

In the shadow of the Young Offenders Act: Youths admitted into federal custody since 1978-1979

The 1984 introduction of the Young Offenders Act *has had a significant impact on the Canadian correctional system. The number of young offenders (younger than 18) sentenced as adults (into adult prisons or penitentiaries under either provincial or Correctional Service of Canada authority) has dropped dramatically.*

*Although the number of 15- to 17-year-olds admitted to Correctional Service of Canada custody was never large (averaging about 80 offenders each year), these youths formed a significant special needs population and the Service has benefited from being largely relieved of this burden. It appears, however, that the shadow cast by the Act has also shielded a significant number of 18- and 19-year-old offenders from federal penitentiaries.*

*To quantify these impacts, this article examines Correctional Service of Canada admission trends for 15- to 19-year-old offenders over a 15-year period (from fiscal year 1978-1979 to 1992-1993). The article focuses on the admissions of both 15- to 17-year-old offenders and 18- to 19-year-old offenders, because the neighbouring age groups allow us to see the **shadow** effect described above.*

*The article then examines selected characteristics of youthful offenders admitted during this period to shed light on some of the qualitative aspects of the changes.*

## Background

A number of factors can influence the size and composition of annual adult custodial admission counts. The *Young Offenders Act*, in particular, has directly affected adult corrections by establishing a uniform minimum age for adults across Canada<sup>(2)</sup> (and by restricting the opportunities for raising young offenders to trial in adult courts).

Since the Act was introduced, adult correctional services have been primarily responsible for offenders who are 18 or older. The Correctional Service of Canada is responsible for offenders who receive a prison sentence of two years or longer, with provincial correctional systems caring for the remainder of offenders.

The initial impact of the uniform age provision varied considerably among provincial and territorial adult correctional agencies due to variations in their legal "adult" ages. Before the introduction of the Act, just two provinces had a minimum adult age of 18 (Manitoba and Quebec). Two other provinces drew the line at 17 (Newfoundland and British Columbia), while the remaining provinces and territories considered an adult to be anyone 16 or older.

According to Statistics Canada, more than half of all 1992-1993 youth court cases involved 16- or 17-year-olds, and these young offenders account for about 64% of the secure custody dispositions handed down annually. Therefore, the new minimum adult age had the greatest impact on jurisdictions where both 16- and 17-year-old offenders were subtracted from the adult system, a lesser impact where just 17-year-old offenders had to be removed, and little impact where

no change had to be made.<sup>(3)</sup>

## Study period

This study examines admissions over a 15-year period (from fiscal year 1978-1979 to 1992-1993) because many Correctional Service of Canada electronic admission files date to 1978-1979 and, more important, because it is a sufficiently long period to observe clear trends in admissions before, during and after the implementation of the *Young Offenders Act*.

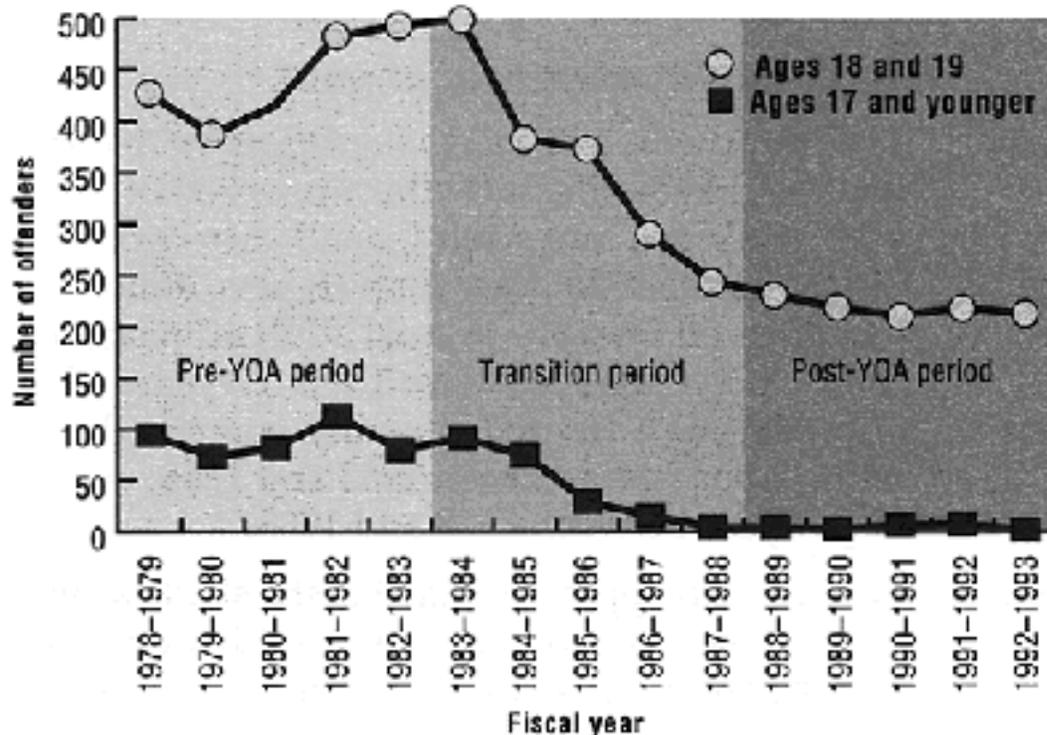
The 15-year time frame also allows admissions to be grouped into three time periods, each covering five years of admissions: the pre-*Young Offenders Act* period, the transition period and the post-*Young Offenders Act* period.

