: 439). Because staff members are bound by confidentiality policies they feel as

though they are limited in their ability to collaborate with other agencies that youth are attending. One of the further concerns with this inability to share information is that once a youth has turned 18 and is no longer receiving youth services their workers in the adult system are not able to access their information. They are relying only on the clients reports of what they have completed and this is a concern in general but specifically a concern with assessments as these are costly (007:445-453).

One of the challenges that was discussed by only one participant was the inability of workers to safely release youth their medications. There are youth who are required to serve custodial sentences that are in need of stabilization and they require medication to help with mental health concerns. Staff reported that once youth are on the proper medication they are able to better regulate their behaviour and are able to more effectively deal with stress. The concern is that when youth are to be released they are not able to take medication with them. According to participant 008 youth are able to take enough medication for one day, but then youth are required to follow through with a number of complicated steps to continue receiving their medication.

“We can let them go with one or two pills that they’ve got, so they have less than 24 hours to find a drug card, get on welfare that will pay for their drug card, find a psychiatrist, get a prescription, have their medication stuff transferred over and get to a pharmacy before they can get their next dosage. That’s impossible for a young kid to do, yet there’s no way for them to do that while in the facility so we are often struggling with kids who can’t get their medication when they get released, or if they’re a kid with a history of substance abuse or anything like that, we can’t even release *any* of their medication because of their drug problem” (008:262-271).

The problem with this is that the youth has actually benefitted from having the opportunity to stabilize while in custody (one of the few benefits mentioned by staff people) but because they are not able to take their medications with them it becomes very likely that they will not be able to continue with their regimen and the benefits of the

stabilization are lost.

Finally, one of the barriers to working effectively with youth is the lack of funding for youth justice services. All the individuals who were interviewed for this project were interested in helping youth to the best of their abilities but a majority of them felt that significant challenges that they face included a lack of funding in the youth justice system, compounded by problems with the allocation of this insufficient funding.

The participants made comments that there is a lack of funding for community agencies (015: 626-627; 008: 374), or that funding is based on location (010: 306-310). They feel that there is more that they could be doing for the youth but they are not well enough funded to do it. In addition, community agencies are fighting for dollars (003: 279-280) and clients and they need to “remember who we’re fighting for” [the youth] (003: 280). The Ministry needs to take into consideration the needs of the community when it is funding agencies and they need to consistently offer the same resources to agencies in all communities (010: 306-310, 440-442).

One of the concerns regarding funding is that there is a lack of resources for youth that interferes with their treatment. A number of participants mentioned that there are too many waitlists for youth (008: 363, 003:274-275, 015: 653 ) and that there is simply not enough funding for the programming (012:313-314), individualized care (014: 249-252) and support (007: 311-312) that these high needs youth require. Specifically, one of the areas where there is a lack of funding is in assessment. Although assessments are costly to have completed they are important in treatment. Owing to a lack of funding, agencies don't have the money to reimburse clients (003: 201-202) and there is uncertainty about whose responsibility it is to pay for these assessments (007: 305-308).

Participants also noted that if there is no additional funding available from the Ministry then a reallocation of the current funding is necessary. It was suggested that funding should be shifted from reactionary measures to early intervention and prevention (008: 387). Perhaps this would save dollars that are spent operating very costly custody facilities. One of the goals of the YCJA is to limit the number of youth who are receiving custodial sentences, although there are less youth being sentenced to custody there does not appear to be a corresponding decrease in the resources and administrative staff that are required to run these facilities.

“They’ve gotten rid of all these youth, they’ve shut down all these units and they still have the same amount of administration... I don’t think they’re [resources] being utilised appropriately” (001: 491-494).

Along with this, there is the suggestion that services to youth can be provided in a more cost effective manner within the community.

“I know it’s very expensive to operate um government run secure facilities, and that probably that they’re over resourced for the number of clients their working with that we can probably deliver the services more economically in the community” (007: 490-492).

Professionals believed that those who are making funding decisions are “so far removed” (010: 400) from the youth and may never have had frontline experience. This limits their ability to make decisions that will have positive benefits at the service delivery level. One participant described that in his experience there was sufficient funding in the system and when he retired it appeared the funding was growing. He noted that, “There is funding... The main thing where you can improve things, and it’s not just by pouring money onto it, is ensuring that you have the right leaders in place and inside a system like that” (012: 757-758).

His views run contrary to the majority of other participants; however, he was the only participant who had a high level ministry position in the Youth Justice System. He was involved in many policy and administration decisions and perhaps the differing views come from the varying employment roles and responsibilities of the participants. A ministry employee may see the total funding available within the system whereas a front line worker sees only the funding available to them.

Along with the lack of funding for youth justice agencies, the staff reported that there is a corresponding lack of resources for the youth. Further to the issue of waitlists addressed previously, it was noted that there are not enough agencies for youth based on population (003: 290-291). For example, in the city of Toronto there are only two attendance centres to service the entire youth population and in smaller regions stigmatization of the youth may be increased because of their visibility in accessing such programming resources (014: 501-502). In addition youth are not able to make connections with community agencies while they are serving custodial sentences (008: 258-259). Unfortunately, this would be the best time for youth to gain access to services since they have the support from custodial youth workers. Upon release staying connected with reintegration workers is voluntary therefore youth may not take advantage of their support (008: 292-293).

There is also a lack of resources for youth with mental health concerns in the youth justice system. Participant 001 stated that there is a serious lack of beds for youth with mental health concerns and when these youth are in custodial facilities there is a lack of access to psychiatrists on a regular basis and participant 008 felt that the problem may be exacerbated when youth with mental health needs are also violent. As a result, it

is important that youth receive the treatment and care that is required to most successfully effect change in their lives.

“There is a lot of assault because, there aren’t any, there aren’t any beds for youth in psychiatric crisis... there may be less than 20 psychiatric beds in the province, for youth. So that, so you’re dealing with these youth that are in big crisis. We had a psychiatrist that came once a month for three hours” (001: 168-172).

“The kids with significantly mental health, if a kid has significant mental health issues but a violent background the mental health facilities won’t take them because of their violent history, but if they go into custodial because of their violence and their main goal is to keep them safe, they don’t necessarily have the same treatment mandate, they don’t get the treatment in mental health, so there really is a gap because there is really no facility or agency or institution that would target violent youth with mental health significant mental health because the treatment and custodial models are kind of dichotic, they don’t overlap very well” (008: 238-245).

Youth participant 011 considers the greatest challenge or barrier to be that once youth enter the system it is hard to get out. If youth feel that there is no way out they may be less motivated to make change.

“I, it was, I know it was hard to get out of the system, yeah, once you are in the system you can’t get out of the system. ‘Cause you’re on probation, you’re on probation and when you’re a trouble maker you get into trouble again while you’re on probation” (011: 33-37).

The youth justice workers in this study recognize this and have made suggestions for improvement based on some of the barriers and challenges that they have been experiencing in their daily lives working with these youth.

#### *Suggestions for improvement*

Throughout their interviews staff members discussed areas of improvement within the system and they also described what the ideal system would look like. Many of the improvements that they suggested would solve the barriers and challenges that they experience in the system as it functions now. First, staff noted that if there was more frequent early intervention and prevention in our system, we would be able to keep more



youth out of the justice system (014: 456; 007: 318-321; 002: 256-258; 001: 317-231; 016: 456-462; 008: 387).

Many youth are identified as being at risk or having behaviour problems while they are in public school and the participants in this study feel that by not intervening at this time we are missing out on the chance to divert youth out of the system.

“we identify these youth very young and we don’t put the money into that and then we turn around and expect that by um, taking them out and putting them in institutions well into that into their late teenage years is gonna have an impact” (001: 317-320)

Participants suggested that early intervention should start when children are identified with behaviour problems (016: 460-461). At that time we should look at what is going on in the child’s life so that they do not end up coming into the system (007: 317-321). There should also be supports in place for youth and their families when the child is identified as being at risk (014: 472-473). The problem with the current system is that “they’re identified in public school with either a learning disability or some type of ah, lack of support in the home and that we don’t put any money and act on it then” (001: 372-373).

Staff participants noted that once youth do become involved with the system the court process is too long for youth. Participants 005, 012, and 013 suggested that the system needs to be faster (005: 362; 012: 966; 103: 591-592) as youth need “immediate consequences” (005: 362) and the process needs to “be relevant” (012: 979) for youth. Along with this the court proceedings should be “more relaxed, you know instead of like standing in front of a judge maybe, maybe a setting around a table might be a little bit better for them” (014: 580-582), or even more extreme, it was suggested that youth “skip the entire court process” (007: 508-509) and have case conferencing to determine

sentencing (016). Participant 007 suggested that there may be more effective ways to determine what the youth needs.

“A social worker would be called in and look at what’s going on in that youth’s life, that led them to commit the offense and help support their family put some resources in place with the family, to help the family support the youth and determine what is going to make a difference to help that youth” (007: 505-508).

Finally, it was suggested that youth are often misinformed about what is going to happen in court and what their rights are, this could be improved with the inclusion in court of a consistent professional who understands both court proceedings and youth rights. To deal with this it would be beneficial to have a professional in the courtroom to explain to youth what their rights are.

Staff participants felt that a more individualized approach to sentencing is required (004: 407; 006: 280; 008:521; 014: 439; 015: 543). It is important that the entire situation is considered (015: 696-699) including what is going on in the youth’s life that may have led them to criminal behaviour.

“To me there's a difference between stealing diapers and baby food to stealing, I don't know, jewellery, right? Like, I mean to me that’s two completely different files and completely different interventions. So I think you almost have to do it on a one, like on a file by file basis.” (004:408-411).

Participants felt that information regarding life circumstances should influence the sentence imposed. Youth participant 011 expressed that it is important that youth are treated as individuals because “every plan needs a bit more attention here or attention there” and “every individual is different” (011: 518-521). Recall that earlier some participants noted that there is too much variability in sentencing which seems to run contrary to what is being said here, that judges need to consider the whole situation before sentencing, suggesting that variability is an important aspect of the process. Although the participants may appear conflicted, what they are all concerned about is the

wellbeing of the youth. They do not want to see aspects of the youths life that may be viewed as negative (ex. family members criminal history) to have a detrimental impact their sentencing but they would like to see the judge consider the youths mental health, living situation, life struggles etc. in determine the most beneficial and appropriate sentencing option. When the issue is considered through the lens of ensuring that sentencing is fair and appropriate, this apparent contradiction doesn't seem so confusing.

Another aspect of sentencing that participants brought up was the use of non-residential settings. Professions believe that when judges are determining sentencing for youth, alternatives to custody should be considered when at all possible. For youth who are charged with a first offence, alternatives such as cautions and diversion should be utilized (006: 283-286). More Extra Judicial Sanctions (ex. restorative justice practices, apology letters etc.) should also be handed out (002: 558) in lieu of charges and there should be a more gradual entrance into the youth criminal justice system.

“When you are like 12 or whatever, and you would have mentoring prior to ah, your PO (Probation Order) and whatever, you know, open custody sentence, closed custody” (005: 408-409).

Creative approaches to deal with youth crime should be used whenever possible (012: 1081-1082), especially for non-violent offenders and the “correctional system should not be used unless there's a serious problem” (012: 908).

As discussed in the challenges section above, for more violent offenders there is some belief among professionals that the YCJA may be too lenient. There should be a more involved process for violent and serious offenders (006: 287-293) and they need to be held accountable (001: 666). The youth committing violent offences should have tougher sentences (003: 324-335; 013: 609) along with more assessment and greater

counselling requirements (003: 324-335). Participant 007 discusses that the court process should take the same holistic approach but perhaps some youth charged with serious offences would benefit from some time in custody (007: 516-517) as one of the things that youth learn in custody is that “You can’t go around in life mistreating other human beings and think that’s OK” (012: 1144-1145).

Once a youth has been sentenced it is important that professionals continue to work in a collaborative and holistic manner to best serve the needs of the youth and perhaps one of the most effective ways of accomplishing this is through case management and case conferencing. Youth workers feel they can most effectively work with their clients when they take into consideration all aspects of their lives.

Professionals need to gather information including mental health, family, childhood history, and home environment (007: 505-509; 015: 697; 016:407-409; 004: 537). The individuals involved with the youth need to take part in case conferencing (004: 540-544; 016: 421; 001: 628-629) and plans of care (004: 246) where everyone has a “shared sense of core values on why we are doing this” (012: 760-761). The goal of these case conferences would be to effectively direct treatment and programming for the youth.

Interventions for youth need to focus on the underlying issues that are leading to criminal activity (015: 689-692) and it needs to be a model based on forgiveness (008: 534) because youth don’t just learn after the first mistake and it is important to acknowledge this and give them a second chance (012: 226-227). Youth participant 009 agreed that it is important that treatment focus on *why* the youth is taking part in criminal activity (009: 422-423).

There also needs to be treatment and programming that teaches specific skills (015: 382-384; 014:457-458; 016: 467 & 005: 343-346). Youth need to know how to deal with the daily challenges that they experience and they also need appropriate social skills and coping skills in order to best function in society. Programs need to be more available to youth before they are convicted (004: 318-324) and this can be accomplished by having greater outreach (002: 215-217) with agencies having more interaction with the community as a whole (002: 359).

Staff participants suggested that flexibility in funding (004: 264; 014: 447-448) and more long-term funding for programs (002: 404) would benefit treatment for youth. If this programming and treatment is to be most effective there needs to be increased staff training (003: 225-226; 006: 382; 007: 495-498) to ensure that we have “the right staff and the right ideas and the right values” (012: 709-710). Further, staff recommend that if the goal is to engage youth in programming and treatment it would be most effective to have youth-friendly (014: 487) and welcoming spaces for the youth (003:384) to attend.

The participants in this study suggested that there needs to be more resources for youth and their families in the community. Youth need access to assessments and supports that are specific to their needs (004) as well as interventions, education (016:412) and resources for the family (007: 506-507). Resources that do exist need to be more accessible (014: 472-473) and perhaps a database of available services (004: 434-436) would increase accessibility.

The youth participants felt that it would be more helpful if there was greater follow-up and support from probation officers (009: 269-274) and a more in-depth hiring

process for staff. Participants believed that it is important that the youth in the justice system feel supported and cared for by those responsible for their well-being.

“I guess, it’s the hiring process of the people... I guess just more interviews... there’s so many people I find in that system, where they’re just negative people that everything’s... they just get negative themselves. I found it was the positive people that made me feel positive, you know, whereas I found in the youth system there’s a lot of the staff are just there for a pay check and more hard ass teachers, or whatever than peo.... caring people, I guess” (011: 175-181).

