

## Caseload Factors

This article<sup>(1)</sup> profiles young persons appearing in youth courts and the types of charges they face. It also describes how the courts deal with them. To gain a better understanding of the nature of the young offender<sup>(2)</sup> returning to youth court, trends in recidivism among youths are examined. Finally, the immediate influence of youths being transferred to ordinary (adult) court and the possible impact this may have on federal correctional services are discussed.

The data were taken from the Youth Court Survey (YCS) conducted by the Youth Justice Program of the Canadian Centre for Justice Statistics (CCJS). The survey is a census of the Criminal Code and other federal statute charges heard in the youth courts of participating provinces and territories.

Unfortunately, Ontario and the Northwest Territories did not participate in the survey until just recently. Consequently, Ontario is excluded from this study. The Northwest Territories is included in the profile of the current year (1989-90) but excluded from historical comparisons.

In addition, some participating jurisdictions may be under-reporting. The data presented here should therefore not be considered definitive.

## Caseload Factors

The number of youths appearing in youth courts each year is influenced by several factors: the charging practices of police, the precourt screening policy of the province or territory, the availability of resources for the criminal justice sector, the backlog of cases before the courts, and the volume of cases proceeding or not proceeding to trial.

Precourt screening practices are particularly influential in determining the numbers and types of cases heard in each province and territory. However, the criteria to determine which cases go to court and which do not are not uniform across Canada.

## Accused by Age

In 1989-90, approximately 37,000 young persons<sup>(3)</sup> appeared in youth courts. Eighty-three percent of these young persons were male. Most (57%) were 16 years of age or older; another 32% were 14 or 15, and 11% were 12 or 13 years of age. These patterns have been consistent since 1986-87.

From 1986-87 to 1989-90, the number of young persons appearing in youth courts rose by 4%. It is interesting to note that the largest increase occurred among the youngest age group, those aged 12 to 14 while the increase for those aged 15 to 17 was less than 1%.

## Accused by Type of Offence

Property offences were the most serious charge facing most young persons (62%) appearing in youth

courts in 1989-90. For about 18%, a violent offence was the most serious charge. Young persons charged with other Criminal Code offences accounted for about 10% of the total, charges under the *Young Offenders Act* (YOA) for 6%, and drug-related charges for 4%.<sup>(4)</sup>

As a result of a 1986 amendment to the YOA, which made failure to comply with a community disposition a chargeable offence, the proportion of youths facing a YOA offence as their most serious charge has risen substantially (466% since 1986-87).

Increases were also registered for violent-offence charges (19%) and other Criminal Code charges (4%) since 1986-87.

In contrast, the proportion of youths facing a drug-related charge as their most serious offence dropped 30%, while property offences dropped 10%.

### Youth Court Decisions

In 1989-90, approximately four of every five young persons appearing in youth courts were found guilty of at least one charge.<sup>(5)</sup> About 16% had proceedings stayed or withdrawn, and 4% were found not guilty or had the charges dismissed. Less than 1% were transferred to adult court or incurred other decisions.

From 1986-87 to 1989-90, the proportion of youths who had proceedings stayed or withdrawn rose by 22%. The proportion of youths found not guilty or dismissed increased by 5%. In contrast, the proportion of youths found guilty decreased by 4%.

### Young Persons Found Guilty

In 1989-90, young persons whose most serious charge was a drug-related offence or an "other" federal statute offence were more likely to be found guilty than those who had some other type of offence as their most serious charge. For example, the conviction rate for young persons charged with drug-related offences was 86%. This compares with 65% for those charged with a YOA offence.