## Youth admission trends

Offenders younger than 25 have, for many years, made up the Correctional Service of Canada's largest admission age group (they typically constitute 40%-50% of all annual offender admissions). Within this group, only a small fraction have been younger than 18. For example, between 1970 and 1985, offenders aged 18-24 made up 40%-45% of total offender admissions, but offenders younger than 18 accounted for just 1%-3% of the total.

**Figure 1**

**Youth (15-19) Admissions into the Federal Adult Correctional System (1978/1979 — 1992/1993)**



Immediately after the implementation of the *Young Offenders Act*, however, admission numbers for

offenders younger than 18 dropped dramatically. In fact, annual admissions for this group fell close to zero, while the number of 18- and 19-year-old offenders also declined significantly (see Figure 1).

More specifically, "under-18" admissions declined from 440 during the first five-year period (the pre-Act period) to 213 during the transition period, to just 20 admissions during the post-Act period (see Table 1).<sup>(4)</sup> As a proportion of total youth (15-19) admissions, their numbers fell from 16.6%, to 10.6%, to 1.8%, respectively.

Further, the number of 18- and 19-year-old offenders admitted also declined significantly after the introduction of the uniform adult age. The total 18- and 19-year-old admission count for the pre-Act period was 2,205 youths, which decreased to 1,789 for the transition period and to 1,091 for the post-Act period.

It should be noted that Correctional Service of Canada annual admission counts increased over this entire period, from 4,844 offenders in 1978-1979 to 7,733 offenders in 1992-1993.

It is clear, therefore, that the *Young Offenders Act* has had a noticeable impact on the number of 18- and 19-year-old admissions into the federal adult correctional system. This "shadow" effect is likely the result of extinguishing a youth's criminal record at age 18. Any crime committed on, or after, reaching this birthday becomes, by definition, an offender's first adult offence. A conviction for a first offence is much less likely to result in a custody sentence. It to put together the type of criminal usually takes offenders a couple of years history that will earn a federal custodial sentence, and by that time offenders are often into their twenties.

**Table 1**

<b>Youth (15-19) Admissions to the Federal Adult Correctional System</b>					
<b>17 and Younger</b>			<b>18 -19 year olds</b>		
<b>Fiscal Year</b>	<b>Number</b>	<b>Proportion of total youth admission</b>	<b>Number</b>	<b>Proportion of total youth admission</b>	<b>Total youth (15-19) admissions</b>
1978-1979	94	18.0%	427	82.0%	521
1979-1980	73	15.9%	387	84.1%	460
1980-1981	81	16.3%	415	83.7%	496
1981-1982	113	19.0%	483	81.0%	596
1982-1983	79	13.8%	493	86.2%	572
<b>Pre-YOA period totals</b>	440	16.6%	2,205	83.4%	2,645
1983-1984	91	15.4%	499	84.6%	590
1984-1985	74	16.2%	383	83.8%	457

1985-1986	29	7.2%	373	92.8%	402
1986-1987	15	4.9%	290	95.1%	305
1987-1988	4	1.6%	244	98.4%	248
<b>Transition period totals</b>					
	213	10.6%	1,789	89.4%	2,002
<b>Post-YOA period totals</b>					
1988-1989	4	1.7%	231	98.3%	235
1989-1990	2	0.9%	218	99.1%	220
1990-1991	6	2.8%	211	97.2%	217
1991-1992	7	3.1%	218	96.9%	225
1992-1993	1	0.5%	213	99.5%	214
<b>Post-YOA period totals</b>					
	20	1.8%	1,091	98.2%	1,111
<b>Total</b>					
	673	11.7%	5,085	88.3%	5,758

#### Admission status and gender

The characteristics of youths sentenced to adult federal custody do not appear to have been changed significantly by the *Young Offenders Act*. Only nominal changes were found when examining several key offender characteristics during the 15-year study period.

