Creating Consensus: An Exploration of two Pre-Charge Diversion Programs in Canada

By

Carolyn Toller Greene

A thesis submitted in conformity with the requirements for the Degree of Doctor of Philosophy
Centre of Criminology, University of Toronto

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Abstract

Over the last forty years, diversion of young offenders from the criminal justice system has been a part of youth justice policy in Canada. Over this period of time numerous research studies have examined the effectiveness of diversion programs. Many have had similar conclusions: diversion programs do not draw the majority of their participants from court bound populations. While the purpose of diversion was to limit state intervention into the lives of young people, it has instead served to extend the arm of the law by increasing state intervention for many young offenders. Yet, despite the evidence diversion policy and programs continue to garner broad based support. This research is an attempt to understand the popularity of diversion over time and explore the purposes, beyond that of a reduction in the use of youth court, that diversion serves. This research examines two police pre-charge diversion programs in Ontario, Canada. Diversion is explored from the perspective of the police that use and operate these programs as well as from the perspective of the young people processed in them.
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Chapter One: Introduction

Diversion of young offenders from the criminal justice system has had a long history in Canada and elsewhere. In fact, one might consider the development of separate youth justice systems in Canada and the United States as the earliest examples of diversion policy for youths. Since that time, however, diversion has come to mean more than simply separating youth from adults in the criminal justice system. Since the late nineteen sixties and early nineteen seventies, in response to a growing body of literature demonstrating the negative effects of the labeling associated with official processing, diversion for youths has come to be seen as a means of keeping some young people insulated from experiencing the full wrath of the criminal justice system by avoiding the traditional court process. Indeed, diversion was seen as a means of avoiding the negative labels and stigmatization associated with the official processing of youth involved in minor types of offending and/or delinquent behaviors.

For the past 30 to 40 years, diversion of youth from the traditional youth court process has continued to be a popular means of dealing with youth in conflict with the law. Proponents of diversion policies have emphasized and continue to emphasize the usefulness of diversion and have expressed high hopes for what diversion programs might accomplish. In 1977, a conference held in Quebec City by the Solicitor General’s Office of Canada\(^1\) had this to report about diversion:

“Diversion is a promise! It is a promise that the poor, the uneducated, the disadvantaged and the abandoned who come into conflict with the law will receive the support and compassion of their communities.

\(^1\) At that time, the Ministry of the Solicitor General, Canada (rather than the Department of Justice, Canada, as is the case now) had responsibility for juvenile delinquency.
It’s a promise that society is still capable of resolving relatively minor conflicts without recourse to the courts. Diversion is an alternative less formal than the traditional court system which has the potential to reduce court backlog, provide compensation to the victims or the community, and present a mechanism to establish community support for many people in conflict with the law, while protecting the rights of the offender.”

If we fast forward to the fall of 2008, in a large scale report on youth violence, prepared for the Province of Ontario by a former Chief Justice of Ontario and a speaker of the Ontario Legislature, we find the statement

“… [W]e believe the Province should also take steps to reduce the over-criminalization of Ontario youth …. In part, this would mean developing more and better alternatives, including diversion programs and youth justice committees, at all stages of the justice process….The justice system needs to focus more on prevention than on punishment. Investments in alternatives to incarceration need to be made…”Building a youth super jail is not the answer.” More diversion and restorative justice programs are needed, and every attempt should be made to keep youth out of the courts and placed into restorative justice programs instead.” (McMurtry & Curling, 2008, p. 27, 46, 95).

As is demonstrated by the above quotations, for over thirty years, diversion has been seen by many as a valuable tool for reducing court backlogs and providing a large number of benefits to offenders, victims and society.

Diversion as we know it today has been the focus of considerable academic research for over thirty years as well as the focus of many policy and program initiatives within youth justice systems. As is exemplified by the above quotations and report recommendations, diversion has and continues to be a popular part of many criminal

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2 The report also highlighted some of the potential dangers of diversion policy which will be addressed at a later point in the chapter. That being said, the quotation illustrates the very high hopes and enthusiasm behind the adoption of diversion policies and programs.
justice policies and initiatives. And though it seems likely that support for diversion has not waned in popularity over the last thirty years, it has seen considerable criticism within the research and policy community during this same time period. Over the last thirty years, research has examined diversion programs and policies with an effort to understand whether or not these programs work, or more specifically whether or not these programs are, indeed, successful in diverting young people from criminal justice system.

For decades the research community has been quite consistent in showing – more often than not - that diversion programs (especially, perhaps, police based diversion programs), rather than diverting young people from the criminal justice system, have served to bring greater numbers of youth into contact with the criminal justice system and, generally, diverted relatively few youths. In other words, these programs have ‘widened the net of social control’ – a term that is so common in this area that it often goes unreferenced⁴. We know, based on the research findings, that these programs, in general, do not divert and in turn have had little success in eliminating the labeling and stigmatization of youth involved in minor offending. In other words these programs have not fulfilled the hopes of their advocates. Those youth being labeled by the system continue to be labeled and in fact, diversion programming in many instances has resulted in a greater number of youth being brought into contact with the system (and ‘officially’ processed).

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³ The term was apparently first coined by Stanley Cohen in a 1979 article entitled The Punitive City: Notes on the Dispersion of Social Control.
Yet, despite this research evidence, diversion has remained a popular policy justifying a wide range of programming efforts for youth. For example, in the province of Ontario, during the fiscal year 2007-2008,

“The Ministry of Children and Youth Services operate[d] 156 programs related to alternatives to custody and community interventions, including restorative justice, extrajudicial measures, attendance centres and reintegration programs. In 2007–08, there were 184 programs with an estimated budget of more than $28 million. [Other] Diversion programs in 2007–08 accounted for a further $22 million” (McMurtry and Curling, 2008, p.208).

Given the large body of research demonstrating that most diversion programs do virtually the same thing – widen the net of social control – how is it they have remained such an important part of youth justice policy and legislation? The fact that diversion has - in spite of the academic criticisms - managed to survive and (some might even argue) thrive over the last thirty years suggests that diversion programs serve social and organizational functions that may be more important than the original goal of simply diverting youth from court. After all, it is typically one set of academic concerns that led to the idea that young people should be diverted from the youth justice system, just as it is academic concerns that have led to the view that diversion programs do not divert.

Research on diversion over the last thirty years has not considered what, if any, auxiliary functions these programs may be serving and how this might explain their long standing popularity and survival. The research reported in this dissertation represents an attempt to understand the unwavering popularity of diversion programs and policies through case studies of two large scale pre-charge police diversion programs in Ontario, Canada.

This research will address a fairly straightforward question: what factors have maintained
interest and support for police diversion programs, given that the weight of the evidence would seem to suggest that these programs do not divert. If the goal is to divert youths, these programs do not appear, generally, to accomplish that goal. If, on the other hand, the goal of the police were to ‘widen the net’ of social control’ or, as Stanley Cohen (1979) put it, to ‘thin the mesh’ then why bother with diversion programs at all? Given the wealth of information on diversion programs, I will first examine two southern Ontario police diversion programs that appear not to have been successful in diverting youths. Interestingly, in the end, the goal of diversion seems to have fallen out of prominence in the police understanding of these programs. If the programs do not divert, then why do they exist, and, what is it that sustains them – and the practice of ‘police diversion programs’ more generally – in the area of youth justice? I will be suggesting that these programs accomplish important institutional goals that become evident as soon as one looks beyond the immediate goal of diversion. Furthermore, I will demonstrate that the manner in which these programs are structured will explain exactly what happens to those youths who are enmeshed in, to paraphrase Cohen’s words, the finer mesh of the wider net of social control. In other words, though the two programs I will be examining operated in quite different ways, and the immediate outcomes of the programs for the youths are very different from one another, the larger institutional values that these programs serve for the police are very similar.

The Development and Adoption of the ‘new’ Diversion

4 The ‘new’ diversion is simply meant to distinguish between two things 1) historical reference to the youth court system as a system of diversion from the adult court, and 2) after the establishment of the youth court, the informal diversion of youth from court by police (without referral to programming). The ‘new’ diversion permitted police to choose from between three option in handling youth, 1) caution/warn, 2) referral to diversion programming, 3) charge. As Cohen describes, “All this can be most clearly observed in the area of police diversion of juveniles. Where the police used to have two options - screen right out (the route for by far the majority of encounters)
The nineteen-sixties ushered in a new era in youth justice in Canada and the United States. During this decade, the effectiveness of existing youth court systems was questioned in both countries. In Canada and the United States, major developments were occurring that would, eventually, have a significant impact on how young people would be dealt with in their respective youth justice systems. Beginning in the 1960s, the issues facing youth justice policies centred on the beliefs that the youth courts were not effectively treating delinquency and in many cases were further contributing to it. Concerns focused on the reach of the courts or on their ability to intervene effectively in the lives of ‘predelinquent’ youth. What followed from this were arguments for the development of adequate procedural safeguards for youth processed in the court system and the setting of limitations on the scope of court interventions. The overall orientation began to shift in its emphasis toward a goal of reducing the number and types of cases that should be sent through the traditional court process.

In 1961, there was wide recognition in Canada that juvenile delinquency was a public concern. That year, Canada’s Department of Justice established the Department of Justice Committee on Juvenile Delinquency. The Committee was established in direct response to the growing public and political concerns with juvenile delinquency in the country. The study – which, in the end took four years – examined a number of issues in youth justice including, but not limited to, the nature and extent of juvenile delinquency or process formally - they now have the third option of diversion into a program. Diversion can then be used as an alternative to screening and not an alternative to processing….The key to understanding this state of affairs lies in the distinction between traditional or true diversion-removing the juvenile from the system altogether by screening out (no further treatment, no service, no follow up)- and the new diversion which entails screening plus program: formal penetration is minimized by referral to programs in the system or related to it.” (Cohen, 1979, p. 349).
in Canada, and most interestingly, for the purposes of this research, the role of police officers in handling delinquent youth. The Committee commenced its work in early 1962 and released its final report in 1965. This Report provides the first Canadian example in an official report of a discussion of diversion from the formal court process as we know it today. This ‘new’ diversion presented in the Report emphasized that police officers had an additional option, other than court referrals and informal warnings, for dealing with young people. In discussing a police officer’s choices in handling a youth the report states,

“Police discretion in juvenile law enforcement has three aspects. First, there is the question whether a child should be charged or, alternatively, dealt with on an informal basis. Second, if it is decided to deal with the case informally the question then is whether the child should be referred to an agency other than the court or should be dealt with on the spot by police action alone.” (emphasis added, Department of Justice, 1965, p110).

Obviously, diverting youth from the court process was not new at the time the 1965 report was released. Police officers had long used their discretion to screen out young people from the formal court process. However, what was newly developing at this time at least in formal discussions of police screening, and is illustrated in the report, was that, instead of simply screening youth from the court process, police officers were acknowledged as having an additional, more formal, screening option when dealing with young people. The idea was that this would be a non-coercive way of screening youth from the court process while at the same time addressing the needs of youth.

In addition to the emphasis on the ‘new’ diversion, the 1965 report also provides an early example of the growing concern regarding the rights of young people processed in the youth justice system. During the 1960’s, despite the fact that the youth justice
systems in both Canada and the United States were based largely on the principle of *parens patriae*\(^5\) which deemphasized the need for procedural safeguards, questions were being raised regarding how youth were processed in the youth justice systems of both countries. These questions related to the lack of safeguards afforded to young people who were subject to extensive interventions by the courts for both criminal and non-criminal behaviours. The idea that young people had the right to be dealt with fairly and uniformly was a relatively new development at the time. These concerns were also first raised (in a formal report on youth justice) in the Canadian context in the 1965 Department of Justice report. The report suggested that youth justice legislation should be developed and implemented in a way that was similar to adult criminal law. Specifically, it suggested that “From the assumption that juvenile delinquency legislation is the counterpart of ordinary criminal legislation flow two important consequences: (a) there should be uniformity in coverage; and (b) there should be uniformity, that is, equality of services throughout Canada” (Department of Justice, 1965, p. 26). This reference to equality of services and uniformity of coverage reflected concerns over the highly varied handling of young people across the country in terms of how they were processed within each of the provinces\(^6\). The report provided a clear statement that young people should be treated similarly across the country, in the same way adults could expect similar processing. More specifically, as one commentator later noted, the Committee recommended that youth justice legislation move away from “…the assumption that Government can and must devise methods of identifying pre-delinquent

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\(^5\) The notion of the State acting as kindly parent.

\(^6\) Because of provincial and federal jurisdictional control established under the British North America Act (1867) responsibility for criminal law was under federal jurisdiction and all child welfare matters were under the jurisdiction of the provinces.
children and force them, under an expansive interpretation of the criminal law power, to accept treatment designed to correct their [behaviour]” (Fox, 1977, p. 466).

In 1966 and 1967, concerns over the coercive nature of youth courts in treating delinquent behaviour were directly addressed in two U.S Supreme Court cases. The Kent\textsuperscript{7} and Gault\textsuperscript{8} cases were landmark decisions in juvenile justice in the United States that extended criminal court rights to young people brought before the youth court. Each of these cases had an important influence on how the juvenile justice system would operate in the future. In Kent the court focused on the lack of procedural regularity and application of legal rights in the youth court. Similarly, the Gault decision also reinforced the notion that youth brought before the court should have the same legal protections or due process rights as adults.

In both Canada and the U.S, efforts were undertaken to try to limit the youth courts from intervening too heavily into the lives of young people. This limit on intervention was in part accomplished through the extension of legal protections for youths brought into the court system. While the principle of parens patriae has continued to inform youth justice systems in the United States, the idea that young people had procedural rights within the youth system analogous to those that governed adult criminal proceedings was a turning point in youth justice in both countries. While the timing may be considered coincidental, Canada also began at this time to rethink its youth justice policy, specifically as it relates to the procedural rights issues. For example, the 1965 report suggested that “it would be the duty of the court to advise a juvenile of his right to retain counsel and of his right to have a law guardian at public expense if he is

\textsuperscript{7} Kent v. U.S., 383 U.S. 541 (1966); 86 S.Ct. 1045
\textsuperscript{8} In re Gault, 387 U.S. 1 (1967); 87 S.Ct. 1428
unable to obtain a lawyer” (Department of Justice, 1965, p. 291). These rights are similar to those highlighted by the Kent and Gault cases in the United States a few years later. The impact of these cases in youth justice cannot be underestimated. For example, the Gault decision received widespread coverage in the media in fact the full text of the Supreme Court decision was printed in the New York Times on May 16, 1967 (Morita, 2002). The issue of ensuring procedural rights for young people was, in part, an acknowledgement that safeguards were needed in youth justice, despite arguments that youth justice policies based on parens patriae did not require the application of the same legal protections afforded to adults in the adult criminal justice system. In a relatively small number of years, the issue of rights protection would be seen as being equally relevant in the application of diversion of youths from the formal youth justice system.

Between the establishment of the Department of Justice Committee on Juvenile Delinquency in 1961 and the early 1970’s, the Government itself was clearly considering the development of youth justice policy in Canada. In fact, in 1970, new legislation was introduced in Parliament that incorporated diversion and addressed the issue of procedural safeguards (Bill C-192) for young people charged with offences. This legislation was the first attempt at replacing the Juvenile Delinquents Act which had been in force since its enactment in 1908. The Bill eventually died on the order paper when the 1972 election was called. The Bill was criticized on a number of grounds, in particular for its shift to a more criminal law oriented approach to youth justice. As Fox (1977) states

“…the document has been assailed on the grounds that it would require minors to be charged with specific criminal offences instead of a single allegation of delinquency….It has been alleged that juveniles will become pint sized criminals instead of children in need of care and that the Bill
is drafted along the lines of the criminal code…”(p.172).

It would take more than another 10 years before the Juvenile Delinquent Act was actually replaced.

Between the introduction of Bill C-192 and the implementation of the Young Offenders Act (1984), the government continued to examine its youth justice policy and to work towards a more comprehensive approach to the diversion of young offenders. During this same period, the support for this ‘third option’ for dealing with youth grew exponentially. A few years after Bill C-192 died on the order paper, a Federal subcommittee on diversion was formed to examine the operation of existing diversion programs. The officials on this subcommittee identified “…a need for a widely understood and accepted theoretical concept and definition of diversion. The multiplicity of purposes and goals pursued by various Diversion projects at the time was occasionally incompatible and frequently indistinguishable from such other measures as prevention and screening, community corrections, and social services in general” (Solicitor General, 1977, p.3). The subcommittee on Diversion proposed a somewhat limited definition of diversion and offered specific guidelines for operation of diversion programs (Solicitor General, 1977, p.3).

In 1975, the subcommittee recommended holding a North American conference on diversion. Prior to this conference being held in 1977, a report entitled Young Persons in Conflict with the Law was released (in 1975) by the Solicitor General of Canada that would specifically address the development of new youth justice legislation. The report provided a comprehensive examination of the need for change in the manner in which youths in the youth justice system were dealt with. The themes that run throughout the
report demonstrate the influence of developments in the 1960’s. Both the issues of
diversion and procedural rights protections were central to the writing of the report and
were also crucial components for new youth justice legislation. Interestingly, the report
did little to address the concerns raised a few years earlier by the subcommittee on
diversion regarding the problems associated with the multiplicity of goals associated with
diversion. What the 1975 Report did do was criticize the Juvenile Delinquents Act
because it did not explicitly permit the application of the ‘new’ diversion and for the fact
that it did not explicitly address the procedural rights of young people. For example, the
1975 Report states,

“Although the Juvenile Delinquents Act presents the juvenile court judge
with a choice of dispositions following adjudication of delinquency, it
does not specifically provide a process to enable the use of community
and other resources prior to the adjudication stage.”
(Solicitor General, 1975, p.9).

In addition, young people’s procedural rights were also directly addressed in the Report,

“A distinctive feature of the proposals is the provision of appropriate
safeguards for the protection of the rights of a young person who is
alleged to have committed an offence. The committee believes the
State should not intervene in the life of the young person on the
basis of an offence until it is proved, beyond a reasonable doubt and
within proper legal safeguards, that the young person has indeed
committed an offence.”(Solicitor General, 1975, p. 11).

In addition to addressing the concerns of the 1960’s, there was interest in formalizing the
‘new’ diversion within youth justice legislation. As the 1975 Report states,

“…the committee believes that an alternative procedure is needed
to ensure that juvenile court and consequent proceedings are not
utilized whenever the needs of a young person and society can be
realized by more appropriate means. In this respect, legislative
provision is required enabling the screening of cases prior to court action over and above the presently available and informal exercise of discretion” (Solicitor General, 1975 p. 10).

Beyond the formal inclusion of the idea of diversion in the legislation, the report also outlined a rather elaborate process for screening young people out of the traditional court system. This proposal went further than any previous report had gone in terms of how diversion should be applied in youth justice. The committee recommended that “a formal mechanism be established to provide pre-court screening to facilitate the diversion of young persons from the court process” (p.27) and that screening agencies be established to handle diverted youth. Screening agencies represented a third option for police officers. Instead of charging or informally warning a youth, they had the option of referring a youth to a screening agency (in this sense screening agencies can be thought of as diversion programs as we know them today). Interestingly, the decision to accept the young person into diversion or have the youth referred back to police to be formally charged was left to the screening agency. The question of who has the final decision on whether a youth is appropriate for diversion varies today depending on the diversion program.

During the 1960’s and into the 1970’s, the popularity of the ‘new’ diversion was increasingly seen as addressing concerns about bringing large numbers of young people before the courts and the potential impact of labeling them delinquent. The process of bringing young people into the formal court system began to be seen as contributing to rather than preventing future delinquency.

One of the first direct links between labeling theory and public policy in the form of diversion was presented in the monograph Instead of Court: Diversion in Juvenile
Justice (Lemert, 1971). Lemert (1971) provided a sociological critique of the youth court by criticizing its outdated philosophy and applying a labeling perspective in arguments for change to the system (in the form of diversion from court). As Lemert (1971) states, “...the interaction between child and court and unanticipated consequences of the processing of a child in many instances contributes to or exacerbates the problem of delinquency” (p.1). The labeling perspective had been around long before the initial introduction and formal adoption of the ‘new’ diversion into youth justice (see Tannenbaum, 1938; Becker, 1963; Quinney, 1970; Lemert, 1971; Schur, 1971). Labeling theorists had long argued that it was the societal reaction to (or labeling of) delinquent behaviour that contributed to stigmatization which could lead to greater levels of deviance (Tannenbaum, 1938; Becker, 1963; Quinney, 1970; Lemert, 1971; Schur, 1971). It was no surprise that with the existing criticisms of the youth courts that such a theory would be quickly accepted as justification for changes to youth justice policy. The application of labeling theory created a justification for diversion that appealed to, and made intuitive sense, to policy makers, researchers as well as, perhaps, the wider community. In part, it was probably the influence of labeling theorists that led to the widespread acceptance of the definition of diversion as an alternative to the court process, instead of, for example, a screening process for predelinquent youth which might have been equally acceptable in absence of a labeling perspective (Nejelski, 1976). Avoiding labeling became a central justification for the diversion of youth from the formal court process. An excerpt from the 1975 report of the Solicitor General of Canada’s committee demonstrate the role that this literature had on influencing youth justice policy in Canada, “One of the main features of the proposals is to provide a mechanism
to screen cases prior to court action over and above the present informal exercise of discretion. This mechanism would provide the opportunity to screen cases on a uniform basis to determine if a more appropriate alternative to formal court proceedings is available. This reflects an ever growing body of opinion that holds that an appearance in court often may be unnecessary and perhaps even harmful to some young persons. Therefore, if intervention in the life of a young person is justified on the basis of the alleged offence, then the option should be available to deal with a young person without the necessity of resorting to the court process.’ (Solicitor General, 1975, p.10).

The influence of labeling theory cannot be understated as it relates to the acceptance and popularity of diversion. In fact, justification for diversion over the last forty years has continued to rest on this very idea, despite the lack of empirical evidence on the role of labeling in the diversion process in comparison with the court process. Although the lack of broadly based empirical support was widely recognized as early as 1976, this perspective has continued to maintain its influence in public policy (see Nejelski, 1976; Blomberg, 1977; Lemert, 1981). For example, over ten years after the initial criticisms of labeling theory as a justification for diversion, DeAngelo (1988) writes

“One of the major reasons for diversion programs is to keep youth from further progressing into the system and being stigmatized by it. This line of reasoning is supported by the labeling theory which maintains that official reaction by the system to delinquent acts helps label a youth a ‘criminal’ and places him into a cycle of escalating delinquent acts and social sanctions” (p.24).

While the labeling perspective has continued to remain a popular justification for diversion, the criticism it sparked marked a turning point in how diversion was to be understood and examined in research.
In 1977, two years after the release of *Young Persons in Conflict with the Law*, the first – and it would appear only - national (Canadian) conference on diversion, recommended by the federal subcommittee on diversion, was held in Quebec City. The conference was co-sponsored by the Solicitor General (responsible for youth justice at the time) and the Department of Justice. The goal of the conference was to begin to address some of the criticisms of diversion policies and programs. The conference addressed a number of the issues first addressed by the subcommittee on diversion in the early 1970’s. Among some of the issues addressed were the settling on an definition of diversion and more importantly, to attempt to develop some standardized guidelines and/or boundaries in its application.

A more critical and thoughtful approach to understanding the role of diversion was the hallmark of the late 1970’s. While formal diversion was still a relatively new approach in youth justice and widely popular, the concerns about its widespread adoption without a standard definition or standardized operational guidelines raised questions about its use, in the form of criticizing existing practices. The 1970’s witnessed tremendous growth in the development and adoption of diversion programs. For example, by 1977 there were over 105 diversion programs in operation across Canada (Solicitor General, 1977, p.4). While diversion was still growing in popularity over this time, it was not long after its initial formal introduction as part of a proposed law that concerns began to be raised about its use and effectiveness. The concerns focused primarily on two things; a need to ensure the rights of youth referred to diversion programming were protected; and the potential for increased numbers of youth being brought into the criminal justice system via these new programming options. While the
laws had been changed to protect the rights of youth processed in the courts, questions remained as to what safeguards existed for those youth referred into diversion programs. In fact, the report of the 1977 conference on diversion devoted an entire section to the “The Danger of Diversion” which emphasized these concerns (Solicitor General, 1977, p. 11).

In 1980, shortly before the introduction of the Young Offenders Act, the Solicitor General of Canada released a report on the diversion of young offenders from the court process. The Report, entitled *Diversion from the Juvenile Justice System and its Impact on Children: A Review of the Literature*, was the first comprehensive examination the role and effectiveness of the ‘new’ diversion in youth justice. The popularity of diversion was being tempered somewhat by the growing concerns regarding the perceived failure of the diversion to reduce stigmatization, the multiple and often conflicting goals of diversion, coercion and other issues related to the rights of youth referred into diversion programming. Interestingly, the exact reasons diversion was initially introduced and became so popular also became the basis for its greatest criticisms.

**Understanding the Application and Operation of the ‘New’ Diversion**

The rise in popularity of diversion in Canada and elsewhere was tempered by increasing criticism from the academic community. The 1970’s was a time when diversion projects were apparently being implemented at an ever increasing rate. At the same time researchers began to acknowledge that diversion had been widely accepted into youth justice policy with limited empirical investigation into its effectiveness or more specifically, its ability to do what many had intended it to do – divert youth from
the traditional court process. This concern in the academic community spurred numerous investigations into diversion programs. In both Canada and the United States the bulk of diversion research was conducted between 1970 and 1984⁹ (for examples see Barton 1976; Gibbons & Blake 1976; Blomberg 1977; Bohnstedt 1978; Moyer 1980; Lipsey et al. 1981; Severy et al. 1981; Selke 1982; Severy & Whitaker 1982; Blomberg 1983; Osgood 1983; Osgood & Weicheselbaum 1984). The greatest focus of research on diversion was on whether or not these programs widened the net of social control and the implications this had for the rights of young people. Stanley Cohen (1979) illustrates clearly the concerns about diversion at the time,

“Police discretion has been widely used to screen juveniles: either right out of the system by dropping charges, informally reprimanding or cautioning, or else informal referral to social services agencies. What has now happened, to a large degree, is that these discretionary and screening powers have been formalized and extended - and in the process, quite transformed. The net widens to include those who, if the program had not been available would either not have been processed at all or would have been placed on options such as traditional probation. Again, the more benevolent the new agencies appear, the more will be diverted there by encouragement or coercion. And - through the blurring provided by the welfare net - this will happen to many not officially adjudicated as delinquent as well. There will be great pressure to work with parts of the population not previously reached” (Cohen, 1979, p. 348).

Cohen highlights the broad issues of net widening and procedural rights in diversion and these issues have continued to guide research on diversion for over thirty years. Early diversion research was focused on answering the following kinds of questions: Do diversion programs actually divert? What do referred youth look like? What factors

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⁹ It should be noted that the majority of research examining diversion has been conducted in the United States. Far more limited work has been done in Canada in this area.
influence police decisions to divert and are procedural rights protected? In essence, research on diversion centred on who the youth were who were diverted, how decisions were made to divert these youth, and whether or not the rights of these youth were protected once referred into diversion.

Diversion in its infancy was seen as a mechanism by which justice system intervention into the lives of young people could be reduced or eliminated. The idea that reducing court intervention through diversion would prevent the ill effects of stigmatization and at the same time provide help to troubled youth was called into question when research began to demonstrate that many of the youth referred into these programs would not have otherwise been sent to court (or put another way, simply widened the net of social control (for examples see Vorenberg & Vorenberg 1973; Elliot 1974; Klein 1975; Klein & Teilman 1976; Blomberg 1977; Austin et al. 1978; Sarri 1979; Polk 1981). From a labeling perspective, diversion was turning out to be a failure for two reasons: first, the youth who were at the greatest risk of stigmatization or the ill effects of labeling were still being processed in the traditional court system; and second, there was now a chance that youth who may have previously been dealt with less formally were now at greater risk of being labeled or experiencing stigmatization as a result of the more formal diversion process (Klein 1975; Fishman 1977). As Cohen (1979) states,

“…whatever the eventual pattern of the emergent social control system, it should be clear that such policies as "alternatives" in no way represent a victory for the anti-treatment lobby or an "application" of labeling theory. Traditional deviant populations are being processed in a different way or else new populations are being caught up in the machine. For some observers all this is an index of how good theory produces bad practice: each level diverts to the next and at each level
vested interests (like job security) ensures that few are diverted right out. And so the justice machine enlarges itself. This looks "successful" in terms of the machine's own operational definition of success, but is a failure when compared to the theory from which the policy (supposedly) was derived. Be this as it may, the new movement - in the case of crime and delinquency at least - has led to a more voracious processing of deviant populations, albeit in new settings and by professionals with different names. The machine might in some respects be getting softer, but it is not getting smaller…” (Cohen, 1979, p. 350).

The notion that the types of youth referred into diversion would not have otherwise been further processed within the youth justice system raised a number of concerns which extended to issues of voluntary participation and due process rights. Research examining diversion programs began to question whether or not referred youth were guaranteed the same rights as youth sent through the traditional court system. Though it was widely accepted that youth in court should be guaranteed their due process rights, it was unclear to what extent this was true of youth referred to diversion programming. While on paper it appeared that the issue of rights was thoughtfully addressed in the development of diversion policies, most programs stopped short of providing any concrete ways of protecting the rights of youth (other than providing them with the opportunity to have their case transferred to a the traditional court system if they desired). Numerous warnings were made about these issues in research and even by diversion advocates. For example, the federal government’s 1977 report on diversion states that “…diversion might not always provide for due process, the protection of the individuals’ rights under the law….Some diversion projects require an admission of guilt as an eligibility criterion. This practice is contrary to the court principle of presumed innocence. Protection must be available to the offender should he or she be charged at a
later date for the offence which was the subject of the diversion agreement‖ (Solicitor General, 1977, p. 11). Research looking at the connections between the talk of rights protections and what was actually happening in diversion showed that although concerns over legal safeguards were raised, little was done to ensure young people were protected in diversion programs.

The questions that were raised in research centred on the possibility of coercion or involuntary participation in diversion as well as the weak mechanisms for ensuring the protection of due process rights. It was recognized that participation in diversion programs was generally occurring as a result of coercion and not the result of the truly voluntary participation of the young people referred (Blomberg, 1983). As Nejelski (1976) writes, “youths may not be diverted away from the juvenile court; they are often coercively directed into treatment” (p. 396). The voluntary nature of diversion programs was questionable given the underlying coercion associated with the idea that youth could reject diversion in favour of a formal court hearing. The idea that this was a mechanism which protected youths’ interests was questionable, particularly when the alternatives to diversion were likely more frightening to the youth.

Many diversion programs themselves also incorporate a wide range of programming options that are supposed to deal specifically with a young person’s behavioural problems. The types of programs available in diversion are considerable and include, for example, behaviour modification programs such as anger management, substance abuse counseling, and personal counseling. The range of programming options available to youth in diversion appeared limitless and the question of whether or not youth felt coerced into these programs was raised within the context of protecting their
procedural rights. Unfortunately, research examining youths’ views of and experiences in diversion was extremely limited during this time and did not adequately address the issue of coercion into the programs. The widespread use of these treatment programs in diversion occurred with limited examination into the quality and substance of the programs young people ‘agreed’ to participate in. This raised additional concerns regarding the fairness of the procedures in diversion because no one really knew what impact these programs were having on the lives of youth. One of the reasons for this widespread acceptance – without empirical justification - was that diversion advocates at the time had argued so adamantly about the failures of the youth court that anything that might replace it was seen as a more effective alternative (Nejelski 1976; Moyer, 1980).