The professionals who took part in the study recognize that the Ministry of Children and Youth Services is trying to do their best and that the ideal situation is not always possible however, it is important that the concerns of those working in the system are heard as they have rich knowledge and firsthand experience. The above suggestions for improvement from professionals would likely lead to increased effectiveness for treatment of youth in the system. Their experience tells them that for the majority of youth custodial sentences are not the most beneficial option. Concerns with custody and the benefits of community alternatives will be discussed next.

**Meta-Theme 2: The majority of professionals agree the concerns regarding custodial sentences far outweigh the potential benefits. Community based sentencing should be utilized whenever possible.**

*Potential Benefits to Custody*

None of the participants advocated for the use of custody for all youth but all agreed that custody does have a place in the system. Participants discussed that there are times when custody sentences do “serve a purpose” (004: 360) and for serious (012: 655-658) and repeat (005: 420) offenders custody may be an appropriate option. At times custody is required for the safety and security of the community. Further, one participant felt that while youth are in custody they may be able to gain perspective and

insight (008: 213-216) into themselves and their lives. They are also able to stabilize and are provided with a “few days off the street where they can detox” (013: 203-205).

“I think it offers an opportunity for youth to have a break and to get the message out, you know what you’re doing isn’t okay and that we need to re-evaluate it. Sometimes being removed from that situation gives them time to detox or debrief and get a different perspective on what they’re doing, it also gives them time to self-evaluate” (010: 221-225).

While youth are in custody the first goal is safety (008: 203), which is ensured by supervising their time (008: 221-222) and having more intrusive security measures such as room searches and pat downs (016: 41). At times these youth are involved in such risky behaviour in the community that their parents want them in custody so they know their child is safe (016: 360-362).

As well as youth having the chance to gain perspective there is a level of structure in custody facilities that would benefit many youth (006: 147-151; 001: 78-80; 016: 135-137; 012:458-460). Some youth thrive on the extra guidance provided through structure (001: 74-75) and in this environment youth are able to build skills, and abilities (006: 147-151) and to manage daily struggles. They are also afforded the opportunity to catch up on their education and take advantage of specialized and individualized school programs (012: 487; 006: 182-183; 010:225-227; 001: 127-132). Participant 001 felt that “there are some kids that do much better with the more structured and really routine kind of schedule that you find in secure custody” (001: 78-79).

While in custody youth are provided with treatment and at times this is the best way for them to access the resources they need. One participant believes youth have better access to services while they are in custody (002: 287) because support or programming is readily available without the youth having to find the initiative to get there (016: 274-275). For youth who are struggling with mental health concerns being in

custody opens doors to treatment. “A lot of the times the mental health side, being in custody, as backwards as it sounds is sometimes the best opportunity for getting treatment” (008: 233-234).

Even with all of these potential benefits, none of the participants recommended custody be the norm for criminalized youth and several reported that they felt custody should be used as a last resort for only the most serious cases (012: 496; 016: 203-204; 014: 641-642; 015: 685-687). Participant 012 believes that “custody, just like detention should be reserved for those who are a real threat to society because they’re dangerous, really dangerous” (012: 652-653).

Youth participants in this study also recognized that there are some benefits to custody especially for violent and repeat offenders (009: 425-430, 449-455). When asked what would help youth, some participants mentioned custody time would make a difference (009:240-241; 011: 238-246).

“some kids you can tell they, they don’t care, and then, yeah, throw them in the jail... like maybe there should be more secure than open, like maybe the secure makes you think a little more about not wanting to rot in jail... with my assaults, I probably should have had more secure custody ‘cause the open custody was pretty open like, sports camp, you know I got in some fights, I beat some guys up in there too, so it wasn’t that bad for me” (011: 238-236).

Professionals in this study are not recommending custody for all youth owing to the numerous concerns associated with custodial sentences, but do recommend only for those who require immediate stabilization or have committed serious or violent offences.

#### *Concerns with Custody*

Staff reported a number of concerns with sentencing youth to custody including grouping youth together and exposing them to a negative, unsafe environment that is not conducive to treatment. There is a lack of programming in custody and it is difficult to



develop meaningful relationships with youth. When youth receive custodial sentences they are forced to coexist with others who have been in conflict with the law.

Professionals in the system feel this is a concern as youth “are interacting and feeding off of each other” (015: 272-273). Less severe youth may become worse (014:643-646) and young kids are at risk if they are placed with older violent youth (016: 446-447). Further to this, youth who are first time offenders may be interacting with more dangerous youth, making criminal contacts (004: 301), and trading bad ideas (012: 1110-1112).

“There are some hard-core kids, and if you get a first-time offender who’s committed a serious offence and you plop him into that mix, then he’ll be very vulnerable, very naïve, even gullible. You drop a kid into that environment and they will learn every bad trick in the book and every possible worse thing you can imagine they will learn, and you don’t want to do that” (012: 500-503).

The youth participants also reported that grouping criminal youth together in custody can have negative effects. Youth can learn the tricks of the trade and make connections with negative peer groups. Through this experience youth “learn how to become a better criminal” and “have less respect for authority” (009: 27-29). Participant 005 felt that “most guys came out a lot worse than when they went in... a lot of the time, you know, because ah, they try to teach extra skills from lads” (005:260-262).

Along with the youth being grouped together there are concerns about the environment they are living in (012:509-510; 014: 205; 015: 553; 016:141; 001: 352-356; 005: 429-432). Owing to poor labour relations these facilities can be quite nasty work places and “It’s really not good when the kids become pawns in a battle between employees and employers” (012: 829-830). Participants reported that there can be conflicts between staff members who have differing philosophies regarding how to work with young offenders (015:207-208). Participant 001 noted there is a lack of support for

staff in the custody environment and that youth's access to the Ombudsman made their jobs even more difficult (001:217-218).

In addition, the custody environment can be quite chaotic and disorganized because there is a greater emphasis placed on security (014: 357) and having youth in a locked facility can get in the way of treatment (015: 250-254). Professionals in the system expressed concern about youth being mistreated or not feeling safe in custody facilities, as well as the poor physical space they are living in (014: 96).

“Yes I have concerns... I think they are mistreated, I don't think it is an easy job to begin with but, I have heard from clients that are kind of scared, and there was a situation or two that came up when I was in college, people, students on placements, that kids were being mistreated physically verbally, yeah and that was investigated... A lot of the kids I have talked to that are placed at like (facility), they don't feel secure no matter how good the staff are because of their peers and the seriousness of their offenses” (016: 140-148).

Although safety is a priority the professionals feel the environment is not always safe for youth. Some of the youth held in custody are violent (014: 97-101) and because of a lack of crisis beds there are frequent assaults in custody facilities (001: 168-169). There were reports of situations where managers did not follow protocol and staff were asked to do things that jeopardized their safety (014: 242-244). Also, owing to low staff to youth ratios in some facilities (1 staff for 6 youth) “at any given point if the youth really wanted to overtake the house they totally could have” (010: 107-108).

In addition to this, the custody environment is not conducive to rehabilitation and treatment. Youth that spend too much time in custody can learn to become totally dependent on the system (012: 460-461) rather than developing skills to cope with their issues and how to behave in regular society. The custody setting is not a true representation of society (008: 210-211; 013: 206-208; 010: 193-195) so skills that are

developed there are not always easily transferred to everyday life (004: 152-153).

Treatment availability for youth is a concern for some of the professionals who were interviewed.

It was suggested that although some of the programs available to youth would be beneficial the programming is not consistently delivered. Participants believe there are several reasons programs are not being delivered including the youth not buying into the programs (003: 150-152), issues with residents or crisis situations interrupting or superceding programming (007: 204-210), little time is allotted for programming (010: 250-253) or the programs are simply not being delivered by staff (016: 208-209). As well as concerns with program delivery it was suggested it is difficult to teach youth the skills they need in their daily living while they were in secure custody.

“I always found that there was a lot of frustration for them [youth] and ah, fear for the youth when they got out because there really wasn't any um, ability to teach them any skills with us, and remaining in the secure atmosphere” (001: 174-176).

Participants also believe there is an inability to focus on the deeper issues youth are faced with while they are in custody. Participant 010 noted the custody setting makes it hard to explore historical and family issues with youth (010: 193-195). In order to get at these issues there needs to be more counsellors available (003: 160-162) and there should be more privacy in place. If a youth does want to reach out for help they may be stigmatized because other residents will be aware they met with the counsellor (014:501-502).

In addition to the above issues, the staff noted it is very difficult to develop meaningful relationships with the youth while they are in custody and building relationships is an important part of the rehabilitation process. The first challenge to relationship development is the high turnover rates in these facilities which leads to the

staff “constantly changing” (013: 208) and makes it challenging for youth to develop meaningful relationships (013: 209). Further, the power differential (004: 140-145) between youth and staff along with the requirement for staff to discipline the youth (007: 184-188) and the focus on security (016: 68-72) impedes the development of relationships. Frequently, relationships between youth and staff are negative (014). The fact that staff are expected to be both disciplinarian and counsellor can be confusing for youth and can make relationship development difficult (101: 141-155).

“I would say that's the biggest thing is you are still the holder of the keys, you are still holder of the power, you are still holder of the knowledge, regardless of how you set that up” (004:142-143).

Participant 001 reported that in custody settings administrative directives limit staff ability to set limits and manage behaviour and this gets in the way of building relationships.

“I found that that, the first 15 years you were still, had the opportunity to give youth the responsibility for their own actions, and you were able to make those bonds, but ah, when a youth has ah no restriction on their actions and there's nothing to ah limit them on what is acceptable in a group setting you lose the ability to make a connection with the youth” (001: 200-204).

Further, the youth “code” when they are in custody can interfere with relationship development with staff even if the youth are interested.

“When a kid is [in] a custody facility there is a... code... that kids should not like the staff in a custody facility. Umm, having a relationship with a staff in or liking one of the staff or disclosing to one of the staff is frowned upon by the other kids in the house sort of thing so kids in custody umm... there's a pecking order for sure... it's an us vs them mentality that a lot of those kids have, so even if they wanted to have one a relationship with staff, that may affect them negatively amongst their peers in the house” (002: 173-180).

As stated above, participants believe building relationships with youth is a very important part of the treatment process and the custody setting is not conducive to this

relationship development. Along with the concerns of custodial sentences for youth there are benefits to community based sentences which the staff highlighted in their interviews.

### *Benefits of the Community*

Staff members in this study advocate for using community based sentencing for youth especially for first offences (016: 203-204; 012: 801-802; 015: 685-687; 002: 558; 005: 408-410; 006: 283-284; 010:260-261). Participants felt that when youth are in the community there is more freedom to work with them in a holistic manner without the constraints they would face in a custody setting (004: 24-25). They can take clients out into the community (016: 114-116) and the youth have more freedom to work on their issues.

“You can, maybe go home to your family and rebuild those relationships with your family, or your friends or whoever. You can, you know, be out in a school setting in a community based school. And you kinda have, you have your freedom a little bit more” (013: 214-216).

With this freedom programming may be more relevant than in a custody setting as it is being delivered while youth are in the community dealing with the struggles of their daily lives.

“in a community, it’s real life more so, they do have the expectation to participate in programming and stuff, here however they’re still trying to maintain their social network, they still have the expectations from work or um uh or school, *um they’re still the family dynamic that are for most of the youth highly dysfunctional*, um I think it’s a lot more for the youth to juggle and manage and it’s it brings up more opportunities for growth” (010: 170-174).

An additional benefit to the community setting is that there is the opportunity to work collaboratively with the youth and community partners. Participant 004 felt community work is more collaborative because the power differential inherent in the custody environment is not present in community setting (004:140-145). Similarly participant 016 noted in the community setting there is greater access to other community

agencies and professionals can work more closely with one another increasing the collaboration between agencies (016: 118-120).

Finally, one of the benefits to community work is the ability to create positive and meaningful relationships with youth (013: 212-213). The power differential is not as stark (004: 140-145) as the staff are not expected to discipline the youth and they are always in the same role with their clients.

“That [discipline] could set up barriers to developing relationships sometimes because if you have to consequence their behaviour but then you’re expecting them to open up and trust you, I think it’s it can be conflicting with the client whereas with community we only see them they come in for their appointment, we don’t have to discipline them...so we’re always in that same role where as we never have to switch roles but in residential you have to switch the roles. Yeah, they’re playing the helper and the keeper” (007: 186-192).

Finally, participant 010 stated the relationship with youth is more easily attained when the enforcement aspect is removed from their work (010: 148-155).

All professional participants repeatedly reinforced the idea that they are interested in seeing the best outcomes for youth. It is overwhelmingly clear that they believe in community based alternative sentences. Participants have come to recognize that the youth who come into the system are struggling with many different factors which contribute to their involvement in criminal activity. Staff have learned what strategies are effective in treatment and rehabilitation for this population

**Meta-Theme 3: Criminal youth have a history of complex and pervasive contributing factors, however effective strategies foster positive change.**

Participants were asked about the internal and external factors that lead youth to becoming involved with crime. Although there were a number of responses, overwhelmingly the professionals pointed to the youth’s family environment, the level of

support in their lives, their mental health and their internal values as contributors to their involvement crime.

*Factors Contributing to Criminality*

The family environment was reported to play a powerful role in leading youth toward crime. Participants suggested that these youth come from families with a history of criminal involvement (015: 295-296; 004: 190; 001: 281-282; 007: 229-230) and for some spending time in custody is simply part of growing up.

“So engrained in them and we had third generation kids that you know, I knew their uncle Jim and I know about their dad... and that was just part of their stripes that you had to go and do your time” (001: 281-286).

For other youth there is just “terrible parenting” (012: 229) or no involvement from their family (003: 166) which can lead to youth having no sense of belonging (016: 130), no structure in the home (013: 239-241), and no teaching of appropriate boundaries (012: 480). Further, participants felt that these youth hold criminal values (010: 244) and their families have a history of being on welfare, not going to school, having no pride in themselves, and not being held accountable (006: 160-163).

A number of participants reported that youth tend to come from families with low socio-economic status and may be living in poverty (003: 166; 014: 453; 004: 196-197; 006: 161; 001: 462; 007: 236; 010: 276). Criminal youth seem to come from homes that are second and third generation welfare recipients (005: 122). Professionals believed that living in low incoming housing, inferior housing, or having no housing (014: 453-454; 004: 203; 008: 357-360) can lead youth to engage in criminal activity in order to support themselves.

“There is just not enough housing options... they turn to more um, negative type options to try to support themselves, and the stress of that alone I can’t even

imagine” (008:357-360).

With a family history that teaches crime as the norm and a level of stress that is beyond their coping mechanisms, crime may seem to be the natural option to youth. Professionals reported that many of the youth they work with lack family support or a trusted adult in their lives (012: 559-563; 003: 172-174; 001: 228; 013: 259-362; 237-238) and suggested that without this youth really struggle.