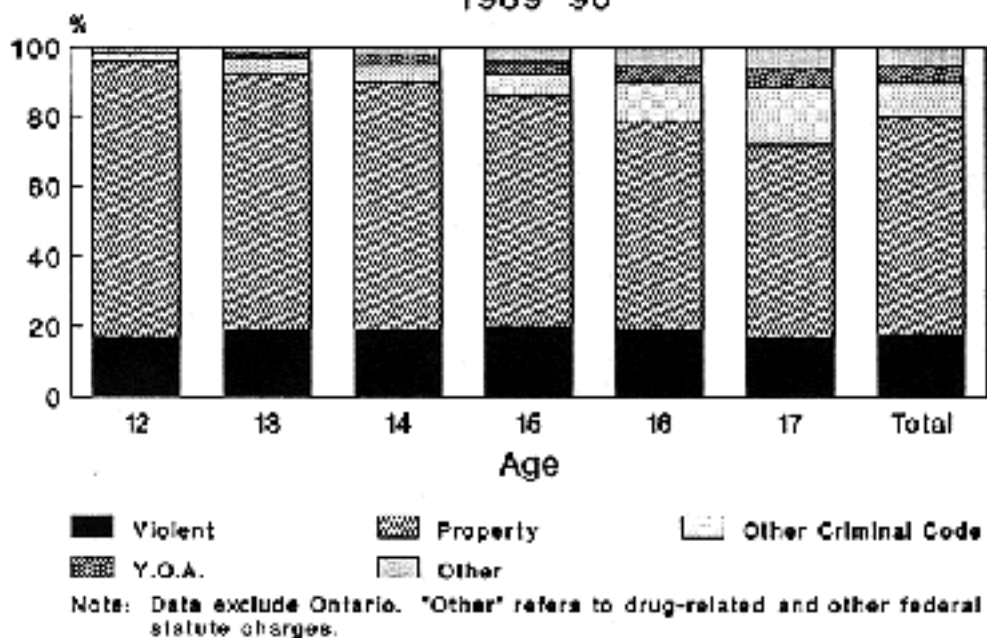
Young persons whose most serious charge was a YOA offence were more likely to have their charges stayed or withdrawn than those whose most serious charge was some other type of offence (32% as compared to 11%- 16%). This pattern has generally been consistent over the past four years.

As shown in Figure 1, the proportion of young persons found guilty of a violent offence as their most serious charge was similar across the different age groups from age 12 to 17. More specifically, among all young persons charged with an offence, 12-year-olds were just as likely as 17-year-olds to have a violent offence as their most serious charge. This implies that some very young offenders are just as violent as young offenders who are almost adults. It should be noted, though, that we are referring to small numbers of 12-year-old offenders.

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Figure 1

Figure 1  
Young Persons Found Guilty In Youth  
Courts By Most Serious Charge and Age  
1989-90



The proportion of young offenders found guilty of property offences decreased as age increased. For example, 79% of 12-year-old offenders were found guilty of a property offence. With 17-year-olds, this proportion dropped to 55%.

"Older" young offenders (those 17 years of age) were more likely to be found guilty of other Criminal Code offences. This included impaired operation of a vehicle, failure to appear in court and disorderly conduct.

Cases with Guilty Findings Person counts or case counts may be used to examine sentencing patterns of youth courts. The case is selected here as the preferred unit of analysis since a person may appear in court in more than one case during a year (1.6 cases per person in 1989-90). Person counts would therefore be underestimations of incidents of guilty findings.

For this analysis, a "case" refers to all charges laid against the same person that were disposed of by the court on the same day. Again, this analysis excludes Ontario and the Northwest Territories.

In 1989-90, 52,432 cases were heard in youth courts. Seventy-one percent had a guilty finding.

From 1986-87 to 1989-90, the total number of cases heard in youth courts rose by 9%. At the same time, the number of decisions with guilty findings increased, but only by 4%, from 35,872 to 37,430 cases. In total, the proportion of all cases resulting in a guilty finding decreased from 75% to 71%.

For males, the decrease in the proportion of guilty findings was comparable to the overall trend (from 75% to 71%). For females, the proportion of guilty findings decreased from 71% to 67%. Females tended

to be somewhat less likely than males to be found guilty of their charge.

### Types of Dispositions in Youth Court<sup>(6)</sup>

In 1989-90, approximately half of all most serious dispositions ordered in youth courts were terms of probation. Another quarter (23%) involved terms of custody, either secure or open; 14% were fines and 8% ordered the performance of community services. Four percent were absolute discharges, and 3% were other dispositions.

A comparison of all most serious dispositions ordered in 1989-90 shows that males were more likely to receive harsher penalties than females.

For example, males were more than twice as likely as females to receive terms of secure custody (12% versus 5%). Males also received a higher proportion of open custody orders (12% for males and 9% for females) and fines (14% versus 13%).