Diversion research up until 1984 had focused on only certain issues leaving a number of unanswered questions in the diversion literature. The focus on identifying the various characteristics of diversion cases meant that issues, such as our understanding of the views and experiences of youth in diversion, were neglected in the literature. Though diversion programs continued to be examined, research on diversion was somewhat more limited after the mid 1980’s. Those studies which have been conducted have each tended to ask questions similar to those posed in earlier diversion research. The result has been a considerable gap in our understanding of diversion – most clearly in Canada.

**Diversion since the mid 1980’s**

Despite the gaps in knowledge on diversion programs, formal programs to divert youths from court continued to maintain their popularity and influence in the area of youth justice policy after 1980. In fact, in Canada, diversion was formally placed into the
Young Offenders Act, the new youth justice legislation that replaced the Juvenile Delinquents Act in 1984. One can infer the government’s view of diversion from a booklet that was released at the time that the Young Offenders Act was making its way through the Parliamentary process.

“One of the underlying principles of the new Act is that, for less serious offences, alternative measures to the formal court process might be used. It has been recognized for some time that many young people are brought into court unnecessarily, when other effective ways to deal with them already exist in some provinces. These programs called diversion programs may entail community service, involvement in special education programs, counseling or restitution agreements; their common characteristic is that they are all voluntary” (Solicitor General, p. 4).

Diversion was formally incorporated into the following section of the YOA which states that “Where it is not inconsistent with the protection of society, taking no measures or taking measures other than judicial proceedings under this Act should be considered for dealing with young persons who have committed offences” (Section 3(1)(d), emphasis added). A quite formal form of diversion (Alternative Measures) was enabled in Section 4 of that Act. Alternative measures were subsequently formally made available to adults in 1996 when a section, modeled after the YOA provisions was added to the Criminal Code. The Young Offenders Act (YOA) remained in effect until 2003 when it was replaced with the Youth Criminal Justice Act (YCJA). While diversion was first formalized in legislation under the YOA, it was the YCJA that more explicitly addressed diversion from the court system. For example the YCJA states,

“A police officer shall, before starting judicial proceedings or taking any other measures under this Act against a young person alleged to have committed an offence, consider whether it would be sufficient, having regard to the principles in section 4, to take no further action,
warn the young person, administer a caution, if a program has been established under section 7, or, with the consent of the young person, refer the young person to a program or agency in the community that may assist the young person not to commit offences (Section 6(1), emphasis added).

Obviously, the lack of empirical evidence supporting the assumption that diversion programs achieved some important purpose did not stop legislators from continuing to support it in policy, and in particular in youth justice policy. Clearly the view was strongly held that too many youths were being brought into the formal court system and that alternatives to this type of processing were still needed.

While the popularity of diversion programs continued into the 1980`s, research on diversion after 1980 was quite limited. It seemed that, for all intents and purposes, the questions that researchers had about diversion had been answered. What research has been conducted since the early 1980s has tended to examine the same sorts of questions academics asked early on - do diversion policies divert or are they simply net widening? Who gets diverted and for what reasons? Are legal rights protected in diversion? (For examples see Mott 1983; Erickson 1984; DeAngelo 1988; Davis et Al. 1989; Feld 1993; Maclure et Al. 2003; Schelenberg 2003; Carrington and Schelenberg 2005; Lo et al. 2006). And not surprisingly, the answers to these questions have remained more or less the same. Diversion programs, for the most part, were not diverting youth from court and instead they seemed to still be bringing in youth who would have otherwise been dealt with less formally. It is worth noting that some research during this time period did suggest that diversion programs were successful in diverting and did not result in
substantial net widening\textsuperscript{10} (for example see Fischer & Jeune 1987; Chan et al., 2004).

The presence of mixed results in the literature has likely contributed to some confusion over whether or not diversion is good policy. The criticisms of diversion, while widely known even among those involved presently in diversion initiatives, seemed to have had little impact on our willingness to accept diversion in youth justice. In general, despite this being the explicit goal of diversion policy, we know that most of the youths in these programs have not, in fact, been diverted from court. Yet, diversion appears to be as popular as ever. How is it that diversion policy has overcome (without ever really addressing) the concerns and criticisms of the 1970’s? Why does it remain such a popular part of youth justice policy? If the programs do not divert, then why do they exist, and, what is it that sustains them? In particular, what sustains policy interest in ‘police diversion programs’ in the area of youth justice? The purpose of this research is to answer these questions.

Over the last thirty years, research on diversion has not considered what other purposes these programs may be serving and how these other purposes might explain their long standing popularity in youth justice policy. These questions will be addressed through the examination of two police diversion programs in Southern Ontario which, like many other diversion programs, widened the net of social control. Chapter two will provide an overview of the research on diversion policy and programs. The purpose of

\textsuperscript{10} There has been criticism of the quality of research examining diversion projects. For example, Fischer and Jeune (1987) argued that based on a simple arithmetic calculation one could determine that one pre-charge diversion program in Western Canada successfully diverted appropriate cases. The authors present the proportions of youth warned, charged and diverted by police over time and suggest that the decline in the proportion of youth charged is attributable to the availability of diversion programming. The decline was evident for both the proportions of youth charged and youth warned – and while some of the youth referred may have actually been truly divertible cases - one might have just as easily argued that the youth diverted had previously been warned and were now being dealt with more formally or that the program was indeed net widening.
this section will be to provide an understanding of how diversion has been viewed and researched over time. Chapter three will focus on the following; the legislative background underpinning the operation of diversion programs; a structural overview of the HYJP and TPS-YRP; as well as a description of the methodology used in this research. Chapters four, five and six will present the analysis and results of this research. Chapter seven will provide a discussion of the findings and conclude the research. I will be suggesting that these programs accomplish important institutional goals that become evident as soon as one looks beyond the immediate goal of diverting youth from the court process.

References


In re Gault, 387 U.S. 1 (1967); 87 S.Ct. 1428

Kent v. U.S., 383 U.S. 541 (1966); 86 S.Ct. 1045


Chapter 2 Literature Review\textsuperscript{11}

For over thirty years numerous research studies have examined diversion policies and programs. Over that time a number of themes have emerged in the focus of diversion research. In general, the themes that were established early on in diversion research\textsuperscript{12} focused on answering the following types of questions: Who gets diverted and why? Do diversion programs divert youth from court? Is diversion effective\textsuperscript{13}? These questions are important and the answers to them are crucial to an understanding of how diversion programs have operated over time. In addition to these frequently asked questions, the literature has also examined, albeit far less frequently, issues around the potential harm diversion programs pose to participants; the potential rights violations that might result in their application; as well as the possibility of disparity in the treatment of diversion cases. This following section will provide an overview of the research looking at these issues.

\textsuperscript{11} The purpose of this section is not to provide a literature review in the traditional sense. Instead, this section is meant to provide a broad understanding of how researchers have examined and viewed diversion policy and programs over time.

\textsuperscript{12} The focus of this literature review is on diversion of young offenders from the criminal justice system and does not include an examination of other special categories of offenders that may also be diverted via different forms of diversion. Diversion is used for variety of special offender categories and offence types; as well as for both adult and young offenders. Examples of these other types of diversion include, but are not limited to, the following; mental health, special drug courts, prostitution (john schools). And while some of the same broader issues regarding net-widening are evident in these additional forms of diversion (see Hartford et al., 2006); the manner in which these programs operate, and the specific types of offenders and offences they handle, make them quite different from the more general diversion of young offenders which is the focus of this research.

\textsuperscript{13} The literature examining the effectiveness of diversion programs have almost always focussed on one of two things: recidivism and cost savings as the sole measures of a program’s success or failure.
Who gets diverted?

In the 1960’s, once diversion had become widely accepted by policy makers and virtually everyone doing work with young people, large numbers of diversion projects were set up and the programs operated for a number years with little empirical investigation into their effectiveness. This changed in the early 1970’s when the bulk of research on diversion began. Early research examined a number of factors related to the types of youth referred to diversion. In fact, the question of who gets referred to diversion, and for what reasons, has remained a question in diversion research for over thirty years. The reason for this is quite simple. In order to understand if diversion is working we need to have some sense of who police officers are referring to these programs and how they compare to traditionally court bound youth. In general, the research in this area has found that youth referred to diversion were those accused of very minor offences. Kowalski (1999) in a study of alternative measures (or diversion programs) for youth in Canada found that the most frequently referred cases were for property related crimes, such as shoplifting. The referral of property related offences to diversion is common across jurisdictions and these cases have been found to represent the majority of diversion cases for over thirty years (see Lo et al. 2006; Carrington and Schulenberg 2005; Krasnovsky and Lane 1998; Fischer and Jeune 1987; Mott 1983; Moyer 1980).

The type of youth who gets diverted is, for the most part, solely the result of decisions by frontline police officers. Police officers are afforded considerable discretion in their decisions to charge. It is within the powers of the police to decide whether or not to charge a youth for an offence or deal with them through more informal means, such as diversion or a warning. In an extensive study of police discretion, Carrington (1998)
found that of the youths who come into contact with the police for a variety of offences, 41% of them were dealt with through non-judicial means while 59% of youths were formally charged. Non-judicial processing or processing by other means encapsulated a number of alternatives to formal charges. Other means of processing ranged “...from an informal warning with no further action to a pre-charge alternative measures program (Carrington, 1998, p.8). The study involved statistical analysis of factors affecting pre-charge diversion of young offenders and was based on data from the Revised Uniform Crime Reporting Survey. One concern must be noted is that at the time of the study only certain provinces had implemented pre-charge diversion programs and others had no comparable referral program. For example, at that time Ontario alternative measures only operated at the post-charge stage. Consequently, the rates of youths charged in Ontario may have been somewhat overestimated, as youths referred to alternative measures would have been recorded as having been charged rather than diverted.

Research has examined the exercise of police discretion in diversion cases and identified a number of factors which influence police decisions to divert. Obviously then, the police play an important role in the types of cases that end up in the traditional court system. As Conly (1978) states, “It has long been recognized that the police play a singularly crucial role in determining the numbers and types of juveniles appearing in Canadian juvenile courts”(p.25). Conly (1978) examined police decision making in major metropolitan areas across Canada during a one month period in 1976. The study found that police discretion in the decision to charge young offenders was related to the location in which the youth lived. According to Conly (1978) it was the practices of individual police departments in specific metropolitan areas that resulted in larger
proportions of youths going to court. Charge rates differed considerably across the regions under study, for example, Calgary was shown to have a charge rate of 96% while Hamilton was shown to have a charge rate of 17%. The study suggested that the policies and practices of individual police departments may influence the rate at which young offenders are diverted from the courts. Conly (1978) also examined whether variables such as offence seriousness, age, and prior contact with police further influenced an officer’s decision to charge a young person. Police were found to consider a number of factors in their decision making. The seriousness of the offence, age of the youth at the time of the offence, as well as, prior contact with police all contributed to an officers’ decision to lay charges (Conly, 1978; see also Barton 1976).

Barton (1975) in a study examining police discretionary decision making found that a range of factors influenced the decisions officers made when dealing with youth. The following factors impacted police dispositions at the time of arrest; the nature of the current offence; a youth’s prior record; the race of the youth; the socioeconomic status of the youth; a youth’s gender and age. Similar to Conly’s (1978) findings, the more serious the offence a youth was accused of the more likely they were to be charged for that offence. Youth with a known criminal history were also more likely to be charged. The older a youth was at the time of arrest the higher the likelihood of charges being laid. In addition to these factors, Barton (1976) also examined the role of socioeconomic status, race, and attitude in police decisions to charge. He found that harsher police dispositions were significantly related to the socioeconomic status of female youth; black youth received much harsher dispositions than white youth; and finally, youth with a demeanor interpreted as being disrespectful also received harsher dispositions.
While research in the 1970’s had broadly identified the factors impacting on police decisions in young offender cases, subsequent research more clearly identified the relationships between these factors and how they interacted and contributed to police decisions to divert young people. Doob and Chan (1982) in a study of police decisions to send young offenders to court examined the factors that most influenced police officer’s decisions. Similar to Conly (1978) and Barton (1976), Doob and Chan (1982) found that the decision to formally charge a young person was related to the type of offence the youth was alleged to have committed as well as the particular characteristics of the young offender. As Doob and Chan (1982) state, “…in making a decision whether to take a juvenile to court, the police appear to make use of certain legal criteria (e.g., seriousness of offence, previous record), together with some situational (e.g., attitude of the juvenile) and some historical (e.g., past involvement with social agency, family problems) contexts within which the juvenile is assessed”(p.32). The analyses broke down these factors into positive and negative attributes, for example, youths either had previous contact (negative) or they did not (positive). The presence of one negative factor did not necessarily guarantee a youth would be charged, however, the combination of two or more negative factors, such as a criminal history and serious offence, were found to significantly increase the likelihood of a youth going to court (Doob and Chan, 1982). The presence of two or more positive attributes were found to significantly reduce the likelihood of a youth being charged (Doob and Chan, 1982).

Mott (1983) in a study of police decision making in young offender cases examined three decision outcomes (no further action, caution or diversion, and prosecution) and the reasons (nature of the offence, denial of responsibility, victim’s
wishes) for handling their cases in these ways. Mott further explored the relationship between police decisions and case outcomes by gender and by whether or not a youth was a previous or first time offender. Mott (1983) found that for both males and females the most important factor in police decisions to divert or charge was criminal history. That is, first time offenders were most likely to be cautioned while recidivists were more likely to be charged. For first time offenders, the most common justification for charging a youth was the nature of the offence. That is, the more serious the offence the more likely police would formally charge the youth. “The decision to caution was usually made on the advice of social departments because some other action was being taken or the juvenile was already subject to a care order or because the offence was trivial”(p.257).

More recently, Carrington’s (1998) study examined a wide range of factors that affected police officers’ decisions to charge. Carrington (1998) broke down the characteristics affecting the decision to charge into high, moderate and low impact. Consistent with previous research findings the seriousness of the offence and age of the young person were key factors in the decision to charge. Older youth involved in serious offences were most likely to be charged. The presence of a weapon was also found to increase the likelihood of a youth being charged. In terms of other offence characteristics, Carrington (1998) found that the value involved in the offence had a moderate impact. “Young persons implicated in incidents involving property valued at $25 or less were less likely to be charged; whereas property valued at $1000 increased the likelihood of charges”(Carrington, 1998, p.viii). Interestingly, youths involved in shoplifting offences had on average a somewhat greater chance of being charged. This finding would appear to be consistent with court statistics which indicate that many of the
cases sent to court are theft under cases (Thomas 2005; Thomas 2008). As past research has indicated, police officers utilize a wide array of offence and offender characteristics in making their decisions. And based on this research it seems that, more often than not, these decisions result in the diversion of youth deemed by police officers to be the least risky.

McAra and McVie (2007) in a study of the impact of criminal justice system contact and desistence from offending examined factors in front-line police officer decisions to charge on a number dimensions. Again consistent with early research, the study showed a range of variables on which the youths who were charged differed from those who were not. The factors found to affect police decisions to charge included gender, social deprivation “...as measured by family socioeconomic status, neighborhood deprivation, and free school meal entitlement,” family structure, offending behaviour (seriousness of offences, self reported offending, drug/alcohol use), visibility (whether or not youth had adult supervision, skipping school, hanging around public spaces), and police contact (charges, diversion, delinquent friends). The study found that above and beyond the many factors analyzed, seriousness of the offence was the strongest predictor of police decisions to charge. As one would also expect, the greater the number of contacts with police and the greater presence of police the higher the likelihood that the youth would be charged. This is somewhat intuitive in the sense that if young people are skipping school and hanging around without parental supervision they are more likely to experience police contact. Aside from these findings, McAra and McVie (2007) also found that the gender and social disadvantage were also significant predictors of the decision to charge. That is, males and youth from disadvantaged backgrounds were more
likely to be charged by police than females and those from less disadvantaged backgrounds.

**Do Diversion Programs Divert?**

Probably the most important question which has been repeatedly asked in diversion research over the last thirty years is whether or not diversion programs are actually dealing with the types of youth that would have otherwise been sent through the traditional court process. This is obviously a very important question because diversion policies since the 1960’s have been defined and justified as an alternative to the traditional court process. The empirical evidence suggesting that diversion contributed to the net-widening effect first described by Stanley Cohen in 1979 developed rapidly during the 1970’s. Many researchers have examined this question and most have come to similar conclusions. Diversion programs tend to draw upon large numbers of youth who would have been, in the absence of formal diversion programming, dealt with less formally by police (see Vorenberg & Vorenberg 1973; Elliot 1974; Klein 1975; Klein and Teilman, 1976; Blomberg 1977; Austin et al., 1978; Sarri 1979; Farrington and Bennett, 1981; Parker et al., 1981; Polk 1981; Decker, 1985; Pratt, 1986; Sanders, 1988; Ezell, 1989; Macallair and Males, 2004). More specifically, the majority of young people referred to diversion programs are youth who would not have been formally charged and sent through the traditional court process. Much of the research on diversion originated out of the U.S. Canadian research is much more limited.

Klein and Teilman (1976) examined two police diversion programs in California and found that youth referred to both of the programs when compared to court bound youth tended to be younger, involved in less serious delinquency as well as those with no
prior criminal history. In 1976, the California Youth Authority examined a number of local diversion programs and examined the types of youth referred into the programs and also found that the majority of youth referred were those who would not have otherwise been processed in the traditional court (as referenced in Blomberg 1983).

Blomberg (1977) examined a large scale diversion project that involved services and entry points for youth. The program began operation in 1972 and included a drug abuse unit, outreach centre, family intervention unit, and a neighborhood youth outreach house. The program received referred youth from the police, courts, as well as youth not involved in the criminal justice process but who were deemed to be in need of services. The study found that rather than reduce the control of the courts, the diversion program served to expand the control of youths by bringing into a formal diversion process the youth and the youth’s family. A case example illustrates this intensified social control,

“A fourteen year old boy with no prior record was referred to family intervention from probation intake on a runaway charge. His father and stepmother subsequently agreed to participate in the family intervention counseling program. During the counseling sessions the fourteen year old, his sixteen and ten year old brothers, the stepmother, and father were all required to be present. The case worker indicated that the father felt that by working and earning the living he was carrying out his family responsibility and that his wife should be able to handle the boys. The stepmother did not feel she could control the boys, especially the two older ones. The case worker felt there was a general sibling rivalry for the stepmother with sexual overtones in the case of the sixteen year old. Following the mandatory five counseling sessions, the case worker recommended continued family therapy which the father refused. The case worker made several follow up visits to the home and subsequently recommended that the boys be removed from the home because of the continued difficulties between the boys and stepmother. Ultimately the two older boys were placed in the home of a relative. The ten year old was placed in a group home from which he ran away twice attempting to return home. Following the second runaway, he was referred back to the juvenile court and because of the runaway record and what was determined to be general behavior deterioration, he was found to be
incorrigible and subsequently placed in a custodial institution” (as quoted in Blomberg, 1977, p. 281).

Blomberg (1977) argued that the decreases in youth arrests, probation referrals, cases at probation intake were linked to the displacement of these youth into diversion programming that placed them on informal probation and this was also linked to an increase in cases closed at the initial intake. The diversion program represented a means by which the courts could deal with youth and their families. In addition, youth previously not dealt with by the courts were now finding themselves in the diversion program whether by referral by police or some other means. As Blomberg (1977) states “Diversion’s official goal of limiting the scope of and jurisdiction of the juvenile court has not been achieved. Instead, diversion has enlarged the scope of the juvenile court and the proportion of population under its control (p. 281).

While the evidence that diversion has in large part simply served to bring greater number of youths into the justice system, there is some evidence to suggest that efforts to broadly divert youth from the criminal justice system is possible. There is some more recent research that has shown that diversion can work when integrated properly into youth justice legislation (see Chan et al., 2004; Carrington and Schulenberg 2005; Bala et al., 2009).

The ‘Effectiveness’ of Diversion Programs. While there are a large number of studies that have demonstrated that diversion programs simply have not done what they were intended to do- divert youth from court - , over the last thirty years, there have been some research studies which have suggested that diversion programs have had some positive impact. Many of the positive results focus on issues such as reduced recidivism and cost
effectiveness. Similar to the question of who gets diverted, the question of how effective diversion programs are has also been asked repeatedly over time. The measure by which this has been assessed (recidivism) has been plagued by problems and rendered inconclusive many of findings in this area. Much of the evaluation research looking at diversion programs have been plagued by problems of inadequate control groups in assessing the impact of diversion on program participants (Andriessen, 1980; Decker, 1985; Hillsman, 1982). A number of studies have shown that diversion programs reduce recidivism among diverted youth when compared to court bound youth (Quay and Love, 1977; Palmer and Lewis, 1980; LeGalbo and Callahan, 2001; Forgays, 2008). Far fewer have demonstrated no effect (see King et al., 2001) or increased recidivism (Lincoln 1976). The recidivism measures results have tended to be the most contentious area in the literature on diversion programs and they have proven to be quite problematic for evaluators because the comparisons between groups may in fact be meaningless. That is, youth diverted are likely to be the least risky and to be involved in the least serious crimes and are typically youth who would have been dealt with informally by police. On the other hand, court bound youth tend to be older and involved in more serious crimes. Drawing inferences that the results of a comparison of these two types of youth has anything to do with the relative impact of ‘diversion’ and the ‘court’ is necessarily artefactual because in the absence of diversion programming, diverted youth would have been less likely to reoffend anyway. Another problem in this area which tends to inflate

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14 The potential negative impact of diversion has been examined infrequently over time. However, some studies have indicated that diversion programs can be harmful to a youth’s self image and can result in greater recidivism when compared to youth dealt with informally (informal police caution) (see Lincoln 1976; Rojek, 1979; Jaffe et al., 1985).
the likelihood of positive results is the tendency to exclude - for good reasons at times - youth who have failed to complete diversion.

Once it is understood that the majority of diversion programs have not diverted youth from court and instead have brought arguably the least troublesome youth into the system more formally, questions about recidivism and cost effectiveness become more complicated. That is, if we assume that diversion works – youth are diverted from the court process - these questions are simple and make sense. If diversion works as it was intended, comparisons between ‘court’ youths and ‘diverted’ youth would be important because one could see whether they differed in the likelihood of reoffending. Even if there were no difference, one might, on a policy basis prefer ‘diversion’ if it could be shown to be a less expensive means of dealing with young people in comparison to the traditional court process. But these questions are more complicated and not as easily answered when we recognize that the majority of the cases referred to diversion would not have otherwise been sent to court. Many of the studies which indicate positive results fail to adequately consider possible net-widening effects and have been heavily criticized for their research designs and the meaningfulness of their comparisons of recidivism (see Polk 1981; Gibbons & Blake 1976; Andriessen, 1980; Beck et al., 2006).

Over the last thirty years, the assessment of recidivism among diverted youth has been used as a source support for both positive and negative conclusions concerning the effectiveness of diversion programs. On the one hand, the consistent demonstration in the literature that diverted youth are less likely to reoffend has been touted as a major success among diversion proponents (See Quay and Love, 1977; Palmer and Lewis, 1980; Binder and Geis, 1984; LeGalbo and Callahan, 2001; Forgays, 2008). On the other
hand, the finding that diverted youth are less likely to recidivate compared to court bound youth has been heavily criticized because of the methodological flaws inherent in comparing recidivism rates of very different types of youth. In this context, then, diversion is seen not as effective in reducing recidivism, but as an extension of social control. (Polk 1981; Gibbons & Blake 1976; Andriessen, 1980; Beck et al., 2006). Despite these differences in conclusions people have drawn concerning diversion, it is worth noting that most authors – whether proponents of diversion or not – acknowledge the difficulty in evaluating these programs precisely because of these issues. Many still argue that diversion can work (Beck et al., 2006). Calls have been made on both sides for an expanded understanding of the effectiveness of diversion programs beyond the traditional measures of recidivism and cost savings. Unfortunately, up until now, few evaluation studies have embarked on research beyond these measures.

**Drawing conclusions about diversion of youth**

Over time there has been relative consistency in the answers to both of the questions being asked about diversion. Research on diversion has generally concluded that youth diversion programs bring many youths into a system who, in the absence of these programs, would have been likely to have been dealt with informally. And research has not conclusively found advantages to formal ‘diversion’ programs in terms of recidivism. Policy discussion has tended to focus almost exclusively on the operation of diversion and has tended to avoid asking questions that focus more broadly on the functions of diversion. The research has consistently shown that these programs widen the net-of social control by bringing youth into the justice system who would have otherwise been handled informally by police. It is this finding that has contributed to the
mixed assessments of diversion policy and programming. Yet, despite these mixed assessments on the success or failure of particular diversion programs, many academics as well as those responsible for youth justice policy hold on to the possibility of success in justifying the continuation of both diversion policy and programming (see Pratt, 1986; Sanders, 1988). We do not know why formal diversion programs still, in spite of the evidence against them, remain such an integral part of youth justice policy. This may be in part because, historically, few researchers moved beyond understanding diversion from an operational point of view. In addition, it is possible that “diversion from the criminal justice system” is seen as a unitary construct encompassing both doing (almost) nothing (e.g., warning a youth not to offend again) and being referred to a formal, and somewhat invasive, ‘diversion program.’ One of the exceptions to this characterization is work by John Pratt (1986). He provides one of the first examinations of the broader functions of diversion in society. Specifically, he examined what function net-widening might serve. Rather than treating net-widening as a problem of diversion, Pratt (1986) argues that net-widening might better be examined as a something which has contributed to its success. Indeed, the public is often cited as supporting diversion policies and programs (O’Brian, 1984). Often times doing something with these youth is viewed more positively than simply doing nothing at all. From this perspective, net-widening is seen as not being harmful to youth. Instead it is seen as being useful to society to have agencies looking to increase their surveillance of youth populations. In this regard, diversion is useful precisely because it brings in larger numbers of youth into the criminal justice system.

Pratt’s (1986) work does, in part, provide a plausible explanation as to why net-widening has contributed to the success of diversion from a law enforcement perspective.
Pratt’s (1986) argument, however, does not explain the continued support for diversion policy and programs by those who have historically been most critical of how these programs operate. There are many references in the policy literature that express hope that diversion will contribute positively to the meeting (often undefined or unstated) goals of the youth justice system, even in the face of insurmountable evidence that diversion does not work in keeping youth out of the justice system. The following quotes illustrate this well,

“Here at least, it might be thought, there are signs of progress that all can agree on, signs of a more humanitarian approach to our criminal justice system. Less formalism, less ritual, more speed, more efficiency, fewer lawyers, more professionals with a direct involvement in the delinquency business, such as the police and child-care experts: the classical mixture for recipes of progress in juvenile justice reform, it seems, each measure of which leaves further behind some barbaric relics of our past” (Pratt, 1986, p. 213)

“ It is also important to realize that the origins of diversion lie at least as much in changes in police as in changes in government policy. We cannot assume that if ‘diversion’ were abandoned all the offences which used to be nfa’d [no further action] by beat bobbies would be so treated in the future. Higher crime figures, stringent performance indicators, and more extensive surveillance are all here to stay for the foreseeable future. The net has already widened. The choice is not between diversion of various kinds and the ‘golden age’. The second option is not available. This forces us to contemplate the shape of diversion in the future, on which there is considerable room to maneuver. Let us hope….that some forms of diversion will, in the end, do some good” (Sanders, 1988, p. 529).

There is something about diversion which, it seems, appeals to everyone from academics to politicians to members of the general public and to those having responsibilities within the criminal justice system (e.g., law enforcement).
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Chapter 3: Diversion Program Descriptions and Methodology

Overview of the Diversion Programs under Examination

In Canada, there has existed considerable variation in the use and types of diversion programs across provinces (Kowalski, 1999). Under the Young Offenders Act (YOA), diversion from the court system could be achieved through either police discretion (warnings) as well as through alternative measures programs. One of the principles of this legislation states, “where it is not inconsistent with the protection of society, taking no measures or taking measures other than judicial proceedings under this Act should be considered for dealing with young persons who have committed offences” (YOA, sec3(d)). Federal legislation left the means by which non-judicial processing of young offenders occurred up to individual provinces to implement. Traditionally, in Ontario, diversion has been exercised through informal means, such as warnings and formally through diversion at the post-charge stage. Until quite recently in diversion’s history, formal alternative measures in Ontario involved only diverting youth from the court system at the post-charge stage. The Halton Youth Justice Program and Toronto Police Youth Referral Program were two of the earliest formal pre-charge diversions programs to be implemented under the YOA \(^{15}\) in Ontario.

More recent youth justice legislation has more explicitly advocated the use of diversion in dealing with youth. The Youth Criminal Justice Act (YCJA), implemented

\(^{15}\) Both the HYJP and TPS-YRP were developed in anticipation of changes to youth justice legislation. So, while both programs were developed with the YCJA in mind the operation of each was entirely consistent with the legislation they implemented under (the YOA). However, neither of them was identified as a formally designated precharge “alternative measures” program under the YOA or an “extra-judicial sanctions” program under the YCJA.
in April 2003, provides a legal framework for the use of extrajudicial measures (YCJA, part 1 Sec.1thru12). Under the YCJA, extrajudicial measures are presumed to be the most appropriate way to deal with first time offenders who are charged with minor offences. Alternative measures programs (or extra-judicial sanctions as they are termed under the YCJA) at the post-charge stage are formal diversion programs in which youths who would otherwise go through the court system are dealt with through community sanctions. One difference between pre- and post-charge diversion is with respect to appearances before the court. Youths who are charged must attend court at least once in order to determine their eligibility for alternative measures in the post-charge model. At the post-charge stage, charges are withdrawn once youths have successfully completed their alternative measures. Youths referred to a diversion program at the pre-charge stage do not make any court appearances. Instead, these youths attend a community organization and complete agreed upon sanctions under a particular time frame. Once a youth has completed these sanctions the police are notified and no charges are ever laid with respect to the original offence.

The programs that were examined in this research were the Toronto Police Service Youth Referral Program (TPS-YRP) and the Halton Youth Justice Program (HYJP). Each of these was a pre-charge diversion program. There were a number of similarities in these two programs in terms of their overarching aims. However, structurally they were quite different. Both the TPS-YRP and the HYJP were designed to provide “meaningful” (which was largely defined by the program developers) responses to youth crime that were outside of the traditional court system. As pre-charge diversion programs, each program was described and justified as a method of providing front-line,
uniformed police officers with an alternative to laying charges against a young person for a first time, minor offence.

In cases in which a police officer encountered a youth suspected of a minor offence, he/she could choose to refer the youth to pre-charge diversion programming. Only youths who took responsibility (through an admission of guilt) were permitted to participate in and were in the end referred to diversion programming. In addition, police officers were told, in each case, that the program was to be used for youths who – in the absence of the program – would have been referred to court. In general, once a case had been referred for diversion, a meeting was held with the youth and sanctions for the offence were assigned. Cases were then monitored until sanctions were successfully completed.