“Honestly, I don’t think I have ever worked with a youth who has had a good, strong, supportive life like what we hope to provide for our own children... I mean some of them have parents who... you know, I know us growing up, we looked to our parents, we looked to them as role models, but, but a lot of these kids, if they’re lucky they have an adult come into their life that is a role model, that supports them, because a lot of them don’t have that support, they don’t have that, they need direction, you know. So if those that are supposed to love and support and be responsible for them aren’t providing them with any of that, how can we expect them to find that within themselves” (016:237-246).

As suggested above, this lack of support can have a very negative impact on youth. Without a caring adult in their lives for guidance, structure, and boundaries it is easy for youth to take part in criminal activity.

Mental health and internal faulty thinking are also reported to contributing factors to criminal activity. Participants noted that a high proportion of youth coming into the system have mental health (003: 167; 004: 200; 007: 239; 016: 236; 012: 568; 006: 155-156) and developmental concerns (001: 372; 007: 239) including depression (003: 177; 013: 229; 014: 436), anxiety (013: 229; 014: 436), Fetal Alcohol Spectrum Disorder, Attention Deficit Disorder, cognitive behavioural issues (006: 155-156), substance abuse (015: 935; 006: 177), Post-Traumatic Stress Disorder (003: 176), and learning disabilities. In addition, some youth have trauma histories that may have influenced their progression to criminal behaviour (003: 170; 015: 369; 013: 228; 016: 236; 012: 587).



“Not always, but often, the parents didn’t, they really seemed inappropriate in many ways. A lot of the kids had been sexually abused etc. sometimes by their parents. And the guys in particular wouldn’t even talk about it” (012: 230-232).

Separately, these youth are struggling with other internal problems such as anger (003: 171; 014: 437; 012: 482-483), criminal values (007: 240. 010: 244), distorted thinking (010: 235-235), lack of motivation (013: 235-236; 016: 240), and a lack of pride in themselves (006: 163) as they feel as though they are failures. With all of these internal struggles youth turn to crime as a way to cope or feel good about themselves.

“Usually kids who get into trouble with the law-, serious trouble with the law... they don’t understand what the parameters are that they can operate on in society to, you know lawfully go about their business. They don’t have those boundaries... and that often is the parents who haven’t given those boundaries. And the kids are often very angry because of the way they’ve been treated. Many of them feel like failures-, they feel like complete failures, so they turn to other activities because they feel like, you know, that in the regular world they are a complete failure (012: 476-483).

Adolescents are also influenced by other external factors such as their peer group and the media. Participants noted that youth who find themselves in conflict with the law tend to have “bad friends” (003: 494), hang out with “bad crowds” (014:454), are involved with gangs (015: 44), and deal with peer pressure from the groups that they choose to socialize with (010: 235; 013: 352). Pressure also comes from the media via the messages delivered in the music (013: 357), video games and television that youth are immersed in (006: 167-170). Additionally the internet (006: 167-170) exposes youth to many negative influences.

Participants further discussed that youth are effected by the lack of resources available to them and problems with the education system. For those youth suffering from mental health issues there is not enough help (001: 467) and there is also a serious lack of services for youth in general (003: 214; 004: 204). Youth within the justice

system tend to experience a “substandard education” (004: 196) and a lack of goal setting in education (006: 161). They have failed in the education system (012: 588) and once they are involved in crime, success in education is even more difficult (010: 277-283). Finally, it was noted that one of the contributing factors for youth is simply that they are youth, “teenagers are risk takers” (013: 255) and minor violations of the law are quite normal.

“There was some research done... [they] observed teenaged behaviour in a number of school yards... at the end of it all, what they came up with was that the average teenager at a school in Toronto commits-, technically breaches the criminal code once every four hours. So the average teenager is committing a criminal offence every four hours... So, what that means is if we actually applied the law to these kids, it’s basically almost every single kid would be before a judge, and half of them would be in jail” (012: 1036-1046).

With this, professionals do believe that there is effective treatment and education options that can lead youth back to positive behaviour. Youth participants who took part in this study agreed that some of the factors that contribute to criminality are community (009: 314-317; 011: 158), substance abuse (009: 288), the media (009: 361) and family (011: 164-165).

“When your mom doesn’t, when you’re raised with yelling and hitting... I’m gonna act the same way, I’m going to yell and hit, you know, where as opposed to talking and explaining as a parent, I would, I would just be getting hit or yelled at, right. So, that’s how I would vent my problems, I guess” (011:166-169).

### *What Works in terms of Rehabilitation and Treatment for Youth with these Complex Needs*

Once youth enter the system, whether they are in the community or in a residential setting, staff agreed that there are effective measures to reduce reoffending and help youth make positive change in their lives. Overwhelmingly, staff pointed to

building relationships with youth as being an important aspect of treatment. Youth require a safe place where they can go to talk with a trusted adult. They need to know that they won't be judged, they can trust the people they are confiding in (003: 92-93, 362; 001: 692-693; 012: 736), and they can ask for help (004: 419). Professionals mentioned that the development of relationships with supportive individuals who care about the youth (015: 747; 004: 221; 006: 356; 007: 555; 010: 527; 013: 618-617; 016: 468; 012: 236-237) and enjoy being with them (005: 527-528) is one of the most effective ways to decrease recidivism rates.

“What most of these kids needed was one trusted person who loved them and cared for them. They didn't have that person in their life (012: 236-237). Getting them support, showing that you can be trusted and care about them. (012: 735-736).

Staff are not able to help youth in an effective and meaningful way if they have not established a relationship (008: 171-172). Further to having positive relationships with the professionals in their lives, the participants noted that it is important for youth to mend and maintain relationships in the community. Participant 007 noted that when male young offenders become involved in relationships they tend to be more compliant (007: 546) and participant 012 suggested when offenders have stable positive romantic relationships their re-offending decreases. Because of this, it is important that if youth are placed in custody they are kept local, maintain their community links and preserve the social contacts (012: 729-735). Positive relationships with family, friends and professionals are seen to be important aspects of effective rehabilitation for youth that are in conflict with the law. Youth participants agree that having relationships with staff members is very important (011: 148-150, 009: 204-206) and participant 011 notes that having staff who care about youth and who talk with them about their troubles is essential

(011: 148-150, 183-184, 271-273). Further for participant 011 the most challenging part of being in custody was being away from his friends (01: 95) suggesting the importance of maintaining social contacts.

“the caring people would actually talk to you and care, like ask questions and stuff whereas the other people would just yell at you” (011: 183-184).

If staff have a positive relationship with youth they are able to provide them with programming, education, and treatment that can positively influence their decision making. Staff noted programming is important and effective because it teaches youth skills (007: 564; 003: 370; 013: 163; 016: 467; 012: 868-878) and gives them “tangible tools” (003: 370) they can use to deal with their daily lives.

“I think it's giving, like giving them the opportunity to learn to discover, to understand, to try um giving them the tools it's like you're building your foundation, many of them don't have that foundation” (006: 397-399).

“I think education is the biggest thing. Whether it be like every day education, counting, arithmetic, reading, whatever or educating them on life, what the consequences will be down the road” (011: 503-505).

In custody, programming keeps the youth busy (001: 47-51) and engages them in positive activities (012: 138-140) where they can work on their social skills and problem solving abilities. However, in order for programming to be effective participants felt that it must be evidence based (010: 333) and agencies need to have “the right staff, delivering the right program, in the right way” (010: 519-521).

On top of programming as an effective treatment option, staff believe that counselling and one-on-one intervention is an effective way to influence change. Direct intervention and counselling allows youth the opportunity to explore more personal issues (006: 361) and the counsellor is able to help them have a better understanding of themselves (016: 467-468) and their behaviour. Counsellors can also show youth that

there is an alternative lifestyle to the one they are currently living (015:748). In a counselling environment the youth's treatment and care can be individualized in such a way that their core criminal factors can be addressed and rehabilitation can be thoughtful and strategic (006: 364, 341-343, 373). With this, youth are able to build a foundation for themselves (008: 121-122) so they can develop self-confidence and reach their goals (012: 1162-1168).

“We're trying to get them stable... we're not worried about what they're going to do next, we're trying to help them so they can be doing something more... build a foundation there so that they can stay safe and healthy” (008:119-122).

During counselling and programming it is important that youth are held accountable for their actions (001: 410-412; 012: 732-734; 006: 111) and provided with hope “that they can live a rewarding life” (012: 732-734).

When youth who were involved in the system spoke about counselling there were differing views. Participant 009 felt the counselling he experienced in the system was not very helpful because he couldn't remember much about it (009: 187-189) but both participants 005 and 009 suggested that they believe counselling could be helpful for youth in the system (005: 265, 009: 435-439, 442-445) and youth participant 017 felt that counselling could be effective if it focused on the issue that was leading to criminal behaviour.

“I think that's part of rehabilitation, I think from my own personal experience, locking someone up in a cell and ignoring them, well that's not doing that person any good. That's not helping them. Yeah I made mistakes, so what, I'm uncomfortable for however long, and then they're back out on the street, just doing the same thing again because I think counselling is a big part of it” (009: 442-445).

“I think that they need to actually focus on the actual reason, get right down to the core of it, like they just talk about anger issues and that but they should actually be like examining *why* these things are happening and then maybe getting counselling for that specific thing” (017: 272-274).

When working with youth, in counselling or otherwise, participants felt that the most effective approach is to be youth friendly, strengths-based (rather than deficiency oriented) and holistic. Whenever possible youth should be given a voice and made to feel empowered (015: 781). Positive change comes about when youths' strengths are identified (015: 781), they are taught how to achieve success at home (012: 736), their self-esteem is fostered (001: 670) and they can take part in activities that make them feel good about themselves (007: 557).

Further, it is important that professionals work collaboratively to ensure the best outcomes for youth and a holistic approach must be taken (012: 760; 008: 177-178). Case conferencing is seen as an effective way to guarantee the entire team is up to date and working together. Completing case conferences on a monthly basis is beneficial for all professionals involved with a youth (008: 181) as it allows issues to be dealt with more quickly and provides continuity of service. When professionals work collaboratively there is better service provided to the youth and outcomes are more positive. Participant 005 felt that "the whole ball you know, all the staff got to be involved with that, the kids gotta be involved, the PO's gotta be involved, for anything to get done quickly" (005:165-166).

Further, professionals reported that both the approach taken when working with youth *and* the environment of the agency affects the effectiveness of treatment. Just as important as *who* is working with the youth is *how* professionals are working with them and *where* this work is taking place. Youth thrive in youth friendly environments that are flexible (003: 467-468) because they recognize the informality and feel that it must be an "alright place" (003: 61-63). However, it is not just the physical space that should be

informal as staff members need to empower the youth to and encourage them to have control over their healing (015: 819). Youth also need to be treated in an age appropriate manner. Finally, youth need the space and ability to vent (001: 716), and they want to be heard (012: 334-335) as such, it is necessary to choose frontline staff who appreciate the need for youth to feel comfortable within their surroundings.

“For a young offender system to work well, it has to stop imposing adult values on them, because they are still teenagers. And not treat them as if they’re meant to be adults, because they’re not adults, they’re kids, treat them in an age-appropriate manner. That’s one of the toughest things to do. You’ve got to get leaders in the system who sort of think in a progressive way like that” (012: 688-692).

Participants reported that it is important to have the right people (002: 709) working with these youth. Individuals should be well trained (012: 766-777), good staff (005: 439), who are invested in helping kids (007: 669-671), dedicated, enthusiastic and well informed (012: 859-860). Working with young offenders is not always easy and the staff members need to be willing to deal with challenging issues. Further, if positive change is going to come to actualization for these youth the individuals who work with them need to be persistent.

“You really have to. And you know, deal with those issues like racism, prejudice, and a lot of it is just fear, fear. You’ve got to deal with this stuff, not ignore it, and I think it’s easy-, the easy way out is to ignore it. But if you ignore it you will cause problems down the road. So you’ve got to have staff that are tough enough, wise enough and brave enough to actually challenge these things head on and not allow all the stuff” (012: 927-931).

“if it didn’t work the first time, you gotta do something different the next time, never give up... never give up, never quit” (016: 600-602).

“I will never give up on the kid, I might close their file but if they come the next day, I’m reopening it” (002: 125-126).

Participants believed that having staff that are dedicated and genuinely interested in helping youth is one of the best assets that the youth justice system can have. Youth participant 011 agrees and notes that for him, turning around his life had a lot to do with the staff that he was working with (011: 121-123).

“it’s the staff I can’t emphasize enough that I got lucky with a couple of the people, the cards I got laid, dealt and you know, it’s up to the staff and it’s up to the youth itself” (011: 271-273).

Although there are strategies that staff believe are effective in helping youth to make positive change in their lives, they recognize that there is no one definition of success. Success is a relative term that is difficult to generalize and measure.

**Meta-Theme 4: Factors that help or hinder success for criminalized youth are similar, however definitions of “success” are idiosyncratic.**

When asked about success professionals noted that it is very individualized and looks different for all youth. Participants stated that there doesn’t have to be big changes; small improvements are sometimes great successes for these youth. They were also able to identify factors that seem to contribute to success as well as common barriers that can get in the way.

*What is Success?*

Success for youth in the criminal justice system can range from a wave across the yard (001: 728-729) to a youth having no more involvement with the justice system (006: 401). It is important to note that “success is very relative” (008: 605) and that the expectations should not be the same for all kids (004: 75-77). Success is a “highly individualized thing” (012: 1160) that has many levels (016: 502-506). The majority of the participants suggested that success can be the smallest of achievements and that it is



important to recognize these small improvements. “Success is really a huge umbrella with lots of little raindrops” (016:506-507).

Participant 014 stated that “In our field of work, a small leap is huge progress” (014:349) and others noted that success can be as small as a youth getting up and going to school (008: 586), walking through the door for programming (002: 652), going to sleep that night feeling good (015: 826), or understanding that what they did was wrong (012: 1137). In general, success fell into six categories for the professionals in this study: Youth making connections with agencies or individuals; developing emotional stability; taking part in their education; having awareness of what they did; making an effort to work on their issues; and doing well/ making good choices.

Staff members suggested that they consider one aspect of success to be when youth begin

to create positive connections in their lives, whether it be with community agencies or people

who they can trust.

“To know that they’re still connected to somewhere as well, that’s nice success. Because people make mistakes but at least they know they have someone they can share their life with as well” (003: 393-395).

When youth continue to come back to an agency to share what is going on in their life it suggests to participants they have built a connection (005:513-517; 003: 395-398; 013: 670) and feel safe there. This is seen as a success for youth as many of them lack these positive relationships in their lives.