Conversely, females had a higher proportion of dispositions involving probation (52% for females and 48% for males), community service (11% versus 8%), absolute discharges (8% versus 4%) and other dispositions (3% versus 2%).

The different types of offences committed by males and females may account for differences in sentencing.

Overall, the patterns of dispositions varied little from 1986-87 to 1989-90. However, the lengths of custody sentences decreased noticeably.

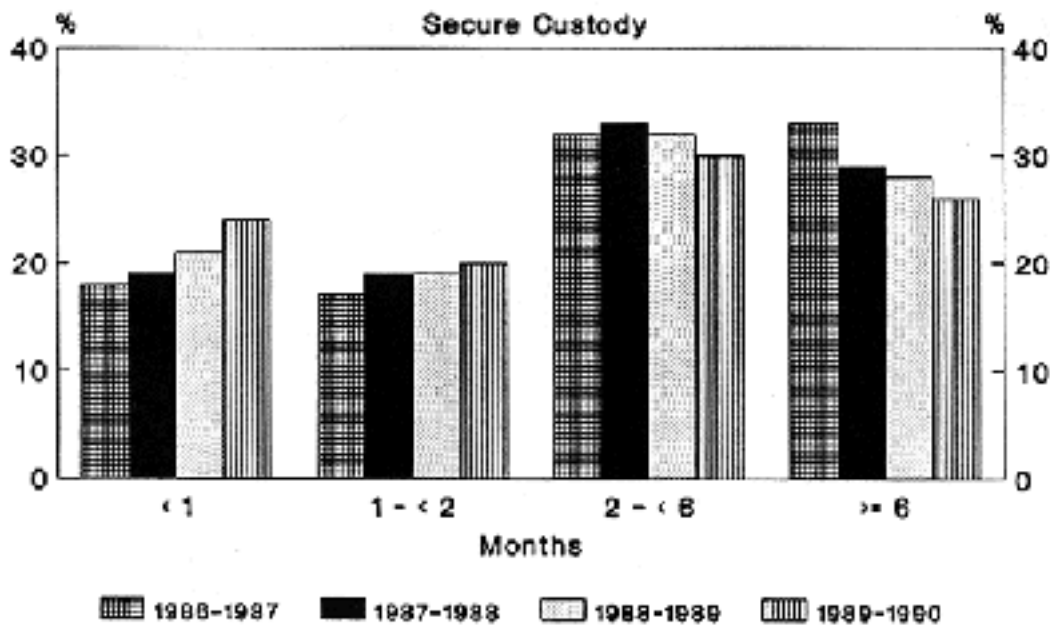
### Changing Sentence Lengths Secure Custody

As Figure 2a illustrates, from 1986-87 to 1989-90, youth courts ordered more short-term secure custody sentences and fewer long-term sentences.

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### Figure 2a

**Figure 2a**  
**Cases With Guilty Findings**  
**By Sentence Length, 1986-87 to 1989-90**



For example, the proportion of secure custody orders of less than one month increased from 18% in 1986-87 to almost 25% of total secure custody orders in 1989-90.

During that same time, the proportion of dispositions of six months or more decreased from one third in 1986-87 to about one quarter in 1989-90.