While both programs were similar in terms of their overall (stated) goals, they were considerably different in their structure and operation. The next two sections will provide the legal context under which these pre-charge diversion programs should be understood as well as a detailed description of how the TPS-YRP and HYJP were operated and structured. The last section in this chapter will describe how the research was conducting and the multiple sources of data used in this research.

**Legislative Guidance in Program Development**

Two important pieces of legislation guided the development of the TPS-YRP and HYJP. Both Programs were developed in anticipation of changes to youth justice legislation in Canada. More specifically, the implementation of the Youth Criminal Justice Act (YCJA) which would more specifically emphasize holding young people accountable for offending behaviours through the use of measures *outside* of the
traditional court process was, at least in part, a stimulus to the development of both programs. While both programs were developed to meet the requirements of the new legislation, each was in fact established under the Young Offenders Act (YOA). The Halton Youth Justice Program was initiated under the YOA and began operating in November 1998; six months after the Government of Canada had released a ‘policy’ document outlining its goals for the new legislation. The TPS-YRP was also initiated under the YOA and it began its operation in April 2002 (after the YCJA was first introduced in Parliament).

Because each program began its operation under the Young Offenders Act, it is important to understand how the programs fit into each piece of legislation. The most relevant section of the YOA for these two programs is, almost certainly, the statement that “Where it is not inconsistent with the protection of society, taking no measures or taking measures other than judicial proceedings under this Act should be considered for dealing with young persons who have committed offences” (Section 3(1)(d), emphasis added). The legislation in which these programs began their operation in fact permitted and encouraged the use of measures for dealing with young offenders that were outside of traditional court process. Thus, while both the HYJP and YRP were developed in anticipation of the YCJA, they were both consistent with the YOA.

For the purposes of this research, however, it is the YCJA that is most important in understanding the operation of the two programs since each of the programs was designed, in part, in anticipation of the implementation of the YCJA. This legislation, more than the YOA, emphasizes explicitly the use of alternatives to the court process (extrajudicial measures) by police. The legislative guidance on the use of extrajudicial
measures has been very important for the development and maintenance of pre-charge diversion programs. Section 4 of YCJA, concerning extrajudicial measures, states that

- (a) extrajudicial measures are often the most appropriate and effective way to address youth crime;
- (b) extrajudicial measures allow for effective and timely interventions focused on correcting offending behaviour;
- (c) extrajudicial measures are presumed to be adequate to hold a young person accountable for his or her offending behaviour if the young person has committed a non-violent offence and has not previously been found guilty of an offence; and
- (d) extrajudicial measures should be used if they are adequate to hold a young person accountable for his or her offending behaviour and, if the use of extrajudicial measures is consistent with the principles set out in this section, nothing in this Act precludes their use in respect of a young person who
  - (i) has previously been dealt with by the use of extrajudicial measures, or
  - (ii) has previously been found guilty of an offence.

(Section (4) emphasis added)

There is clear emphasis on the use of measures outside of the traditional court process. Dealing with young people outside of the traditional court process is deemed by the legislation as being the most appropriate way, in many cases, for dealing with young people involved in minor types of offending. It would appear, from the legislation, that what matters most for eligibility in extrajudicial measures is the quality of the current offence, not what the youth has done in the past. What this means is that a youth may be diverted from the court process whether it is his or her first or a subsequent offence. In terms of diversion programs, this means that a young person may be diverted a number of times if this is what is deemed appropriate by the police. From a policy perspective, it is
not necessarily the exact offence the youth committed or their criminal record that should be determining diversion eligibility. Instead the legislation emphasizes the appropriateness of the arrest outcomes.

In addition to providing some guidance on decisions when to divert, the legislation also provides some guidance on how diversion programs should (in theory) operate. Section 5 of the YCJA states that extrajudicial measures should,

(a) provide an *effective and timely* response to offending behaviour outside the bounds of judicial measures;

(b) encourage young persons to acknowledge and repair the harm caused to the victim and the community;

(c) encourage families of young persons — including extended families where appropriate — and the community to become involved in the design and implementation of those measures;

(d) provide an opportunity for victims to participate in decisions related to the measures selected and to receive reparation; and

(e) respect the rights and freedoms of young persons and be proportionate to the seriousness of the offence (YCJA, Section 5 emphasis added).

In comparison to the guidance provided by the YOA, the YCJA calls more forcefully for the use of extrajudicial measures by police. The legislation states that

“A police officer *shall*, before starting judicial proceedings or taking any other measures under this Act against a young person alleged to have committed an offence, *consider* whether it would be sufficient, having regard to the principles in section 4, to take no further action, warn the young person, administer a caution, if a program has been established under section 7, or, with the consent of the young person, refer the young person to a program or agency in the community that may assist the young person not to commit offences (Section 6(1), emphasis added).
There is, therefore, an explicit requirement that the police, when dealing with a youth, consider measures that do not involve invoking the formal court process. The legislation does, however, leave the determination of which offenders or cases are eligible for diversion up to the police. That is, police officers only need to consider these options and then are told to use their discretion to decide whether to divert or charge a young person for a criminal offence. On the other hand it is clear that the police need not demonstrate that they ‘considered’ diverting the youth: for example, Section 6(2) of the YCJA states that “The failure of a police officer to consider the options set out in subsection (1) does not invalidate any subsequent charges against the young person for the offence”. The HYJP and TPS-YRP were methods by which extrajudicial measures could be applied in order for police to hold young offenders accountable outside of the traditional court process.

While the sections of the legislation described above deal specifically with the use of extrajudicial measures, it is also important to understand the broad principles of youth justice as set out in the legislation in order to better understand the context under which the HYJP and TPS-YRP (or extrajudicial measures more generally) were meant to work. The YCJA in Section 3 outlines the purposes of a separate youth criminal justice system and the broad goals that should be met when bringing a youth into and processing them through this system. Section 3 of the YCJA states,

(a) the youth criminal justice system is intended to

(i) prevent crime by addressing the circumstances underlying a young person's offending behaviour,
(ii) rehabilitate young persons who commit offences and reintegrate them into society, and

(iii) ensure that a young person is subject to meaningful consequences for his or her offence

**(b) the criminal justice system for young persons must be separate from that of adults and emphasize the following:**

(i) *rehabilitation* and *reintegration*,

(ii) *fair and proportionate accountability* that is consistent with the greater dependency of young persons and their reduced level of maturity,

(iii) enhanced procedural protection to ensure that young persons are treated fairly and that their rights, including their right to privacy, are protected,

(iv) *timely intervention* that reinforces the link between the offending behaviour and its consequences, and

(v) the promptness and speed with which persons responsible for enforcing this Act must act, given young persons' perception of time;

**(c) within the limits of *fair and proportionate accountability*, the measures taken against young persons who commit offences should**

(i) reinforce respect for societal values,

(ii) encourage the repair of harm done to victims and the community,

(iii) be meaningful for the individual young person given his or her needs and level of development and, where appropriate, involve the parents, the extended family, the community and social or other agencies in the young person's rehabilitation and reintegration (YCJA, Section 3, emphasis added).

The principles and goals of punishment as laid out in Section 3 (the ‘declaration of principle’) of the YCJA are important for understanding how youth are dealt with in diversion programming because they set the standard by which diversion programs should operate. In addition to these broad statements of principle, however, it is also
important to understand the statement of purpose and principles of sentencing included in the legislation. To the extent that a sanction in a diversion program is seen as an alternative to a sentence, one needs to consider the sentencing framework of the YCJA.

The purpose of sentencing in the youth criminal justice system is

“to hold a young person accountable for an offence through the imposition of just sanctions that have meaningful consequences for the young person and that promote his or her rehabilitation and reintegration into society, thereby contributing to the long-term protection of the public” (YCJA, Section 38, part (1)).

Within this broad purpose, the following principles are designed to guide the sentencing of young offenders,

(2) A youth justice court that imposes a youth sentence on a young person shall determine the sentence in accordance with the principles set out in section 3 and the following principles:

(a) the sentence must not result in a punishment that is greater than the punishment that would be appropriate for an adult who has been convicted of the same offence committed in similar circumstances;

(b) the sentence must be similar to the sentences imposed in the region on similar young persons found guilty of the same offence committed in similar circumstances;

(c) the sentence must be proportionate to the seriousness of the offence and the degree of responsibility of the young person for that offence;

(d) all available sanctions other than custody that are reasonable in the circumstances should be considered for all young persons, with particular attention to the circumstances of aboriginal young persons; and

(e) subject to paragraph (c), the sentence must

(i) be the least restrictive sentence that is capable of achieving the purpose set out in subsection (1),

(ii) be the one that is most likely to rehabilitate the young person and reintegrate him or her into society, and
(iii) promote a sense of responsibility in the young person, and an
acknowledgement of the harm done to victims and the community.

(YCJA, Section 38(2) emphasis added).

The legislation is clear on the goals of a separate youth criminal justice system and in the
purpose and principles of sentencing. The goals include crime prevention through
rehabilitation, reintegration, and the application of meaningful consequences for offences.
The legislation provides clear limits on how these goals are achieved by giving primacy
to the principle of proportionality. For example, rehabilitation as a goal of the youth
criminal justice system must be applied within the limits of “fair and proportionate
accountability” (YCJA, Section 3(b)(ii)). This is important because it sets limits on how
onerous sanctions for criminal offences should be in relation to the both the offence and
offenders. For example, in theory two young persons involved in offences of equal
seriousness should receive equally onerous sanctions even if one was in need of
rehabilitative services and the other was not. Recall that all actions taking under the
YCJA must fall “ …within the limits of fair and proportionate accountability” (Section
3(1)(b)(ii)).

While understanding the goals set out in the legislation is important, it is worth
noting that deterrence and denunciation are not currently goals of punishment included in
the legislation. In 2007, the Federal government did, however, introduce a Bill to amend
the YCJA that included the addition of denunciation and deterrence as goals of the youth
justice system. The proposed changes are stated in Bill C-25 (Bill C-25. 39th Parliament
- 2nd Session) which would have amended subsection 38(2) of the YCJA by adding the
following two principles of sentencing: “denouncing unlawful conduct; and deterring the
young person, and other young people, from breaking the law” (Bill C-25. 39th Parliament - 2nd Session). “The Bill however makes the two principles subject to the fundamental principle of proportionality” (Bill C-25. 39th Parliament - 2nd Session). Thus, while the government stressed the importance of explicitly including deterrence and denunciation as goals of sentencing that must be considered for youth; what is important here is that each of these goals had to be achieved within the limits of proportionality. More recent legislative developments have been introduced which place greater emphasis on deterrence and denunciation as principles of sentencing young offenders. Bill C-4 adds the following two objectives to the sentencing principles of the YCJA: “to denounce unlawful conduct” and “to deter the young person from committing offences (Bill C-4. 40th Parliament – 3rd Session). Unlike Bill C-25, the amendments to the sentencing principles are not explicitly required to fall within the bounds of proportionality.

The addition of these goals of punishment might mean significant changes to how young people are dealt with within the youth justice system because their impact will not be limited by the proportionality principle. By situating these goals within the bounds of proportionality, as Bill C-25 did, the government would have prevented the courts from handing out unduly harsh punishments in the name of deterrence and/or denunciation. Bill C-4, however, with the inclusion of deterrence and denunciation undermines the principle of proportionality in the sentencing of young offenders.

Despite these recent events, youth justice legislation in Canada is clear in its emphasis and support for holding young people accountable outside of the traditional
court process. Extrajudicial measures are seen as an appropriate means of dealing with young people involved in minor types of offences and the legislation sets out how these measures might accomplish the broader goals of the youth justice system. And while extrajudicial measures are to be considered, which cases get diverted remains largely at the discretion of police.

**Diversion Program Structure under the Toronto Police Youth Referral Program and Halton Youth Justice Program**

**Toronto Police Service Youth Referral Program** (TPS-YRP)

The TPS-YRP was initially created as a result of discussions between the Toronto Police Service and a number of other service providers in the Toronto area. Discussions began soon after the tabling of the YCJA in March 1999. Initial discussions focused on the responsibility of the police to consider extrajudicial measures.

One year earlier, in 1998, the TPS had signed an agreement with EarlsCourt Family and Child Centre (now known by the name Centre for Children Committing Offences) to provide interventions for youths who were under 12 years old at the time of their offence. The theory behind the program was that individual police officers would not know how best to deal with youths who were below the age of criminal responsibility. In a similar vein, it was thought that individual police officers would have little knowledge about how best to hold a youth (over 12 years old) accountable under the YCJA. Hence the involvement of an outside agency to work with (or technically for) the police appeared to be a reasonable approach to addressing this problem.

The model that was developed was essentially a ‘brokerage’ model – where the police would decide if a youth should be diverted. If the youth was to be diverted, the
police would refer the youth to the program. Initial funding for the program came by way of a contract to the TPS from the Department of Justice, Canada, as part of its effort to assist in the transition from the Young Offenders Act to the Youth Criminal Justice Act. The program was, therefore, administered by two organizations in Toronto. However, it is important that the police were clearly the ‘lead’ agency in that it was their program and the funds to the external agency – Operation Springboard – came via the TPS.

This pre-charge diversion program - set up as a brokerage model – meant that the Toronto Police Service handed over the bulk of program administration and operation to an external not-for-profit agency (Operation Springboard). However, that organization was clearly working for (not with) the TPS. The Youth Referral Program was implemented, initially under the YOA, in April 2002 in two police divisions in the City of Toronto. Forty-one and 42 divisions, located in Scarborough, Ontario, were the first two experimental divisions to implement the Youth Referral Program. In February 2003, the program was expanded to include four additional divisions (13, 31, 32, and 33).

Police officers within these divisions were responsible for making the determination of whether or not a young person was eligible for the formal diversion program. That is, police officers who arrested young persons for minor offences within these divisions were given three options in how they could proceed with the case; the first was to charge the youth for the offence and proceed in youth court; the second was to refer the youth to this formal diversion program; and the third was to handle the case in another informal way, such as a warning.

A distinction must be drawn between cases in which police officers used their discretion to warn the young person and cases where they chose to divert to the
TPS_YRP or the Halton program. Both of these pre-charge diversion programs were designed with the principal goal of diverting youth from the court system. This meant that it was youth who would have otherwise been charged who should have been referred to the programs. These programs were not designed as alternatives to a warning by police. Cases in which a police officer might issue a warning would obviously not have resulted in a criminal charge being laid. And while each of the participating police divisions had special youth officers, their role in the TPS-YRP was quite limited. The role of youth officers in the TPS was simply to train and ensure front-line officer were in compliance with the program.

In the first few weeks of the program, relatively few youths were referred to the program. Given that the program was seen as a progressive response to offending by youths and given that the TPS was being paid by the Department of Justice to run a program that diverted youths from the court, the absence of large numbers of referrals could have been seen as a failure of the program. Hence in the early days of the program, compliance for these youth officers simply meant that they ensured front-line officers were making referrals and that the number of referrals increased over time. Once an officer determined that a case should be referred to diversion, Operation Springboard was the agency responsible for processing youths referred to the program.

The process of referral was not as simple as the youth simply being told to contact Operation Springboard at the time of arrest. Rather, the arresting officer was responsible for filling out all relevant police paper work (records of arrest, a synopsis of the event). This information was then given to a program coordinator who then faxed the information to Operation Springboard. It was not unusual for there to be delays between
the decision of the police officer to refer the youth and the arrival of the faxed police referral information at Operation Springboard. On some occasions, Operation Springboard would receive direct contact via telephone from an arresting police officer about a youth. In general, these direct contact cases involved young people whom the officer deemed to be in need of community resources. These young people were not considered by Operation Springboard to be diversion referrals, but instead dealt with them as courtesy clients.

After the police referred a youth to Operation Springboard, the young person was responsible for arranging a first interview with Operation Springboard staff. Meetings between the youth and Operation Springboard took place in an office located inside a small church in Scarborough, Ontario. Operation Springboard had established a process or checklist of issues that were to be addressed with the youth at the first meeting. This process involved obtaining information about the offence that brought the youth to the program. It also required that the young person take responsibility, through an admission of guilt at that first meeting, for the offence. If the young person did not take responsibility or agree to the sanctions in the Program, the youth was told that the case would be referred back to the Toronto Police where the original charges would be laid.

Thus while participation was considered voluntary, one could question, given the alternatives, whether youth viewed the process and program as entirely voluntary. The choice was described to them as a simple – or perhaps stark – one: participate or go to court. In addition to this offence-specific information, staff members also gathered non-offence related information about each young person’s life, such as personal issues and family situations. Operation Springboard had also developed - though it rarely used it - a
psychological needs assessment tool for assistance in determining what additional programming or counseling the young person might require while in the Program.

During the first interview, both the offence and non-offence related information was gathered from the young person and the sanctions (and interventions) assigned to the youth were agreed upon. The term ‘agreed’ upon is used loosely here to describe the process of sanctioning in the program as it implies that youths felt they had some influence on the types of sanctions they ‘agreed’ to complete. Operation Springboard made it very clear to youth that their participation was voluntary, but if they failed to fully cooperate in the Program they could be referred back to the police where charges for the original offence would be laid. Thus, it is questionable whether or not youth felt they could disagree with sanction imposition.

Operation Springboard distinguished between sanctions and interventions. Sanctions were considered by Operation Springboard to be punishment for the offence while interventions were seen as measures that could be taken to assist the young person with non-offence related issues. For example, a young person who was referred to the diversion program for shoplifting might agree to complete an anti-shoplifting workshop and an anger management program. From Operation Springboard’s perspective these two programs could be distinguished as a sanction and an intervention. The shoplifting workshop would address the offence and if, for example, the young person informed the staff he or she had trouble controlling his or her temper at school, anger management would be assigned as an intervention. It is unclear, however, how this policy was explained to the youth participating in the program and whether or not participating youth made similar distinctions. It seems more likely that the youth saw both programs as
something that they had to cooperate with in order to avoid court. Nevertheless, in working with Operation Springboard, the distinction appeared to be important to them, even though from the perspective of a researcher, the distinction was sometimes not clear.

The types of sanctions and interventions used by Operation Springboard included anger management programs, substance abuse programs, anti-shoplifting workshops, community service, restitution, essays, and posters. Operation Springboard policy aimed to have each young person complete the program (all sanctions/interventions) within two months of the first interview. Operation Springboard staff members remained in contact with the youth until sanctions/interventions had been completed. Once youths had completed their sanctions/interventions an exit interview was scheduled and the youth was deemed to have successfully completed the program. This information was then relayed to the Toronto Police Service and the case would be closed.

In cases where the youth did not attend Operation Springboard or failed to complete their sanctions/interventions, the case was referred back to the Toronto Police Service where charges for the original offence could have been laid against the young person.

The principal goal of the program from the perspective of the funding agency (Department of Justice, Canada) was unambiguous: it was to reduce the number of minor offences ending up in the court system. In February 2004, the Program ended due to the fact that the initial start-up funding from the Department of Justice, Canada, ended and there was apparently no interest in funding it directly from police department funds or municipal or provincial funds.

**Halton Youth Justice Program (HYJP)**
Halton Region is a geographically dispersed area that includes both urban and rural areas. For law enforcement purposes the Region is broken up into three relatively large and independent police service districts. District one includes Milton and Halton Hills. This district covers approximately 642 square kilometers and has a population of roughly 113,700 (Halton Regional Police Service, 2009). The second district (Oakville) is considerably smaller in area than the first, covering an area of approximately 138 square kilometers. However, in terms of population, district two is considerably higher in its density with a population of roughly 165,000 (Halton Regional Police, 2009).

Burlington makes up the third district in Halton Region. District two covers an area of approximately 186 square kilometers and has a population of roughly 164,000 (Halton Regional Police, 2009). Each of the three districts operate fairly independent of one another; each led by a different police superintendent.

The Halton Regional Police Service, in response to anticipated changes in youth justice policy, developed the Halton Youth Justice Program in 1998. Unlike the TPS-YRP which was set up as ‘brokerage model’, the HYJP was set up as an ‘in-house’ model. That is, the HYJP is run by and within the Halton Regional Police Service and is not dependent upon external funding in the way that the TPS-YRP was. The Program was initiated by a senior police official who took responsibility for its overall operation across Halton Region. There are three types of programming in the HYJP, only one of

\[16\] The Town of Halton Hills is comprised of two smaller areas known as Georgetown and Acton and covers an area of approximately 276 square kilometres. The population of Halton Hills is roughly 55,000 (Halton Regional Police Service, 2009).
which is the focus of this research. The two types of programming HYJP offers that were excluded from this research are the conferencing and outreach components. The conferencing aspect of the HYJP - implemented rarely - brings the offender, victim, and others, such as volunteer mediators, into a face to face meeting where the impact of the offence(s) are discussed and details of how the youth may repair the harms done. The outreach program is for children under the age of twelve and provides police officers the option of referring at-risk youth to a central organization that will connect them with the appropriate services in their community. This study will focus on one part of the HYJP - pre-charge diversion - which makes up the majority of cases referred to the HYJP.

The HYJP pre-charge diversion program was developed to provide police officers with an alternative to the court process for young people who committed minor criminal offences. Specifically, it was designed to provide an alternative to youth courts that would hold youth accountable in a timely and effective manner. Similar to the Toronto program, it was designed to divert youths from court, not from other methods of dealing with cases outside of the court system. The Program was designed to provide a meaningful response to youth crime that is outside of the traditional court system. Once again, ‘meaningful’ is typically defined from the perspective of those designing the program. Where a police officer encounters a youth suspected of a minor offence, he/she may choose to refer the youth to a youth justice office run by and located within each of the three police Districts in Halton Region. The HYJP was implemented simultaneously in all of these districts in November 1998.

The HYJP is unusual in its structure and operation. The Program operates more or less independently out of each of the three districts within Halton Region. Once a case
has been referred to the youth workers or program administrators (a police officer and a civilian police employee) located within the district youth offices it is screened to determine if it is appropriate for the diversion program. The day-to-day operation of the HYJP, within each of these three districts is the responsibility of the two program administrators who are made up of a youth officer and a social worker (civilian police employee). The youth workers’ duties within the program are divided, informally, along professional lines. While the roles of the two overlap considerably at times, youth officers tend to handle all of the legal aspects of diversion cases (for example, ensuring all paperwork has been submitted, monitoring contract conditions, etc.) while the social worker’s role is to provide a psychological risk/needs assessment of the youth and select the extrajudicial measures that address the concerns raised by the assessment in each case.

Unlike the TPS-YRP in which the front-line officers made the determination as to whether or not a youth was eligible for diversion; in the HYJP it is the youth officer and social worker who are ultimately responsible for determining whether or not a case is diversion-eligible after it has been referred to them by the front-line police officers. In order for a case to be considered for pre-charge diversion a number of criteria must be met. First, before a case is referred to the youth office, it is the arresting officer who has the responsibility to choose from among three options: charge the youth, divert the young person to the program, or deal with the youth in some other more informal way. For a case to be accepted into the diversion program it must involve one or more charges on which there is sufficient evidence to proceed with charges under the Youth Criminal Justice Act. In addition the youth must admit to the offence as well as agree to
participate in the Program. It is worth noting that not all cases referred to the youth office are accepted into the HYJP. The youth officer and social worker may use their discretion simply to warn the young person (without any further programs or involvement of the police) or simply to refer the case back to the arresting officer for charges. It is, however, rare that either of these would occur.

Once a case has been accepted for diversion in the HYJP a meeting is held with the youth and his or her parents at the police station in the district in which the arrest originated. The first meetings that are held involve the youth workers interviewing the young person alone, the parents alone, and then a meeting involving the youth worker, parents and the young person. During these initial meetings, the social worker administers a risk/needs assessment to determine each young person’s level of risk for reoffending as well as their needs level (in order to assist them from reoffending). Based on this assessment, the program personnel devise a program or set of conditions for the youth. The youth is given a formal “contract” to sign indicating the measures that need to be completed as well as conditions the youth must follow. In addition to the contract, the young person is also asked to sign a waiver in order to permit the disclosure of personal information such as school records. Youths who complete the agreed-upon measures without violation of contract conditions in the program never appear in court and do not have a criminal record under the YCJA from the event that brought them in contact with the police. If a youth does not complete the agreed-upon program, the youth may be charged by the police and processed through the youth court system. The case is monitored by the youth office until the youth successfully completes his/her contract. Once the contract has been completed the case is then closed.
Methodology

Data Access

The data for this study were collected as part of the evaluation of two separate diversion programs. Access to the data which form the basis of this study was permitted as part of these overall program evaluations. However, there were some differences in the manner in which access was established and maintained.

Data collection on the HYJP began in October 2005 and concluded in March of 2008. The opportunity to examine the HYJP came about initially from an informal request from the Halton Regional Police Service to evaluate their pre-charge diversion program. The request for the evaluation was made by the Superintendent in charge of the Program’s operation apparently related to concerns that he had about the place of the program within the police structure. The HYJP operated independently in each of the Region’s three police districts. However, one superintendent was responsible for the Program’s overall operation across these districts. The location of the program within the police structure apparently did not make sense to the police superintendent in charge of its operation primarily because it was very difficult to control what was happening within each of the Districts. The Superintendent in charge apparently wanted to see the program organized somewhat differently within the Halton Police Service. Through conversations it became clear that the reorganization really meant the dispersal of responsibility from the Superintendent to others; which he felt would result in greater supervision and control of what was happening in the Program across districts. In addition, it appeared that the Superintendent was aware that there were certain issues (e.g., quite different approaches
being used in different police divisions) that might be addressed more adequately if the place of the program within the police structure were re-examined. From the Superintendent’s perspective, the Program needed to be understood from an organizational and an operational point of view. Hence he felt that it was necessary to get some ‘hard’ (and independent) information about what was happening in the program in order to make recommendations about how it should fit in the departmental organization. This may explain, in part, why he never appeared threatened or worried about findings which might have been seen as ‘problematic’ for the Police Service. His view was that the program needed attention and that the attention should be informed by knowledge of what the problems were. I suspect, therefore, that he had a fairly good idea what some of the problems might be before the research had begun in October of 2005. He was aware of the fact that I had been involved in the evaluation of the TPS-YRP and was aware of the fact that the funding to that program had not been extended on that program in part, apparently, because of the results of the evaluation.

Prior to data collection I was required to undergo a police records check as well as fingerprinting. Once this was completed, a police identification card was provided to me that allowed me to have access to all of the police divisions as well as the police headquarters. I was provided with contact information and each of the police divisions had been prepared for the arrival of a researcher.

In general, access to police documents, police data and virtually anything collected or worked on by the police department related to diversion was provided to me without hesitation. I ran into some difficulties, however, when the Superintendent in charge of the Program retired and was replaced by another police officer. Two face-to-
face meetings were held with the new Superintendent and he appeared initially to be supportive of the research being conducted. Suggestions were made to extend the study to include interviews with the parents of young people referred to diversion and this was initially accepted. However, in the end access to parents was not allowed. While access to the police department was still permitted, over time it became clear that the new Superintendent was not as interested as his predecessor was in having a researcher have such wide access within the police department to explore a program he was now in charge of.

These two police superintendents clearly had quite different views on the value of the research. This became quite obvious in the first meeting held with the new superintendent. The purpose of the meeting was to review the preliminary report submitted to his predecessor. The first superintendent was pleased with the outcome of the research; it confirmed what he had suspected prior to contacting me and gave him the necessary data to make his case for restructuring the Program within the Police Service. On the other hand, the new Superintendent was not as pleased and referred to the Report’s content as “bullshit”. Instead of focusing on how the Program was operating, he suggested that a more useful report that might help support the Program within the Police Structure would include examining recidivism rates among youth referred to diversion as well as a cost-benefit analysis showing that the Program is saving money (through reduced use of court as well as through preventing recidivism). Over a period of months, my contact with the new Superintendent dwindled as my emails and telephone calls went unreturned. It became apparent in March 2008 that my access had been considerably restricted and data collection was concluded. That being said, the impact of this
restriction was not problematic for the study. With the exception of parent interviews, the data collection had been completed at the point in which it became clear I was no longer serving their needs.

Unlike the HYJP, the TPS-YRP evaluation (and subsequent data access) was a more structured and access to data was, for the most part, provided without difficulty. As a federally funded program, the TPS-YRP was required to have an evaluation conducted throughout the period of its operation. This requirement meant that an evaluation was expected by the Toronto Police Service and Operation Springboard. The evaluation involved a lengthy proposal to the Department of Justice, Canada, and a contractual process in order to gain access to the data. Since we were involved in the discussions from the beginning about the nature of the program, and since the then Deputy responsible for the program never questioned the value of research, there was never a question with the police about appropriate access to data.

As a research assistant, I was permitted access to a wide range of data as part of the evaluation study. The data were collected between February 2003 and March 2004. Data were gathered from both the Toronto Police Service as well as from the agency responsible for the day-to-day operation of the diversion program (Operation Springboard) with few instances of difficulty. There were two instances in which data collection from Operation Springboard became problematic. These difficulties arose when permission for removing copies of diversion case information from Operation Springboard offices and access to client contact records were denied. The argument presented by Operation Springboard for the denials was that permitting such access or removal of documents represented a violation of the organization’s client privacy policy.
However, these issues were resolved with the assistance of the Department of Justice and data collection on case specific information was completed in March of 2004.

**Data Collection**

In order to explore how these programs were working it was important that data were gathered from a variety of sources. These included the following: internal police/program documents, official police statistics, program records and interviews with program administrators, as well as interviews with front-line police officers and program participants. This section provides a brief outline of the data sources that were used to examine the TPS-YRP and HYJP. This study will rely on ten independent sources of data. A detailed description of each of the ten sources of data follows.

1) Arrest Data

i) *Halton Regional Police Service Arrest Data*

From the Halton Regional Police Service, a Microsoft Excel file was received which contained information from all districts in Halton Region from 1998-2006. The file was charge-based and contained detailed information on all offences for which young persons were arrested and how each of these offences was cleared (N=4515). It should be noted that there is a possibility that not all arrests were included in the file. The file includes information gathered from individual case occurrence reports and entered into the excel database by the youth officer. However, it is possible that not all occurrence reports made it to the individual responsible for data entry. For example, some youths who were (legally) arrested (e.g., some of those apprehended for shoplifting and then released) may not be included in this set of data because no occurrence report was filled out by the police officer who first had contact with the youth. The individual responsible
for these data felt that the missing occurrences would be equal across districts and types of cases (for example, offence and clearance types) though I have no way of determining this. I was told that data would be missing in large part because the arresting officer misplaced some of the documentation. This misplacement issue was hypothesized as reason for lost data because it was in each police officer’s interest to submit their occurrence report as these reports formed a part of how each officer’s job performance was measured within the Police Service.

The excel file was converted into an SPSS file and aggregated so that each youth had a single most serious offence and a single most serious clearance (n=4401). The number of youths with multiple charges under the same occurrence was 113. The clearance types included warnings, referrals to pre-charge diversion, and charges. These data provide information on the types of cases dealt with across districts as well as a comparison of how cases were cleared across districts.