It is important that youth are emotionally stable and staff believe that youth do best when they feel safe (004: 470-472) and are happy with themselves and their lives (006: 402). When a youth has a good day and can go to bed at night feeling good, this is a victory (015: 826-831). Success is also attained when youth no longer engage in self

harming behaviours (015: 830; 016: 539) and are not experiencing suicidal ideation (014: 811). These accomplishments in emotional stability suggest that they are not only working on their criminal behaviour but may also be dealing with some of the contributing internal struggles.

To the participants in this study, success in education and youth self-awareness regarding their crime are also important. It was noted that often youth are not attending school (010:431) when they enter the justice system. For over half of the participants when they were asked about success, being in school was mentioned as an indicator that they are doing well (006: 402; (016: 502-506; 012: 1135-1142; 008: 586; 004: 500; 007: 558; 013: 710). The measure was not the youth's level of achievement in school or how often they were attending but simply that they were making the effort to get out of bed and go.

“I can praise a kid left, right and centre because they got up from bed on time and they actually made it to school that day, that could be a huge success, like Oh my gosh they actually made it to school, I'm so proud of you. To a teacher they could be looking at that kid saying “oh my gosh, you showed up but you didn't do a thing *all day*”... right? I mean, you take everything comparative” (008: 585-590).

Combined with success in education, staff reported that they like to see youth demonstrate an understanding of what they have done and how it was wrong (012: 1137).

“If the child has been able to understand that something that they've done is wrong or they understand their crime or they understand that coercing someone into doing something is not acceptable” (014: 808-810).

Along with this understanding of their crime, success is evident when a youth is “making a serious effort to change” (012:1137). When youth are engaged in their treatment (015: 846) and they are trying to and willing to make positive changes in their lives, this is considered a success.

For one professional, success can be when the youth has made the effort to walk

through the door to the agency (002: 652) because in a community setting there is limited enforcement regarding attendance. Three participants who worked in attendance centre facilities consider success to be when youth are attending and participating in programming (007: 596; 010: 404-408; 016 (502-506). For others, attending, participating in programming, and engaging in treatment is considered a success. This level of involvement in treatment indicates that the youth are interested in working on their issues and completing what is required of them from the courts.

Finally, success can be observed when youth are no longer involved in the justice system and they are doing well in their daily lives. One of the simplest ways to determine success is recidivism rates and by this measure a youth who has no more criminal involvement and receives no new charges is considered a success. Interestingly this indicator was only discussed by three of the participants (007: 583; 006: 401; 003: 517). More commonly the staff people in this study focused on successes such as youth making positive and forward moving decisions (015: 846; 004: 473-474; 001: 742; 006: 579; 013: 671-673; 016: 502-506). As stated by participant 013, there may be things that get in the way but youth are successful if they keep trying to move in the right direction.

“They are successful, they are working and they are being persistent, they’re, you know, they are working towards something, they’re focused even though they have had lots of roadblocks, but they keep trying” (013: 670-672).

As can be seen above, the staff people working with these youth on a daily basis appear to see success in all areas of the kids’ lives. They do not expect extraordinary changes but instead celebrate the small steps in the right direction. Throughout the interviews participants were able to point to some of the factors that contribute to success in their clients lives.

### *Factors Contributing to Success*

There are three main factors that participants attributed to greater chances for success. They are: internal strength and readiness; positive, supportive relationships with helping professionals and family; and access to programming and treatment. The quality of the youths' relationships with adults in their lives is very important and the staff people in the current study felt those youth who had caring relationships were more likely to be successful in their rehabilitation.

It was reported that when youth feel heard (015), supported (015:907; 014:919; 006:74; 010:592-595), and cared for (002:728-729; 016: 545) they are more apt to succeed.

“I think the level of support that they have is a huge a huge piece of it. Um, youth who don't have the support it's, it's a lot more on them” (010: 592-593).

Having positive relationships with others (002: 733; 012: 1178-1179; 004:522; 010: 599-600) and a “network of people around them that care and want to see them do well” (002:728-729) supports the youth and increases their chances of success. It is particularly beneficial when youth have family that are both involved in their lives (015: 880-883) and supportive of them (006: 72-73). Further to the relationships in their lives, youth need to have the internal strength and motivation to want to change.

Many of the participants spoke about internal aspects as being important and how having motivation and inner strength can make the difference between a youth who is successful in making positive changes in their life and one who is not. Participants mentioned that personal qualities such as confidence (015: 991), self-esteem (015: 1000-1001; 001: 670), perseverance (002: 676), strength (002: 679), work ethic (002: 683), and good personal conviction (001: 774) contribute to success. Further to this, the participants believed that the youth has to be ready and willing to make change (004:

230; 006: 74-75; 001: 385, 659; 016: 545) and that having motivation to change is the perfect complement to readiness (015: 993; 004: 230; 007: 612; 008: 678). Finally, if a youth has the motivation and the readiness to change providing them with effective programming and treatment options will lead to greater chances of success.

“I believe now, my perspective is that they have to have the internal stuff. It doesn't matter what's out there if it's not on the inside, here, you know, but if they have that little spark inside and that external factor, the sky's the limit” (016: 553-555).

Staff felt that providing youth access to programming (002: 582; 008: 624-630) and counselling (008: 624-630) is a contributing factor to their success. It is important that youth be provided with the opportunity to address their issues in a therapeutic manner (006: 486-487) and if the goal is to sustain change in the youth, programming needs to be meaningful (010: 129).

“I understand if you've got backlogs and stuff like that but I think the quicker you can get someone into treatment, I think it's way better off than having to wait” (009: 345-346).

Similar to professionals' comments, youth participants noted factors contributing to success for youth include having positive relationships with staff (009: 204-206; 011: 121-123), having resources available to them (009: 337-338, 345-346), and having internal motivation (011: 205-208). Along with the above mentioned supports of success, professionals feel there are also barriers for youth who are in conflict with the law.

### *Barriers to Success*

Participants mentioned several barriers to success for youth. The most common response was that family concerns and the youth's life situation get in the way of success. Professionals noted that for many youth the family dynamics are far too dysfunctional for them to deal with independently (003: 516). Their families are typically not involved

with their lives and if they are involved they are often not supportive (006: 60, 72-72; 007: 647). In addition to their parents not being supportive, many youth have parents who act as negative role models (010: 613) and they do not follow through with obtaining services such as counselling when youth are identified, perhaps because they don't want to deal with it (016: 265). For some kids there is simply too much happening in their lives for them to be dealing with their charges.

“life happens to some kids, like, like some things just, against all odds like they just got the shit handed to them.... how do you fulfill your EJS requirements when your mom is dying of cancer, your father's not around, your brother's in jail” (002: 740-745).

Other kids have issues they are not ready to deal with such as a history of abuse (006: 462-465) and this can get in the way of treatment and consequently success. Other life circumstances that can impact outcomes are things such as homelessness (007: 642), lack of life skills (010: 594) and outdated contact information for youth who are serving community based sentences (007: 645).

Although participants previously suggested that programming for youth is a benefit there are some aspects of programming that can get in the way of success. Some programs are delivered in a group format rather than one-on-one and this can be challenging when there are a number of youth in one class (014: 436-438) as they are all struggling with their own issues. When programming is delivered in a group format there is also peer influence to deal with and it can get in the way of effective learning (015: 344-347) as peers can act as negative role models (010: 613). One-on-one programming may be a slower process but it is believed to have greater benefits for the youth (015: 350-353). Participants also reported that programming might have positive benefits but it

can be boring (013: 69) and the youth don't want to come (013: 75) and ultimately, if youth are not engaged they are not going to benefit.

Other barriers to youths' success may include: frequent changes in staffing; the lack of continuity in care; the lack of accessibility of resources; and the age at which they come into the system. There are high staff turnover rates in this field and although there is no one solution to this problem the youth are getting "the short end of the stick" (004: 532) as it interferes with their ability to form relationships with staff which can impact success. Professionals also felt that it is important to have the right people for the job (012: 709) and not just people who are available to work and have paid for their own training (001: 578-583). Participant 004 also suggested a barrier to success for youth is the lack of continuity of care in the current system (004: 527). Currently youth can be moved from facility to facility and they are not guaranteed to be working with the same professionals which can be a barrier to treatment and success.

Participants also recognized that there are some resources out there for youth but that many of them are not free (001: 471-474), they are not delivered in a youth friendly way (014: 487), there is a lack of privacy in accessing resources (014: 494-495), and people are not aware of what is available. (016: 483-484).

"I know there's a lot, there's, um, because there's lots of stuff out there, it's kind of like advertising, there's no advertising, you know, the more you advertise the more people are aware, you know, we, if I didn't work here I wouldn't be aware of half the stuff that's available in this community, but based on my experience on my, with my work and my field, I'm more aware than the average bear and when I say it to some average Joe, "Oh, wow I don't believe that, I never heard of that, I didn't..." you know" (016: 482-487).

Finally, the participants felt that youth are coming into the system too late (002: 255-256) and access to resources is limited because once they turn 18 they have to pay out of pocket for services such as counselling (002: 257-258). It was suggested that perhaps

youth are not being provided with access to services earlier because people in the community have a fear of getting involved. In this sense, not being brought into the system at a younger age can actually act as a barrier to treatment and success.

“They don’t want to get involved, a lot of it is fear you know, and some of it is just pure ignorance they just don’t have the time or interest to care you know, somehow it’s not there, that’s the way it is, that’s their, that’s, some are fearful you know, because some of these situations are violent, so...” (016: 591-593).

Staff also pointed to some more personal factors that can get in the way of success. Youth may have emotional limitations such as a lack of empathy (002: 722-723) or self-awareness.

“I think it’s just the internal ability to evaluate, um those kids who use drugs and blame others and don’t ever connect to the harm done to themselves or, or the momentum of their offense, those kids who justify and normalize” (010: 626-628).

Some youth have had their criminalized behaviour normalized by peers and parents (010: 612) leading them to not “owning” their behaviour and thus not feeling a need to be doing things differently (010: 633). Frequently youth are also dealing with mental health concerns (007: 649; 010: 636) that may not have been addressed by a professional and as a result they may be using street drugs to self-medicate (010: 616). Drug use (010: 636) or a substance abuse problem (007: 647) can be a significant barrier to success.

Youth participants noted barriers to success from their perspective including substance abuse (009: 208), lack of family support (009: 211-212), lack of motivation (009: 249-252; 011: 206) and a lack of access to resources (009: 338-341).

**Meta-Theme 5: Those individuals who work in the system acknowledge that there are many challenges to their job, but find motivation in the positive aspects of their work.**



When participants were discussing their jobs a number of challenges they face arose. These ranged from challenges with the youth to challenges with other staff members, administration and the system. Participants were also able to reflect on what they love about their job and why they continue to work in this field.

### *Daily Challenges of the Job*

Participants in this study discussed the daily challenges they face in their work with youth involved in the justice system. The majority of these challenges are not created directly by the youth that they work with, however participants do note many youth lack motivation and family support which can be a challenge for staff. Some youth are not motivated (003: 64-68; 008: 112-115) or engaged in programming (008: 112-115; 013: 50). When there is a lack of engagement it is difficult to enforce participation and often results in a breach of probation charge that only serves to bring them deeper into the system (008: 309-312). Perhaps youth are not motivated owing to other issues influencing their lives (016: 101-102) such as the adolescent peer group which plays a significant role. Professionals can work with the individual to effect change however there is little that can be done to influence the behaviour of their friends. (003: 500-502). As suggested above, many of these youth lack family support (003: 81-84; 015; 006:60; 008: 117-118) which strengthens the attachment to their peer group. This lack of parental guidance also leaves youth to make decisions (016: 103-104) that they are not able to make developmentally and as a result they may turn to their peer group for guidance.

In addition to these challenges there are struggles staff face that are more administrative in nature including confidentiality, ministry guidelines creating limitations to their jobs (014: 103-108; 013: 141-142, 332-333) and micromanagement by the

ministry (016: 297). Staff struggle with not having a clear picture of the expectations from the Ministry of Children and Youth Services (007: 156-157) and fear about what will happen if they are not meeting their targets relating to client numbers (010: 92-97). Further, there is both a compartmentalized funding model (004: 64) and a lack of funding (010: 73) that limits the professionals ability to work effectively with youth (004: 69-71).

A number of participants noted these financial constraints impacted their ability to spend the time required to most effectively work with youth. These time constraints are especially a concern when working with those in custody owing to the decreased length of youth sentences (006: 66; 002: 211-214; 010: 250-251). Although these workers do not support the use of custody they believe that when a youth must be incarcerated the sentence should be long enough for them to benefit from the experience.

“I know that custody time that has decreased substantially, so I don’t know um change takes time so I don’t know if someone’s in there you know for a week or two, if that allows enough time, um again the programs are great um but if there is there enough time allotted to actually um have the maximum impact that they could have, I don’t know” (010: 250-253).

Time is not just a concern for those staff who work in custody facilities. One community agency member felt as though they did not have enough time for all of the youth on their caseload (008: 124-126) and another felt that one hour sessions are not enough time to provide youth with everything that they need (016: 31-36).

Staffing issues are also a concern and some participants felt that there is a lack of support for staff in the field from the administration and there can be conflict between staff members who are working together. In addition, staff report that at times they can be asked to do things they are uncomfortable with such as treating youth harshly (012: 267) or not reporting breaches of probation (014: 282-285).

“I think that dealing with the political pressure to be really harsh and tough with youth, when I knew, most of us knew in the system, that was not going to get a good result, and if the result at the end of the day was, you know, turning these kids around... being tough and mean, frankly was exactly what they’d experienced from their parents a lot of the time. And just more of that is not going to make them into better people, it’s going to make them into tougher people. And you’re just teaching them really nasty survival skills...there was a lot of pressure to do that, and that was probably the most difficult to deal with, dealing with people who wanted us to just, you know, treat them really bad” (012: 267-276).

One participant felt as though they are not heard by the administration (001: 261-263), “there was no consideration again for the people on the front lines” (001: 260-261) and another commented that there is pressure from management to always be doing more (013: 56-57). Perhaps this corresponds with high staff burnout rates in youth justice (016: 183-184).

In addition to administrative challenges that staff face there were also reports that professionals may experience conflict amongst themselves. Participants stated a lack of consistency between staff members (007: 134; 001: 269-270) can lead to challenges with the youth.

“There were a lot of staff that always, it’s just like any parent, that said yes all the time because that’s you know, if your day is easy then every body’s day is easy... but that was a day to day challenge that, and that was just a personality thing” (001:269-273).

Finally, staff struggled with the lack of collaboration that they experienced with other agencies (016: 259; 103: 124-134; 001: 123-130). One participant believes it is their agency that makes partnership difficult as their superiors are skeptical and suspicious regarding collaboration. This skepticism makes community collaboration a challenge (013: 123-130). Participant 001 noted there is no sharing of information from Social Services (001: 135-141) when youth enter custody and this creates an obstacle when attempting to manage safety concerns regarding youth from rival gangs. Despite

these challenges the participants noted the many positive aspects of their job that motivates them when working with and helping youth.