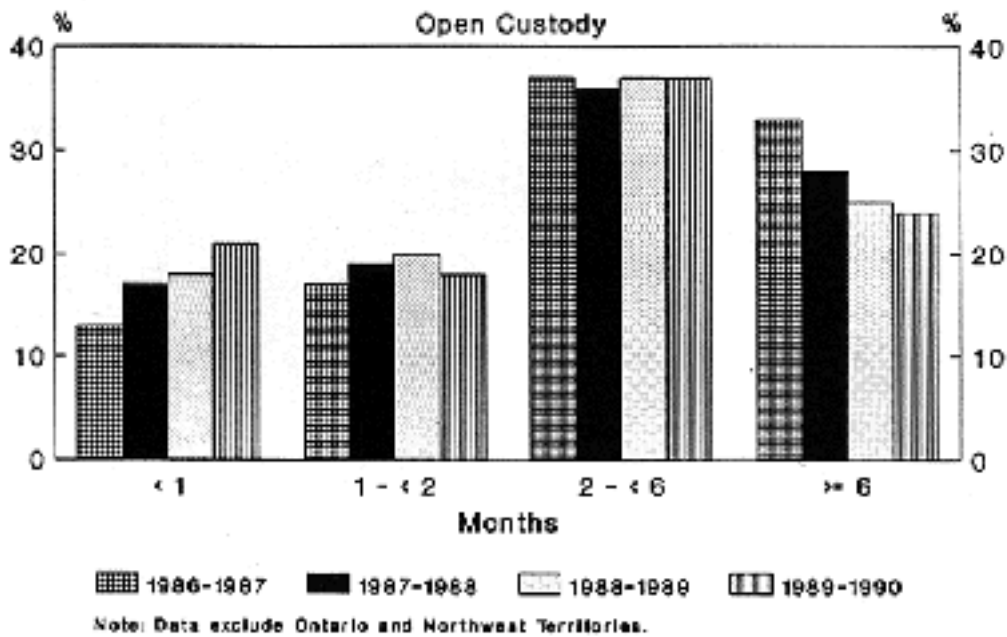
### Open Custody

A similar pattern was found for sentences of open custody. The proportion of open custody orders involving short-term sentences increased between 1986-87 and 1989-90 as those with longer terms decreased.

As Figure 2b illustrates, the proportion of open custody orders of less than one month increased from 13% in (1986-87 to 21% of total open custody orders in 1989-90.

**Figure 2b**

**Figure 2b**  
**Cases With Guilty Findings**  
**By Sentence Length, 1986-87 to 1989-90**



The proportion of orders of six months or more decreased from one third to just less than one quarter during that time.

### Dispositions by Type of Offence

From 1986-87 to 1989-90, the majority (63%) of most serious dispositions ordered in youth courts were in connection with property offences, primarily break and enter and theft under \$1,000.

Violent offences accounted for 13% of most serious dispositions. Assaults were the most frequent in this group.

Other Criminal Code offences represented 13% of all dispositions. The majority were escape from custody, failure to appear in court and impaired operation of a motor vehicle.

Offences under the Young Offenders Act accounted for 7% of all dispositions and were mostly for charges of failure to comply with a community disposition of youth court.

Narcotic Control Act offences accounted for 4% of all dispositions, whereas those associated with the Food and Drugs Act and other federal statutes accounted for less than 1% of all dispositions.

### Custodial Sentences and Offence Types

From 1986-87 to 1989-90, custodial dispositions (secure and open custody) accounted for 22% of all most serious dispositions ordered. These dispositions were most frequent for such offences as murder and manslaughter (88%), attempted murder (81%), escape from custody or failure to appear (61%) and

robbery (51%).

The average (median<sup>(7)</sup>) sentence length was highest for murder and manslaughter (three years) and attempted murder (one year), followed by an average sentence length of six months for sexual assault, robbery, other violent offences and arson.

The lowest average sentence length was one month. It was handed out for offences under the Young Offenders Act and most offences falling under the category of other Criminal Code offences.

### Recidivists in Youth Court

The nature of the repeat young offender was investigated in a special study using 1988-89 YCS data. These findings are the first on the topic of young offender recidivism.

An analysis of the 1988-89 data suggests that 39% of young offenders convicted that year had a previous conviction in youth court.<sup>(8)</sup> The vast majority of recidivists were males (88%).

As expected, recidivists tended to be older than first-time offenders. For example, 41% of male recidivists (compared with 29% of male first-time offenders) were 17 years old. However, the proportions were lower for females: 29% of recidivists and 25% of first-time offenders were 17 years of age.

In 1988-89, most recidivists (56%) were convicted of a property offence as their most serious charge, while 12% were convicted of a violent offence. About one third were convicted of other types of offences, the majority being the YOA charge of failure to comply with a community disposition.

In comparison, 64% of first-time offenders were convicted of a property offence as their most serious offence, 16% of a violent offence, and 20% of all other types of offences (the majority being the impaired operation of a vehicle).

It is interesting to note that about the same proportion of first-time offenders and repeat offenders were convicted of violent and property offences. It would appear that persistent young offenders were not more likely to be violent than first-time offenders.