The data contained information on young people under 12 as well as over 17. Since the focus of my interest was on how youths (defined by the law) were handled, a new data set was created that included only those cases involving young persons age of 12-17 (N = 4091). This process eliminated 310 cases. These missing cases are made up of the following.

a) Youths under 12 (n=91), youth over 17 (n=50), and cases where the youth’s date of birth or arrest date were missing from the original file (n=169). It should also be noted that any incorrect birth dates or arrest dates may distort slightly the number of youth recorded as being under 12 or over 17.
b) Non-criminal cases. The original case file contained information on cases that did not involve criminal code offences or other federal offences (e.g., drug offences under the Controlled Drugs and Substances Act). Thus, a new data set was created that included only those cases involving criminal code and other federal offences (N=4023) since these are the only cases that can be handled under Canada’s youth justice laws.

c) Missing cases (n=63). These 63 cases involved the following: youth not arrested for criminal code offences (for example cases involving violations of the Highway Traffic Act, Trespassing, etc.); and cases in which the offence was not recorded in the original data file.

**ii) Toronto Police Service Arrest Data**

From the Toronto Police Service, information was received about youths charged in the first two experimental Divisions (41 and 42 Divisions) as well as all other divisions within the Toronto area. Similar to the Halton arrest data, the Toronto arrest data were aggregated from the number of charges filed to the individual young persons’ arrested, such that each youth had a single most serious offence and clearance type for their arrest.

**2) Diversion Program Case File Data**

**i) Halton Youth Justice Program Diversion Case File Data**

From the Halton Regional Police Service, I received additional information about the cases being diverted through the program. The files contained information on the following: 1) the details of the offence; 2) the arresting division and officer; 3) important dates in the processing of cases (e.g., a youth’s first interview, the start and end dates for
the measures that the youth was required to do; 4) a youth’s diversion contract which included the measures (sanctions) assigned to the youth; and 5) the completed risk and needs assessment. A total of 297 case files were examined across the three youth offices. For the Burlington youth office (District 3) 100 case files were randomly sampled (of a total population of 336 diversion cases). For the Oakville youth office (District 2) 100 case files (of a total of 277) were randomly sampled. And for the Milton youth office 97 cases, from a total of 172, were randomly sampled. The case file data were collected from each of the youth office districts. For each case that was examined all relevant information was coded and entered into an SPSS file. The paperwork contained in the files varied somewhat between districts. However, all of the information collected on the youth for the purposes of this study were available from all three police districts. These data will provide useful descriptive information on how cases were processed within the HYJP.

ii) Toronto Police Service Youth Referral Data

From the Toronto Police Service Youth Referral Program Excel file containing information about the youths who were referred and included information about each referral case was received. These records from Toronto Police included the status of all cases that had been referred to the Youth Referral Program office (N=1489). The data were converted from Excel into SPSS for analysis. The data contained a variety of information on each referral case, including age of the youth, the offence the youth was referred for, the officer(s) who made the referral, and a record of the sanctions a youth completed. These data provide a picture of the frequency of officer referrals by division, as well as a description of the types of cases being referred to the youth referral program.
iii) Toronto Police Service Youth Referral Program Case File Data from Operation Springboard

Similar to the case files from Halton, the Operation Springboard files contained additional information about the case, the youth, and the manner in which the youth was dealt with in the program. These files contained a variety of information about the types of referrals received and how these cases were processed. (N=1336)\(^{17}\). The data were collected at the TPS-YRP Scarborough office. Each case file was examined and all relevant data were coded and entered into SPSS. At the beginning of the TPS-YRP case files contained detailed information that was hand written. A few months into the program, however, Operation Springboard adopted a new software program that allowed for the creation of a large scale database that held detailed information about each case. The detailed information of these later case files could only be examined through access to Operation Springboard’s computer database. The information gathered from TPS-YRP case files was not compromised by this change. All of the information gathered, including information on the youth, the offence, and sanctions were readily available in all case files. The Springboard case file data provides a picture of how cases were processed in the TPS-YRP. More specifically, it allows for an examination of case processing times as well as detailed sanction information.

4) Interview Data

i) Halton Regional Police Service Interview Data

These data are based on interviews with each of the social workers and youth officers responsible for administering the pre-charge diversion program within each

\(^{17}\) Springboard also received ‘courtesy clients’ from the Toronto police. These youth were referred after non-criminal contact with the police and are not accused of any offence(s). Springboard kept these case files separate from the regular referrals. These cases were excluded from our analyses.
district (N=6). The information gathered from these qualitative interviews was used to explore how the HYJP operated across the three police districts. In addition to these six interviews, 60 front-line police officers were interviewed regarding their views of and use of the HYJP. In general, these interviews took place during day shifts during the week. Twenty police officers from each of the three police districts (Burlington, Oakville, and Milton) were interviewed. A random sample of front-line police officers was not possible. Interview days and times were scheduled in a way that ensured a range of police officers from different platoons were interviewed for the study. Officers were asked by the youth officers to participate in an interview about the HYJP as part of its evaluation. When the front-line officers were actually being interviewed, they were informed they could choose not to answer any questions without fear of any consequences. Interviews took place in small interview rooms within each of the police stations. The HYJP interview questionnaires are included in appendix A and B.

**ii) Halton Youth Justice Program Participant Interviews**

Youth who had participated in the HYJP were also interviewed about their perceptions of and experiences within the Program (N=20). Twenty young people who had been referred and ultimately completed the HYJP were interviewed. Youth interviews occurred across three police districts (6 in District 1, 10 in District 2, 4 in District 3). Interviews took place upon completion of the youth’s contract. Though youths were generally required to report to the police station upon completion of the Program, in practice this was not always the case. There were instances in which youth had their cases closed without going to the police station. Youth were introduced to me by the police officer and/or social worker and told about the research. They were then
asked if they would like to participate in an interview with me. I was aware of the possible coercion in having the police introduce me and so, every effort was made once I was alone with the youth to explain that their participation was voluntary and that no one would ever know if they opted not to be interviewed at that point. Interviews took place in small interview rooms within the police stations. The HYJP youth interview questionnaire is included in appendix C.

**iii) Toronto Police Service Interview Data**

This source of data is based on interviews with 90 Toronto police officers from 41, 42, and 13 Divisions – three of the divisions that participated in the project. The interviews took place between November 2003 and February 2004. These interviews provide a glimpse into the views of officers regarding the TPS-YRP as well as how these officers were using the program. As with the HYJP interviews, a random sample of officers from all three divisions was not possible. Officers who took part in the interviews ranged from those who were told to be interviewed to those who self-selected themselves. Every effort was made to ensure that each officer was aware that they did not have to participate in the study and in total 5 officers refused to participate.

Considerable efforts were made in order to get a range of officers from different platoons within each division. In order to achieve this, interviews were scheduled around rotating shifts (daily and weekly). All of the interviews took place at each of the police stations. However, the manner in which interviews took place varied by police division. At 41 division, front-line officers were recruited for interviews by members of the youth services office. Interviews took place throughout shifts in a separate interview room. At 42 division, interviews took place between shifts and were held in the division’s
report writing room. At 13 division, it was requested that I address officers on parade and ask them if they would participate in the study. In all three of the divisions, the staff sergeant on shift each day was notified about the interviews and cooperated in the referral of officers for interviews. The interviews provide a picture of how officers viewed the TPS-YRP in terms of its introduction and training. The interviews also allow us to examine how and why these officers used or did not use the program. The interview questionnaire can be found in Appendix D.

iv) Toronto Police Service Youth Referral Program Participant Interviews

In order to get a picture of how youth referred to the TPS-YRP perceived their experiences, 86 youth were interviewed regarding their experiences in the Program. Interviews took place in two locations, Operation Springboard’s Scarborough office as well as the North York office of the program, between September 2003 and December 2003. These two locations were used for interviews in order to get interviews with youth who had been arrested by all 5 participating police divisions. The TPS-YRP Scarborough office, generally, saw youth arrested by 41 and 42 divisions while the North York office saw youth from 13, 31, 32 and 33 divisions. Interviews took place after each youth had completed his or her exit interview with a Springboard staff member. Youth were referred by a member of the Operation Springboard staff to the researcher and paid $5 dollars for their participation in the study. Measures were taken in order to ensure that the youth referred for interviews were not in any way different from those not interviewed. Copies of the Youth Referral Program’s appointment schedule were made a minimum of one week in advance of the interviews. The TPS-YRP staff members were kept unaware of the days the researcher would be in to conduct interviews until the
appointment schedule had been copied. Once copies were made, TPS-YRP staff members were made aware of the interview days and any changes after the fact to the appointment schedule were disregarded. The TPS-YRP youth interview questionnaire is included in appendix E.

v) *Youth Court Interviews.*

In order to compare the experiences of youths referred to pre-charge diversion and youths who had been sent to court, 51 youths who had been charged and subsequently received extrajudicial sanctions (alternative measures) at court were interviewed. The interviews took place at the Scarborough Youth Court between March 2004 and May 2004. Youths who had completed or were close to completing their sanctions were referred by a member of the probation services to me at the court. Each youth was asked to fill out a consent form and was paid five dollars for his or her participation in the study. The interview gathered information regarding the youth’s previous offending behaviour, current offence(s), and their views of the court process. The youth court interview questionnaire is included in appendix F.

5) **Recidivism data**

In order to investigate the recidivism of youths who went through the YRP, the identification of a comparable group for comparison were needed. Because the YRP was largely a program for dealing informally with youths who were apprehended for theft under $5000, this analysis was limited to this one offence. Initially four groups of youths were created for this analysis: 1) youths with minor contact with police (recorded on 208 “contact” cards); 2) unconditionally released youths; 3) formally charged youths; 4) YRP youths. We looked at those cases that occurred between January 1, 2003 and March 31,
2003 and only examined 41 division because we were only able to collect data from the “208 contact cards” (cards filled out by police officers relating to ‘general’, not necessarily, criminal, contact with a citizen) from this division.

In order to identify a sample of youths with minor contact with the police “208 contact cards” from 41 Division were examined. The “208 contact cards” were stored at 41 division in boxes and were organized in two and three month intervals per year. In order to get a sample of theft under $5000 cautions where the contact occurred between January 1, 2003 and March 31, 2003 two boxes were selected to sample from. The first box contained 208 contact cards for January and February 2003, and the second box contained cards for March and April 2003. Within each box, the 208 contact cards were bundled together by date and officer. In order to get a (pseudo) random sample of cases, the total number of bunches within each box was counted. For January and February there were 114 bunches and for March and April there were 126 bunches. The actual number of cards within each bunch varied from 2 to 67. The second box which contained cards for both March and April was further divided by subtracting out the card bunches for April 2003 (n=62). Thus, for the first box there were a total of sixty-nine 208 contact card bunches for January, a total of forty-five for February, and the second box contained a total of sixty-four 208 contact card bunches for March 2003. Contact cards were selected by using a table of random numbers to select card bunches for each month. Random numbers were then used to select cases from within each bunch. Strict criteria were used in the selection of each card. 208 contact cards contain a variety of information and descriptions of the types of contact were not standardized. Thus, only
cards describing the contact as a caution for theft under $5000 were selected by the researcher. A total of sixty-two 208 contact cards meeting these criteria were selected.

In order to obtain a sample of youths who were unconditionally released by the police, the police arrest data set was used (see chapter three, page 78). Youths from 41 division who had been arrested for committing a theft under between January and March 2003 but who were unconditionally released by the officer were identified. This resulted in an initial sample of 46 youths. However, many of these youths were, in fact, not “unconditionally” released but rather referred to the TPS-YRP. The Toronto Police Arrest file was inconsistent in its recording of the release type for youths who were referred to the TPS-YRP and those who were unconditionally released. These data were carefully examined in order to be sure that each case was identified properly. Therefore the list of unconditionally released youths were checked against the Springboard case files and the youths who participated in the program were removed. After removing all of the YRP youths, the result was a sample of 11 youths who were unconditionally released.

The sample of formally charged youths also came from the police arrest data (see chapter three, page 78). This time youths from 41 division who had been formally charged with one theft under offence between January and March 2003 were identified. This resulted in a sample of 17 youths.

For the sample of YRP youths, the police arrest data set was used (see chapter three, page 78). All youths referred to the program from 41 division between January and March 2003 were identified and a numbered list of all such cases was created (n=152).\footnote{Selection and identification of Youth Referral cases from the Toronto Police arrest data was conducted after the identification of the unconditional release cases that were in fact TPS-YRP cases.}
From this list, a random sample of cases was selected. Using a table of random numbers, 56 cases were selected from the list.

After obtaining the four groups of youths, the identities of these youths (all of whom had had previous contact with the police) were sent to the Toronto Police Service and received back, from them, a listing of all of the contacts (both criminal and non-criminal) that these youths had ever, in their lifetime, had with police. In total, information on 146 youths for the four groups was requested. Information on 25 of the 146 youths was unavailable. The 25 missing cases were from the 208 contact card group. There are a number of reasons why this information was unavailable, the most likely being that these youth simply had no previous or subsequent contact with police, and that the information on the “208 card” for the theft-under was never entered into the police data base.

Once all of the police contacts for all the youths in the four groups were obtained, youths who, as a group, were comparable to the YRP youths were then identified. This involved matching the youths by their previous police contacts. That is, police contacts that occurred before the trigger shoplifting offence that occurred between January and March 2003. Cases were matched on four variables: 1) total number of contacts that did not result in police laying charges (mean=.75), 2) total number of criminal contacts that did not result in a charge (for example, caution for an offence)(mean=.80), 3) total number of non-criminal contacts (for example, witness to an offence)(mean=1.47), and finally, 4) total number of charges (mean=1.50). The means for each of the four variables from the YRP group were used as a baseline for creating comparable comparison groups. That is, the means for each of the four variables were examined across all four groups
and cases that differed dramatically from the means from the other three groups (the unconditional release, 208, and court groups) were selected out. This process resulted in a reduction from the original sample of 121 cases to 114 cases.

6) Organizational, Program Documentation and Research Notes

In order to better understand how these programs were implemented and operated, data collection and analyses also included examination of internal documents from the following: the Toronto Police Service, the Halton Regional Police Service, and Operation Springboard. Internal documents included, but not limited to the following: minutes from meetings, police directives, program implementation documentation, risk assessment tools, friendship network records (Halton). In addition to the more formally gathered documentation, I also took extensive notes during all meetings with the Halton Regional Police. These notes provide detailed information on the concerns about the HYJP as well as information on what the purposes of the HYJP were beyond diversion from the court process.
References


Chapter 4: Have we learned to divert youths?

Introduction

Decades of research have shown that diversion, as it is generally defined, has not accomplished its mission of providing a viable third option for court bound youth. Despite this, over the last decade, numerous pre-charge diversion programs have been implemented across Canada (for example, Project intervention (Windsor Police Service), Youth intervention Program – About Face (Calgary Police Service), Ottawa Community Youth Diversion Program (Ottawa Police Service)). Historically, diversion has not been able to successfully target those youth who would have otherwise been sent through the traditional court process. Given the breadth of knowledge on the topic of diversion currently and the continued use of these programs, the question that must first be addressed is a simple one: have the police, in the case of the two programs which are the focus of this study, somehow gotten it right this time? Do these programs truly divert court bound youth? Or are they doing the same thing researchers and policy makers have criticized diversion programs for doing over the last thirty years?

Keeping these questions in mind, the purpose of this chapter is to examine the TPS-YRP and HYJP in light of what we know about diversion and to determine whether or not these programs have somehow been able to match the stated goal of diversion programming – to reduce the number of youth sent to court - with the operation of the two programs under study. This question will be explored in three ways. The first section will provide a description of the types of cases referred to these two diversion programs and is based on the HYJP arrest file data (see chapter three, page 78) and the TPS-YRP referral data (see chapter three, page 79). The section that follows will
examine whether or not the TPS-YRP had an impact on the number of youth charged. This analysis will be based on the TPS-YRP arrest data (see chapter three, page 78). Recall that both the HYJP and The TPS-YRP were implemented with the primary goal of reducing the number of youth sent through the traditional court process. The chapter will conclude with a section that examines the relationship between program participation and reoffending among diverted youth. These analyses are based on recidivism data (see chapter 3, page 85).

**Exploring what diversion cases look like in the HYJP and TPS-YRP: Some descriptive statistics**

In order to understand whether or not the HYJP and TPS-YRP actually diverted youth, it is important to first explore the types of cases referred to the two programs. The HYJP diversion cases examined in the following section were obtained from the HYJP arrest data (N=785). The TPS-YRP referral data examined in this section includes all cases referred to the TPS-YRP between April 2002 and December 2003 from all participating police divisions (N=1488).

**Age.** Table 4.1 shows the age of youth at the time of their referral into diversion and the courts. It shows that 26.9% of the youth referred to the TPS-YRP were between 12 and 13 years of age, 21.2% were 14 years old, 38.9% were between 15 and 16 years of age, and 12.8% were 17 years of age. It appears that the age of the youths referred to the program increases up to age fifteen (high of 21.2%) and then quickly drops off to a low of 12.8% for seventeen year olds. In addition, table 4.1 also shows that 18.3% of youth referred to the HYJP were 12 and 13 years of age, 18.5% were 14 years old, 46.7% were between 15 and 16 years of age, and 16.6% of HYJP referred youth were 17 years old.
While the overall pattern for the two programs is relatively similar, the HYJP appears to refer slightly older youth than the TPS-YRP.

The overall pattern of referrals for both programs does not reflect the age distribution of youths entering the court system. In general, youth sent through the traditional court process tend to be older than diverted youth. For example, Canadian youth court data from 2006/2007 shows that the number of youths entering court increases with age with the lowest proportion of cases being heard for those age twelve (2.4% or 1,356 cases) to the highest for seventeen year olds (29.5% or 16,677 cases) (see Thomas, 2008). In youth court then, there are 12.3 times as many 17 year olds compared to 12 year olds while in the YRP there were only 1.7 times as many 17 year olds compared to 12 year olds.

**Table 4.1 Ages of Court Bound and Diverted Youth by Program**

<table>
<thead>
<tr>
<th>Age</th>
<th>HYJP</th>
<th>TPS-YRP</th>
<th>COURT</th>
</tr>
</thead>
<tbody>
<tr>
<td>12</td>
<td>6.8% (n=53)</td>
<td>10.4% (n=153)</td>
<td>2.4% (n=1356)</td>
</tr>
<tr>
<td>13</td>
<td>11.5% (n=90)</td>
<td>16.6% (n=247)</td>
<td>6.2% (n=3442)</td>
</tr>
<tr>
<td>14</td>
<td>18.5% (n=145)</td>
<td>21.2% (n=316)</td>
<td>13.1% (n=7248)</td>
</tr>
<tr>
<td>15</td>
<td>24.2% (n=190)</td>
<td>21.2% (n=316)</td>
<td>21.2% (n=11722)</td>
</tr>
<tr>
<td>16</td>
<td>22.5% (n=177)</td>
<td>17.7% (n=263)</td>
<td>26.8% (n=14851)</td>
</tr>
<tr>
<td>17</td>
<td>16.6% (n=130)</td>
<td>12.8% (n=191)</td>
<td>30.1% (n=16677)</td>
</tr>
<tr>
<td>Other(^{20})</td>
<td>0.0% (n=0)</td>
<td>0.0% (n=0)</td>
<td>2.1% (n=1167)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0% (n=785)</td>
<td>100.0% (n=1487)</td>
<td>100.0% (n=55296)</td>
</tr>
</tbody>
</table>

Chi square = 30.01, df = 5, p < .001 between programs


\(^{20}\) “Other” category includes cases where the youth was older than 17 at the time of court appearance as well as those cases where the age was unknown (See Thomas, 2008, p.13).
Along with looking at the overall number of referrals for the HYJP, an examination of each of the districts within Halton Region was important. In fact, differences between districts was a concern for the Halton Regional Police when they brought researchers into the department to examine their diversion program. Preliminary analyses of the HYJP indicated some differences in program operation across districts. Hence, it was important to explore individual districts as each program operated in large part independently from one another. Table 4.2 examines the age of HYJP referred youth across each of the three districts and shows that there were some significant differences in the ages of youth referred. That is, District two appears to refer slightly older youths while the remaining two districts (Districts one and three) appear to refer younger youths. District two appears to look much more like the court bound youth population. While districts one and three appear to look more like the youths referred to the TPS-YRP (and by definition less like the court bound youth population).

*Table 4.2 Ages of Youth at Time of Arrest by Youth Office District for Cases Referred to Diversion*

<table>
<thead>
<tr>
<th></th>
<th>District One</th>
<th>District Two</th>
<th>District Three</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>12</td>
<td>10.5% (n=18)</td>
<td>2.9% (n=8)</td>
<td>8.0% (n=27)</td>
<td>6.8% (n=53)</td>
</tr>
<tr>
<td>13</td>
<td>14.0% (n=24)</td>
<td>9.7% (n=27)</td>
<td>11.6% (n=39)</td>
<td>11.5% (n=90)</td>
</tr>
<tr>
<td>14</td>
<td>21.5% (n=37)</td>
<td>14.8% (n=41)</td>
<td>19.9% (n=67)</td>
<td>18.5% (n=145)</td>
</tr>
<tr>
<td>15</td>
<td>20.3% (n=35)</td>
<td>24.5% (n=68)</td>
<td>25.9% (n=87)</td>
<td>24.2% (n=190)</td>
</tr>
<tr>
<td>16</td>
<td>13.4% (n=35)</td>
<td>26.7% (n=74)</td>
<td>20.2% (n=68)</td>
<td>22.5% (n=177)</td>
</tr>
<tr>
<td>17</td>
<td>13.4% (n=23)</td>
<td>21.3% (n=59)</td>
<td>14.3% (n=48)</td>
<td>16.6% (n=130)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0% (n=172)</td>
<td>100.0% (n=277)</td>
<td>100.0% (n=336)</td>
<td>100.0% (n=785)</td>
</tr>
</tbody>
</table>

Chi-square = 26.00, df = 10, p < .01
**Gender.** The following table shows the gender of the referred youths. The TPS-YRP referral data shows that 43.5% of the referrals were girls and 56.5% were boys and of the HYJP referred youth, 35.4% were female and 64.6% were male. In addition to program data, table 4.3 also shows the proportion of males and females sent through the traditional court system, 73.0% and 27.0% respectively. Clearly, each diversion program is referring significantly more girls than boys when compared to court bound youth.

**Table 4.3 Gender of Referred Youth by Program**

<table>
<thead>
<tr>
<th>Program</th>
<th>HYJP</th>
<th>TPS-YRP</th>
<th>Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>Female</td>
<td>35.4% (n=105)</td>
<td>43.5% (n=648)</td>
<td>27.0% (n=14705)</td>
</tr>
<tr>
<td>Male</td>
<td>64.6% (n=193)</td>
<td>56.5% (n=840)</td>
<td>73.0% (n=39758)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0% (n=297)</td>
<td>100.0% (n=1488)</td>
<td>100.0% (n=56463)</td>
</tr>
</tbody>
</table>

Chi square = 208.07, df = 2, p <0.001.

If we look at the HYJP referrals by district a somewhat different pattern emerges. The proportion of males and females referred are significantly different between districts. As table 4.4 shows, District two refers the smallest number of girls (23.1%) while District three refers a much greater proportion of girls and fewer boys (41.7%).

**Table 4.4 Gender by Youth Office District for Cases Referred to Diversion**

<table>
<thead>
<tr>
<th>District</th>
<th>District One</th>
<th>District Two</th>
<th>District Three</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Female</td>
<td>32.6% (n=56)</td>
<td>23.1% (n=64)</td>
<td>41.7% (n=140)</td>
<td>33.1% (n=260)</td>
</tr>
<tr>
<td>Male</td>
<td>67.4% (n=116)</td>
<td>76.9% (n=213)</td>
<td>58.3% (n=196)</td>
<td>66.9% (n=525)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0% (n=172)</td>
<td>100.0% (n=277)</td>
<td>100.0% (n=336)</td>
<td>100.0% (n=785)</td>
</tr>
</tbody>
</table>

Chi square = 24.65, df = 2, p <0.001.
In summary, it would appear that overall the two programs each refer higher proportions of girls than the proportion of girls sent to youth court which tends to be around approximately 21%. Based on these data then, both girls and younger youths tend to be overrepresented in these diversion programs. This might suggest that police tend to refer the least serious cases through diversion. And when we compare the age and gender of referred youth to court bound youth, it becomes clear that diverted youth are quite different. Of course, these findings should not be unexpected, and this is precisely because diversion programs are structured in a way that encourages the referral of youth accused, in general, of first time, minor offences. Hence, younger youth are more likely to be involved in more minor crimes as well as less likely to have a criminal history.

While this might be the general conclusion based on overall data on the two programs, it is also worth noting the significant differences found among the three youth office districts in Halton. That is, while overall each of the programs tends to divert more girls and slightly younger youths, with the HYJP, District two does appear to refer youths who are somewhat more similar to court-bound youth on these two dimensions – gender and age.

_Offence Types._ Table 4.5 shows that the largest number of cases for both the TPS-YRP and HYJP involved charges of theft under $5000 (73.6% and 39.5% respectively). The other most frequently referred offences in both programs were for minor assault (9.7% for the TPS-YRP and 8.7% for the HYJP) and mischief/damage (6.1% for the TPS-YRP and 10.8% for the HYJP). There were differences between the two programs in the range and frequency of referred cases. For example, 12.5% of HYJP cases involved drugs while these cases only represented 1.6% of TPS-YRP cases.
Table 4.5 Diversion Offence Types by Program

<table>
<thead>
<tr>
<th>Offence</th>
<th>HYJP</th>
<th>TPS-YRP</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Percentage</td>
<td>(n=)</td>
</tr>
<tr>
<td>Drugs</td>
<td>12.5%</td>
<td>(n=98)</td>
</tr>
<tr>
<td>Mischief/Cause Damage</td>
<td>10.8%</td>
<td>(n=85)</td>
</tr>
<tr>
<td>Theft under $5000</td>
<td>39.5%</td>
<td>(n=310)</td>
</tr>
<tr>
<td>Other Property</td>
<td>16.7%</td>
<td>(n=136)</td>
</tr>
<tr>
<td>Minor Assault</td>
<td>8.7%</td>
<td>(n=69)</td>
</tr>
<tr>
<td>Other violent</td>
<td>5.7%</td>
<td>(n=45)</td>
</tr>
<tr>
<td>Other Criminal Code</td>
<td>5.5%</td>
<td>(n=43)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0%</td>
<td>(n=785)</td>
</tr>
</tbody>
</table>

While the overall pattern of referrals in each program is somewhat similar (the majority of cases involving theft under $5000, minor assault and mischief), there were some important differences. HYJP referrals tended to involve a wider range of offence categories when compared to TPS-YRP referrals.

The previous analysis showed that the largest single offence category of cases referred to HYJP was theft under $5000. Table 4.6 shows that theft under $5000 was the most frequently referred offence across districts one (44.2%), two (27.4%), and three (47.0%). While each of the three youth office districts in Halton referred similar types of offences, the proportion of referrals that these offences make up in each district varied somewhat. Table 4.6 shows that the second and third most referred offences for district

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21 Percentages do not add to 100.0% due to rounding errors.
one were for other property (26.2%) and minor assault (8.7%). For District two the second and third most referred offences were for drugs (15.1%) and mischief (13.7%). And for District three the second and third most referred offences were for other property (13.8%) and drugs (13.4%). Clearly, then, there were some differences in the types of cases most frequently referred across districts. District one tended to refer a greater proportion of property related offences (72.1% of all referrals) while property offences represented 60.8% of referral cases in District three and only 42.5% in District two.

**Table 4.6 Offence Type Referred by Youth Office District**

<table>
<thead>
<tr>
<th>Offence</th>
<th>District One</th>
<th>District Two</th>
<th>District Three</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Drugs</strong></td>
<td>5.2% (n=9)</td>
<td>15.9% (n=44)</td>
<td>13.4% (n=45)</td>
<td>12.5% (n=98)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Mischief/Cause Damage</strong></td>
<td>5.8% (n=10)</td>
<td>13.7% (n=38)</td>
<td>11.0% (n=37)</td>
<td>10.8% (n=85)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Theft under $5000</strong></td>
<td>44.2% (n=76)</td>
<td>27.4% (n=76)</td>
<td>47.0% (n=158)</td>
<td>39.5% (n=310)</td>
</tr>
<tr>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Other Property</strong></td>
<td>27.9% (n=48)</td>
<td>15.1% (n=42)</td>
<td>13.8% (n=46)</td>
<td>16.7% (n=136)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Minor Assault</strong></td>
<td>8.7% (n=15)</td>
<td>10.8% (n=30)</td>
<td>06.8% (n=23)</td>
<td>8.7% (n=69)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Other violent</strong></td>
<td>4.7% (n=8)</td>
<td>8.3% (n=23)</td>
<td>4.2% (n=14)</td>
<td>5.7% (n=45)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Other Criminal Code</strong></td>
<td>3.5% (n=6)</td>
<td>8.3% (n=23)</td>
<td>4.2% (n=14)</td>
<td>5.5% (n=43)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>100.0% (n=172)</td>
<td>100.0% (n=277)</td>
<td>100.0% (n=336)</td>
<td>100.0% (n=785)</td>
</tr>
</tbody>
</table>

**Summary.** Overall, the offences referred to the TPS-YRP and HYJP were relatively minor in nature. What is interesting, however, is that the proportion of offences referred differed somewhat between programs as well as across police districts. This might be explained in number of ways, 1) differing opinions on what types of offences were appropriate for diversion, and 2) the types of cases coming to police attention (for example, not surprisingly in some of the districts and divisions in which large retail malls
were located, the number of theft under $5000 referrals was greater). Court data would suggest that roughly 14% of court case loads involve theft under $5000 (See Thomas, 2008). Hence, even with the referral of a wider range of offences, both of these diversion programs in the end involve the referral of more minor types of cases. This is particularly evident when we recognize along with referring a greater proportion of theft under cases for example, the youths themselves are on average more likely to be girls and younger youths. This suggests that both programs are likely referring the least serious cases and appear quite different from court bound youth as they relate to these three dimensions (age, gender and offence type). The exception to this may be District two within the HYJP– where referrals tend to look somewhat more like court bound youth on these dimensions ( youths in the district two diversion program were more likely to be male, tended to be older and also were involved in a wider range of minor types of offences).

**Did the TPS-YRP have an impact on reducing the number of youths charged?**

The youth referred to the TPS-YRP and HYJP appear to be quite different from court bound youth in terms of their gender, age and offences. This might suggest that police were indeed referring the least serious cases – including cases they may not have sent through the traditional court process. In order to explore whether or not these diversion programs were in fact diverting appropriate cases, an examination of the number of youth charged is necessary. The purpose of this section is to determine whether or not the TPS-YRP had an appreciable effect on the number of youths charged after its implementation. In this section the number of youths charged over a three-year

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22 The analyses used in this section were collected as a part of the evaluation of the TPS-YRP (Sprott, Doob and Greene, 2004).
23 It was not possible to conduct similar analyses for the HYJP as the data sources were insufficient for a time-series analysis.
period (January 2001 to December 2003) is explored by examining arrest data from the Toronto Police.