*The Positive Aspects of Working in the Youth Justice System*

Participants enjoy working with youth and have a desire to help them make positive choices. Professionals noted their jobs are enjoyable (005: 148), they like working with kids (002: 85; 010: 83; 001: 279), and the people who work in this field do it for their clients and not for the money (004: 86-89). For an Executive Director the most enjoyable part of the job is knowing that their staff care about the youth.

“Knowing that there’s people that work here that have a passion for helping the kids... I know that pretty much everyone that has ever worked here, their heart is in the right place, so they have a passion and they want to be able to help the kids. So, seeing that or knowing that, just yeah, I guess it’s one of the best parts of my job” (007: 149-154).

Staff find joy in making a difference, building relationships, and seeing youth learn. For some staff getting to know someone (013: 84-86; 016: 106; 015: 121-123) is one of the greatest parts of their job.

“getting to know the girls and building the relationships and kind of when I knew I had their trust, that was a huge success for me, it was really rewarding to know that they felt confident talking to me about things and trusting me” (015: 121-123).

For others the best part of working with youth is seeing the moment when something “clicks” (008: 524) and they realize that they *can* succeed. Participant 014 suggested that “seeing growth and kind of moments of uh realization in a child that they can actually succeed at something” (014: 168-169). Other participants feel they sometimes can make a difference in the world. They help youth and open their eyes to

ideas that they had not previously considered, “at the end of the day that I had made the world a little bit better” (012: 226).

“You hope that you that you plant the seed um and maybe a system to show them the path or road for a world that they've not considered, so that was always the rewarding part” (006: 86-88).

Throughout the staff interviews it was clear that the well-being of the youth is of utmost importance and their main goal is to help them in the best way they can.

## **Discussion**

### **Meta-Theme 1: Challenges and successes: Professionals have insight into possible improvements.**

#### *Successes of the system*

As noted in the results section the staff members that were involved in this study recognized that there are things that work well in the current Youth Justice System. Successes of the Youth Criminal Justice Act include: a more supportive system for youth, increased service availability, alternatives to custody sentences, improved collaboration between youth justice agencies, and effective sentencing of serious and violent youth offenders. They also noted the current Act created a more supportive system than the previous Young Offenders Act (YOA). This is an important finding as one of the concerns with the YOA was that it had a strong focus on individual responsibility and the protection of society. The YOA moved away from the social welfare approach to youth justice and towards a more punitive system. This shift seemed to make sense at the time because the Juvenile Delinquents Act placed a high degree of importance on the youth's environment as the root of criminal behaviour and not enough on the individual's responsibility. However, the Juvenile Delinquents Act may have placed too much

emphasis on the justice model leading to a significant increase in youth going into custody facilities. Currently under the Young Offenders Act there are less youth going into custody and there is increased focus on diversionary tactics but it remains unclear if youth are being effectively rehabilitated.

Participants in the current study mentioned that since the transition to the YCJA there are more resources available for youth in the community and more youth being diverted out of the system or provided with alternative measures. Recall under the YOA youth in Canada were being jailed at some of the highest rates in the industrialized world and one of the provisions of the YCJA is that “Extrajudicial measures (EJM) should be used in all cases where they would be adequate to hold the young person accountable” (Department of Justice, 2013). Participants report increased use of these sanctions however they have differing views on the use of diversion and extrajudicial measures. Some believe they are being used appropriately and that even more youth should be getting EJM while other participants feel there may be too much diversion under the YCJA. This is an interesting difference as even those who noted there should be more harsh sentences also suggested they did not advocate for youth being sentenced to custody.

This contradiction in beliefs could stem from a number of underlying factors. Canada has a history of jailing criminalized individuals in order to appear as though they are protecting the safety of the public. As much as workers in the Youth Justice System recognize custody is not effective and it can do more harm than good, this deep-seeded reliance on the prison system for perceived public safety may be interfering with their ability to recognize what isn't working. Fear may also be playing a role in this; western

society has been encouraged by tabloid style media to fear criminalized individuals and even the people working with these youth may be affected by the stigmatization associated with youth and adults are in conflict with the law.

Although staff members recognize that custody is not effective they don't currently have a better solution. It may be that "old habits die hard". When new strategies are ineffective the common response is to return to the familiar even though it doesn't work. Participants related many effective personal strategies but did not seem to recognize their importance in bringing about change. As will be discussed later, building relationships with youth and guiding them down a path to success that builds on their strengths is seen as very important in effecting change but is not widely recognized as a treatment strategy.

Currently in the youth criminal justice system there is more collaboration between agencies than there has been in the past, however it was still recommended by participants that more team work would be a benefit. Although there is not an abundance of research on collaboration in the youth system The Canadian Coalition for the Rights of the Child recommended that stakeholders collaborate. In their 2011 report on rights and effectiveness in the Youth Justice System they recommended:

"All levels of government, law enforcement agencies, courts and community service providers should collaborate to continue to divert children from the justice system and reduce the proportion of children charged and sentenced, through extra-judicial measures that draw on best practices and culturally appropriate interventions" (p. 2).

Collaboration within the social services field allows for continuity of service for clients and fostering partnerships with community agencies. When all service providers are working together the client gains the most benefit and receives a higher standard of care.

*Barriers/concerns/challenges in the system*

Participants mentioned there are a number of barriers and challenges to the youth system. These include: the court process takes too long, the variability in sentencing and subjectivity of the judges, the lack of collaboration/communication between community agencies, the YCJA is at times too lenient, the lack of adequate/quality programming possibly owing to a shortage of funding and resources, and the strict rules regarding confidentiality.

Professionals noted that youth courts take far too long and at times youth have forgotten what their charge was by the time they get to court. Brennan (2012) reported that the length of time it takes for a youth court case to complete has increased since 2000. In 2000 the median number of days from a youth's first appearance to completion was 70, this increased to approximately 120 days in 2008/2009 and when it was last calculated in 2011/2012 the median number of days was approximately 108 (Dauvergne, 2013). This indicates that there has been an increase in the length of time it takes for youth court cases to complete suggesting the participants in the current study are in fact experiencing this trend as well.

In addition to the length of time it takes to complete court proceedings, it was also suggested that there is too much subjectivity in decision-making by judges. Although some participants believe judges have too much discretion it must be remembered it is inherent in their exercise of their professional responsibilities for very good reasons. They are expected to use their judgement to make the best decision for the youth before them. Section 38(2)(e) of the YCJA states that the sentence imposed must be the "one that is most likely to rehabilitate the young person and reintegrate him or her into



society”. This indicates that it is the judges’ responsibility to determine which sentence will fulfill this requirement.

In order to decrease this subjectivity there would need to be mandatory minimum sentencing for all crimes which would likely lead to more youth being sentenced to custody thus undermining rehabilitative outcomes. It might be discouraging for some that different judges are more or less lenient. However, there does not seem to be a better solution to this problem as the system now functions. Perhaps more training around rehabilitation and treatment for youth, as well as which sentencing options seem to have the best outcomes would be useful for judges in order to ensure they are making the best decision they can for the young offender.

Participants also felt that there is a lack of support for youth in the courtroom. At times their parents are not present and there is no adult explaining to them what to expect and how to proceed. One participant suggested that there should be an advocate for youth in the courtroom as many of them are misinformed about the system and they may not have appropriate parental guidance. Further, there should be an increased effort to assist parents in getting to court as there are many parents who do not live near the courthouse and do not have the means to get there. Appearing in court is already a stressful experience and having an advocate to translate the process will benefit both the youth and their family.

When discussing the challenges with the system the leniency of the YCJA was questioned. None of the participants supported the use of custody however they felt that there were instances where diversion was not effective. The YCJA states that “extrajudicial measures are often the most appropriate and effective way to address youth

crime” and as such should be used whenever appropriate. It is important that rehabilitation for youth is not seen as being one of two options (custody or diversion). There are other measures such as probation, counselling conditions, and community service that are quite effective for some youth. Participants recognize that although putting *all* youth in jail does not work, neither does keeping them all out of the system entirely.

Perhaps the problem is the reliance on the word “justice” when dealing with youth crime. When society equates justice with imposing consequences a punitive and harsh system is created. Many members of society still believe in the conservative “law and order” agenda that has a static biologically essentialist view of human nature. This view suggests that those who behave in anti-social ways are driven by their inferior biological nature, rather than as a reaction to laws that lead to an unbalanced social and economic society. This view also lends to a dichotomous view of character; in as much as there are “good” people who are worthy and “bad” people who are not. Based on these beliefs stemming from ideas of morality as encoded in medieval religious sentiments there is a strong push for punishment as a curative for moral failings and most importantly, as an example for others. This also reinforces the idea that criminals are qualitatively different, rather than as a creation of socio-economic inequality that is exacerbated by neo-liberal ideology.

Youth in conflict with the law are in need of guidance and attention, not punishment and segregation. Participants consistently suggest that these youth are lacking positive relationships and adult role models. They are young people who need to learn about solutions such as anger management and substance education. The

overwhelming majority are not terrible and dangerous people who should be segregated from the general population, as it is the lack of healthy inclusive relationships that is one of the most likely causes of their antisocial behaviour. Again, the problem may be the system's reliance on using outdated sentencing options regardless of whether they work or not. This is not an effective way to manage youth who are in need of guidance and it is certainly not evidence to continue using a method of punishment, thinly veiled as "rehabilitation" that is neither effective or healthy.

There were differing views on collaboration in this study. Some participants felt that there was improved collaboration between agencies and they saw that as a success of the system. Other participants felt there was a lack of collaboration and communication between community agencies creating a barrier to accessing services for youth. It is important to note the catchment area for this study was quite large and participants came from a variety of communities and the amount of community collaboration and communication varied between locales. These findings suggest some communities need more focus on fostering community partnerships and collaboration as many participants agreed that this is the best way to help youth involved in the system.

One participant noted that their community was very well connected and they collaborated quite effectively, while several participants from a smaller community felt as though agencies were not working as well together. It is possible this issue is linked to the lack of funding that is provided to agencies and possibly differentially negatively effecting more rural areas. A number of participants discussed the feeling of fighting for dollars from the government and clients, believing you could lose your clients and future funding to another agency and this atmosphere would likely affect the willingness for

collaboration. For youth to receive the best possible care it is important that the people providing the service are not afraid to refer clients to, or share information with, other agencies better suited their client's needs.

A second contradiction was the belief by some participants that there are a reasonable array of services available for youth and the belief by others that there is a lack of resources. Again, this was related to the particular area the participant worked in and suggests that access to service may not be equitable for different areas across the province. Youth in small towns should have the same access to rehabilitation as youth in a larger metropolitan areas. It is important that the Ministry ensure all youth that are in conflict with the law have the same quality of programming and treatment available to them regardless of their location.

An additional barrier to serving youth who are involved with the Youth Justice System is confidentiality. There are strict rules regarding sharing of information.

According to the Youth Criminal Justice Act 125(6)(a)(b)(c):

“(6) The provincial director, a youth worker, the Attorney General, a peace officer or any other person engaged in the provision of services to young persons may disclose to any professional or other person engaged in the supervision or care of a young person — including a representative of any school board or school or any other educational or training institution — any information contained in a record kept under sections 114 to 116 if the disclosure is necessary

(a) to ensure compliance by the young person with an authorization under section 91 or an order of the youth justice court;

(b) to ensure the safety of staff, students or other persons; or

(c) to facilitate the rehabilitation of the young person.”

It appears difficulties surrounding confidentiality may be related to internal agency policies rather than the Youth Criminal Justice Act. Although participants sometimes feel they cannot collaborate owing to confidentiality limitations, the above excerpt from the Act would indicate that as long as the information is being used to

facilitate rehabilitation it would be permitted. Staff did discuss that at times confidentiality has been a barrier for collaborating with social services such as Children's Aid or Social Assistance as this is not directly related to rehabilitation. It would benefit youth if they were able to have professionals share information to aid their social wellness in a better organized fashion.

### *Suggestions for improvement*

Youth justice employees provided a number of suggestions for improvements they believe would positively influence the outcomes for youth in the system and would help to decrease recidivism rates. Staff members stated: early intervention and prevention requires more attention; the court system needs to run more efficiently; a holistic approach should be brought to youth matters; sentencing should be more individualized; community based sentences and diversion should be the norm; programming and treatment should focus on the underlying issue and the development of skills; and greater emphasis should be placed on relationships. Many of the suggestions for improvement are validated in detail by research in other areas of this report; however, they will be briefly reviewed here.

As mentioned above, the court process for youth in Canada is quite lengthy and has been increasing since 2000 (Brennan, 2012). The participants have recognized a trend in increasing court times and believe it would benefit youth to have more immediate consequences. Further, since the quality of the therapeutic relationship is found to be more predictive of positive outcomes for both youth and adults than the specific intervention (Karver et al., 2006) a focus on relationships would be beneficial. They also believe that placing more emphasis on alternatives to custody would have positive effects

on youth. The benefits of using community based alternatives are highlighted in programs such as Positive Youth Justice where youth work to build on their strengths in the community (Butts, Bazemore & Meroe, 2010).

Participants suggest that all agencies involved with a youth should work together in order to ensure all areas of a youth's life are being considered. Working holistically is noted by Cunningham et al. (2004) who suggest it is essential that a holistic approach be taken and service providers consider all aspects of a youth's life (the biological, the social and the psychological) in order to best meet their needs. Early intervention and prevention are recognized as playing an important role in keeping youth out of the system. Discussed later, Thompson (2006) notes the importance of early intervention and recognizes these programs could help to keep youth from entering into the justice system in the first place.

In addition to these suggestions the importance of fostering relationships in the community was addressed. All staff interviewed noted that criminal youth were lacking supportive relationships and correspondingly when asked what leads to success, making connections and building relationships was the most common response. The Youth Justice System must address this significant gap in meeting the emotional needs of criminalized young people.

The findings reviewed above provide empirical evidence to support the improvements suggested by staff. It would benefit youth in conflict with the law if the Ministry were to address these concerns and reach out to professionals in the field in order to evaluate the system. It is important that staff people are recognized as having important and valuable insight into the daily operations of the youth criminal justice

system. There is a great difference between theory and practice and in order for systems to run effectively there needs to be a continual feedback loop where information is collected from the people accessing and working in the system. If the Youth Justice System is to effect positive change, the ideas of both the youth and the professionals involved in the system need to be heard.