Almost half of all recidivists (46%) had one prior conviction, 22% had two prior convictions, 13% had three prior convictions, 8% had four prior convictions and 11% had five or more prior convictions.

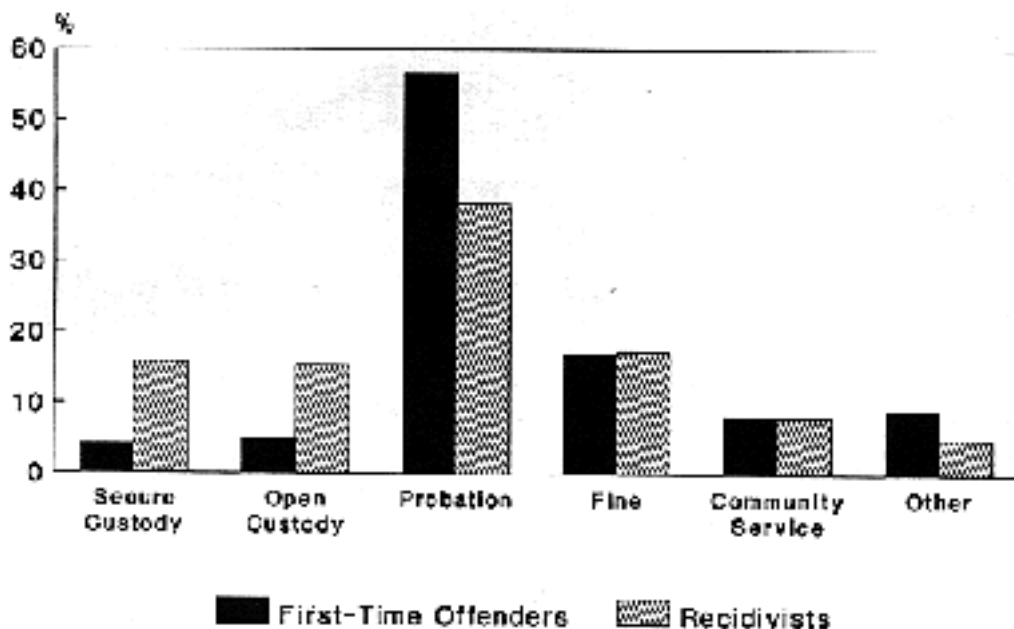
In 1988-89, recidivists aged 12 to 14 averaged one prior conviction, whereas those 15 years of age and over averaged two prior convictions.

As Figure 3 indicates, recidivists in 1988-89 were three times more likely than first-time offenders to be ordered to serve custodial dispositions (31% compared with 9%).

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**Figure 3**

**Figure 3**  
**First-Time Offenders and Recidivists**  
**By Most Serious Disposition, 1988-89**



Note: Data exclude Nova Scotia, Ontario and Northwest Territories.

As well, recidivists were less likely to be ordered to serve a term of probation as their most serious disposition (38% compared with 57% for first-time offenders).

Regardless of age, recidivists were more likely than first-time offenders to receive harsher penalties. In 1988-89, more than two thirds of young offenders who were ordered to serve a term of secure custody were recidivists. As well, two thirds of those ordered to serve a term of open custody were recidivists.

In contrast, first-time offenders accounted for 70% of those ordered to serve a term of probation, about 60% of those ordered to pay a fine or perform community services, and about 75% of those ordered to comply with other types of dispositions.

In addition, 16- and 17-year-olds, both first-time offenders and recidivists, received harsher penalties than younger offenders.

With recidivists, the severity of the disposition usually increased with the number of convictions. For example, at first conviction, the recidivist had a two-in-three chance of receiving a probation order as the most serious disposition. By the fourth conviction, probation had declined to a one-in-three likelihood.

Similarly, by the fourth conviction, the young offender had a two-in-five chance of being ordered to custody, a much higher likelihood than with fewer convictions.

However, the number of prior convictions generally did not increase the length of time a recidivist was

ordered to serve in custody, the term of his or her probation or the size of the fine imposed. Furthermore, the longest terms of custody were ordered for the first rather than subsequent convictions.

This trend may reflect the overall pattern of longer sentences imposed during the early years of the YOA (which is when the recidivists in this study may have received their first conviction) as compared with the more recent experience.