Over the period of time when the TPS-YRP was implemented and began operations across police divisions, the laws governing youth justice policy changed in Canada. The YCJA came into force on 1 April 2003, and as mentioned previously in chapter 3, the YCJA placed a heavy emphasis on diversion of minor offences from the criminal justice system. And in particularly, it focused on diversion of minor offences by front line police officers. For example, in S. 4 of the YCJA the police are told that they “shall” consider a range of diversionary responses before charging the youth and sending him/her to court. This direction given to police is much stronger than anything that existed under the Young Offenders Act. Given the potential impact of this legislation on police charging practices, the first step in these analyses was to explore these practices over a three year period in all of the divisions that operated within Toronto Police Service without the Youth Referral Program (TPS-YRP) in order to test whether or not there was an effect of the YCJA. This is crucial to understanding what, if any, effect the TPS-YRP may have had on police charging practices.

There was, however, an additional factor that was co-occurring with the introduction of the YCJA that also needed to be addressed in these analyses. Specifically, there was an overall general decline in the number of youths charged during this three year period. Hence, these two factors – both the introduction of the YCJA and the general decline – required exploration independently of one another prior to any examination of the TPS-YRP divisions. Thus, in these analyses all of the non-YRP

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24 Thus, the only divisions excluded from the analyses were the six YRP divisions (Divisions 13, 31, 32, 33, 41 and 42).
divisions were explored. The effect of the YCJA was statistically separated from the general decline over time. Once the effect of the YCJA was removed, the “residual” of time was left— or more simply, a time effect independent of a YCJA effect. A time-series design was used to explore the effects of these factors over time. This design is, however, non-experimental. This means that all that can really be said, in the end, is whether or not the months before the YCJA looked different from the months after the YCJA. If there is a significant difference – if, for example, the introduction of the YCJA is significantly related to a decrease in the number of youths charged – this would suggest that the YCJA had an impact. However, the controls are limited and thus it may be that there was something else occurring, which was related to the decrease, but could not be controlled for.

In all of the analyses the numbers of youths charged each month are presented. Each youth could have had numerous charges against him/her and thus the charges for a given individual were aggregated and organized by the most serious charge against the youth. In addition to the above, the number of youths charged with the general decline over time removed is presented. This leaves the residual of the number of youths charged – or more simply the number of youths charged that is independent of the general linear decline. Presenting the residual of youths charged allows the reader to see the independent effect of the YCJA (that is, independent from the general decline that was occurring).

The Effect of the YCJA

All offences. Looking first at the total number of youths charged in all of the divisions without the TPS-YRP, the effect of the YCJA and time are explored. Figure 1
shows the number of youths charged each month, with a reference line in March 2003 to indicate the last month of the Young Offenders Act. Looking at the figure, there is clear downward trend over time, especially after the YCJA came into effect. As mentioned above, these two co-occurring the general downward trend and the introduction of the YCJA separately issues warranted further examination. Thus, the effect of the YCJA and the effect of time independent of the YCJA were examined (leaving the residual of time or more simply the effect of the overall time trend that is independent from the YCJA). Table 4.7 shows the results from this time-series analysis and that there was a significant decline, overall, in the number of youths charged after the YCJA came into effect (April 2003). Above and beyond the effect of the YCJA, there was no significant effect of time (after taking out the effect of the YCJA).

**Figure 1: Number of youths charged in all Non-YRP divisions**
January 2001 to December 2003
(Reference line = Last month of the YOA: March 2003)

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25 The time series analyses in this section was carried out by Dr. Cheryl Webster (University of Ottawa). I wish to thank Dr. Webster for all of the time and advice provided in this part of the research.
Figure 1a shows the monthly number of youths charged after the general decline has been removed (leaving us with the residual of the number of youths charged). Thus, this more clearly shows the independent effect of the YCJA. One can see that after the YCJA came into effect, the peaks in monthly numbers of youths charged appear somewhat lower than in the preceding couple of years. Thus, compared to the months before the YCJA, there are significantly fewer youths charged in the months after the YCJA was introduced.

**Figure 1a: Residual of the number of youths charged in all Non-YRP divisions**
January 2001 to December 2003
(Reference line = Last month of the YOA: March 2003)

The effect of the YCJA found here is consistent with the findings of others. Bala et al., (2009) also show a general decline in the years prior to the YCJA and then a more significant drop once the law was implemented. For example, Bala et al., 2009 in examining the rates per 100,000 of youth who were charged between 1986 and 2007 show that “In 2003, the year the YCJA came into effect, the rate of youth charged dropped by 18% from the previous year – from 4,490 per 100,000 to 3,690 per 100,000.”
and the rate of youth dealt with by alternatives to charging...increased by a similar amount” (p.139).

_Theft under_. Because the TPS-YRP largely dealt with theft under $5000, trends in the number of youths charged with theft under as the most serious charge was also explored (Figure 2). Once again, a general downward trend is evident, especially after the introduction of the YCJA. Time series analysis revealed that there was a significant effect of the introduction of the YCJA (see table 4.7). Compared to the pre-YCJA months there were significantly fewer youths charged in the months after the YCJA was introduced. There was no significant effect of the residual of time (time independent of the YCJA effect) once controlling for the effect of the YCJA (see table 4.7).

### Figure 2: Number of youths charged for theft under in all Non-YRP divisions
January 2001 to December 2003
(Reference line = Last month of the YOA: March 2003)

![Graph showing number of youths charged for theft under in all Non-YRP divisions from January 2001 to December 2003.](image)

Figure 2a shows the number of youths charged with theft under each month with the general time effect removed. One can more clearly see the effect of the YCJA once removing the general decline that occurred throughout this three year period. In the nine
months under the YCJA one can see that the high peaks are not as dramatic when compared to the pre-YCJA months. Thus, there are significantly fewer youths charged after the YCJA was introduced.

**Figure 2a: Residual of the number of youths charges with theft under in all Non-YRP divisions**
January 2001 to December 2003
(Reference line = Last month of the YOA: March 2003)

![Graph showing residual of the number of youths charged with theft under in all Non-YRP divisions from January 2001 to December 2003.](image)

*All offences other than theft under.* Figure 3 shows the number of youths charged each month for all offences other than theft under. Once again, the downward trend, especially after the introduction of the YCJA, is evident. As with the previous two analyses, time-series analyses suggested that there was a significant effect of the YCJA – specifically, there were fewer youths charged (for all offences other than theft under) in the post-YCJA months than in the pre-YCJA months (see table 4.7). There was no significant effect of the residual of time (a time effect independent of the YCJA) after controlling for the YCJA (see table 4.7).
Figure 3: Number of youths charged for offences other than theft under in all Non-YRP divisions
January 2001 to December 2003
(Reference line = Last month of the YOA: March 2003)

Figure 3a shows the trends in youths charged with the general three year decline removed (leaving the residual of youths charged). Once again one sees that in the post-YCJA months the peaks are not as dramatic when compared to the pre-YCJA months.

Figure 3a: Residual of the number of youths charged for offences other than theft under in all Non-YRP divisions
January 2001 to December 2003
(Reference line = Last month of the YOA: March 2003)
Table 4.7 Time Series Analysis Summary: All Non-YRP Divisions (Unstandardized coefficients)

<table>
<thead>
<tr>
<th></th>
<th>All Offences</th>
<th>Theft under Offences</th>
<th>All Other Offences</th>
</tr>
</thead>
<tbody>
<tr>
<td>ARI</td>
<td>B</td>
<td>B</td>
<td>B</td>
</tr>
<tr>
<td>YCJA</td>
<td>-59.89*</td>
<td>-19.98*</td>
<td>-39.74*</td>
</tr>
<tr>
<td>Time</td>
<td>-3.19</td>
<td>-.87</td>
<td>-2.33</td>
</tr>
</tbody>
</table>

*\(p < .05\)

**Summary.** Similar to the findings of others, there appears to be a significant effect of the YCJA (see Bala et al., 2009). In all of the analyses – whether looking at all youths charged, just those charged with theft under, or those charged with an offence other than theft under (as the most serious charge) – the introduction of the YCJA was significantly related to a decrease in the number of youths charged during this time period. This finding held even after controlling for the general downward trend in the number of youths charged throughout the entire three year period. This suggests, then, that in all of the analyses examining the TPS-YRP divisions, the effect of the YCJA must be controlled for when looking at the impact of the TPS-YRP.

**Introduction – the TPS-YRP Divisions**

After testing whether or not there was an effect of the YCJA in the non-YRP divisions, the six divisions that implemented the program were examined to see whether or not there was an effect of the TPS-YRP on police charging practices. However, in order to investigate the effect of the program on the number of youths charged, co-occurring factors needed to be statistically separate and controlled for. As demonstrated earlier, in addition to the introduction of the program, there was: 1) a general decline that was occurring over the three year period 2) the introduction of the YCJA, which the

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26 The six divisions that implemented the YRP were: Divisions 41 and 42 (April 2002) and Divisions 13, 31, 32 and 33 in February 2003 though a few youths were accepted in January 2003.
previous analyses revealed had a significant effect on the number of youths charged and
3) month-by-month variability in charges in all the non-YRP divisions. Other events occurring throughout all the divisions may have affected trends within the program divisions. Thus, the monthly charging trends in the non-YRP divisions were controlled for.

The program effect was statistically removed from the general decline (leaving the residual of time, or more simply a time effect that was independent of the program). Any program effect from the YCJA was also removed (leaving the residual of the YCJA or the effect of the YCJA that was independent of the program). Thus, in all of the analyses of the program divisions there were the following controls:

1) the general decline that was independent from any program effects (the residual of time)
2) the YCJA effect that was independent of any program effect (the residual of YCJA).
3) month-by-month variability that was occurring in non-YRP divisions

After controlling for those three factors, each of the six program divisions was examined to see if there was any impact of the program on the number of youths charged. In all of the analyses conducted, the number of youths charged over time and the number of youths charged with the month to month variation occurring in all the non-YRP divisions were removed. This leaves the residual of the number of youths charged – or more simply the number of youths charged that is independent of what was occurring throughout all of the other divisions. Presenting the residual of youths charged allows the reader to see the independent effect of the YCJA and/or the program (that is, independent from the monthly variation that was occurring). The results of these analyses are
discussed in the following sections and the detailed results (graphs) are presented separately in appendix G.

**Divisions 41 and 42: The Effect of the TPS-YRP**

The investigation of the effect of the TPS-YRP begins with a look at the two divisions that first introduced the program (April 2002). While the program began in April 2002, it took a few months to get it up and running and accepting a stable number of youths. Thus, in these time series analyses June 2002 was used as the date for when the program was actually up and running\(^{27}\). All graphs are presented in Appendix G. Table 4.8 presents the overall findings.

*All offences.* The time series analyses revealed that there was a significant effect of the month-to-month variation that was occurring in all of the other divisions. That is, what was happening in a given month in the non-program divisions was significantly correlated with what was happening in the TPS-YRP divisions in that same month. There was also a significant effect of the program. That is, after simultaneously controlling for what was happening in the other divisions, the general downward trend and the effect of the YCJA, there was a significant effect of the program in reducing the number of youths charged (see table 4.8). There was no significant effect of the general downward decline (independent of the program effect), or the YCJA\(^{28}\) (independent of the program effect).

The previous analysis indicated that what was occurring in a given month in the other non-YRP divisions was significantly related to what was happening that same month in

\(^{27}\) It should be noted that the reference line drawn in all of the figures contained appendix G sits at May 2002. Thus, in every month after the reference line the program was fully running and accepting a stable number of youths.

\(^{28}\) The effect of the YCJA was essentially removed when the changes in the number of charges in other divisions were controlled for.
41 and 42 divisions. Therefore that effect (leaving the residual of the number of youths charged) was removed to show the effects of the program more clearly. After the program was fully implemented (June 2002) there were generally fewer youths charged each month (see Appendix G, figure 4 and 4a) indicating the program had some impact.

**Theft under.** Fewer youths were charged with theft under in both divisions each month after the program was up and running in June 2002. Results from the time series analyses showed that, after controlling for the monthly variation in the other divisions, the general downward trend within the division and the effect of the YCJA, there was a significant effect of the program (see table 4.8). After the program was implemented, there were significantly fewer youths charged with theft under each month in 41 and 42 divisions. There were no significant effects of any of the other control variables on the number of youths charged after statistically taking out the effect of any monthly variation from the other divisions. One can see that after the program was implemented, there are fewer youths charged each month for theft under (see Appendix G, figure 5 and 5a).

**All offences other than theft under.** The last analysis looks at youths charged for all offences other than theft under in the two divisions. Similar to the previous two analyses, there appear to be fewer youths charged after the program was implemented. However, time series analyses revealed that there was no significant effect of the program (see table 4.8). There was also no significant effect of the general decline in number of youths charged or the YCJA. Instead, it appears that the only significant factor was the monthly variation seen in the other divisions. Thus, what happened in non-YRP divisions in a given month was significantly related to what happened in divisions 41 and 42 that same month. While there appears to be fewer youths charged from June 2002 onwards,
this decrease was not significant (see Appendix G, figure 6 and 6a). It appears then that
of the youths charged in these two divisions, the impact of the TPS-YRP was much
greater on those youths charged with theft under. Thus, the overall decrease in the
number of youths charged (see Appendix G, Figures 4 and 4a) was, therefore, mainly due
to the decrease in the charging of theft under offences.

Table 4.8: TPS-YRP Time Series Analysis – 41 and 42 Divisions (Unstandardized Coefficients)

<table>
<thead>
<tr>
<th></th>
<th>All Offences</th>
<th>Theft under Offences</th>
<th>All Other Offences&lt;sup&gt;29&lt;/sup&gt;</th>
</tr>
</thead>
<tbody>
<tr>
<td>Diversion Program</td>
<td>-12.65*</td>
<td>-9.99*</td>
<td>-5.80</td>
</tr>
<tr>
<td>Non-program divisions</td>
<td>.28*</td>
<td>-.04</td>
<td>.33*</td>
</tr>
<tr>
<td>Time&lt;sup&gt;30&lt;/sup&gt;</td>
<td>.33</td>
<td>-.08</td>
<td>.34</td>
</tr>
<tr>
<td>YCJA &lt;sup&gt;31&lt;/sup&gt;</td>
<td>-7.28</td>
<td>-2.37</td>
<td>-7.43</td>
</tr>
</tbody>
</table>

<sup>*p<.05</sup>

Division 41: The Effect of the TPS-YRP

Given the significant effect of the program in 41 and 42 divisions, it was
important to explore 41 and 42 divisions in separate analyses. The analysis begins with
looking at 41 division and follows with 42 division. As with the analysis of the combined
two divisions, the following will also include an examination of all offences, theft under
offences and all offences other than theft under. The findings are presented in the
following tables 4.9 and 4.10.

<sup>29</sup>This category includes all offences other than theft under.
<sup>30</sup>The effect of time within the division that was separate from the introduction of the program.
<sup>31</sup>The effect of the YCJA that was independent of the program.
program once controlling for the monthly variation in the non-YRP divisions, the internal trend within 41 division and the effect of the YCJA. The only factor significantly correlated with the number of youths charged each month was the number of youths charged each month in the non-YRP divisions. There appears to be a relatively stable number of youths charged each month. Thus, the decrease overall was not evident in 41 division (see appendix G, figure 7a).

*Theft under.* After looking at the number of youths charged each month for theft under in 41 division there appears to be a relatively stable number of youths charged (see appendix G, Figure 8). Time series analyses revealed that there were no significant effects of any of the variables in our analysis (see table 4.9). There were no significant effects of the program, of the other divisions, of trends within the division or the YCJA. Figure 8A shows the number of month youths charged for theft under with the effect of the non-YRP divisions removed. While there appears to be a slight decrease in the number of youths charged over time, this decrease was not significant, nor was any of the decrease statistically related to the introduction of the TPS-YRP when examined with the effect of the non-YRP divisions removed (see appendix G, figure 8a).

*All offences other than theft under.* Finally, looking at the number of youths charged for all offences other than theft under, there appears to be a relatively stable number of youths charged (see appendix G, figure 9). Results from the time series analyses revealed that there was no significant effect of the program, or of any internal trend within the division or of the YCJA (see table 4.9). Only the monthly variation in the non-YRP divisions was significantly related to the variation in division 41. When the number of youths charged with offences other than theft under are examined with the
effect of the non-YRP divisions removed (see appendix G, figure 9a) the relatively stable number of youths charged before and after the program was implemented (June 2002) becomes more evident.

**Table 4.9: Time Series Analysis: 41 Division alone (Unstandardized coefficients)**

<table>
<thead>
<tr>
<th></th>
<th>All Offences</th>
<th>Theft Under Offences</th>
<th>All Other Offences</th>
</tr>
</thead>
<tbody>
<tr>
<td>Diversion Program</td>
<td>-4.53</td>
<td>-4.12</td>
<td>-2.71</td>
</tr>
<tr>
<td>Non-program divisions</td>
<td>.13*</td>
<td>.01</td>
<td>.12*</td>
</tr>
<tr>
<td>Time</td>
<td>.83</td>
<td>.21</td>
<td>.59</td>
</tr>
<tr>
<td>YCJA</td>
<td>-12.09</td>
<td>-3.5</td>
<td>-10.68</td>
</tr>
</tbody>
</table>

*P < .05

**Division 42: The Effect of the YRP**

*All offences.* When examining the referrals to the TPS-YRP in 42 division it appeared that this division was somewhat slower in getting the program up and running with a stable number of youths being referred the program each month. Therefore the start date of the program was changed to July 2002. Time series analyses revealed that there was a significant relationship between the program implementation and a reduction in the number of youths charged, even after controlling for what was occurring in the other divisions, internal trends, and the YCJA (see table 4.10, appendix G, figure 10). There was also a significant effect of the other non-YRP divisions. The variation each month in the non-YRP divisions was significantly correlated with the monthly variation in division 42. In addition to this, the number of youths charged was also examined

32 The reference line drawn in all of the time series analyses figures for 42 division alone sits at June 2002 – just before the program was accepting a stable number of youths. See appendix G for figures.

33 Time series analyses also revealed that the significant treatment effect existed under the condition of “negative auto-regressive processes”. That is, the AR1 term was significant in this analysis. That means that the best predictor of any given data point of the dependent variable (number of youths charged in 42 division) was the adjacent data point. In other words, there was some sort of inertia process, or imitation process happening whereby the dependent variable was affecting itself over time. To make things even
with the effect of the non-YRP divisions removed (see appendix G, figure 10a). These analyses revealed more clearly that from July 2002 onwards there appeared to be fewer youths charged each month in 42 division. Thus, it appears that the effect of the program for 41 and 42 divisions combined (see appendix G, Figures 4 and 4a) was due mainly to 42 division.

**Theft Under.** When looking at the number of youths charged with theft under (as the most serious charge) in 42 division, there appears to be a decrease, after the implementation of the TPS-YRP, in the number of youths charged with theft under (see appendix G, figure 11). Time series analyses revealed that there was a significant effect of the internal downward trend within this division (see table 4.10). Thus, over time, this division was simply reducing the number of youths charged with theft under. Once controlling for that significant effect, however, there was still a significant effect of the TPS-YRP. There was a significant relationship between the introduction of the TPS-YRP and a decrease in the number of youths charged for theft under. When looking at the number of youths charged for theft under with the effect of the non-YRP divisions removed, one can see a reduction in the number of youths charged for theft under after the implementation of the program (see appendix G, figure 11a). Thus, once again, the effect of the TPS-YRP on the number of youths charged with theft under in both divisions combined (Figures 5 and 5a) appears to be due mainly to 42 division.

more “interesting”, the auto-regressive variable was negative. This is a relatively rare situation and it means - simply - that the effect of the dependent variable on itself was a zigzag. More specifically, one month there would be more charges. This will be followed by the next month in which there were fewer. The next month, there would be more, then fewer, than more, than fewer. Hence, the key to understanding this division and, more importantly, the treatment effect, would be to understand what the negative auto-regression was. For instance, the police “crack down” one month than “lighten up” the next, then “crack down” again, and then “lighten up” again. Clearly given the lack of significant – and more importantly, negative – auto-regressive processes in the other divisions, it could be that the treatment effect seen in division 42 is related to this negative auto-regression – whatever its source. Unfortunately, with the available data we are unable to explore this further.
**All offences other than theft under.** Finally, looking at the number of youths charged for all offences other than theft under in 42 division, there does not appear to be a decrease in the number of youths charged (see appendix G, figure 11). Similar to what was found when looking at both divisions combined, there was no significant effect of the program (see table 4.10). The only significant factor was the monthly variation in the other non-YRP divisions. Specifically, what happened in a given month in the non-YRP divisions was significantly related to what happened that same month in 42 division. When looking at the number of youths charged each month with the effect of the non-YRP divisions removed, one can see that there was a relatively stable number of youths charged each month (see appendix G, figure 11a). In addition, the monthly variation in the number of youths charged appears relatively similar before and after the introduction of the TPS-YRP.

**Table 4.10 Time Series Analysis: 42 Division alone (Unstandardized coefficients)**

<table>
<thead>
<tr>
<th></th>
<th>All Offences</th>
<th>Theft Under Offences</th>
<th>All Other Offences</th>
</tr>
</thead>
<tbody>
<tr>
<td>Diversion Program</td>
<td>-9.10*</td>
<td>-6.01*</td>
<td>-3.79</td>
</tr>
<tr>
<td>Non-program divisions</td>
<td>.13*</td>
<td>-.06</td>
<td>.21*</td>
</tr>
<tr>
<td>Time</td>
<td>-.37</td>
<td>-.31*</td>
<td>-.12</td>
</tr>
<tr>
<td>YCJA</td>
<td>4.22</td>
<td>1.13</td>
<td>2.54</td>
</tr>
</tbody>
</table>

*P<.05

**Summary.** Overall then, when examining the effect of the TPS-YRP in 41 and 42 divisions, the implementation of the program was associated with a reduction in the number of youths charged, even after controlling for the effect of the YCJA, the effect of the other divisions and any internal trend. However, upon closer inspection, the

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34In this analysis the treatment effect existed under “negative auto-repressive processes”. See footnote number 33 for a description.
reduction appeared to be due mainly to the implementation of the program in one division (42 division). Moreover, the reduction was found only for theft under offences and it appears to show that approximately six fewer cases per month went to court as a result of implementing the program. Thus, the effect of the TPS-YRP appeared to be limited to a reduction in the number of youths charged for theft under offences in 42 division. The next step is to examine the other four program divisions (13, 31, 32, and 33) that implemented the TPS-YRP in February 2003 to see if there was an effect of the program on the number of youths charged.

**The North Divisions: The Effect of the YRP**

*All offences.* Four divisions (13, 31, 32 and 33) officially started the TPS-YRP in February 2003. Therefore the reference line for the timer series analyses was set at January 2003 indicating that every month after that point is when the program was up and running with a stable number of youths being referred. These four divisions were first examined together as a group. Time series analyses revealed that what was occurring in the other non-YRP divisions was the only factor significantly correlated with the charging trends in these divisions (see table 4.11 and appendix G figure 13). Thus, what was happening in a given month in all of the non-YRP divisions was significantly related to what was happening that same month in these program divisions. The downward trend seen in Figure 13, then, is likely the result of broader trends throughout all of the divisions. There was no significant effect, above and beyond the effect of the non-YRP divisions, of the YCJA, internal trends or the TPS-YRP. When looking at the monthly number of youths charged that are independent of the broader trends in the non-YRP divisions (the residual of youths charged), one can see that there appears to be a
relatively stable number of youths charged throughout this three year period (see appendix G, figure 13a).

**All offences – 13 Division.** While there was no overall effect of the TPS-YRP in the north divisions as a group, there might have been an effect of the program in one of these divisions which would be hidden when looking at all divisions together. Therefore the effect of the TPS-YRP on the total number of youths charged in all of the north program divisions are examined separately. Time series analyses revealed that there was a significant effect of the program in 13 division with either a stable, or slightly increasing, number of youths charged each month in this division (see table 4.11 and appendix G, figure 14). The introduction of the program was significantly related to an increase in the number of youths charged each month in 13 division (see table 4.11). Within 13 Division there was also a significant effect of the other non-YRP divisions.

Thus, what was happening in a given month in the non-program divisions was significantly related to what was happening that same month in 13 division. There was no significant effect of any internal trends or of the YCJA. When looking at the number of youths charged each month with the effect of the non-YRP divisions removed, one can clearly see the significant increase in the number of youths charged after the program was introduced (see appendix G, figure 14a).

**All offences – 31 Division.** Time series analyses revealed that after controlling for the effect of the non-YRP divisions, internal trends and the YCJA there was no significant effect of the introduction of the TPS-YRP (see table 4.11 and appendix G, figure 15). The only factor that was significantly related to the number of youths charged in this division was the broader trends from the other non-YRP divisions. There was no
significant effect of the YCJA or any internal trends. When examining the number of youths charged each month with the effect of the non-YRP divisions removed, there appears to be similar monthly variation in the number of youths charged before and after the introduction of the TPS-YRP (see appendix G, figure 15a).

All offences – 32 Division. Similar to the other two divisions, what was going on in the non-YRP divisions was significantly related to what happened in 32 division. Thus, what happened in a given month in the non-YRP division was significantly related to what happened, that same month, in 32 division. There was no significant effect of the TPS-YRP, the YCJA or any internal trends (see table 4.11 and appendix G, figure 16). When looking at the residual of the number of youths charged (the effect of the non-YRP divisions removed), one can more clearly see that, although there is month-to-month variation, there appears to be a relatively stable number of youths charged both before and after the program was introduced (see appendix G, figure 16a). In addition, the variation seen in the number of youths charged before the TPS-YRP seems roughly the same as the variation seen after the introduction of the program.

All offences – 33 Division. There appears to be a general decline in the number of youths charged each month in 33 division (see appendix G, figure 17). Time series results revealed that there was a significant internal decline that was occurring. Thus, over time there was a significant decrease in the number of youths charged (see table 4.11). In addition, however, once controlling for the internal decrease, there was a significant effect of the TPS-YRP. There were significantly fewer youths charged after the introduction of the TPS-YRP (while simultaneously controlling for what was occurring in the non-YRP divisions, the internal trend and the YCJA). There was no
significant relationship effect of the non-YRP divisions or of the YCJA. When looking at the number of youths charged each month in 33 division with the effect of the non-YRP divisions removed, it was apparent that there was a general decline occurring throughout most of the three year period (see appendix G, figure 16a). The results from the time series analysis suggested, however, that the decrease was larger after the introduction of the TPS-YRP. Because of the significant effect of the TPS-YRP in this division, trends for theft under and all offences other than theft under are explored next.

Table 4.11 Time Series Analysis: The North Divisions (All Offences) (Unstandardized coefficients)

<table>
<thead>
<tr>
<th></th>
<th>All North divisions</th>
<th>13 Division</th>
<th>31 Division</th>
<th>32 Division</th>
<th>33 Division</th>
</tr>
</thead>
<tbody>
<tr>
<td>Diversion Program</td>
<td>-9.61</td>
<td>6.77*</td>
<td>-3.87</td>
<td>-6.60</td>
<td>-7.07*</td>
</tr>
<tr>
<td>Non-program divisions</td>
<td>.33*</td>
<td>.07*</td>
<td>.10*</td>
<td>.12*</td>
<td>.02</td>
</tr>
<tr>
<td>Time</td>
<td>-.38</td>
<td>.03</td>
<td>.37</td>
<td>-.42</td>
<td>-.48*</td>
</tr>
<tr>
<td>YCJA</td>
<td>16.39</td>
<td>3.39</td>
<td>6.17</td>
<td>7.60</td>
<td>.07</td>
</tr>
</tbody>
</table>

*P<.05

**Theft under – 33 Division.** There was a decrease in the number of youths charged with theft under over time in 33 division (see appendix G, figure 18). Results from the time series analysis indicated that while controlling for any non-YRP division effect, internal trends, and the YCJA there was still a significant effect of the program (see table 4.12). The introduction of the program was significantly associated with a decrease in the number of youths charged for theft under. There was no significant relationship between the non-YRP divisions, internal trends or the YCJA and the number of youths charged in 33 division. When looking at the number of youths charged for theft under with the effect of the non-YRP divisions removed, there still appears to be slightly
fewer youths charged for theft under after the program was introduced (see appendix G, figure 18a).

*All offences other than theft under – 33 Division.* The time series analysis revealed that, similar to the results from 42 division, there was no significant effect of the TPS-YRP when looking at offences other than theft under (see table 4.12 and appendix G, figure 19). There was also no significant effect of the non-YRP divisions or the YCJA. The only significant relationship that emerged was an internal decline over time. Thus, any decreases seen in the number of youths charged for offences other than theft under was due to a broader general decline that was occurring within 33 division. When looking at the monthly charges with the effect of the non-YRP divisions removed, there was clearly month to month variation (see appendix G, figure 19a). However, aside from a couple of high peaks early in 2001, there has been a relatively stable number of youths charged each month. The variation seen in charging youths before the TPS-YRP was introduced was generally similar to the variation seen after the program was implemented.

<table>
<thead>
<tr>
<th></th>
<th>All offences</th>
<th>Theft Under Offences</th>
<th>All Other Offences</th>
</tr>
</thead>
<tbody>
<tr>
<td>Diversion Program</td>
<td>-7.07*</td>
<td>-2.98*</td>
<td>-3.44</td>
</tr>
<tr>
<td>Non-program Divisions</td>
<td>.02</td>
<td>.09</td>
<td>.01</td>
</tr>
<tr>
<td>Time</td>
<td>-.48*</td>
<td>.01</td>
<td>-.42*</td>
</tr>
<tr>
<td>YCJA</td>
<td>.07</td>
<td>-.45</td>
<td>2.72</td>
</tr>
</tbody>
</table>

*P<.05

Summary. When exploring the effects of the introduction of the TPS-YRP in the six program divisions, it was found that once controlling for what was happening in all of the non-YRP divisions, within-division trends over time, and the introduction of the
YCJA, three divisions of the six YRP divisions had significant findings. In 33 and 42 Divisions the introduction of the YRP was significantly related to a decrease in the number of youths charged. In 13 Division the TPS-YRP was significantly related to an increase in the number of youths charged. Overall then, there was a significant relationship between the TPS-YRP and a decrease in the number of youths charged with theft under in two of the six program divisions. Based on these analyses, one might very roughly estimate that perhaps somewhere between 9 to 12 youths might have been diverted each month for theft under by the TPS-YRP program. Between March and August 2003, approximately 110 youths a month were referred to the TPS-YRP. Hence one might estimate that no more than approximately 11% of the youths going to the TPS-YRP would, otherwise, have been charged with an offence and sent through the traditional court process.\footnote{This could be estimated in a few different ways. For example, one could look at the significant effect overall in 41 and 42 (there was no overall significant effect in the north divisions). Alternatively, one could look only at the significant effects in 42 and 33, minus the increase in 13 (overall and looking only at theft unders since that is what the significant effects overall were due to).}

Overall, in the north divisions, the TPS-YRP had a statistically significant effect in two of the four divisions – an increase in youths charged in 13 division and a decrease in youths charged in 33 division. After controlling for broader non-YRP variation, internal trends and the YCJA there was a significant relationship between the introduction of the TPS-YRP and an increase in the number of youths charged in 13 division. In 33 division, after controlling for broader trends, internal trends and the YCJA, the introduction of the program was significantly related to a decrease in the number of youths charged with offences other than theft under. As mentioned earlier, however, there needs to be a strong caution that goes along with these findings: time
series is a non-experimental design. Thus, while a few factors were controlled, it is possible that the significant relationship between the TPS-YRP and the decrease in the youths charged (in 42 and 33 division) was due to another factor, or factors. In addition, the results also must be looked at with some caution with regard to the north divisions and the possible confounding that may have occurred with the timing of the program start and the implementation of the YCJA.