**Meta-Theme 2: The majority of professionals agree the concerns regarding custodial sentences far outweigh the potential benefits. Community based sentencing should be utilized whenever possible.**

*Potential Benefits to Custody*

Although the participants discussed the possible benefits of custody for some youth offenders, it seemed that there were no positive outcomes that were directly linked to removing youth from their homes and keeping them in a locked facility. The benefits were more directly related to giving youth the structure and guidance that many parents are also able to provide in their own homes if indeed the youth has parents skilled in parenting techniques. The benefits of custody seemed to be largely based on child welfare arguments and it is important to remember that the Youth Justice System should not be used as an alternative to the social welfare system and if the system were to operate this way many problems that were seen in the Juvenile Delinquents Act would likely resurface.

Section 39 (5) of the Youth Criminal Justice Act states “a youth justice court shall not use custody as a substitute for appropriate child protection, mental health or other social measures” (p. 39). Youth could benefit from structure and an opportunity to detox, however these are mental health and social issues and should not to be addressed by the

youth court. If a youth has a substance abuse problem it would be beneficial for them to detox in a safe, supervised, medical environment rather than a custody facility where the goal is safety and security, If a youth is lacking structure and guidance in the home it would be the responsibility of the Children's Aid Society to manage these concerns. It is important to remember that although the system may be able to provide for the youth what their family or medical community cannot, it is neither the role nor the responsibility of the Youth Justice System to do so. Further, short stays in custody may allow youth to stabilize however it is ineffective as no effort is made to improve their home environment. It is imperative that issues such as mental health, family structure, and parental support are dealt with by the appropriate professionals from the appropriate ministry, and that these ministries work together to plan practical interventions.

#### *Concerns with Custody*

The findings of the current qualitative study are similar to those of some of the quantitative studies in this field. Staff members with work experience in the Youth Justice System believe custodial sentences should be used as a last resort and only for those youth who are persistent, violent offenders. Previous research states that the negative outcomes of custody far exceed the positive impacts and believe it should not be used on a regular basis. Some of the concerns of custodial sentences are: the negative effects of grouping criminal youth, the negative treatment of the youth in these facilities, the negative environments youth are being subjected to, the lack of programming, and the difficulty for staff to develop meaningful relationships with youth.

As reported in the literature review, Gendreau, Goggin and Cullen (1999) found that spending time in prison did not reduce recidivism rates and there was actually



evidence to suggest those who spent more time in prison exhibited higher recidivism than those with shorter or community based sentences. Laudano (2013) and Mendel (2010) reported that spending time in prison does not decrease recidivism rates. The experience of being in custody is one that is traumatic for youth and is only exceeded by the experience of a death or divorce of their parents (Frydenberg, 1997 as cited in Doob & Cesaroni, 2004). Unless there are measurable benefits to placing youth in a custody facility there is no reason to support inflicting trauma on someone who is likely already experiencing a number of stressors in their daily living.

Grouping youth together in custody facilities was mentioned by both the staff and the youth participants in this study as a problematic practice with damaging consequences. Youth who are just entering the system may develop increased anti-sociality and young offenders are often provided with the opportunity to network and learn from each other. Similar to this study, Holman and Ziedenberg (2006) suggest grouping youth together can lead to increased criminal behaviour. Dishion, McCord and Poulin (1999) found grouping youth can lead to increases in problem behaviour, self-reported and police reported violent behaviour, and the probability of using substances in the future. Concerns such as this beg the question of why we continue to place youth in situations that have demonstrated to be inferior and have negative effects. If the actual goal of the system is to rehabilitate and not appease those in society who feel the need to see others punished or make an example of youth, then it would make sense to treat young offenders as individuals in a setting that is meaningful to them. Youth need to learn to deal with the specific triggers and stresses they are subjected to in their everyday lives and in their natural environments. This means that it would be most effective to

work with youth in the community and in their homes rather than grouping them together in a punitive and hostile environment.

Concerns regarding the treatment of youth in custody facilities were also mentioned by Cesaroni (2001) who noted institutional abuse is something youth in Canada are subjected to, and Dobb (1999, as cited in Cesaroni, 2001) discussed that staff members may be involved in incidents such as spreading rumors and bribing youth to assault others. It is unacceptable that youth who are in the care of the Ministry of Children and Youth Services are experiencing any kind of abuse or maltreatment while in custody facilities. This is an issue that needs to be addressed and continually monitored. Aside from the fact that the Ministry is charged with the responsibility of keeping these youth safe, the staff in these facilities also need to be modelling appropriate and caring behaviour as these are youth who are in custody because they have acted criminally. If they are treated negatively and unlawfully by the very people who are responsible for their care they will likely feel further disenfranchisement and will have no motivation toward positive change. Rather it is more probable that youth experiencing abusive behaviour in facilities will learn to rebel and retaliate against a society that demonstrates itself to be unjust. Who could blame them given such maltreatment?

Similar to this issue, it seems that there is a problem with the lack of programming offered to youth in custody facilities. A number of staff members mentioned that in their experience programming is not a high priority and even when it is there are often other issues that get in the way. This concern was noted earlier in a report by the Ontario Provincial Advocate for Children and Youth (2013) who stated that 59% of youth in the Roy McMurtry Youth Centre commented they were either not in a

program at all, they were on a waitlist for the program they were interested in, or the program they wanted was cancelled. If the goal of the justice system is to encourage the best outcomes for youth there needs to be exceptional programming for youth in custody facilities. It has been suggested that youth need to be taught skills to help them deal with the issues they face in their daily lives. If the opportunity to learn these skills is not being provided while in custody or detention there is no reason for them to be held there. A complete shift in thinking regarding the youth criminal justice system is necessary. It is not supposed to be designed as an avenue for punishment but rather as one that is rehabilitative and treatment oriented. This study supports a great deal of other research that demonstrates that at almost every turn, policies and practices of frontline service provision are failing.

Participants mentioned a number of reasons that make it difficult for staff members to develop meaningful relationships with youth in custody facilities. This concern has been recognized by both staff and youth participants as well as in current literature. There is evidence that the development of healthy relationships with caring adults can have enormous positive effects on youth who are in conflict with the law. The length of time that youth interact with staff members in custody facilities should be increased. Youth should not spend more time in custody but rather there should be programming in effect that allows youth to stay connected once they are released. In addition, programming and counselling could be offered by the same individuals both inside custody facilities and out in the community. It is important to build relationships with youth and nurture these relationships once they are created. If ties are cut when they

leave a facility they do not learn to trust others and to develop positive stable relationships.

### *Benefits of the Community*

In general, participants advocated for the use of community based sentences because there is more freedom afforded to both the youth and the staff working with them. The youth are involved in programming as part of their everyday life, community work is more collaborative, and there is better opportunity to create positive relationships with adults. The participants believed that community based sentences were more appropriate for the majority of youth and that they would lead to greater success.

A comparison was done between two studies completed by The Council on Crime and Justice (Ruhland, Whitham, Dailey, & Johnson, 2006). The first phase took place in 2000 and included young offenders who continued to offend as adults, the second phase in 2006 studied young offenders who did not go on to commit serious offences. It was found there was no significant difference in dispositional measurements or demographic factors. Those that did not go on to commit serious offences as adults were less likely to have received out-of-home sentences and were more likely to have been sentenced to treatment for their problems.

Further to this there are benefits to using community based alternatives such as Positive Youth Justice which allows youth to build on their strengths in the community (Butts, Bazemore & Meroe, 2010). These findings support the beliefs of the staff members in this study who recommended community based sentencing over custodial facilities.

**Meta-Theme 3: Criminal youth have a history of complex and pervasive contributing factors, however effective strategies foster positive change.**

*Factors Contributing to Criminality*

As outlined in the introduction of this report there are a number of factors that have been found to be statistically correlated with criminality. Recall that the big four risk factors include: a history of antisocial behaviour, antisocial personality patterns, antisocial attitudes and antisocial associates. The central eight, include the big four as well as: family/marital status, education/employment status, substance abuse issues and leisure/recreation choices (Andrews & Bonta, 2006). When participants were asked about what factors lead to criminality many of these issues were discussed. Professionals mentioned the family environment the youth comes from can be a contributing factor and they also noted many of these young people come from families where criminal activity is a normalized aspect of their environment. The youth may come from family situations where parents are not actively involved in their child's life and do not act as a support system. This not only supports the big four and the central eight but it also acts as a support for Social Learning Theory. This theory notes criminal behaviour is learned through interactions with others and highlights the importance of intimate relationships in this regard. This suggests that youth who have immediate family members in conflict with the law may be more likely to take part in crime because they are learning these criminal tendencies as well as developing a set of values that place crime in a positive light (Cullen & Agnew, 2006). A report by Thompson (2006) suggested that family is one of four contributing factors to criminal behaviour. They noted that youth who are involved in crime often come from families where there are a number of risk factors

present including harsh physical punishment and abuse, neglect, witnessing family violence and low income. Further concerns are the lack of parental support, missing positive male role models, lack of affection between family members, poor supervision of children leading to negative peer associations, antisocial behaviour of the parents (Thompson, 2006). These are all social ills related to policies that contribute to socio-economic and cultural inequality. A more equitable system would ameliorate many of these ills through progressive policies and especially early intervention at the community and family levels.

Participants also mentioned youth's peer group and internal faulty thinking (often related to mental health concerns) as factors that contribute to criminality. The big four as noted by Andrews and Bonta (2006) include antisocial attitudes and antisocial associates. Several participants mentioned that a youth's peer group seems to have an effect on their involvement in crime. Not only are criminal youth often connected to criminal families they are also connected with a negative peer group and even gang culture. Thompson (2006) noted that friends can be one of the most powerful risk factors for youth offending, however he also noted the influence of antisocial peers can be mitigated by positive family relationships. It is when youth have negative relationships with their parents that peers have the greatest influence.

It is possible spending time with negative people who value and support criminal behaviour is a significant contributing factor to developing antisocial thinking. However the participants recognized that not all negative and faulty thinking derives from their peers and their family's values. Mental health concerns can lead youth to struggle with making positive choices in their daily lives and an increasing number of young offenders

are struggling with internal mental health issues, for which there is often little or no treatment. Throughout Canada, mental health services for youth are underfunded to the extent that it has become a national scandal.

Further to the big four and central eight, participants noted that many youth in the justice system come from families with a lower socioeconomic status. This issue is an aspect that is discussed in both Strain Theory (Andrews & Bonta, 2006) and Anomie Theory (Merton, 1938). Proponents of these theories believe struggles with criminality are associated with the struggles of the socioeconomic class and an individual's experience with strain is related to their participation in delinquent behaviour (Andrews & Bonta, 2006). Participants did not make this link when discussing their experience with youth who live in poverty but they did note that the majority of youth they see in conflict with the law come from lower socio economic backgrounds. It was noted by participants that youth will resort to criminal activity to acquire money, supporting the contention that criminal behaviour is exacerbated by issues related to poverty. Thus it would seem bizarre that policies that could reduce poverty not be enacted given that a great majority of youth offenders grow up in such impoverished conditions.

Staff participants noted a lack of resources available to youth in the community and this can be a contributing factor for "at risk" youth if they are unable to receive help before they are involved in criminal behaviour. It is unclear whether resources for youth are simply not available in all areas or if there are limitations on who can access these resources. Currently, professionals feel as though the resources are not available, thus it is necessary to increase funding and for greater service provision and possibly to improve the knowledge regarding present resource options. Thompson (2006) reported improving

available services in high risk communities may be one of the most effective ways to overcome juvenile delinquency. It is very expensive to have youth in the justice system and particularly so with regards to custody. In 2011 the daily average rate for a youth to be in an open-custody facility in Ontario ranged from \$331 to \$3,012 and the daily cost of secure custody ranged from \$475 to \$1,642 (Auditor General, 2012). In order to save money and to ensure the best possible outcomes for youth at risk of criminal behaviour providing resources for youth and their families in the community is the best option. In addition, such resources would no doubt increase the health status and educational attainment of those now at risk, further reducing the utilization of expensive services throughout the lifetime.

Youth participants agreed their families and their community were factors that lead to crime. Thompson (2006) also noted that the community can act as a risk factor for criminal involvement. He suggested youth living in communities with extreme poverty, high crime rates, access to drugs, and high turnover of residents are more likely to offend than those who live in other areas. Youth participants mentioned substance use (one of the central eight) and the media as factors contributing to criminal involvement. Some staff participants agreed the media is an increasing concern for youth owing to the amount of violent, negative, and sexual material that is readily available. There is a lack of monitoring when youth are accessing media and there is often no adult there to process what they have seen and how it relates to reality and acceptable behaviour. Socially progressive policies geared toward poverty and social inequality would also contribute to reducing the stress of parents thus freeing them up to be more present in their children's lives.



*What Works in terms of Rehabilitation and Treatment for Youth with these Complex Needs*

As discussed earlier in this thesis there are practices that seem to be effective for youth. Research has pointed to the importance of evidence based programming, building positive relationships, following the Risk, Need and Responsivity Model, and programs that take a strengths based approach to treatment. Staff members discussed some of these factors, particularly the impact of positive relationships.

Participants frequently reported strong relationships as having a positive impact on clients in the social service industry, however there has not been as much of a focus on this in the Youth Justice System in Canada. A “relationship custody” approach that encourages staff to foster positive and professional relationships with youth in custody is said to have been adopted by youth custody facilities in Ontario. However, a report by the Provincial Advocate notes that this approach does not seem to be adopted or utilized by all staff. Youth comments suggested that few aspects of the “relationship custody” approach were implemented however, when they were applied by the staff the youth noticed the difference and felt it had a positive effect (Provincial Advocate, 2013). This provides evidence that the relationship is an important aspect of the rehabilitation and treatment process and there needs to be a greater focus on training staff to build positive relationships with youth. It is one thing for the Ministry to say they support this approach and another to ensure that this philosophy is making its way to the frontline staff and is being funded on a daily basis. At the moment it appears the ministry is paying little more than lip-service to empirical evidence in this regard. There is no evidence that the

government of Ontario is going to “put its money where its mouth is”. The problem deserves more than a public relations exercise.

Participants also spoke about the importance of providing programming and they felt youth need the skills to effectively deal with the issues faced in their daily lives. Research has shown that effective and evidence based programming is successful. The most effective programs are characterized by aspects such as caring, knowledgeable facilitators, and quality of implementation. Cunningham et al, (2004) found that promising programmes for youth included appropriately targeted treatments; attention to relapse prevention; high levels of therapeutic integrity; appropriate styles of service; and systemic assessment that emphasizes factors relevant to criminality (Andrews et al., 1992 As cited in Cunningham et al., 2004). Staff spoke about the importance of quality programming but they also mentioned that in their experience these programs are rarely taking place in custody facilities, further undermining the entire system.