More specifically, when youths enter the adult federal system, virtually all are sentenced there by a court (649 of 673 admissions of youths 17 or younger, or about 96%). The rest are admitted for revocation of conditional release or under transfer agreements with another province or country.

As for gender breakdown, youth offender admissions reflect the composition of the general prison population - about 98% of total youth admissions are male offenders. This proportion has not changed during the past 15 years. Over the entire study period, only nine female youths (15-17) were admitted into the adult system (compared with 664 male youths).

#### Major admitting offence

There was also no obvious change in the type of "major admitting offence" (the principal offence for which offenders were serving their sentences) committed by youths transferred to the federal correctional system during the 15-year period. It appears, therefore, that the *Young Offenders Act* has had little direct impact on the type of crimes for which youths typically receive a federal prison sentence.

More specifically, homicides have accounted for just 4% of all youth admissions, with annual numbers varying from year to year with no evident trend (see Table 2). Robbery and break-and-enter offences have consistently accounted for the majority of admissions (about 65% of the total for each of the three periods), while other violent offences (such as manslaughter and sexual assault) have shown just a small

increase in recent years.

A direct yet shadowy impact

The introduction of the *Young Offenders Act* has had two major effects on the admission of young persons into adult federal corrections. First, offenders younger than 18 have almost disappeared from the annual adult admission rolls. On average, only five 15- to 17-year-old offenders are admitted annually, compared with 42 per year between 1983 and 1988, and 88 per year between 1978 and 1983.

**Table 2**

<b>Major Admitting Offences for Youth Admissions into the Federal Adult Correctional System</b>							
	<b>Homicides and Attempts</b>	<b>Other violent offences</b>	<b>Robbery</b>	<b>Break and Enter</b>	<b>Other property offences</b>	<b>Other offences</b>	<b>Total Offences</b>
<b>Ages 15 -17</b>							
Pre-YOA period	16	55	146	143	25	55	440
Transition period	10	43	72	63	7	18	213
Post YOA period	3	6	6	4	4	0	1
<b>Total</b>	<b>29</b>	<b>104</b>	<b>224</b>	<b>210</b>	<b>32</b>	<b>74</b>	<b>673</b>
<b>Ages 18 -19</b>							
Pre-YOA period	64	240	821	668	153	259	2205
Transition period	71	231	538	632	108	209	1789
Post YOA period	61	202	339	306	42	141	1091
<b>Total</b>	<b>196</b>	<b>673</b>	<b>1698</b>	<b>1606</b>	<b>303</b>	<b>609</b>	<b>5085</b>

The Act also appears to have cast a shadow on the admission of 18- and 19-year-old offenders into the federal system. The number of annual admissions from this age group has been cut in half since 1985. Part of this decrease is attributable to a general decline in the 18- and 19-year-old populations across Canada,<sup>(5)</sup> but the larger part seems to result from the sheltering shadow cast by the *Young Offenders Act*.

Despite these changes, there is no indication that the Act has changed the character of the youth

population admitted to the adult system. The characteristics examined reveal no significant changes, other than those observable in the general offender population.

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(1)Research and Statistics Branch, Correctional Service of Canada, 4B-340 Laurier Avenue West, Ottawa, Ontario K1A 0P9.

(2)The *Young Offenders Act* came into force on April 1, 1984, but the uniform adult age provisions were not implemented until April 1, 1985, to allow jurisdictions the time to implement necessary support systems.

(3)The risk of incarceration for youths appears proportional to age. For example, young offenders aged 16 and 17 made up 57% of all custody dispositions in 1992-93 and 63.9% of all secure custody dispositions. See *Youth Court Statistics 1992-93*, Statistics Canada (Cat. 85-522 annual).

(4)There were significant variations in year-to-year admission counts.

(5)According to Statistics Canada census information, the absolute size of the 18-29 population group peaked in about 1981, and has since declined both proportionally and absolutely. For more information on the aging of the Canadian population, please see Mary Sue Devereaux, *Canadian Social Trends* (Winter, 1987).