The results of statistical significance (or non-significance) presented in this chapter should be read and interpreted with caution. The general question I asked of these data was: were the vast majority or at least a substantial portion of the cases referred to the TPS-YRP court bound cases? What is implied by the statistical tests that I used, and what many ask in these types of evaluative assessments, was a somewhat different question: did the presence of the TPS-YRP in the police divisions significantly reduce the number of cases that went to court. In effect this is similar to asking whether the number of cases referred to the TPS-YRP that would have otherwise gone to court significantly different from no cases at all being diverted from court. This type of test, though typical, may not be the best test, as it is almost certain that these programs are going to divert at least a few young people from court. Instead, what could have been asked by these analyses– and, in effect, was asked by these same data was a different question: were cases referred to the TPS-YRP generally drawn from the court bound population?

This is a more meaningful understanding of the ‘diversion question’ in these programs (and probably most) diversion programs. The fact that formal pre-charge diversion creates a third option necessarily means that those referred will be drawn from
one of the two previous groups (those who would have been charged and those who
would have received informal warnings). The question then is what proportion of these
two groups now fill this third option in formal pre-charge diversion. It is not reasonable
to expect that all youths in a diversion program will come from the otherwise court-
destined group and that none would be drawn from the informal processing stream.
However, the goal in setting up and paying for such a program is clearly that of the
youths would be predominantly coming from the stream that otherwise would have been
sent to court.

It is clear based on the descriptive evidence presented in this chapter that the
majority of cases referred to the TPS-YRP did not appear to be drawn from the court
bound population. That is not to say, however, that there was definitely no effect of the
program—which the discussion of statistical significance might seem to imply. The
program did have a significant effect in some instances. For example, the best estimate of
the number of ‘true’ diversion cases at the Program’s peak was perhaps 22 cases out of
149 cases. Said differently, the program had an effect such that about 15% of referred
cases were in jeopardy of being sent through the formal court process (alternatively,
about 85% of the cases at the program’s peak were likely cases that in the absence of the
TPS-YRP would have been handled less formally). These analyses were based on a
limited number of data points (or number of months under study prior to and following
implementation of the TPS-YRP). Had there been a larger time line examined it is quite
possible that a greater number of divisions would have demonstrated significant results.
But this would suggest that even if more data points were available and therefore I had a
more powerful test, a statistically significant finding that some youths had been diverted,
would not really have answered the right question. Because even if a greater number of police divisions demonstrated significant findings the results would still show that the majority of the cases referred to the TPS-YRP did not appear to be otherwise court bound cases.

**Exploring Recidivism among Diverted Youth**

One might conclude, based on the criticisms of earlier research, that an examination of reoffending among diverted youth is too fraught with problems to establish any meaningful conclusions regarding the effectiveness of diversion. That is, demonstrations of low levels of recidivism for participants in diversion programs have been attributed to the notion that referred youth are the least risky types of youth and are very unlikely to reoffend with or without program participation. Despite these criticisms, it may still be worth examining reoffending among diverted youth. It worthwhile because it can provide some indication (*with* appropriate comparison groups) of the impact of program participation on referred youth. While reduced recidivism was not the primary goal of either the TPS-YRP or HYJP, it is worth exploring whether or not these programs have had an impact on the reoffending of participating youth. This section will explore recidivism among youth referred to the TPS-YRP. Unfortunately it was not possible to establish comparable comparison groups for those youth participating in the HYJP and thus, HYJP is excluded from the recidivism analyses. The first task in examining recidivism among youths referred to the TPS-YRP was to establish a comparable group of youths for comparison. For these analyses, data were collected on four groups of youths suspected of committing theft under $5,000 between

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36 These analyses were specifically requested by the Toronto Police Service as a part of the formal evaluation of the TPS-YRP and were a part of the program evaluation.
January 1, 2003 and March 31, 2003 (See chapter 3, page 85 for additional details). The groups included the following: group 1- youths referred to the TPS-YRP (n=56); group 2- youths who received unconditional releases (n=11); group 3- youths who received informal cautions (n=62); and group 4- youths sent to court (n=17). For each of these groups of youths, all contacts with police were gathered both before and after their theft under $5,000 offence. In order to get as wide a range of police contacts as possible, four ways in which to measure previous police contacts were identified:

1) a youth’s total number of previous criminal and non-criminal contacts with police
2) a youth’s total number of criminal contacts with police that did not result in charges
3) a youth’s total number of previous non-criminal contacts with police
4) and a youth’s total number of previous charges.

For the youths from the TPS-YRP group (n=56), each case ranged between zero and three contacts on all four variables. In order to ensure comparable youths, cases from the unconditional release, caution, and court groups that appeared to be outliers were selected out. In each case, the cases that were eliminated had no comparable case in the TPS-YRP group. That is, they had a significantly higher numbers of contacts on the four aforementioned variables. From the unconditional release group, 2 cases were selected out, bringing the sample down to 9 from this group. From the caution group, 2 cases were selected out, bringing the sample down to 60 youths, and from the court group, 4 cases were selected out, bringing the sample down to 13 youths.

All of these youths, then, had been apprehended for theft under $5000. The process of attempting to create comparable groups (TPS-YRP vs. other youths apprehended for theft-under) was done without knowing what a youth’s subsequent
record looked like. In effect, a “matched” group of youths (in terms of their previous record of offending) was created.

_Creating comparable groups._ Before exploring recidivism among diverted youth, it was important that the two groups were similar based on their previous contacts with police. The mean number of previous contacts (measured in the four different ways described on page 32) each of the groups had with police prior to their theft under $5,000 offence were explored and the only significant differences among the groups was the mean number of previous charges. The court group had a significantly higher average number of mean charges (.38) compared to the TPS-YRP group (.05), the unconditional released group (.00) and the informal caution group (.00) (see appendix G, tables 4 and 4a)

While not significant, the court group also has the highest average number of criminal and non-criminal contacts. The average number of total contacts was 1.08 for the court group, followed by the TPS-YRP group (.75), the unconditionally released group (.56) and informal caution group (.38) (see appendix G, table 1 and 1a). When looking at criminal contacts (that did not result in charges) there were once again no significant differences though the groups ordered themselves as one might expect: the court group was the highest with .85 contacts, followed again by the TPS-YRP group (.29), unconditional released (.22) and informal caution (.17) (see appendix G, table 3 and 3a). Finally, when looking at the non-criminal contacts, the TPS-YRP group has the highest average number of contacts (.45) followed by the unconditionally released group
(.33), the court group (.23) and the informal caution group (.20) (see appendix G, table 2 and 2a).

The goal here was to create a relatively comparable group to the TPS-YRP group. Thus, the one significant difference in the average number of previous charges suggest that we need to pool these groups together to create a more equivalent group to compare to the TPS-YRP group (see appendix G, table 4a). Therefore the court group was combined with the unconditionally released and informal caution groups in order to see whether that would create a group that was similar – on all four measures – to the TPS-YRP group. There were no significant differences between those two groups on any of the four measures. While the TPS-YRP group had more total contacts (.75) and non-criminal contacts (.45) than court/unconditionally released/cautioned group (.51 and .22 respectively) (see appendix G, tables 1 and 2); the two groups had almost the identical mean number of criminal contacts (.29 TPS-YRP and .28 court/unconditionally released/cautioned) (see appendix , table 7) and charges (.05 TPS-YRP and .06 court/unconditionally released/cautioned)(see appendix G, table 8).

None of the differences between these groups even approached statistical significance. For all practical purposes, these groups are, on these dimensions, the same. The next four tables show, more descriptively, how the two groups (TPS-YRP and court/unconditionally released/cautioned) looked on each of the four previous contact measures. For ease of presentation, we pooled the number of previous contacts into no previous contacts and one or more previous contacts. Looking first at the total contacts, 66.1% of YRP group 75.6% of the comparison group had no previous criminal/non-criminal contact.
Table 4.13 Previous Criminal and Non-criminal Contacts by Group

<table>
<thead>
<tr>
<th></th>
<th>TPS-YRP</th>
<th>Court, Caution, UR</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>No previous contacts</td>
<td>66.1% (n=37)</td>
<td>75.6% (n=62)</td>
<td>71.7% (n=99)</td>
</tr>
<tr>
<td>One or more previous contacts</td>
<td>33.9% (n=19)</td>
<td>24.4% (n=20)</td>
<td>28.3% (n=39)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0% (n=56)</td>
<td>100.0% (n=82)</td>
<td>100.0% (n=138)</td>
</tr>
</tbody>
</table>

Chi square = 1.06, df = 1, p = .303

The next table shows that 82.1% of the TPS-YRP group and 87.8% of the comparison groups did not have any previous criminal contact with police. 17.9% of the TPS-YRP youths and 12.2% of the comparison group had some level of previous criminal contact with police.

Table 4.14 Previous Criminal Contacts by Group

<table>
<thead>
<tr>
<th></th>
<th>TPS-YRP</th>
<th>Court, Caution, UR</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>No previous contacts</td>
<td>82.1% (n=46)</td>
<td>87.8% (n=72)</td>
<td>85.5% (n=118)</td>
</tr>
<tr>
<td>One or more previous contacts</td>
<td>17.9% (n=10)</td>
<td>12.2% (n=10)</td>
<td>14.5% (n=20)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0% (n=56)</td>
<td>100.0% (n=82)</td>
<td>100.0% (n=138)</td>
</tr>
</tbody>
</table>

Chi square = 0.46, df = 1, p = .496

The following table shows that 75.0% of the TPS-YRP group and 85.4% of the comparison group had no previous non-criminal contact with police. 25.0% of the TPS-YRP youths and 14.6% of youths in the comparison group had some previous non-criminal contact with police.
Table 4.15: Previous Non-criminal Contacts by Group

<table>
<thead>
<tr>
<th></th>
<th>TPS-YRP</th>
<th>Court, Caution, UR</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>No previous contacts</td>
<td>75.0% (n=42)</td>
<td>85.4% (n=70)</td>
<td>81.2% (n=112)</td>
</tr>
<tr>
<td>One or more previous contacts</td>
<td>25.0% (n=14)</td>
<td>14.6% (n=12)</td>
<td>18.8% (n=26)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0% (n=56)</td>
<td>100.0% (n=82)</td>
<td>100.0% (n=138)</td>
</tr>
</tbody>
</table>

Chi square = 1.71, df = 1, p= .191

Finally, looking at previous charges, roughly 96% of the TPS-YRP and 95% of the comparison group did not have any previous charges. Only roughly 3% to 4% of the groups had any previous charges.

Table 4.16: Previous Charges by Group

<table>
<thead>
<tr>
<th></th>
<th>TPS-YRP</th>
<th>Court, Caution, UR</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>No previous charges</td>
<td>96.4% (n=54)</td>
<td>95.1% (n=78)</td>
<td>95.7% (n=132)</td>
</tr>
<tr>
<td>One or more previous charges</td>
<td>3.6% (n=2)</td>
<td>4.9% (n=4)</td>
<td>4.3% (n=6)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0% (n=56)</td>
<td>100.0% (n=82)</td>
<td>100.0% (n=138)</td>
</tr>
</tbody>
</table>

From all of the analyses, one can see – either through the means or through the cross-tabulations – that the two groups (TPS-YRP and court/unconditionally released/cautioned) look quite similar on all four previous contact measures. Since the two groups are clearly similar, an examination of recidivism follows. In order to measure “recidivism” we looked at four of the following measures: first, the total number of criminal and non-criminal contacts after the trigger offence (the theft under $5000 that brought them into this sample.); second, the total number of criminal contacts that did not result in charges after the trigger offence; third, the total number of non-criminal contact
after the trigger offence; and fourth, the total number of charges after the trigger offence. These data were collected from the Toronto Police Service during a two week period at the end of May, 2004. This allowed the tracking of subsequent police contact over a 13 to 16 month period depending on the date of the youth’s theft under $5,000 offence.

Whether looking at the total subsequent (criminal and non-criminal) contacts, or the subsequent criminal contacts, subsequent non-criminal contacts or subsequent charges, there were no significant differences between the TPS-YRP group and the court/unconditionally released/cautioned group. The data were also analyzed keeping all four groups separate from one another. Once again, there were no significant differences among the groups on the four measures of subsequent contacts. The TPS-YRP group had slightly more average total contacts (.71), criminal contacts (.25), non-criminal contacts (.39) and charges (.59) than the comparison group (0.46; 0.15; 0.32 and 0.37 respectively). None of these differences even approached statistical significance.

Looking more descriptively at the subsequent contacts, one can see how similar the two groups were on each of the four measures. As before, subsequent contacts were combined into “none” and “one or more”. The following table shows the distribution of the two groups on the total subsequent contacts (criminal and non-criminal). Roughly 68% of the TPS-YRP group and 79% of the comparison group had no subsequent contacts after the theft under trigger offence.

<table>
<thead>
<tr>
<th></th>
<th>TPS-YRP</th>
<th>Court, Caution, UR</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>No subsequent contacts</strong></td>
<td>67.9%</td>
<td>79.3%</td>
<td>74.6%</td>
</tr>
<tr>
<td>(n=38)</td>
<td></td>
<td>(n=65)</td>
<td>(n=103)</td>
</tr>
<tr>
<td><strong>One or more subsequent contacts</strong></td>
<td>32.1%</td>
<td>20.7%</td>
<td>25.4%</td>
</tr>
<tr>
<td>(n=18)</td>
<td></td>
<td>(n=17)</td>
<td>(n=35)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
</tbody>
</table>
The majority of both groups had no subsequent criminal contacts over the 13 to 16 month period. Roughly 86% of the TPS-YRP group and 90% of the comparison group had no subsequent criminal contacts.

### Table 4.18: Subsequent Criminal Contacts by Group

<table>
<thead>
<tr>
<th></th>
<th>TPS-YRP</th>
<th>Court, Caution, UR</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>No subsequent contacts</td>
<td>85.7%</td>
<td>90.2%</td>
<td>88.4%</td>
</tr>
<tr>
<td>(n=48)</td>
<td>(n=74)</td>
<td>(n=122)</td>
<td></td>
</tr>
<tr>
<td>One or more subsequent contacts</td>
<td>14.3%</td>
<td>9.8%</td>
<td>11.6%</td>
</tr>
<tr>
<td>(n=8)</td>
<td>(n=8)</td>
<td>(n=16)</td>
<td></td>
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<tr>
<td>Total</td>
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<td>100.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td>(n=56)</td>
<td>(n=82)</td>
<td>(n=138)</td>
<td></td>
</tr>
</tbody>
</table>

Chi square = 1.73, df = 1, p=.130

<table>
<thead>
<tr>
<th></th>
<th>TPS-YRP</th>
<th>Court, Caution, UR</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>No subsequent contacts</td>
<td>73.2%</td>
<td>85.4%</td>
<td>80.4%</td>
</tr>
<tr>
<td>(n=41)</td>
<td>(n=70)</td>
<td>(n=111)</td>
<td></td>
</tr>
<tr>
<td>One or more subsequent contacts</td>
<td>26.8%</td>
<td>14.6%</td>
<td>19.6%</td>
</tr>
<tr>
<td>(n=15)</td>
<td>(n=12)</td>
<td>(n=27)</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td>(n=56)</td>
<td>(n=82)</td>
<td>(n=138)</td>
<td></td>
</tr>
</tbody>
</table>

Chi square =3.12, df = 1, p=.122

In each group there were slightly more youths who had subsequent non-criminal contacts than had criminal contacts. Roughly 73% of the TPS-YRP youths and 85% of the court/unconditionally released/cautioned youths had no subsequent non-criminal contacts.
When looking at subsequent charges, roughly 93% of the TPS-YRP group and 88% of the comparison group had no criminal charges. Again, the difference between the groups did not even approach statistical significance.

**Table 4.20: Subsequent Charges by Group**

<table>
<thead>
<tr>
<th></th>
<th>TPS-YRP</th>
<th>Court, Caution, UR</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>No subsequent charges</td>
<td>92.9% (n=52)</td>
<td>87.8% (n=72)</td>
<td>89.9% (n=124)</td>
</tr>
<tr>
<td>One or more subsequent charges</td>
<td>7.1% (n=4)</td>
<td>12.2% (n=10)</td>
<td>10.1% (n=14)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>100.0% (n=56)</td>
<td>100.0% (n=82)</td>
<td>100.0% (n=138)</td>
</tr>
</tbody>
</table>

Chi square = .460, df = 1, p=.498

**Summary.** In a period of slightly more than a year after the offence that resulted in the referral to the TPS-YRP, police records suggest that 14.3% of those who had completed the TPS-YRP had contact with a police officer relating to an allegation of a subsequent criminal offence. About half of these (7%) had contact that led to a criminal charge. The critical question, then, is how does this compare to some group that is comparable in background and who were treated as these youths would have been had they not been diverted through the TPS-YRP. Since some of these youths would have been referred to court; some would have been dealt with informally (by way of an informal caution); and some would have received a record of arrest, but be unconditionally released; a combination of these groups were examined. In addition, theft under cases were examined because they were by far the most common offence for
TPS-YRP youths and they were the only group that showed any signs indicating that they may have been diverted as a result of the existence of the diversion program. A sample of youths were created whose offending background was similar to the TPS-YRP youths but who had been sent to court, cautioned, or arrested and unconditionally released (for a theft under offence) from the same police division. This group was then compared to the TPS-YRP youths. On various measures – criminal and non-criminal contacts not resulting in charges, criminal charges, and all contacts and charges combined – the results were the same: the TPS-YRP youths did not differ significantly from the comparison group. In this instance, the outcome for the TPS-YRP, in terms of recidivism, shows no appreciable differences between those youth referred to diversion, informally cautioned, or sent to court. That is, the program can neither be said to have had a negative (increased reoffending) or positive (reduced reoffending) impact on recidivism among referred youth when compared to similar youth processed via alternate means (court or informal cautions).

References


Chapter 5: What are the purposes that diversion programs serve for police?

Introduction
The purpose of this chapter is to begin to explore the purposes, beyond the original goals diverting youth from the traditional court system, which the TPS-YRP and HYJP served. I will first examine how police viewed and used these two programs. The chapter will begin with a descriptive account of the frequency and types of referrals officers made to the diversion program and follow with an exploration of how officers used these diversion programs. The second section will examine officers’ more general views about diversion. The final section of the chapter will explore the secondary functions of the two programs.

Exploring the Frequency of Diversion Program Referrals by Police
The first step was to explore how often, if at all, police referred youth to the two programs. The data used in this section were taken from the interviews with frontline police officers (see chapter three, pages 81 and 82).

Frequency of Officer Use of the Programs. As Table 5.1 shows, the majority of police officers in Toronto and Halton Region (76.5% and 96.6% respectively) reported making at least one referral to the diversion program since the programs were implemented. However, 23.5% Toronto officers and 3.3% of Halton officers had never referred a youth to the program.

<table>
<thead>
<tr>
<th></th>
<th>HYJP</th>
<th>TPS-YRP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Referred youth</td>
<td>96.7% (n=58)</td>
<td>75.6% (n=62)</td>
</tr>
<tr>
<td>Did not Refer youth</td>
<td>3.3% (n=2)</td>
<td>23.2% (n=19)</td>
</tr>
<tr>
<td>No response</td>
<td>0.0% (n=0)</td>
<td>1.2% (n=1)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0% (n=60)</td>
<td>100.0% (n=82)</td>
</tr>
</tbody>
</table>

Chi-square = 11.77, df = 2, p <.01
The police officers who had stated they had made a referral to diversion programming were asked to estimate the total number of referrals they had made to diversion. As Table 5.2 shows, 87.1% of Toronto officers and 96.6% of Halton Region officers stated that they had made between 1 and 10 referrals to diversion.

<table>
<thead>
<tr>
<th>Frequency</th>
<th>HYJP</th>
<th>TPS-YRP</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>24.1% (n=14)</td>
<td>16.1% (n=10)</td>
</tr>
<tr>
<td>2</td>
<td>15.5% (n=9)</td>
<td>6.5% (n=4)</td>
</tr>
<tr>
<td>3</td>
<td>6.9% (n=4)</td>
<td>14.4% (n=9)</td>
</tr>
<tr>
<td>4</td>
<td>10.4% (n=6)</td>
<td>9.7% (n=6)</td>
</tr>
<tr>
<td>5</td>
<td>13.8% (n=8)</td>
<td>17.7% (n=11)</td>
</tr>
<tr>
<td>6-9</td>
<td>5.1% (n=3)</td>
<td>12.9% (n=8)</td>
</tr>
<tr>
<td>10</td>
<td>20.7% (n=12)</td>
<td>9.7% (n=6)</td>
</tr>
<tr>
<td>Over 10</td>
<td>3.6% (n=2)</td>
<td>12.8% (n=8)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0% (n=58)</td>
<td>100.0% (n=62)</td>
</tr>
</tbody>
</table>

Chi-square = 12.74, df = 7, n.s.

**Summary.** Clearly, the majority of police officers who were interviewed had referred youths to diversion. It appears that fewer Toronto officers actually used diversion programming when compared to Halton (75.6% and 96.7% respectively). One of the reasons for this difference may lie in the structural differences between the two programs. As noted earlier, in the HYJP the youth officer acted as a check on the referrals or other formal decisions of the front line police officer. All cases involving youths who were not unconditionally released were processed through the youth office. While the youth officer tended not to override the arresting officers, it was suggested that at times he or she would take the file back to the officer and suggest some other means of handling the case (and almost always this involved a less severe outcome for the youth). For example, if the decision was to charge a young person, the youth officer might
suggest diversion referral as an alternative. This ‘check’ on the decision making of frontline officers may have helped to increase the rate at which police officers ‘referred’ cases to diversion in Halton. It is also important to note the difference in the number of years of program operation. The HYJP was in operation for at least 4 years prior to the TPS-YRP and continued to operate after the TPS-YRP was closed. This would obviously have provided greater opportunities for officers’ to refer cases to diversion.

**Exploring Officers’ Handling of Diversion Eligible Cases**

The TPS-YRP and HYJP were each developed with the primary goal of reducing the number of cases sent through the traditional court system. Most research has shown that diversion programs have been largely unable to accomplish this goal or, even if some cases are diverted, large numbers of cases are processed in the program that would otherwise have received minimal intervention. Yet, despite this we have continued to use diversion programs to reduce the number of cases going to court. Typically these programs are justified on this dimension. Given this continued use, it was important to explore how officers viewed diversion and how they felt diversion eligible cases should be dealt with.

Officers were asked how they would have dealt with diversion-eligible cases in the absence of each program. Recall that both programs were, in general, designed for first-time offenders accused of minor types of offences (for example theft, minor assault, and mischief) and that police officers had been instructed that this was the purpose of the program. As Table 5.3 shows, prior to or in the absence of these diversion programs, the majority of officers reported they would have cautioned the youth. If unable to refer, 72.4% of Halton officers and 77% of Toronto officers reported they would have
cautioned youth. 15.5% Halton officers and 13.1% of Toronto officers stated that they would lay charges if diversion was unavailable. And lastly, 12.1% of Halton officers and 9.8% of Toronto officers reported that they would caution or charged depending on the circumstance if diversion was unavailable.

Table 5.3  Prior to or In Absence of Diversion how officers would have handled similar cases

<table>
<thead>
<tr>
<th>Action</th>
<th>HYJP</th>
<th>TPS-YRP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cautioned</td>
<td>72.4% (n=42)</td>
<td>77.0% (n=47)</td>
</tr>
<tr>
<td>Charged</td>
<td>15.5% (n=9)</td>
<td>13.1% (n=8)</td>
</tr>
<tr>
<td>Caution or charged</td>
<td>12.1% (n=7)</td>
<td>9.8% (n=6)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0% (n=58)</td>
<td>100.0% (n=61)</td>
</tr>
</tbody>
</table>

Chi square = 0.341, df = 2, p<.843

Similar to the program overall, and the TPS-YRP, the majority of officers across the Halton youth office Districts reported they would caution a youth in the absence of the HYJP. As Table 5.4 shows, there were, however, some slight differences across these Districts.

Table 5.4 Prior to or In Absence of Diversion how officers would have handled similar cases Across HYJP Districts

<table>
<thead>
<tr>
<th>Action</th>
<th>District 1</th>
<th>District 2</th>
<th>District 3</th>
<th>Total HYJP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cautioned</td>
<td>72.2% (n=13)</td>
<td>75.0% (n=15)</td>
<td>70.0% (n=14)</td>
<td>72.4% (n=42)</td>
</tr>
<tr>
<td>Charged</td>
<td>5.6% (n=1)</td>
<td>15.0% (n=3)</td>
<td>25.0% (n=5)</td>
<td>15.5% (n=9)</td>
</tr>
<tr>
<td>Caution or charged</td>
<td>22.2% (n=4)</td>
<td>10.0% (n=2)</td>
<td>5.0% (n=1)</td>
<td>12.1% (n=7)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0% (n=18)</td>
<td>100.0% (n=20)</td>
<td>100.0% (n=20)</td>
<td>100.0% (n=58)</td>
</tr>
</tbody>
</table>

The following analyses explore the types of cases and reasons for officers’ most recent referral to diversion programming. As part of the interviews with police, officers
from both Halton (n=58) and Toronto (n=61\textsuperscript{37}) were each asked to recall information on their most recent diversion case. This was done in order to attain a better understanding of how and why officers referred particular cases to diversion programming. The data sources are described in detail in chapter 3 on pages 81 and 82.

**Offence Type Referred.** Table 5.5 shows that police officers saw shoplifting as the most eligible offence to refer to diversion. This was, of course, the offence most likely to result in diversion in both police services.

<table>
<thead>
<tr>
<th>Offence</th>
<th>HYJP</th>
<th>TPS-YRP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drug possession</td>
<td>6.9% (n=4)</td>
<td>0.0% (n=0)</td>
</tr>
<tr>
<td>Theft under $5000</td>
<td>68.9% (n=40)</td>
<td>78.7% (n=48)</td>
</tr>
<tr>
<td>Mischief</td>
<td>12.1% (n=7)</td>
<td>6.6% (n=4)</td>
</tr>
<tr>
<td>Other property\textsuperscript{38}</td>
<td>5.2% (n=3)</td>
<td>3.3% (n=2)</td>
</tr>
<tr>
<td>Minor assault</td>
<td>5.2% (n=3)</td>
<td>6.6% (n=4)</td>
</tr>
<tr>
<td>Other violence\textsuperscript{39}</td>
<td>1.7% (n=1)</td>
<td>4.9% (n=3)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0% (n=58)</td>
<td>100.0% (n=61)</td>
</tr>
</tbody>
</table>

Table 5.6 examines more closely the types of offences referred by interviewed officers across HYJP Districts. Similar to overall HYJP data the majority of offences referred were for theft under $5000 across each of the Districts. However, there is slightly less variation in offence types for interviewed officers when compared to the overall HYJP data.

\textsuperscript{37} The total number of referring officers was 62 for Toronto, however, one of these officers chose not to provide responses to questions regarding the most recent referral case. Thus, the total sample in these analyses is 61.

\textsuperscript{38} Other property offence break down: Breaking and entering (TPS=1), Possession of stolen property (TPS-YRP =1, HYJP= 1), fraud (HYJP=2)

\textsuperscript{39} Other violent offence break down: Threatening (TPS=1, HYJP=1 ), Weapon offence (TPS-YRP=2)
After having officers briefly describe the type of case they had most recently referred to diversion programming, they were then asked to discuss what they might have done with this specific case had diversion been unavailable. Police officers in both Halton and in Toronto were slightly more likely to say that they would have cautioned rather than charge the youth in their most recent diversion case. Table 5.7 shows that 58.1% of TPS-YRP officers and 51.7% of HYJP officers stated they would have issued a caution in their most recent referral cases. These data suggest that a little over half of the diversion cases handled by these officers would have been dealt with less formally had the programs been unavailable to them.

### Table 5.7 How Officer would have handled most recent diversion case if program unavailable

<table>
<thead>
<tr>
<th>Action</th>
<th>HYJP</th>
<th>TPS-YRP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cautioned</td>
<td>51.7% (n=30)</td>
<td>58.1% (n=36)</td>
</tr>
<tr>
<td>Charged</td>
<td>48.3% (n=28)</td>
<td>40.3% (n=25)</td>
</tr>
<tr>
<td>Total will</td>
<td>100.0% (n=58)</td>
<td>100.0% (n=61)</td>
</tr>
</tbody>
</table>

Chi square = 0.64, df = 1, n.s

Given the earlier differences discovered between the HYJP Districts, it was important to also examine the whether or not officers who were interviewed in each of the Districts might have handled cases differently in the absence of diversion.
programming. There were significant differences between HYJP Districts in terms of how officers stated they would handle their most recent diversion cases. Officers in District 3 were most likely to state that they would have laid charges in their most recent diversion cases (70.0%) while Districts 1 and 2 were less likely (33.3% and 40.0% respectively).

<table>
<thead>
<tr>
<th>Action</th>
<th>District 1</th>
<th>District 2</th>
<th>District 3</th>
<th>Total HYJP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cautioned</td>
<td>66.7% (n=12)</td>
<td>60.0% (n=12)</td>
<td>30.0% (n=6)</td>
<td>51.7% (n=30)</td>
</tr>
<tr>
<td>Charged</td>
<td>33.3% (n=6)</td>
<td>40.0% (n=8)</td>
<td>70.0% (n=14)</td>
<td>48.3% (n=28)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0% (n=18)</td>
<td>100.0% (n=20)</td>
<td>100.0% (n=20)</td>
<td>100.0% (n=58)</td>
</tr>
</tbody>
</table>

Chi square = 5.938, df = 2, p<.05

Table 5.9 outlines the main reason that officers gave for the referral of their most recent diversion case. Officers in both Halton and Toronto most frequently reported that holding the youth accountable for their actions was the primary reason they referred the youth to diverted. There were, however, some differences between programs. A greater proportion of Halton officers (56.8%) than Toronto officers (33.9%) reported the reason they diverted the youth was to hold him or her accountable. 29% of Toronto officers and 17.2% of Halton officers stated that they diverted their most recent case because they were required to do so by their department and or legislation.
Table 5.9 Officers reasons for referring most recent case to diversion

<table>
<thead>
<tr>
<th>Reason</th>
<th>HYJP</th>
<th>TPS-YRP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hold youth accountable and address offence</td>
<td>56.8% (n=33)</td>
<td>33.9% (n=21)</td>
</tr>
<tr>
<td>Department/Legislation requires diversion</td>
<td>17.2% (n=10)</td>
<td>29.0% (n=18)</td>
</tr>
<tr>
<td>Circumstances surrounding the offence</td>
<td>3.4% (n=2)</td>
<td>14.5% (n=9)</td>
</tr>
<tr>
<td>Program was available</td>
<td>1.7% (n=1)</td>
<td>6.5% (n=4)</td>
</tr>
<tr>
<td>Youth had no previous contact with police</td>
<td>1.7% (n=1)</td>
<td>3.2% (n=2)</td>
</tr>
<tr>
<td>Youth needed community resources/assistance</td>
<td>10.3% (n=6)</td>
<td>3.2% (n=2)</td>
</tr>
<tr>
<td>Program would give greater penalty than court</td>
<td>6.9% (n=4)</td>
<td>3.2% (n=2)</td>
</tr>
<tr>
<td>Unsure</td>
<td>1.7% (n=1)</td>
<td>1.6% (n=2)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0% (n=58)</td>
<td>100.0% (n=58)</td>
</tr>
</tbody>
</table>

Table 5.10 examines the reasons officers gave for referring a youth to diversion by the action officers would have taken with the case had diversion been unavailable as an option. Police officers, in both Halton and Toronto, who would have cautioned if the program had been unavailable, were more likely than officers who would have charged to say that they referred the case to diversion in order to hold the youth accountable. In Halton, 80.0% of officers who would have cautioned reported referring the case to hold the youth accountable compared to 39.3% of officers that would have laid charges. Similarly, in Toronto, 50.0% of officers who would have cautioned reported referring the case to hold the youth accountable compared to only 16.0% of officers who would have laid charges. Additionally, in both Halton and Toronto, officers who would have charged the youth had diversion been unavailable were more likely than those who would have cautioned to report that they diverted the youth because either the legislation or their
department required it. In Halton, 32.1% of officers who would have charged reported referring the case because they were required to do so compared to 3.3% of officers that would have cautioned. Similarly, in Toronto, 40% of officers who reported they would have charged indicated they referred the case because they were required to compared to 23.5% of officers who would have cautioned.