One concern that surfaced after comparing the similarities and differences between the literature and participant responses in this study is that there are effective measures that seem to work but they are not being used. Investigation is required to determine whether there are enough resources in youth justice facilities and agencies or enough staff to implement these programs or are more pressing issues getting in the way? It may be that the Ministry of Children and Youth services recognizes the importance of programming, however the frontline workers may not be given the time nor the funding to put these public relations statements into practice. The essential question and the un-referred to “elephant in the room” is why? Perhaps this is related to the vast number of stakeholders who have a vested interest in keeping the system the way it is. There is a lot

of money to be made in the youth justice system, whether it be lawyers, youth corrections officers or police who stand benefit from the process remaining unchanged there would be a lot of money lost to individuals in this field and it appears that those in the government are not ready to rectify the industry of inequality and inequity that has been created. Whatever the cause, it must be resolved as in both theory and practice programming that addresses antisocial thinking and behaviour, as well as skill building, has positive effects on youth and their involvement in criminal behaviour.

Staff people also discussed the importance of counselling and one-to-one intervention. They recognize professionals can effectively address the underlying issues leading to crime that may not be addressed in more formal programming. In research, counselling techniques such as Multi-Systemic Therapy are positive for criminal youth as they focus on several areas of the youth's life concurrently (family, peers, school, and community) (Granello & Hanna, 2003). However, the success rate with youth involved in the justice system has been quite low owing to their antisocial tendencies. Granello and Hanna (2003) note one of the problems facing counsellors is that although it may be possible to facilitate therapeutic change while in a correctional facility there are many reinforcers to crime and aggression when the young offender returns to the community. This makes it difficult for youth to sustain changes made while in counselling. This explains one of the benefits to providing services to youth in the community rather than in custody. While participating in counselling parallel to their daily lives, youth can implement the strategies learned in counselling to their daily struggles while they still have the support of their counsellor.

For youth required to take part in group counselling as a diversionary consequence after a first offence there does seem to be some benefit reported (Choate & Manton, 2014). Not only were their recidivism rates lower than those incarcerated but these youth were also returning to the program for ongoing support after their mandated completion. The current findings provide some support for the use of counselling with youth in custody but they also point to the benefit of providing counselling to youth while they are in the community. Choate and Manton (2014) mention that progress made in counselling may be mitigated by exposure to negative environments once leaving custody and youth who took part in group counselling while remaining in the community had reduced recidivism rates. When youth are taking part in counselling while living at home the sessions can focus on dealing with the youth's daily struggles and as a result may have a more positive and long lasting impact.

Further, participants noted that in order to best serve youth in conflict with the law there needs to be a holistic approach to service delivery. It is important to understand all aspects of the youth's life, and to work with other service providers who are involved with the youth. Support for taking a holistic approach been reported in previous studies. When programming for young offenders is being delivered, Cunningham et al. (2004) suggest that it is essential that a holistic approach be taken and service providers consider all aspects of a youth's life (the biological, the social and the psychological) in order to best meet their needs.

Professionals discussed the importance of having youth friendly-spaces for service provision. They noted that youth need to feel comfortable in the service provider environment and know they are not going to be treated adults and that expectations will

be commensurate with their developmental capabilities. The United Nations Educational, Scientific and Cultural Organization agrees that when providing service for youth, whether it be counselling, education, or health care, the environment needs to be youth-friendly. They note youth-friendly spaces need convenient hours and drop-in clients should be welcomed as they tend to be impulsive and struggle with keeping schedules. Spaces should be comfortable and have adequate space and sufficient privacy. There should be short waiting times and educational materials need to be available (UNESCO, 2004).

It was noted in a study by Hyman, Manion, Davidson and Brandon (2007) that there are characteristics of the counsellor which can also be considered youth-friendly. Canadian youth were asked about the qualities that make a mental health service provider youth-friendly and although there were twelve reported qualities, the top three were “positive personality traits”, “active listening”, and “understanding”. Youth are at times reluctant to access services therefore when they do decide to reach out the environment must be safe, friendly, and comfortable and staff need to be sufficiently trained. Ensuring the above characteristics would increase the chances that youth will continue to access services and connect with the agency. Participants agreed the characteristics of staff are an important factor and youth workers needed to be well trained, dedicated, enthusiastic, persistent, and well informed.

**Meta-Theme 4: Factors that help or hinder success for criminalized youth are similar, however definitions of “success” are idiosyncratic.**

*What is Success?*

Participants noted that the definition of success is not consistent across the field and success needs to be measured on an individual basis. Success is a relative term and the majority of participants agreed that in some circumstances it can be seen in the smallest of changes. A search for the Ministry definition of success in the Youth Justice System in Ontario was conducted. No definition of success was to be found and a request was made to the Ministry of Children and Youth Services for a definition. The manager of the Effective Programming and Evaluation Unit confirmed that there is no consistent national definition of success. Ontario does define and report on recidivism rates and more recently has developed a framework for measuring the impacts of youth justice services. As part of this framework four outcomes are measured: functioning and positive social behaviours; skills and abilities; youth engagement with supports; and re-offending (D. Irvine, personal communication, November 20, 2014). One participant, an Executive Director of a youth justice agency noted she has never been provided with a definition of success. The best guess she had as to how success was being measured was based on one of the reporting factors which is the number of youth who complete their program with and without new criminal charges.

For professionals who work in the system success is not defined by recidivism rates. Although they recognize the best outcome for youth would be that they are no longer involved in any criminal activity they also view much smaller changes as success. If a youth makes it to school on time or uses respectful language this can be viewed as a success. It seems the individuals in this field are not looking for monumental changes in their clients. Instead they have been able to successfully effect change if their clients are

headed in the right direction and are making positive choices that lead to positive outcomes.

Staff did discuss recidivism as an indicator of success but it is not the only factor or even the most important one. The literature however, tends to use recidivism rates as the most common measure of success for youth and the programs they are involved in. If success is not measured in a way that corresponds with how youth demonstrate success there will never be an accurate depiction of what is working and what is not. Perhaps focus should be on the smaller successes such as the ones participants discussed. It is imperative when measuring success that whether or not the youth feels successful be considered a contributing factor. Measures could include satisfaction level with the skills they have developed and the education and insight they have gained through accessing resources. Again, a holistic approach is essential when creating measures for success.

#### *Factors Contributing to Success*

As mentioned in the results section there are three factors participants believe contribute to success for youth in conflict with the law. These factors include: internal strength and readiness for change; positive, supportive relationships with helping professionals and family; and access to programming and treatment. The benefits of these factors are supported by a report released by the Ministry of Community Safety and Correctional Services Ontario in 2010 titled “Crime Prevention in Ontario: A framework for action”. This report includes a list of protective factors that can mitigate the effect of risk factors and can help nurture the development of healthier individuals, families, and communities. The more protective factors (personal coping strategies, strong attachment to an adult, a positive school experience, etc.) that an individual has the less likely they

are to be involved in crime or become a victim of crime. These findings support participants' conclusions regarding the factors which foster success for youth in conflict with the law.

Similar to the participant's' results a report by the Council on Crime and Justice suggested delinquent youth who stopped serious offending in adulthood believed the attitude of the individual offender is a very important aspect in making positive change in their lives (Ruhland, Whitham, Dailey & Johnson, 2006). They didn't believe that the justice system itself was a major contributor to change but that other life circumstances such as having a child or getting a job were more important and served to change the goals, beliefs, and behaviours of criminal youth. This provided support for the belief that one of the factors contributing to success in youth was internal strength and a readiness for change. Perhaps one of the most effective ways to foster this strength and readiness is to develop caring and trusting relationships with an adult.

As reported in the literature review it is recognized in the social services field that forming relationships with clients is an important aspect of treatment. Recall that a meta-analysis conducted by Horvath and Symonds (1991) indicated there was an association between the therapeutic alliance and positive therapeutic outcomes for clients. The *quality* of the therapeutic relationship is more predictive of positive outcomes for both youth and adults than the specific intervention (Karver et al., 2006). Further, the therapeutic alliance has a moderate to large relationship with outcomes and the use of empathy and warmth by the therapist is predictive of positive treatment outcomes.

A study by the Council on Crime and Justice (2006) asked youth what helped them to make changes in their lives. Although the youth had very little to say about how



their experience in the Youth Justice System helped them, one youth mentioned forming a relationship with one of the jail guards and talking with him encouraged him to make changes in his life. Another youth discussed the important roles of his grandfather and uncle who continued to support him even after the rest of his family had written him off as a “bad guy”. These were two adults who he felt that he could talk to and rely on (Ruhland, Whitham, Dailey & Johnson, 2006).

Similar to this, youth in the current study reported relationships with staff people they came across in the system were pivotal in making changes. These findings suggest the people who are tasked with the responsibility of caring for these youth may be far more significant than the programming and formal treatment the young offenders are asked to take part in. Some of the participants mentioned it is very important to make sure the people being hired to work in the Youth Justice System are caring and compassionate individuals who *want* to work with youth and assist them in making positive change in their lives.

Although the participants noted programming and treatment as a contributing factor to success, a research project that looked at youth who did not reoffend as adults found that youth did not feel the same. A study by The Council on Crime and Justice (2006) conducted in the United States included a small qualitative measure where three youth were asked about what helped them make positive changes in their lives. All three of the participants discussed that they felt disenfranchised from the Youth Justice System and from their treatment process. They believed their success was related to factors such as personal life changing events, extended family support, parenthood, and changes in their peer associations (Ruhland, Whitham, Dailey & Johnson, 2006). This finding

suggests from the client's perspective the Youth Justice System played a minimal role in their process of change. The same study looked at a group of male youth who did not continue to commit serious crime as adults. They found those youth who made positive changes in their lives tended to have: minimal involvement in drug related crimes and minimal drug use, lack of weapons use during criminal acts, and low school expulsion rates (Ruhland, Whitham, Dailey & Johnson, 2006). They suggested these factors act to protect youth against future criminal involvement and as such can be seen as contributors to success. It seemed that the participants in the current study focused more on the positive factors that are present in a youth's life rather than the circumstances surrounding their criminal behaviour. It is also possible that this difference is related to the methodology of the two studies. The Council on Crime and Justice looked at quantitative data that was available in youth files and made comparisons to another group of files (youth that did continue with serious crime) whereas the current study was qualitative in nature and was interested in the lived experience of those who work in the system. It is not surprising that participants in the current study chose to focus on more positive factors leading to success (as their goal is to see youth become successful) rather than negative factors related to the youth's past behaviour.

### *Barriers to Success*

Barriers to success for youth seem to be closely related to the factors that led to criminal involvement in the first place. Barriers that participants have noticed include the youth's family situational and life stresses getting in the way of rehabilitation. A study by the Council on Crime and Justice looked at youth who did not continue to take part in serious criminal behaviour as adults and noted that family life does play an important role

(Ruhland, Whitham, Dailey & Johnson, 2006). Youth who did not go on to commit serious crime as adults had fathers and mothers who were involved in criminal activity at lower rates than those who did continue (based on a previous study conducted by the Council on Crime and Justice). These youth also had parents who had chemical dependencies at lower rates than those who continued to take part in crime and more youth who did not go on to commit serious crime had fathers who were present in their lives (Ruhland, Whitham, Dailey & Johnson, 2006). These findings provide support for reports made by participants in the current study. Often, youth who have the above mentioned family stress and chaos in their lives have limited success that may be related to these external factors and role models interfering with their ability to engage in treatment. Further, as reported by the Council on Crime and Justice parental history of criminal involvement may play an important role in terms of risk factors and barriers to success for youth who are in conflict with the law. This likely relates back to the importance of Social Learning Theory and the criminal values and beliefs that are part of the family norms in homes where the parents are involved in crime and/or struggling with their own addiction, mental health or relationship issues.

Findings such as this, again point to the importance of taking a holistic approach to dealing with youth crime. If the Youth Justice System only targets the individual youth's behaviour in its treatment plan it is unlikely that significant change will take place. If youth are to turn their lives around there needs to be intervention at the family level where all members are involved in treatment and the core values, beliefs, and behaviours of the family are subject to interventional strategies. Youth who are placed in a custodial facility are likely to be returning home after their sentence is complete and

unless the home environment has improved it will not be long before any benefit of treatment is reversed.

The staff also mentioned the way treatment is delivered may act as a barrier. Group programming can lead to negative peer role modelling and a reduced focus on each youth's particular issues. Further to this, youth may find programming boring and as such it can be difficult to engage them in the treatment process. The barriers related to program delivery and the extent to which the youth are engaged in programming may be linked to the degree the program is "youth-friendly", as addressed above. Being youth-friendly is more than having a physical environment that is inviting and open; it is also important staff members are approachable and interesting and the programming is delivered in such a way that the youth's interest is piqued and their attention is held.

In a report by the Council on Crime and Justice, youth who were interviewed suggested they did not enjoy the programming and they would have preferred to be doing other things with their time (Ruhland, Whitham, Dailey & Johnson, 2006). It is important that youth feel they are benefiting from the programming they are involved in. If they do not feel as though they are getting anything from it, even if they are physically present, it is unlikely the programming will have a significant impact on their decision-making in the future. The youth in their study reported the education and programming that was provided to them was not sufficient and insulted their intelligence (Ruhland, Whitham, Dailey & Johnson, 2006).

The need for early intervention is discussed by participants in a number of ways and the late age at which most youth access programming is seen as a barrier to success. If we are to provide the best opportunity for youth to make positive change and abstain

from criminal activity we need to ensure that they are provided with early intervention opportunities. Similar to participants in this study, Thompson (2006) discussed the importance of early intervention for youth who come from homes where there is harsh physical punishment or abuse, neglect, and/or family violence. Early intervention programs can help families recognize the problems in the home and teach them effective skills to change their troubling behaviour. Programs such as this could deter youth from entering into the justice system in the first place. Prevention programs are more appropriate and cost effective, however the current system continues to work on an ineffective and costly reactionary model rather than a cost-efficient preventative one. The question of why remains unanswered when there are many viable alternatives.

Other barriers to youth success may be related to lack of continuity in care and lack of accessibility of resources. As discussed above there is limited research regarding the availability of resources, however it is recognized by Thompson (2006) that having improved services for youth in high-risk areas might be one of the most effective ways to curb youth crime. It is important that affordable and accessible resources are available to youth and their families. In addition it is essential youth are able to continue accessing resources after they have completed part of their sentence. For example, if a youth has been seeing a counsellor or taking part in a program while in custody it is imperative that they are provided with the opportunity to continue this work after they are released. This is particularly important owing to the short stays that youth have in custody facilities and at times they are not offered the opportunity to start programming because they will not be in the facility long enough to finish it. If there is no therapeutic benefit to a young offender being removed from their home and held in a custody facility there is no reason

they should be subjected to such a traumatic experience with worse results for a great deal more money. It really does appear to be a recipe for abject failure.