### Influence on Federal Corrections

Few youths are transferred to ordinary court. In fact the number of youths transferred has decreased substantially from 77 persons in 1986-87 to 26 in 1989-90 (excluding Ontario and the Northwest Territories). This means that the number of young persons eligible to have their sentences supervised by federal correctional authorities has also decreased.

About three quarters of young persons transferred to adult court in 1989-90 were charged with a violent offence. Approximately one quarter were charged with a property offence. This differs markedly with past years when the proportion of transferred young persons charged with a violent offence was much lower, and the proportion charged with a property offence was higher.

For example, in 1986-87, 45% of transferred young persons were charged with a violent offence and 43% with a property offence. For 1987-88, the figures were 36% for violent offences and 58% for property offences. In 1988-89, 38% were charged with a violent offence and 40% with a property offence.

### Summary

The profile of the young offender has changed little in recent years. The majority of young offenders were found guilty of property offences.

"Younger" young offenders were as likely as "older" young offenders (16 and 17 years of age) to be found guilty of a violent offence. This implies that with some of our young offenders, violent tendencies were established at a very young age.

Older offenders generally received harsher penalties than younger offenders.

A study of 1988-89 offenders indicated that the majority of recidivists are older, and the majority of offenders receiving a custodial disposition were recidivists. These recidivists receive harsher penalties for successive convictions in youth courts (for example, a term of custody rather than a term of probation) but not longer sentences.

However, the profile of young persons transferred to adult court does appear to be changing. A smaller proportion is transferred for property offences, while a larger percentage is transferred for violent crimes. Although the number of young offenders being transferred to adult court has decreased overall, it is important to note that a larger proportion of those who are transferred is charged with violent offences.

This would suggest that federal corrections may in the future have to deal with some young offenders who have more serious criminal tendencies.

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**Dianne Hendrick and Marc Lachance are senior analysts with the Youth Justice Program of the Canadian Centre for Justice Statistics. They are primarily involved in guiding and monitoring the operations of the Youth Court Survey, analysing and interpreting data from the survey and reporting on the findings. The latter role involves the production, for public release, of numerous reports and bulletins, called *Juristats*, on a variety of selected topics. The Youth Justice Program now has youth court statistics for 1990-91 available.**

**The Youth Justice Program has also begun some exciting and much-needed research on recidivism among young offenders. Findings from this research have been presented in the above article. Their work in this area is expected to continue.**

*(1)The findings presented in this article were previously published in the Canadian Centre for Justice Statistics' Juristat series of bulletins.*

*(2)In 1984, the Young Offenders Act replaced the Juvenile Delinquents Act. The new legislation resulted in, among other things, a change in the definition of young offender (or juvenile delinquent). Previously, the minimum age of a young offender was 7 and the maximum ranged from 16 to 18, varying among the different jurisdictions in Canada. With the new legislation, the minimum age was set at 12, and one year later the maximum was set uniformly at 17. At 18, an individual is considered an adult.*

*(3)The YCS defines a person as a youth having one or more charges disposed of during the fiscal year. A youth with charges disposed of by the court in the same province more than once during the year is counted only once. The data reported in this profile are preliminary, and final 1989-90 person counts will be about 3% higher.*

*(4)The YCS categorizes charges for young persons by most serious charge. Thus, an individual charged with more than one offence in a given case would appear only in the category of the most serious charge.*

*(5)Court decisions for young persons are categorized by most serious decision. Hence, an individual who received both a not guilty and a guilty decision in the same year would appear only in the guilty category.*

*(6)"Disposition" refers to the most significant disposition in a case. The seriousness of the disposition is determined by the effect it has on the young offender. "Total dispositions" refer to the sum of the most serious (significant) dispositions.*

*(7)The median is defined as the midpoint of the distribution, meaning that an equal number of sentences fall below and above the median value.*

*(8)The scope of this investigation was limited to young persons found guilty of at least one federal statute charge during 1988-89 and who had received a prior conviction in the same jurisdiction either during 1988-89 or during the years since the proclamation of the YOA in 1984. The recidivist study excluded Nova Scotia, for technical reasons, Ontario and the Northwest Territories.*