Table 5.10 Officers reason for referral by action they would have taken if pre-charge diversion was unavailable

<table>
<thead>
<tr>
<th>Reason for the referral to the program:</th>
<th>HYJP</th>
<th>TPS-YRP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hold youth accountable and address offence</td>
<td>80.0% (n=24)</td>
<td>50.0% (n=17)</td>
</tr>
<tr>
<td>Department/Legislation requires diversion</td>
<td>3.3% (n=1)</td>
<td>3.3% (n=1)</td>
</tr>
<tr>
<td>Circumstances surrounding the offence</td>
<td>3.3% (n=1)</td>
<td>3.3% (n=1)</td>
</tr>
<tr>
<td>Program was available</td>
<td>0.0% (n=0)</td>
<td>0.0% (n=0)</td>
</tr>
<tr>
<td>Youth had no previous contact with police</td>
<td>0.0% (n=0)</td>
<td>0.0% (n=0)</td>
</tr>
<tr>
<td>Youth needed community resources/assistance</td>
<td>6.6% (n=2)</td>
<td>5.9% (n=2)</td>
</tr>
<tr>
<td>Program would give greater penalty than court</td>
<td>6.6% (n=2)</td>
<td>2.9% (n=1)</td>
</tr>
<tr>
<td>Unsure</td>
<td>0.0% (n=0)</td>
<td>2.9% (n=1)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0% (n=30)</td>
<td>100.0% (n=34)</td>
</tr>
</tbody>
</table>
Summary. Police officer use of the diversion was fairly straight forward. In general, officers tended to refer the least serious, least risky youth they dealt with. Diversion in this sense filled a gap for these officers. From the point of view of the officer, the program provided a ‘third choice’ that was more than simply an alternative to the court. It was clear in the interviews that many officers felt that these diversion programs were a good way to deal with youths they stated they would have otherwise cautioned. As an officer from the TPS-YRP reported about his most recent referral, “It was a 12-year-old who stole a one dollar lipstick. This is a waste of court time, but they need a scare. Usually I let them walk, but this is good for them.” An officer from the HYJP stated, “The kid didn't need a criminal record, but something had to be done”. Still, other officers felt diversion was a means of holding youth more accountable than the courts. An officer in Halton stated, “I felt he would get more of a penalty than going through the courts and the parents wouldn't have done anything”. While the legislation and departmental policies do appear to play some role in officers’ decisions (mostly for officers who reported they would have charged youth in the absence of diversion), it appears that the majority of officers saw diversion programming as a means of dealing with youth that is better than doing nothing at all (a caution), and more effective than the traditional court system (for specific types of cases -first time, minor offences which would not have been sent to court). Officers seemed to indicate they were referring youth they would have otherwise cautioned, for their own good.

Exploring General Views of Diversion Officers

In order to further understand the purposes of diversion programming it was also important to understand how officers felt, more generally, about diversion. This section
will first explore what officers thought when they first heard about pre-charge diversion as well as their current views of diversion programming. It will follow with an examination of how officers and defined the success or failure of pre-charge diversion. The final section will explore whether or not officers viewed diversion as holding youth accountable as well as what it means to hold youth accountable in pre-charge diversion.

*What works in diversion.* Officers’ early views of diversion programming were important in part because they could provide some indication as to how receptive these officers were to the programs. How receptive officers were to diversion could have potentially affected the ‘success’ of these programs (in terms of whether or not officers actively referred young people). These views also provide, to some extent, an understanding of how officers recalled their views of diversion prior to their experience with each of the programs. Police officers in both Toronto and Halton were asked how they felt about pre-charge diversion when they first heard about it (See appendix B, and appendix D for the exact questions asked in the interviews). Table 5.11 shows slight differences between the two programs. It appears that officers from Halton region were slightly more positive about diversion. 36.2% of Halton officers believed diversion could work compared to 23.3% of officers in Toronto who believed it could work. Toronto officers were also slightly more likely to feel skeptical about diversion working (46.7% compared to 37.9% of Halton officers). In addition Toronto officers were more likely to report that diversion was too easy on youth (28.3% compared to 13.7% for Halton officers).
Table 5.11 How Officers first felt about diversion

<table>
<thead>
<tr>
<th></th>
<th>HYJP</th>
<th>TPS-YRP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Skeptical about it working</td>
<td>37.9% (n=22)</td>
<td>46.7% (n=28)</td>
</tr>
<tr>
<td>Thought it could work</td>
<td>36.2% (n=21)</td>
<td>23.3% (n=14)</td>
</tr>
<tr>
<td>Thought it was too easy on youth</td>
<td>13.7% (n=8)</td>
<td>28.3% (n=17)</td>
</tr>
<tr>
<td>Unsure</td>
<td>12.1% (n=7)</td>
<td>1.7% (n=1)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0% (n=58)</td>
<td>100.0% (n=60)</td>
</tr>
</tbody>
</table>

The slight differences across programs in the responses officers gave might relate to the structural differences between the two programs. That is officers from the HYJP were slightly more likely to indicate that diversion could “work” compared to officers from the TPS-YRP. In addition, officers from the TPS-YRP were more likely to feel that diversion was too easy on youth. The fact that the HYJP was a police program may have contributed to more positive evaluations of diversion. That is officers may have felt that because it was a program run by the police it was more likely to work, and as police officers they were less likely to deal with kids ‘too easily.’ In the end though, whether we are talking about the HYJP or the TPS-YRP, there was a fair amount of variability in officers’ views - both across and within programs - of diversion..

Many officers from both programs indicated in their responses that they felt that diversion could work. Obviously asking how officers initially felt about diversion, and whether or not they felt it could work were broad questions. How officers defined whether or not the program was working varied somewhat. There were a few broad themes that ran throughout the interview responses to these questions. Punishments (or “consequences to offending” in various forms) for youths actions were by far the most
frequently reported reason for diversion either working or not. A few of the explanations provided by police officers illustrate this:

“I didn't like it [TPS-YRP]. It didn't seem like there was any punishment for crimes and made more work for us”. (officer T3)

“[I] thought it was a good idea. It would provide consequences quickly”. (officer H21).

“It was a good idea that could work. It would show offending youth that there were consequences for their actions”. (officer H40)

“No I didn't believe it would work. The Youth Criminal Justice Act and the Young offenders Act were too soft to begin with”. (officer T12)

In general, officers related how the program worked to holding youth accountable and preventing reoffending among youth and this was to be accomplished through the (punitive) consequences youth would face in diversion. However, few officers, particularly those from the TPS-YRP, felt that diversion could accomplish these things with “the types of youth they deal with”. A second theme that emerged in the interviews was the concern that diversion could only work with particular types of youth. A few statements from the officers illustrate this:

“It was an alternative to court so it was not suitable for everyone”. (Officer T4).

“I had mixed feelings. It was good for some kids, others would take advantage of it”. (Officer T12)

“Many kids would not respect it and it would only work for certain types of kids”. (Officer T18)

“I needed time to digest all the information. Once I understood the program

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40 All quotations are identified by their program association and interview number. There is a unique number for each officer interviewed. For simplicity, the TPS-YRP interviews are identified as follows T1, T2, etc. and HYJP interviews are identified as H1, H2, etc.
and the type of offenders that would go to it, I thought it was pretty good”. (Officer T49)

“It would work for first-time use not repeat offenders. (Officer H5)
It would work for some kids”. (Officer T51)

“It was good for kids that have made a mistake, not for chronic offenders”. (Officer H45)

In addition to officers’ first impressions of diversion programming, they were also asked how they currently felt about the use of pre-charge diversion (see appendix B and appendix D for exact interview questions). Exploring officers’ current views of diversion was important for a couple of reasons. First, it provides some sense as to whether or not officers feel diversion programs work currently, and second, it was a very rough means of seeing if experience and exposure to the programs changed how officers felt about diversion. Table 5.12 shows officers current views on the use of diversion. While initial impressions among Halton officers appeared to be slightly more positive than the views of Toronto officers, these slight differences seem to disappear when examining current views. The majority of officers in both Halton and Toronto reported that they felt diversion was working. 55.2% of Halton officers and 56.1% of Toronto officers reported feeling as though diversion was working while 32.7% of Halton officers and 35.1% of Toronto officers reported feeling as though diversion was not working.

Table 5.12 Current Views on diversion programming

<table>
<thead>
<tr>
<th></th>
<th>HYJP</th>
<th>TPS-YRP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Program is working</td>
<td>55.2% (n=32)</td>
<td>56.1% (n=32)</td>
</tr>
<tr>
<td>Program is not working</td>
<td>32.7% (n=19)</td>
<td>35.1% (n=20)</td>
</tr>
<tr>
<td>Depends on the case</td>
<td>10.3% (n=6)</td>
<td>5.0% (n=3)</td>
</tr>
<tr>
<td>Unsure</td>
<td>1.7% (n=1)</td>
<td>3.5% (n=2)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0% (n=58)</td>
<td>100.0% (n=57)</td>
</tr>
</tbody>
</table>
While the differences in the responses of officers between the two programs seem to disappear when the examining current views, the changes between initial and current views of diversion in both groups provides some insight into how officers felt once they had been exposed to and/or had used diversion programming. The majority of officers felt that these diversion programs worked while a little over one third of officers felt these programs were not working.

The consequences youths faced in diversion were important in determining whether the programs were currently working, the punishments themselves were referred to somewhat less frequently. Instead many officers referred to the types of youth that should be sent to diversion and assessed the programs as working or not based on this. As with early views on diversion, how youth were dealt with in the programs in terms of consequences was important for officers current assessments of diversion working or not. The following statements from police illustrate this and include both those who felt the programs worked and those that did not,

“No it's not working. It should be a discretionary option. It's available for rare occasions when rehab for offenders seems possible”. (Officer T12)

“The program is okay, it needs a better penalty system” (Officer T19).

“It’s [TPS-YRP] way too lenient. I know for a fact. People aren't using it. They just let kids go or charge them”. (Officer T32)

“Yes [the HYJP is working], large numbers of kids are rerouted not through court. They're [youths] forced into psychiatry, drug testing, school”. (Officer H47).
The second theme related to the types of youths referred to diversion. Officers reported diversion as only working for particular types of youth. The following quotes illustrate this,

“It [TPS-YRP ] works great for only certain category of youths. The majority of youths just laugh” (Officer T12)

“Victims get things back that's good. Calling parents would have probably been sufficient though. They are good kids who made a mistake and have parents who punished even more. Bad kids don't get put through [diversion] though” (Officer H17).

“It's good for some kids - first-timers; others see it as a joke” (Officer H11).

“I'm not a big fan. Good for the first-time offender. But for repeats it’s too easy. These kids are clever; they know how to play the system” (Officer T45).

“It may work for only a small percentage for many they think it is a joke (Officer H52).

“It could work. It needs to be fine tuned. Use it for small window of acceptable cases” (Officer T16).

“Yes, it's working. The one-time offenders it's good for them, the others think it's a joke” (Officer H7).

“Depends on the case. It's what some kids need” (Officer H24).

“Program was working well for first-time offenders” (Officer T58).

“It's a good idea. Officers should have more discretion with it some kids it's legitimately their first time. It's not for good for repeat offenders” (Officer T34).

“It's good for kids with no contact with police. It's good in cases where you would normally caution. If it was implemented for that instead of when you would charge” (Officer T56).

“[HYJP] works for kids with strict parents. I don't know. 50% of kids have heard about it. It's a double-edged sword. Some think it is get out of jail free card” (Officer H19).

“Every kid is different, it works for some. Kids need to buy in. Works for timid
kids from decent homes with no criminal element at home. They need to have a strong relationship with parents” (Officer H58).

The belief that diversion worked related to whether or not officers felt the appropriate cases were referred to the programs. It was clear that officers (from both the HYJP and TPS-YRP) generally felt that only first-time offenders charged with very minor offences who were at low risk for reoffending should be referred to diversion. In general, these were cases for which these officers would, otherwise, have issued a warning or caution. Diversion was seen as a way to deal with the youth that held them more accountable for their actions than court would have and was therefore, more likely to reduce the chance that these youth would reoffend.

*Understanding the meaning behind ‘what works’.*** There are multiple ways in which “what works” in diversion might be interpreted. For the police officers, the success or failure of diversion tended to be discussed within the context of whether or not particular types of youth were referred to the programs, as well as whether or not these youth were held responsible for their offending through the punishments or consequences faced within the programs. It became clear from the interviews that the types of youth referred to diversion, were inextricably linked to officers’ satisfaction with the consequences faced within diversion (and consequently their views of whether or not the programs work). In general, officers who stated that diversion did not work explained that the consequences faced (or the severity of punishments) in diversion were not a deterrent for most offending youth. The lack of punitive treatment was seen as the primary reason for diversion's failure to “work.”

“No, it's not working. It encourages more kids to take risks. More kids are
more likely to do crimes. Kids pass the word around schools that you don't get charged for the first offence. Kids mentality is, ‘what's the worst thing that can happen to me, get community hours?’” (Officer T21).

“[HYJP] has problems. The situation is too lax as a whole. Contracts are not monitored. There's reliance on parents to monitor things. Kids will think it's a joke. There's more focus on [criminal] record than on punishment” (Officer H14).

“It's a chance to go through the program and learn from a mistakes without the consequences of conviction. The drawback is that some [youth] could do better going to court. They need a harder lesson to get back on track.” (Officer H56).

“There's emphasis on the TPS-YRP and not charging. This program has no point to it. Some kids should have to go through the courts. I don't believe the amount of hours they're doing is enough. It's a really lenient program” (Officer T20).

“It's [TPS-YRP] not working. It's being used where charges would be more appropriate. Some use it because it's faster, but it's not enough punishment. Youth know about it now. Kids are committing these offences knowing they'll get off. There's no fear of punishment” (Officer T25).

“The punishment is not severe enough to prevent reoccurrence” (Officer T73).

“It may help the odd few. But for the most of the kids we deal with, this is not enough to prevent them from coming back through the court system” (Officer T62).

“I don't see it helping, especially when you see youth with no remorse. It's not going to make a difference. Real consequences might help... It doesn't have strict enough consequences. Everyone I've sent to [TPS-YRP] wrote an essay” (Officer T9).

On the other hand, the punishments and their deterrent impact on youth in diversion were seen by some as the primary reasons why these programs worked. A few of the responses given by police officers illustrate this:

“It was a good idea pretty effective and a second chance for kids. If they have a good social network it's better than charging. There's real consequences” (Officer H3).
“I thought it was a good program. It made sense. These kinds of kids don’t need to go to court, but they [youth] need a good scare” (Officer H7).

“It's [YPS-YRP] working. There's appropriate documentation and outcomes. The young offender's attendance is brought to my attention” (Officer T16).

“It's [YPS-YRP] good. It helps with court backlog and youth avoid the stigmatization of a [criminal] record. There is better accountability, youth have to follow through to have the charges dealt with… Court does nothing but dismiss these cases” (Officer T18).

“Yes, the program [YPS-YRP] worked, for those youths who were first-time offenders. We never heard of them after” (Officer T69).

“It's working better than the courts. At least with the TPS-YRP they have to do something” (Officer T29).

“It was a good idea that could work. It would show offending youth that there were consequences for their actions” (Officer T81).

“It's [YPS-YRP] a decent alternative to court. It gives kids a break, other than a Warning” (Officer T56).

“Didn’t think it [HYJP] was possible at first. But later I thought it was a good idea, because they [the youth office] really dealt with the youth not like the courts” (Officer H11).

“Thought it [HYJP] was good. Because before if it was a first-time offender you gave a caution. This way, it's still a caution but it holds youth responsible”. (Officer H18)

“Thought it [HYJP] would work. Working in elementary schools. I see lots of cautioning this is just another option to go beyond a caution. It's a third step” (Officer H24).

“I believe the TPS-YRP is a deterrent for troubled youth”. (Officer T41)

Clearly, whether or not diversion was considered to work was related to the perceived severity of the consequences a youth would face in diversion. For those who felt diversion would not work, many of these officers felt this was because diversion was too lenient for most offending youth. Alternatively, for officers who felt diversion could
work, it was seen as a second chance for ‘good’ kids that held them accountable beyond a caution or warning. The views of officers were consistent in that they felt diversion programs were only feasible with a very limited group of youth. From the perspective of officers, the ideal (and likely only) candidate for diversion was a young person with a ‘good’ family, no history with police, and accused of a first-time, very minor offence. As one officer stated, diversion “works for timid kids from decent homes with no criminal element at home” (Officer H58). Once officers had been exposed to pre-charge diversion a greater number of them felt it could work. This is likely due in part to the fact that officers became aware that the programs accepted young people they would have previously cautioned. As Officer (T49) stated, “I needed time to digest all the information. Once I understood the program and the type of offenders that would go to it, I thought it was pretty good”. Overall, pre-charge diversion appears to have been viewed as a more punitive means of dealing with first-time offenders which might better prevent future offending.

It is also worth highlighting the similarities between officers’ views across these two programs because the programs were so very different in terms of their structure and handling of youth (see chapter 3 page 62 for a review of the structural and procedural differences in the two programs). Given these results, it may be that the structural setup of diversion programs matters little to how officers view and ultimately use pre-charge diversion. This might explain part of the popularity of diversion over time because no matter the structure it takes police officers have tended to be quite happy with it since they appear to believe that something punitive is happening to the youth.
Accountability in diversion. In addition to how officers felt generally about diversion working, they were asked specifically whether or not they felt diversion held youths accountable for their actions (see appendix B and appendix D for the exact interview questions). There obviously were large differences in the manner in which youth were dealt with in the two programs. For example, we saw the regular use of rather extensive ‘probation like’ conditions which youth were required to abide by for the duration of their diversion contracts in Halton. In contrast, there were no such contracts used in the TPS-YRP. One might expect, therefore, that such differences would result in differences in how accountable officers’ felt the programs were. Although the majority of officers felt that youth were held accountable there were some differences. As Table 5.13 shows, a greater percentage of Halton officers felt youth were held accountable compared to Toronto officers. 60.3% of Halton officers and 50.0% of Toronto officers felt that youth were held accountable in diversion. 38.5% of Toronto officers and 19.0% of Halton officers did not feel that diversion held youth accountable. And 20.7% of Halton and officers and 11.5% of Toronto officers were unsure as to whether or not diversion held youth accountable.

<table>
<thead>
<tr>
<th></th>
<th>HYJP</th>
<th>TPS-YRP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>60.3% (n=35)</td>
<td>50.0% (n=26)</td>
</tr>
<tr>
<td>No</td>
<td>19.0% (n=11)</td>
<td>38.5% (n=20)</td>
</tr>
<tr>
<td>Unsure</td>
<td>20.7% (n=12)</td>
<td>11.5% (n=6)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0% (n=58)</td>
<td>100.0% (n=52)</td>
</tr>
</tbody>
</table>

Chi square = 5.63, df = 2, p<.05
There are a few ways to interpret these differences in views between programs. First, Halton officers may have seen the HYJP as holding youth more accountable because it was a police-run program, and many of the officers were generally aware of what youth would be required to do within the program. For example, officers may not have known the specific sanctions a youth would be assigned but they would likely know that the youth would be placed on a contract that would specify a number of ‘probation like’ conditions (curfews, attend school, non-association orders, etc.) and the failure to abide by these conditions could result in the reinstatement of the original charge(s). While this might explain why Halton officers felt the program held youth more accountable, it does not explain the rather high proportion of TPS-YRP officers who indicated some similar views. That is, 50.0% of TPS-YRP officers also indicated they felt the program held youth accountable. Though somewhat counterintuitive, the majority of officers from both programs felt youth were held accountable despite there being tremendous differences in how youth were dealt with.

In order to get a sense of just how different these programs were in how they dealt with young people. The following section examines the types of measures youth were required to complete in each of the diversion programs. The data used in this section includes Operation Springboard data (see chapter three) and case file data from the HYJP (see chapter three). The following table shows the frequency and types of measures/sanctions youth were required to complete in the TPS-YRP. First, almost all youth referred to the TPS-YRP were required to complete an apology. Therefore, the following table shows those youth who completed only an apology (3.7% of cases). An apology is assumed for the remaining cases and does not figure in to the measures counts.
The was a considerable range of sanction types, however, the most frequently assigned measures were community service, shoptheft workshops, and journals. The majority of youth referred to the TPS-YRP were required to complete one measure. Only 9.9% youth were required to complete 2 more sanctions.

Table 5.14 Frequency of measures assignment in the TPS YRP

<table>
<thead>
<tr>
<th>Type of measure</th>
<th>Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single measure other than Community service</td>
<td></td>
</tr>
<tr>
<td>Apology</td>
<td>3.7% (n=48)</td>
</tr>
<tr>
<td>Essay or poster</td>
<td>5.9% (n=76)</td>
</tr>
<tr>
<td>Journal</td>
<td>15.4% (n=198)</td>
</tr>
<tr>
<td>Employment skills</td>
<td>2.5% (n=32)</td>
</tr>
<tr>
<td>Youth justice committee, other educational program</td>
<td>0.4% (n=5)</td>
</tr>
<tr>
<td>Shoptheft workshop</td>
<td>22.7% (n=291)</td>
</tr>
<tr>
<td>Anger management</td>
<td>3.4% (n=44)</td>
</tr>
<tr>
<td>Community Service alone</td>
<td></td>
</tr>
<tr>
<td>1-19 hours</td>
<td>1.0% (n=13)</td>
</tr>
<tr>
<td>20 hours</td>
<td>25.7% (n=330)</td>
</tr>
<tr>
<td>21-25 hours</td>
<td>6.0% (n=77)</td>
</tr>
<tr>
<td>26+ hours</td>
<td>3.3% (n=43)</td>
</tr>
<tr>
<td>CS and 1 or more additional measures</td>
<td></td>
</tr>
<tr>
<td>Various</td>
<td>7.3% (n=94)</td>
</tr>
<tr>
<td>2 or more measures (without CS)</td>
<td></td>
</tr>
<tr>
<td>Various</td>
<td>2.6% (n=33)</td>
</tr>
<tr>
<td>Total cases</td>
<td>100.0% (n=1284)</td>
</tr>
</tbody>
</table>

The following three tables outline the frequency and types of measures youth were required to complete in the HYJP. Clearly, compared to the TPS-YRP a wider range of measures were used. There were some similarities in the types of measures assigned between programs (community service, journals). There were also some considerable differences in these measures. For example, HYJP youth were subject to a large number of behavioural conditions while TPS-YRP were not.
Table 5.15  Types of measures assigned in the HYJP

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Not Required</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community service</td>
<td>61.4%</td>
<td>38.6%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Apology</td>
<td>42.5%</td>
<td>57.5%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Attend school</td>
<td>74.7%</td>
<td>25.3%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Abstain drugs</td>
<td>93.3%</td>
<td>6.6%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Abide by parents</td>
<td>92.5%</td>
<td>7.5%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Do not attend ⁴¹</td>
<td>26.4%</td>
<td>73.6%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Curfew</td>
<td>40.2%</td>
<td>59.8%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Counselling</td>
<td>40.6%</td>
<td>59.4%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Journal</td>
<td>64.6%</td>
<td>35.4%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Non-association</td>
<td>53.5%</td>
<td>46.5%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Drug testing</td>
<td>16.1%</td>
<td>83.9%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Employment skills</td>
<td>14.2%</td>
<td>85.8%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Complete school</td>
<td>11.0%</td>
<td>89.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Restitution</td>
<td>11.8%</td>
<td>88.2%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Recreation activity</td>
<td>14.2%</td>
<td>96.1%</td>
<td>100.0%</td>
</tr>
<tr>
<td>No aggression</td>
<td>3.9%</td>
<td>96.1%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Arson prevention</td>
<td>3.1%</td>
<td>96.9%</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

The differences between programs are best illustrated in the following two tables.

Table 5.16 outlines the number of community service hours youth were required to complete in the HYJP. While many youth were required to complete 20 hours of community service in the TPS-YRP (25.7% percent of cases) and HYJP (27.9% of cases). It appears that youth referred to the HYJP were assigned somewhat greater numbers of community service hours when compared to the TPS-YRP. For example, only 9.3% of TPS-YRP cases required over 20 hours of community service while 61.0% of HYJP cases required greater than 20 hours of community service.

⁴¹ Do not attend was a condition that instructed youth not to attend particular locations, such as the mall.
Table 5.16 Number of community service hours assigned in HYJP cases

<table>
<thead>
<tr>
<th>Number CS hours</th>
<th>Percentage</th>
<th>Sample Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-19</td>
<td>11.0%</td>
<td>n=17</td>
</tr>
<tr>
<td>20</td>
<td>27.9%</td>
<td>n=43</td>
</tr>
<tr>
<td>21-25</td>
<td>19.5%</td>
<td>n=30</td>
</tr>
<tr>
<td>26-30</td>
<td>22.7%</td>
<td>n=35</td>
</tr>
<tr>
<td>31 or more</td>
<td>18.8%</td>
<td>n=29</td>
</tr>
<tr>
<td>Total</td>
<td>100.0%</td>
<td>n=154</td>
</tr>
</tbody>
</table>

In addition to the differences between the number of community service hours assigned in these programs, the actual number of measures assigned to referred youth was also quite different. The following table shows that the majority of HYJP youth were assigned greater than five measures in diversion. Put into perspective, 89.2% of HYJP cases involved greater than five measures while only 9.9% of TPS-YRP cases involved two or more measures. The combination of measures includes both the probation like conditions as well as measures such as community service. These were included together because a violation of any one measure put the youth at risk for failing the program and having their original charges reinstated.

Table 5.17 Number of measures assigned in HYJP cases

<table>
<thead>
<tr>
<th>Number of Measures</th>
<th>Percentage</th>
<th>Sample Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-5</td>
<td>11.8%</td>
<td>n=30</td>
</tr>
<tr>
<td>6-7</td>
<td>29.5%</td>
<td>n=75</td>
</tr>
<tr>
<td>8-9</td>
<td>32.3%</td>
<td>n=82</td>
</tr>
<tr>
<td>10-11</td>
<td>18.5%</td>
<td>n=47</td>
</tr>
<tr>
<td>12-14</td>
<td>7.9%</td>
<td>n=20</td>
</tr>
<tr>
<td>Total</td>
<td>100.0%</td>
<td>n=254</td>
</tr>
</tbody>
</table>

The frequency and types of measures assigned to young people in each of the two program was clearly quite different. On average youth referred to the HYJP received a greater number of measures and one might argue that the very nature of many of the measures was considerably more punitive than those assigned in the TPS-YRP.
Understanding the meaning behind Accountability. In order to better understand why officers viewed the programs as holding youth accountable or not, the next step was to understand what “holding youth accountable” meant to the officers. Similar to how officers defined “what works” in diversion, officers typically linked accountability to the severity of punishment youth would face in diversion. Officers who felt that the programs did not hold youth accountable tended to see the handling of youth as too lenient. These officers believed the punishments youths faced in diversion were not punitive enough and in turn, could not deter youth from future offending.

“I know all these programs are too easy. They make the kid write an essay, that's not punishment” (Officer T34).

“No it does not [hold youth accountable], but it's circumstantial. As long as it's punitive they need to learn through deterrence” (Officer T22).

“Not really. It [YPS-YRP] doesn't really deter offenders” (Officer T81).

“Not really. Because this is just too easy, nowhere near harsh enough. Not for the kids we're dealing with” (Officer T17).

“For kids with no record who don't know the system, yes it holds them accountable. For others who have been through the system, no” (Officer H4).

“No, may be some, but most youth no, it doesn’t hold them accountable because they don't see any other aspect of the justice system. It lacks deterrence” (Officer T55).

“No. Most of the kids just write a letter of apology, which their parents write for them probably” (Officer T42).

“I did until I found out that the kid was getting paid for community service, the kid got $300 for his community service” (Officer T6).  

“No. The punishment is not nearly hard enough. What's the big deal about writing an essay or doing a poster” (Officer T12).

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42 I am not able to confirm whether or not this was an actual case. If this did happen, it was likely a very rare occurrence.
“No! Punishments aren't harsh enough. Come on, essays, what's that?” (Officer T21).

“No because the sentences are writing an apology letter. That’s not accountability” (Officer T11).

For officers who felt diversion held youth accountable, the diversion program was also discussed within the context of the punishments youth received in the programs. In general, these officers felt diversion held youth accountable precisely because it was more punitive than the alternatives (a caution and court).

“It can instill some fear into the kids, this is your get-out-of-jail-free card, and there's still potential for a court-ordered sentence custody gets drilled into their head” (Officer H8).

“Yes, they're being held responsible. They get punished” (Officer H43).

“Yes, because the onus is on them to do the program. In that they have to do certain things; Contact springboard, complete sanctions and hopefully get counselling” (Officer T17).

“The TPS-YRP gives them more sanctions than court with courts would divert them anyway” (Officer T2).

“Yes you get some kids having to do something within the community and get counselling. It’s a much quicker process than the court system. It's good for victims and offenders” (Officer T14).

“For the types of offences it is designated for yes, not if they are four or five-time offenders. [Operation] Springboard gives out a heavier sanction than court for these cases. If they got even stronger there would be more support from officers” (Officer T83).

While officers had differing views of whether or not these diversion programs held youth accountable, how these officers interpreted what accountability meant in diversion was
quite similar. Accountability was related to the severity of punishment faced by youth in diversion. Officers’ beliefs that youths were held accountable depended on their satisfaction or dissatisfaction as the case may be, with the severity of punishment in diversion.