Similar to the barriers to success the participants mentioned the risk factors (behavioural problems, poor mental health, and parental/sibling criminality etc.) associated with increased likelihood of criminal activity as reported by the Ministry of Community Safety and Correctional Services Ontario (2010). These factors address some of the concerns that staff had regarding the life circumstances youth are dealing with outside of the agency and the lack of resources available. If they are living in an area that does not have programming and recreational facilities available to them it is difficult to reach out for support. These youth tend to engage in more negative activities and become involved in more serious criminal behaviour.

**Meta-Theme 5: Those individuals who work in the system acknowledge that there are many challenges to their job, but find motivation in the positive aspects of their work.**

#### *Daily Challenges of the Job*

Participants in this study discussed the daily challenges they face in their work with youth involved in the justice system. Challenges that staff experience include: lack of motivation in youth, limited support from the youth's family, daily challenges interfering with treatment, confidentiality, ministry guidelines creating limitations to their jobs, time constraints, conflict between staff members, and being asked to treat the youth harshly.

Although there is no previous research examining the daily challenges faced by staff, factors such as youth engagement, family life, and external issues are areas

identified above as leading to criminal activity and creating barriers to success. Considering many of these youth have such issues it is not surprising they become challenges for staff on a daily basis. It is important these struggles are recognized by the administration and staff are provided with the necessary tools and training to effectively deal with them. Further, youth and their families need to be aware of resources available to them.

Similar to the issue of co-worker conflict and lack of support from the administration, a qualitative study by Matlock (2013) reported one of the aspects that kept mental health workers motivated to continue working with criminal youth was support in the workplace. It seems reasonable that participants in the current study who did not feel supported by coworkers and administration would report this as a challenge. It is important that workers feel supported by those around them and that they can ask for help when they need it.

Further, ministry guidelines were reported to create limitations for staff and lead to micromanagement. A study by Lambert, Hogan and Barton (2002) found that in order to increase staff satisfaction there needs to be greater worker autonomy and participation in decision making. Although this study refers to the administration within a correctional facility it would seem reasonable that individuals who work in a community agency that is supervised by ministry representatives would benefit from the same insights.

As mentioned above, one of the challenges faced by participants was a lack of support/collaboration between co-workers and between staff and administration. Although there has not been extensive research in job satisfaction and turnover in the youth justice field one study found there was one variable that did predict staff turnover -

dissatisfaction with co-workers (Minor, Wells, Angel & Matz, 2011). These findings indicate that conflict with others in the workplace is an important challenge faced by workers and unresolved it can lead to the loss of valuable staff. Further to this, a study by Mitchell, Mackenzie, Styve, and Gover (2000) found greater staff turnover in the juvenile justice field was related to staff having negative views regarding the care that the youth were receiving in the facility. These studies also suggest that challenges with co-workers and negative treatment of youth are experienced by others workers in the field.

Although a number of these specific challenges are not reported in previous research there is evidence to suggest that job stress can lead to job dissatisfaction and burnout in the corrections field (Griffin, Hogan, Lambert, Tucker-Gail and Baker, 2010). A study by Belvins, Cullen, Frank, Sundt and Holmes (2006) asked youth workers about their work stress and they did report feeling stress at work. Variables significantly related to work stress were perceived danger and role conflict. One concern with these studies is they are quantitative in nature and do not ask the staff members to describe in their own words what experiences cause them stress at work. Owing to this limitation it is difficult to find past research that demonstrates the similarities and differences in challenges that staff in the current study are faced with compared to other youth justice workers. It seems reasonable to assume that job challenges such as issues with confidentiality, ministry guidelines creating limitations to their jobs, and not having enough time to do the most effective work with the youth could be perceived as stressful by staff members. It is important that administrators recognize what challenges and stressors are faced by frontline staff and address the issues in order to improve job satisfaction and decrease burnout.



### *The Positive Aspects of Working in the Youth Justice System*

Staff members made it clear that they choose to work in youth justice because they enjoy their work and want to help others. Staff noted their job was enjoyable, they liked working with kids, and the people who work in this field do it for their clients and not for the money. Staff also mentioned that they know they have done good work with a client when the youth reaches out to them after they have left the facility whether it be to tell them about how they are doing or just to say “hi”.

Similar to the experiences of the youth workers in the present study, participants in a study by Matlock (2013) reported there are positive aspects of their job that keep them motivated. They felt their interactions with youth had meaning and they had the opportunity to positively influence the lives of these young people. These participants reported they enjoyed being able to teach the youth new skills and develop insight and they also enjoyed watching them reintegrate back into the community. Many of the participants in the current study mentioned they enjoyed hearing from youth after they had left their agency. They appreciated phone calls and interacting with youth when they saw them out in the community. Similarly, Matlock (2013) reported that staff felt good about having contact with youth after they left and this helped to increase motivation to do their best work with youth.

### **Limitations and Implications**

This study took a qualitative approach to the question of effectiveness in the Youth Justice System in Canada. The results provide rich data on the benefits as well as the concerns of the youth system as it currently functions. Although there are limitations to this study there are many benefits. One of the limitations is the inability of the

researcher to have access to all staff people who work in the system. Because participation in this study was voluntary it might be that professionals who have a very positive outlook on their job and care about the youth they work with are the ones who chose to use some of their free time to participate. In general the staff people had positive things to say about the youth they work with and seemed to genuinely care about helping them to make positive changes in their lives. There are likely other staff in the system who do not have the same outlook and may not have participated owing to a lack of interest or not wanting to make the time investment. Further to this, the fact that the principle investigator worked in the system may be seen as a limitation to the study. Workers may not have felt they could be perfectly candid as there is the possibility the investigator knows their co-workers or managers. Although confidentiality was ensured and the investigators knowledge of the work that these people do can also be a benefit, it may have limited some of the information received from participants. However, the status of the researcher as an insider may well have had a positive effect owing to the likelihood of increased belief in the researcher to understand and have empathy for their struggles.

The information gathered from this study should be considered when developing policy and implementing programming for youth who have come into conflict with the law. The information contains firsthand knowledge of the effectiveness of the system and can serve as a platform for change for Canadian youth. It is important that youth receive the most effective treatment and support when they are in the care of the Youth Justice System.

## **Conclusions**

With all of the information provided in this study and the extensive information made available from previous studies regarding the issues and concerns with the Youth Justice System as it functions now, it begs the question: why continue to operate it the same way? Although this seems like a simple question there are a number of issues at play when considering why there has not been significant changes made to the Youth Justice System in Ontario. One issue is that it appears that although the individuals who work in the field recognize that the current system does not have a consistent positive impact on youth they struggle with providing examples of how to improve the system or feel as though they have little power to make changes within their organization. It is important that the front-line staff working with these youth are empowered and provided with the opportunity to interact youth in the most effective way. When staff do have ideas regarding improvements to their organization the managers should be open to hearing them and committed to investing in their staff by allowing them to implement change.

Further, although it is clear that custody is not effective, if it is deemed appropriate for a youth to be placed in custody the staff working with them should be afforded the opportunity to enhance the programming and environment to better ensure that youth are gaining some benefit from an overwhelmingly negative experience. It is clear that there needs to be increased focus on developing relationships with youth and working on the underlying issues that lead to involvement in crime. Both staff and youth participants highlighted the power of positive relationships and the need for youth to have an understanding of the internal and external factors that have contributed to their decision making. Although there may be a place for evidence-based programming that is

guided by a facilitator manual it is imperative that highly trained staff are hired to work with young offenders based on their ability to motivate youth to make positive changes in their lives and guide them in how to implement the strategies learned in this environment into their daily lives. As noted in the introduction of this report there is evidence to suggest that the quality of the relationship through which information is delivered to youth has a greater impact on positive outcomes than the specific intervention that is being utilized (Karver et al., 2006).

Further to the importance of empowering staff within youth justice facilities, if there is to be change within the Youth Justice System those who work in the Ministry need to be supported to make policy and funding adjustments. It is probable that there are individuals working within the Ministry of Children and Youth Services who recognize that there needs to be significant change in order to better serve youth who are involved in the system. However, these individuals are possibly struggling with how to go about making changes in a fiscally responsible and publicly acceptable way. In order to change the system to be more effective a very extensive and costly overhaul would be necessary. As mentioned throughout this report, the way that youth offenders are viewed by the public and treated within the justice system has a strong sociological and political underpinning. In order for significant change to take place there would need to be support from the political leaders as well as educators who have recognized the concerns with the current practices. Political support is difficult to attain owing to the powerful foundation that has been laid out for the public regarding crime. Recall that the conservative's "law and order" agenda is guided by their view of human nature whereby people are either "good" or "evil" and that people who act against lawfulness are driven by

their inferior biological nature to do so, rather than as a reaction to laws that expressly create social and economic hardship as a structure in modern industrial capitalist states. It is time for politicians in power to take control of a system that is continuing to fail youth who are in significant need for treatment, even if that means dealing with backlash from the general population.

In addition to the concerns listed above there are still many workers in the field who have a philosophy that is better suited to the justice model. Although change can be directed from the top down, effective change will not take place unless policy is guided by research rather than ideology and political expediency and without the buy-in of the front-line workers (which is more likely if change is evidence-based) implementing change can be quite difficult. In order for change to be successful the staff members working with youth need to be educated on the recent research that demonstrates the concerns with the current methods of rehabilitating youth and the understanding that these strategies are making little to no impact on youths future behaviour. Even with many workers having a justice oriented approach it is likely safe to assume that they entered this field to help young people. Perhaps if they are educated and understand that current practices are not effective, they may be more likely to accept and adhere to the proposed changes.

Potential staff resistance, costly changes, and public uncertainty are not adequate reasons to continue funding a broken system. In order to best serve youth there needs to be a shift in the allocation of resources. Significant funding is required in early intervention and prevention where youth can resolve issues that are known to contribute to criminal involvement. Anti-social sentiments need to be addressed before this thinking

becomes part of their automatic thought processes and they become involved in a criminal subculture that is difficult to circumvent. Many youth are identified as being “at-risk” far before they enter into the justice system but currently there is not adequate resources in place for these youth. In Ontario in 2010/11 prevention services received only \$2.9 million (1%) of the funding for youth service activities. Whereas in contrast Custody and Detention received \$191.2 million (66%) in the same year (Auditor General, 2012). The cost savings that would be associated with providing service to youth who are at risk to offend would likely be significant, however as mentioned earlier, there are many stakeholders who stand to benefit from the system remaining unchanged.

Moreover, the average youth in custody in Ontario (2010/11 fiscal year) cost anywhere from \$331-\$3,012 *per day* to the system and a youth receiving a community based sentence cost much less. A report by the Auditor General (2012) indicated that the average *total cost* for a youth who attended a community program ranged from \$1,264 - \$5,208 depending on the service type. In addition to the daily costs of holding a youth in custody there are concerns with overstaffing due to the recent decrease in the number of youth being sentenced to custody. The number of youth being sentenced to custody has decreased in the past 5 years yet in 2010/11 \$3.9 million was spent in overtime for staff and another \$11.7 million was spent to supplement youth services officers with contract staff (Auditor General, 2012). These numbers suggest that dollars are being spent ineffectively staffing facilities that are not heavily occupied by youth. Imagine the number of at-risk youth that could be supported if funding was shifted out of the custodial system and into community agencies who service both at-risk youth and young offenders in the community. Further to the cost savings, youth in Ontario who receive

community-based sentences are reported to have a 35% recidivism rate in contrast those sentenced to custody have a 59% recidivism rate suggesting that community-based sentences are also the most appropriate treatment option (Auditor General, 2012).

Over and above the cost of placing youth in custody, it is known that once a youth becomes involved in the system once they are more likely to continue their and require additional funding and resources involvement (Doob et al., 2015). Once these offenders enter the adult system they cost \$171 - \$357 *per day* if they are in custody (Dauvergne, 2012). In contrast, social services such as counselling and early intervention cost much less and tend to have longer lasting effects. Further, in the 2010/11 fiscal year expenditures on adult corrections in Canada (excluding Yukon and Nunavut) was \$4.1 billion with custodial services accounting for 72% of all corrections expenditures (Dauvergne, 2012). A shift in funding to early intervention and prevention would not only reduce costs in the Youth Justice System but would have long lasting savings that reach the adult correctional system.

Although there is a push for diversion in the Youth Criminal Justice Act it is not enough to just divert youth out of the system, something that was discussed by participants in this study. Simply keeping youth out of the system for the time being does not mitigate the issues that have lead them to crime in the first place and likely only prolongs the amount of time before they do become a cost to the system. Although there are some youth who will stop offending by simply developing through the impulsive teenager phase, there are many who would genuinely benefit from programming and resources that can get at the underlying issues contributing to their criminal behaviour. Unfortunately, at present the most effective way for youth to gain access to

services is for them to enter into the justice system. This is a concern not only because of the negative effects that involvement with the Youth Justice System can have on youth but also because of the endless dollars that are spent on unnecessary youth justice procedures (ex. Court remands, detention stays, assessments and reports etc.). It would be far more effective to provide resources to the youth and the family early on and directly where they are needed in order to resolve issues leading to criminal behaviour before antisocial sentiments become a natural filter through which they process information and deal with conflict. A study by Cohen and Piquero (2009) estimates that the estimated cost of “saving” a 14 year old youth from a life of criminal activity ranges from \$2.6 to \$5.3 million. Although this study was conducted in the United States it has been clearly demonstrated that Canada and the US are similar in their treatment of youth crime and it does provide some insight into the benefit of shifting funding to early intervention and prevention.

Although there may be a number of barriers to implementing significant change in the Youth Justice System there are far more benefits for youth, taxpayers, and the community in general associated with change. There is extensive research outlining the concerns with the use of custody and the benefits of community-based sentences and a focus on relationships. Based on this literature, the above conclusions and the overall results from the present study a number of recommendations has been provided below.

### **Recommendations**

1. Base youth justice policy and practice on peer reviewed research rather than on ideology and political expediency.



2. Reallocate funding from custody and detention programs to community-based programs and services that are more cost effective and demonstrate more positive outcomes for youth.
3. Increase funding for early intervention and prevention services in order to circumvent future criminal involvement rather than divert youth *after* they commit a crime.
4. Increase community outreach services in high-needs communities to facilitate community involvement, awareness of services, and trust building with service providers.
5. Continue to decrease the number of youth being sentenced to custody and decrease the use of pre-trial detention as this is a costly practice that has negative effects on youth.
6. Educate front-line workers on the benefits of developing and role-modelling positive and healthy relationships with youth.
7. Allow youth justice clients to access counselling in addition to programs (i.e. Anger Management, Substance Education etc.) to address the underlying internal and external factors that have contributed to their involvement in crime.

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