It was clear from the interviews that in assessing accountability officers often used court as a point of reference when thinking about whether or not diversion held youth accountable. In order to get a sense of how officers viewed the courts compared to diversion, officers were asked to compare how youths are dealt with in both the courts and diversion. Specifically, officers were asked whether they felt the courts held youth more or less or equally accountable when compared to pre-charge diversion (see appendix B and appendix D for exact interview questions). As Table 5.14 shows, the majority of officers in both Halton and Toronto reported feeling that the courts hold youth less accountable than diversion programming. 89.6% of Halton officers and 76.3% of Toronto officers felt courts held youth less accountable than the HYJP and the TPS-YRP. Few officers felt the courts held youth more or equally accountable when compared to diversion programming. Of the Halton officers interviewed 3.4% felt the courts held youth more accountable and 5.2% felt the courts hold youth equally accountable when compared to diversion programming. In Toronto, 6.8% of officers reported feeling courts held youth more accountable and 13.6% felt the courts held youth equally accountable.
Table 5.18 Officers views on whether the courts hold youth accountable when compared to pre-charge diversion

<table>
<thead>
<tr>
<th></th>
<th>HYJP</th>
<th>TPS-YRP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Courts hold youth more accountable</td>
<td>3.4% (n=2)</td>
<td>6.8% (n=4)</td>
</tr>
<tr>
<td>Courts hold youth equally accountable</td>
<td>5.2% (n=3)</td>
<td>13.6% (n=8)</td>
</tr>
<tr>
<td>Courts hold youth less accountable</td>
<td>89.6% (n=52)</td>
<td>76.3% (n=45)</td>
</tr>
<tr>
<td>Unsure</td>
<td>1.7% (n=1)</td>
<td>3.3% (n=2)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0% (n=58)</td>
<td>100.0% (n=59)</td>
</tr>
</tbody>
</table>

Clearly then, officers in both groups viewed the courts as holding youth less accountable than diversion. Accountability to these officers related to how well the courts or diversion was able to punish youth.

“Yes, there's accountability. It's not an easy program as curfews or volunteer work. A lot is taken away with the contract conditions. Parents are given authority and lots of restrictions for the kids. They learn more through diversion than through court” (Officer H27).

“Yes, it lets youth know there were some consequences. Courts tend to give discharges with meaningless probation with no conditions and no consequences for lesser cases” (officer H40).

“Yes. Because they have to become involved in the community through community service and the penalties are harsher than court” (officer T35).

“They’re not held accountable for anything in court. They know how to play the system. It's too lenient on kids” (officer T6).

Summary. Overall, it appears officers felt generally positive about diversion. While officers in both Halton and Toronto were previously somewhat skeptical about diversion, their views of diversion after having some experience with it appeared to become somewhat more positive with greater experience with the programs. The
majority of officers in both Halton and Toronto felt the diversion was “working.” In
general, officers related the programs “working” to their ability to hold youth accountable
through the application of sanctions that would deter youth. Interestingly, more of the
Toronto officers felt diversion did not work when compared to officers in Halton Region.
Part of the reason for the somewhat lower levels of skepticism in Halton may lie in the
fact that their program had been in operation for eight years at the time of the interviews.
That is, pre-charge diversion in Halton was clearly more a part of the culture than in
Toronto. On the other hand, the TPS-YRP was a relatively new program when compared
to the more established HYJP. What is interesting, however, is that despite the
differences in the structure (police-run versus outsourced) and handling of youth (severity
of sanctions) between these two programs, officers views were fairly consistent when
asked about whether diversion was working and if it held youth accountable.

In terms of accountability, the majority of officers from both Toronto and Halton
did indicate that they felt diversion held youth accountable. In general, when officers
spoke of accountability reference was typically made to the types of sanctions youth
received in diversion. That is, officers either felt that the punishment was greater than
would otherwise have been or that punishments were insufficient. Police officers from
each of the programs generally felt diversion held youth accountable. However, when
compared to Halton, a greater number of officers from Toronto reported feeling that
diversion did not hold youth accountable. One of the reasons for this difference may
relate to the fact that the TPS-YRP was outsourced. Halton officers may have been more
likely to feel diversion held youth accountable because the program was controlled in-
house by police officers and it would appear from the actual sanctions handed down that
youth in their program were indeed dealt with more punitively when compared to those youths dealt with by Operation Springboard. Officers also indicated that they felt diversion held youth more accountable than the traditional court system. One of the reasons for this may relate to the types of cases they referred to diversion.

Secondary Purposes served by Diversion

It became clear over the course of the research that diversion was serving a number of purposes. That went beyond the initial goals of diverting youth from the traditional court process. The purpose of this section is to explore some of the secondary functions that the HYJP and the TPS-YRP served to the police. The secondary functions that will be examined include information gathering, as well as the informal referral of youth to these programs.

Information gathering. In addition to the explicit purposes of diversion (holding youth accountable, reducing the use of youth court, etc.), the HYJP indirectly served as an investigative tool for the Halton Regional Police Service. The program provided the means by which officers across all three Districts could collect a wide range of information from the youths who were referred to them. First, as part of the process of agreeing to participate in diversion programming, youths were required to take responsibility for and provide details relating to their offence or offences. While some cases would yield little information for police (for example, a youth arrested for shoplifting at Wal-Mart), other cases would set the stage for considerable information collection which would move from the youth office to crime analysts working within the police service. Once gathered from the initial interview with the social worker that this information would then be analyzed and made available for future investigations. As a part of the initial interview process in diversion, youth were required to admit to their
offence and answer any questions relating to that offence. In order to get a better sense of the types of information collected and what was done with it, I will present two examples.

In the first example, a youth was caught with counterfeit bills at school and was subsequently referred to diversion. In the interview, the youth was asked to provide as much information as possible on this counterfeit money. For example, the youth reported where and from whom the money had come thus providing the police with information about the possible source of counterfeit money.

In another case, a youth was arrested for possessing marijuana and referred to diversion. Just as in the currency case, this youth was required to provide information on who was selling the drugs.

In each of these cases, the youths identified people involved in their cases. It appeared that they did so, in part, because doing so was an unofficial requirement for being diverted (i.e., not being sent to court). Had the youths been formally charged, it is likely that, if they were to have consulted a lawyer (a right under the Youth Criminal Justice Act) the lawyer might have told them that there was no necessity to talk to the police.

Once all of the information was collected in these cases, and other persons were identified as possibly being involved in criminal activity, the information was sent to a crime analyst, who then created a network analysis tracing the origins of both the counterfeit currency, as well as the drugs. The network analyses were created for individual cases and linked individuals in an intricate web with the goal of getting to the
source of the drugs or counterfeit currency. If the names of individuals were repeated across cases the crime analyst would link the networks.

The networks created by the crime analyst contained photographs and other unique identifiers which were linked together depending on the relationship between individuals and their relationship to the crime. In some ways, the representation was similar to that of a family tree. In terms of the photographs and unique identifiers, names provided by referred youth were individually searched for criminal histories. Those youth with previous records had their mug shots inserted into the network analysis along with their names and nicknames. For others named where mug shots were not available, a generic icon was inserted into the analyses and the full name and or nickname of the individual was placed beneath the icon. There were examples of photos being collected of the youth named in various cases through searching and downloading photographs from social networking websites, such as MySpace and Facebook. An offence-specific icon was placed within the network. For example, in tracing the travels of the youth’s counterfeit currency a green $ was placed along the lines connecting individuals in the network.

In addition to offence specific information, referred youth were also asked to provide the full names of each of their friends. That is, referred youth were required to state the full names and nicknames of all of their friends even if these friends were not involved in the youth’s current offence. There were a variety of reasons for collecting these names. First, it provided the youth office with an idea of who the referred youth hung around with and could, in part, inform them how the youth would be dealt with in diversion. That is, if the youth's friends were involved with the police, a non-association
condition would almost certainly become part of their diversion contract. Second, and most importantly, the information was gathered in the hopes it might assist in solving ongoing or future investigations. The information gathering provided hours of work for officers and analysts. Not only were names searched for criminal histories, they were also searched in social networking sites, where additional people were identified and photographs were recorded (or more specifically, photographs were downloaded and held by the police service).

There are a couple of examples that highlight how this information was used (though the majority of the time it was not used in any productive way). In one case, a young girl referred to diversion for shoplifting identified the names of her friends. One or more of the names was familiar to the youth officer and thus, he began a search himself of each individual within police databases and on social networking sites. This search yielded considerable information on the young girl's friends. The youth officer discovered a MySpace page for a white supremacy group that was made up of the young girl's friends. This group and its membership were now identified as gang members in Halton region. In addition to this identification, the search of the MySpace page yielded numerous photographs, which identified individuals and showed these individuals posing with large guns. When showing the copies of these photos to me, the officer indicated that these photos showed criminal offences. However, he also indicated that they had not made any arrests based on the information gathered from the website.

Another example of how this information was used was in a project of one of the youth officers was involved in Halton. The project involved investigating instances of graffiti across Halton region. The purpose of the information gathering was to get the
names and nicknames of graffiti artists and then link those names to their tagging names. The information provided by referred youth helped police to identify the real names of graffiti artists in cases where only a tagging name was available. This officer then collected information from social networking sites and photographic images of graffiti to identify particular youths with documented cases of graffiti. For example, numerous photographs of particular graffiti images that were associated with one particular tagging name were collected. However, police could not identify the tagger. If a referred youth was able to provide the identification of a particular tagger, the link could be made between the tag and the individual's real name. While going through the hundreds of photographs and MySpace printouts numerous graffiti artists were identified through tags and full names. In addition to identifying individuals, the officer involved also made note of youth community art programs/events which were discussed on the social networking sites. When these events were held, the officer stated that he would occasionally attend the events for surveillance purposes. The purpose of surveillance was to see if additional graffiti artists might be identified. In an example of event attendance, the officer described an incident where he recognized a previously identified tagger (a known graffiti artist, whose real name was identified from information gathered from a diverted youth). The event was organized by a community organization helping to bring young people together through the arts. Over the course of the officer’s surveillance he witnessed firsthand a previously identified youth use a magic marker and write his tag name on a lamppost. The officer not only had previously identified (linked his real name to the tagging name), but had now witnessed the graffiti himself. Yet, when asked if he arrested the youth, the officer stated he did not make an arrest because he was waiting to

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43 Tagging name refers to the aliases used by graffiti artists to identify themselves with their work.
gather more evidence on the youth. Despite the hundreds of photographs taken and the stacks of paperwork that was collected, the youth officer who was involved in the project admitted that not one graffiti artist had been arrested based on the information collected. In fact, he went on to say that although they have the information they really can't do anything with it, because they need to catch the individual in the act. Ironically, in the community art event that the police officer did attend, in which he did witness a youth creating graffiti, there was no arrest. What is interesting is that while admitting that none of the information collected on these youth would result in charges, the officer still felt it was an important investigative tool.

The diversion program in Halton clearly served a number of purposes, beyond the traditional goal of diverting youth from the court process. The referral of young people into diversion provided the opportunity for officers to collect huge amounts of information on young people.

*Informal Referrals.* Another secondary function of these diversion programs involved the referral of youths who were not involved in a criminal offence, but were deemed by police and Operation Springboard as being in need of community assistance. The informal referral of the youths police deemed in need of assistance was common to both the HYJP and the TPS-YRP. In fact, in the TPS-YRP operation springboard referred to these informal cases as ‘courtesy clients’. As an example, an officer from 41 division had been investigating an incident at a local motel and discovered a teenage girl staying at the motel with a much older man. This young girl was deemed by the officer to be in need of counselling because of her association with this man. The girl was referred to Operation Springboard, where she was referred to counselling. These types of
informal referrals also occurred in HYJP. Informal referrals by frontline officers were common. But in addition to the referrals made by officers, the youth officers in Halton also indicated that they were often contacted by parents and schools looking for assistance in dealing with what they deemed to be troubled youth. These youth, however, were not accused of a criminal offence, but were instead brought to police attention for fairly typical behaviours of youths - truancy, difficulties at home such as not listening to parents or not returning home. The youth officers indicated that these were important referrals because it gave the parents and schools more power in dealing with the youth. That is, in the HYJP youths who were informally referred underwent the same interview process as youth accused of criminal offences. In addition to this, these informally referred youth were subject to some of the same conditions as formally diverted youth. The only difference between these referrals was that there was not the threat of charges being laid for an original offence.

The acceptance of these informal referrals was possible, in part, because of the multiple goals associated with diversion. In this regard the programs were simply providing help to youth in need. Diversion programming was used as a community service, which likely contributed to its popularity in the community.
Chapter 6 Understanding youth’s views of diversion

Introduction
One aspect of diversion that has been widely neglected in the literature is how young people who have been referred to diversion experience and view these programs. Over time, many concerns have been raised about how young people are dealt with in diversion. For example, a number of writers have highlighted concerns regarding youths due process rights, and the possibility that referral to diversion sidesteps young people’s legal rights (see for example, Blomberg, 1983; Nejelski, 1976). While many issues have been highlighted in the literature, few studies have examined what young people think about diversion and what their experiences have actually been like in these programs. Although young offenders’ views of diversion have not typically been seen as important for understanding diversion, in understanding the apparent support that these programs have received for a number of decades, it was important for me to explore these programs from the perspective of the young people processed in them. It is possible that young people view these programs as inappropriate and disproportionate intrusions into their lives and that these concerns have simply been ignored.

By talking with youth it was possible to examine how their views and experiences might explain, at least in part, the popularity of diversion programs over time. In order to explore this, chapter six uses the interview data from youths in the

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44 All qualitative interview data are uniquely identified. Each quotation used is identified by its source: S=TPS-YRP Springboard, H = HYJP Halton, and C= Court. And each is then identified by the interview number. For example, youths interviewed from the TPS-YRP are identified in the following way S1, S2, etc and youths interviewed from the HYJP are identified H1, H2, etc.
HYJP, the TPS-YRP, youths at court as well as from front-line officers. The chapter begins with a summary of the characteristics of the interview groups and follows with an exploration of young peoples’ views and experiences with diversion.

**Exploring characteristics of the youth interview samples**

**Gender.** Table 6.1 shows that of the 20 youths interviewed from the HYJP 9 were male and 11 were female. Of the 86 youths interviewed from the TPS-YRP 50% were male and 50% were female. Lastly of the court sample, 33.3% of the 51 interviewed youths were female and 66.7% were male. The differences between programs and between each program and the court sample were not significant. The slightly greater proportion of males in the court interview sample reflects to some degree the broader differences between diversion and court-bound youths.

<table>
<thead>
<tr>
<th>Gender</th>
<th>HYJP</th>
<th>TPS-YRP</th>
<th>Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male</td>
<td>45.0%  (n=9)</td>
<td>50.0%  (n=43)</td>
<td>66.7% (n=34)</td>
</tr>
<tr>
<td>Female</td>
<td>55.0%  (n=11)</td>
<td>50.0% (n=43)</td>
<td>33.3% (n=17)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0% (n=20)</td>
<td>100.0% (n=86)</td>
<td>100.0% (n=51)</td>
</tr>
</tbody>
</table>

**Age.** The youths interviewed from the HYJP and the TPS-YRP tended to be slightly younger than the youths interviewed at court. Similar to gender, these differences reflect some of the underlying differences between diverted and court bound youth. 15.1% of youths interviewed from the TPS-YRP were under 13 years old while there were no youths under 13 interviewed from the HYJP or court. 60.0% of HYJP youths and 54.7% of youths interviewed from the TPS-YRP were between the ages of 14-15 compared to

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45 Court interviewed youths all had received extrajudicial measures (post-charge diversion).
37.3% of the court sample. 35% of the HYJP youth and 30.2% of the youths interviewed from the TPS-YRP were between the ages of 16-18 compared to 62.8% of the court sample. It is clear from this table that youths referred to the HYJP and the TPS-YRP were more likely to be younger than the youth at court.

**Table 6.2 Age by Interview Type**

<table>
<thead>
<tr>
<th>Age</th>
<th>HYJP</th>
<th>TPS-YRP</th>
<th>Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>12</td>
<td>0.0%  (n=0)</td>
<td>3.5%  (n=3)</td>
<td>0.0%  (n=0)</td>
</tr>
<tr>
<td>13</td>
<td>5.0%  (n=1)</td>
<td>11.6%  (n=10)</td>
<td>0.0%  (n=0)</td>
</tr>
<tr>
<td>14</td>
<td>25.0%  (n=5)</td>
<td>29.1%  (n=25)</td>
<td>15.7%  (n=8)</td>
</tr>
<tr>
<td>15</td>
<td>35.0%  (n=7)</td>
<td>25.6%  (n=22)</td>
<td>21.6%  (n=11)</td>
</tr>
<tr>
<td>16</td>
<td>30.0%  (n=6)</td>
<td>20.9%  (n=18)</td>
<td>37.3%  (n=19)</td>
</tr>
<tr>
<td>17</td>
<td>5.0%  (n=1)</td>
<td>8.1%  (n=7)</td>
<td>19.6%  (n=10)</td>
</tr>
<tr>
<td>18</td>
<td>0.0%  (n=0)</td>
<td>1.2%  (n=1)</td>
<td>5.9%  (n=3)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0%  (n=20)</td>
<td>100.0%  (n=86)</td>
<td>100.0%  (n=51)</td>
</tr>
</tbody>
</table>

For the TPS-YRP and court: pooling the 12&13 year olds into one group, and the 17&18 year olds into another, Chi Square = 18.94, df = 4, p<.01

**Offence Type.** Table 6.3 shows the most serious offense interviewed youths were involved in. The most frequently referred and court bound offence for all youths’ was theft under $5000 (60.0% for HYJP youth, 83.7% for the TPS-YRP youth and 29.4% for court youth). Similar to the data presented in chapter four, the next most frequently referred offences were for minor assault and mischief. Not surprisingly, the youths interviewed at court tended to be involved in somewhat more serious offences when compared to the HYJP and the TPS-YRP samples, for example 23.5% of the court sample had been sent to court for other violent offences while none of the HYJP sample had been referred for such offences, and only 2.3% of TPS-YRP the youth were referred for such offenses. A fairly large number of youths interviewed at court were also there for offences against the administration of justice. 13.7% of youths interviewed at court were there for failing to comply with a probation order.
Table 6.3 Most Serious Offence by Interview Type

<table>
<thead>
<tr>
<th>Offence</th>
<th>HYJP</th>
<th>TPS-YRP</th>
<th>Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drugs</td>
<td>5.0% (n=1)</td>
<td>1.7% (n=1)</td>
<td>0.0% (n=0)</td>
</tr>
<tr>
<td>Mischief/Cause Damage</td>
<td>10.0% (n=2)</td>
<td>4.6% (n=4)</td>
<td>3.9% (n=2)</td>
</tr>
<tr>
<td>Theft under $5000</td>
<td>60.0% (n=12)</td>
<td>83.7% (n=72)</td>
<td>29.4% (n=15)</td>
</tr>
<tr>
<td>Other Property</td>
<td>5.0% (n=1)</td>
<td>0.0% (n=0)</td>
<td>11.8% (n=6)</td>
</tr>
<tr>
<td>Breaking and Entering</td>
<td>5.0% (n=1)</td>
<td>2.3% (n=2)</td>
<td>11.8% (n=6)</td>
</tr>
<tr>
<td>Minor Assault</td>
<td>15.0% (n=3)</td>
<td>5.8% (n=5)</td>
<td>5.9% (n=3)</td>
</tr>
<tr>
<td>Other violent</td>
<td>0.0% (n=0)</td>
<td>2.3% (n=2)</td>
<td>23.5% (n=12)</td>
</tr>
<tr>
<td>Failure to Comply</td>
<td>0.0% (n=0)</td>
<td>0.0% (n=0)</td>
<td>13.7% (n=7)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0% (n=20)</td>
<td>100.0% (n=86)</td>
<td>100.0% (n=51)</td>
</tr>
</tbody>
</table>

Previous undetected offending. Table 6.4 shows the frequency of youths’ self-reported previous criminal offending (for which they were not caught) by interview group. There were some differences between the interview groups in their self-reported previous offending. Diverting youth were less likely to report previous offending. 20% of HYJP youth and 32.6% of the TPS-YRP youth had reported being involved in previous offenses compared to 58.8% of youths interviewed at court reported that they had been involved in past offending.

Table 6.4 Self-reported previous offending by interview group

<table>
<thead>
<tr>
<th></th>
<th>HYJP</th>
<th>TPS-YRP</th>
<th>Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>Previous offences</td>
<td>20.0% (n=4)</td>
<td>32.6% (n=28)</td>
<td>58.8% (n=30)</td>
</tr>
<tr>
<td>No previous offences</td>
<td>80.0% (n=16)</td>
<td>67.4% (n=58)</td>
<td>41.2% (n=21)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0% (n=20)</td>
<td>100.0% (n=86)</td>
<td>100.0% (n=51)</td>
</tr>
</tbody>
</table>

Chi-square=8.0, df =1, p<.05 (TPS-YRP and court)
Chi square = 8.677, df = 1, p<.01 (HYJP and court)
**Previous police contact.** Table 6.5 shows previous contact with police by interview group. Diverted youth from both programs were less likely to have previous contact with police than the court sample. 20.9% of the TPS-YRP youth and only 5% of the HYJP youth reported having previous contact with police compared to 72.5% of the court sample.

<table>
<thead>
<tr>
<th></th>
<th>HYJP</th>
<th>TPS-YRP</th>
<th>Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>Previous contact</td>
<td>5.0% (n=1)</td>
<td>20.9% (n=18)</td>
<td>72.5% (n=37)</td>
</tr>
<tr>
<td>No previous contact</td>
<td>95.0% (n=19)</td>
<td>79.1% (n=68)</td>
<td>27.5% (n=14)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0% (n=20)</td>
<td>100.0% (n=86)</td>
<td>100.0% (n=51)</td>
</tr>
</tbody>
</table>

Chi square=33.4, df = 1, p<.001 (TPS-YRP and court)
Chi square = 25.351, df = 1, p<.001 (HYJP and court)

**Summary.** First, there were some similarities between diverted youth and court interviewed youth. In terms of offences all three groups were most frequently involved in theft under $5000. This is not surprising if we consider the diversion program data and overall court data presented in Chapter 4. There were, however, a number of differences between the three groups of interviewed youth. Diverted youth, from both the HYJP and the TPS-YRP, were different from the court interviewed youth in a few ways. First, the ages of the youths were somewhat different. The youths interviewed from the HYJP and the TPS-YRP were somewhat younger than the youths interviewed at court. Second, there were some gender differences between groups. The HYJP sample had slightly more females than males; there were an equal number of males and females interviewed in the TPS-YRP sample; and there were more males than females in the court interview sample. Finally, there were also some differences in the self-reported previous offending and contact with police. Diverted youth were less likely to report they had previously
offended and were less likely to report that they had previous contact with police when you compared to the court interviewed youth. These differences speak more broadly to the differences between diverted and court down the youth. That is, the youth that were diverted to these programs appeared to be pretty ‘good’ kids (minor offences, younger, no previous police contact) when compared to the court bound youth. These results are not surprising given the fact that most of the officers interviewed indicated that the types of cases they referred to diversion were generally the least serious and involved what they perceived to be very low risk youth.

**Exploring youths’ views of their experiences in diversion and court**

Understanding how the youth referred to the HYJP and TPS-YRP experienced and viewed these programs was important for both an understanding of the individual operation of the programs as well as the popularity of diversion more broadly. To provide some additional perspective, the views of youth referred to these programs were compared with young people from court. These were diverted at the post-charge stage. In exploring the views and experiences of these youths, it is important to remember that the groups are quite different from one another (for example, court youth tended to be older, the frequency of previous offending and contact with police was greater). This section will begin exploring the views and experiences of youths at the time of their arrest and follow with their views of diversion.

*Youths’ views and experiences at the time of their arrest.* One of the first questions youths were asked about in the interviews was what they thought was going to happen to them when they were first arrested for the offence that brought them to diversion or court. This was important in part because it could establish exactly what the initial expectations of these youths was concerning what they thought police would do.
Many of the police officers who were interviewed felt young people were quite knowledgeable about criminal justice processes. Hence asking youths what they thought would happen was also a sort of proxy for measuring just how much young people knew and understood about the normal criminal justice processes involving youths. Table 6.6 shows what youths thought was going to happen to them when they were first caught by police. A large number of youths interviewed believed that after they were caught by police they were going to be sent to court, or that they would be sent to court and would receive time in a youth detention centre. 45.3% of the TPS-YRP youth, 40.0% of the HYJP youth and 23.5% of the court youth stated that they believed they would be sent to court for their offence. Court youth were more likely than TPS-YRP youth and only slightly more likely than the HYJP youth, to believe that they would be sent to court and placed in jail at the time of their arrest. 50.0% of the youths interviewed from the HYJP and 24.4% of the youths interviewed from the TPS-YRP believed that they would be sent to court and placed in jail compared to 60.8% of the youths interviewed at court.

A few examples of what these young people had to say are the following:

“I thought I would go to jail. I was scared. The security guy was so mean he was screaming. I thought he was going to bring me to jail” (Youth S42).

“I thought they were going to arrest me and put me in jail” (Youth H12).

“I was really scared. I knew it was going to get in a lot of trouble from my parents. I thought I would get a ticket and be charged” (Youth H7).

“I was going straight to do some time. Because it was extortion it was a big deal” (Youth S56). (In discussing his offense the youth described taking bus tickets and a small amount of money from another youth at school).

“I thought I was going to jail. They told me the third time you get jail” (Youth S33). (Youth described having had previous contact with police for shoplifting) “This is it. I thought I'd go to the station and then court and after court may be jail” (Youth S71).
“I thought I would go to jail because the way he came with his badge” (Youth H19).

“I thought they would charge me and take me to the police station for fingerprints” (Youth S21).

“Thought I would go to jail. My life was over” (Youth S49).

“I thought that everything that I had going for me would go down the drain. I thought I’d be charged” (Youth S81).

“I thought I would go to jail. My mom would kill me” (Youth S16).

“I thought they would arrest us, and we would go to Juvy or something” (Youth C119).

10.5% of the TPS-YRP and 5.0% of HYJP youth believed that they would just receive a warning from police while only 2.0% of the court sample believed they would receive a warning. For example one youth stated, “I thought we were just going to get a warning, because that’s what my friend said they do” (S25). 12.8% of the youths interviewed from the TPS-YRP and 5.9% of youths interviewed at court believed they would be sent to the Children’s Aid Society for their offence. 7.0% of the TPS-YRP and 5.0% of HYJP youth did not know what was going to happen to them after they were caught. And 7.8% of the youths interviewed at court felt that nothing would happen to them after they were caught.

<table>
<thead>
<tr>
<th></th>
<th>HYJP (n=8)</th>
<th>TPS-YRP (n=39)</th>
<th>Court (n=12)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Charged/Court</td>
<td>40.0%</td>
<td>45.3%</td>
<td>23.5%</td>
</tr>
<tr>
<td>Warned</td>
<td>5.0%</td>
<td>10.5%</td>
<td>2%</td>
</tr>
<tr>
<td>Court and jail</td>
<td>50.0%</td>
<td>24.4%</td>
<td>60.8%</td>
</tr>
<tr>
<td>Sent to children’s aid</td>
<td>0.0%</td>
<td>12.8%</td>
<td>5.9%</td>
</tr>
<tr>
<td>Did not know</td>
<td>5.0%</td>
<td>7.0%</td>
<td>0%</td>
</tr>
<tr>
<td>Nothing</td>
<td>0.0%</td>
<td>0.0%</td>
<td>7.8%</td>
</tr>
<tr>
<td>Total</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100%</td>
</tr>
</tbody>
</table>
The following table explores whether or not youth felt the police explained what would happen to them at the time of their arrest. 95.0% of HYJP, 90.7% of TPS-YRP and 76.0% of court interviewed youth felt the police explained what was going to happen to them.

Table 6.7 Did police explain what would happen to you?

<table>
<thead>
<tr>
<th></th>
<th>HYJP</th>
<th>TPS-YRP</th>
<th>Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>Police explained</td>
<td>95.0%</td>
<td>90.7%</td>
<td>76.0%</td>
</tr>
<tr>
<td>what would happen</td>
<td>(n=19)</td>
<td>(n=78)</td>
<td>(n=38)</td>
</tr>
<tr>
<td>Police did not</td>
<td>5.0%</td>
<td>9.3%</td>
<td>24.0%</td>
</tr>
<tr>
<td>explain what would</td>
<td>(n=1)</td>
<td>(n=8)</td>
<td>(n=12)</td>
</tr>
<tr>
<td>happen</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td></td>
<td>(n=20)</td>
<td>(n=86)</td>
<td>(n=50)</td>
</tr>
</tbody>
</table>

Chi square = 5.445, df = 1, p<.01 (TPS-YRP and court)

It is useful at this point to look more closely at how youth described what was explained to them by police at the time of their arrest. In general, youths who indicated police had explained what would happen to them described the explanation they were given about diversion as an alternative to more punitive alternatives (such as charges, court, a criminal record, detention). Youths sent to court reported that officers explained they would be charged and sent to court which was indeed what happened.

“They said I’d go to court, I might get diversion” (Youth C112).

“They told me I'd be staying in a cell overnight and going to court the next day” (Youth C103).

“They gave me my rights and told me I would go to court and be fingerprinted” (Youth C96).

“They told me I screwed up and would have to go back to court” (Youth C105).

46 One youth with I don’t know response was removed from the total.
A number of HYJP and TPS-YRP youths reported that what the police explained to them was that they were going to diversion programming and if they didn’t choose that alternative, charges, court, a criminal record or possibly jail would be the result. The threat of charges being laid, court and a criminal record was made clear to the youths in the event they refused diversion.

“They talked to me. They didn't like my friend’s attitude. He [the arresting officer] told me I had to go to this voluntary thing, or else I'd get charged” (Youth S44).

“They said there was a new referral program I have a choice to go to it or else I'd be charged” (Youth S85).

“They said I'd have to get a lawyer if I go to court and if I lose I would get a record. Even if I win, it will still be on my record so they said go to the program” (Youth S71).

“They asked me if I wanted to do this program or get charged” (Youth S59).

“They said you got two choices one you can get a lawyer or two you can go to this place [TPS-YRP] (Youth S61).

“They told me that they will take me to the station and charge me or I can take this program” (Youth H4).

“If I didn't go through with the program I might have to face a judge (Youth H18). The threat of more severe consequences was certainly used often by police and the choice between diversion and charges was made even more severe with the threat of custody. A number of you the reported that police explained they were giving the option of diversion and in the absence of diversion these youths would likely have ended up in some form of custody.

“They said I should be going to jail because of my age, but that I could do community service instead” (Youth S86) [the youth was 14 years old at the time of the interview].

“He said if you don't tell the truth I'll send you to jail” (Youth S15).
“If this wasn't your first offence you could be doing some serious time” (Youth H16).

“They told me that I would be put into jail for a while, if it's put on my record or I could go to this program” (Youth S60).

“I was being charged for stealing and I had to call Springboard within five days or go to jail” (Youth S72).

“They told me I was going to do community service instead of going to jail (Youth S23).

Many of the youths also reported that the police told them that they were going to diversion.

“Since I was not previously involved [with police] they were not going to charge me and they sent me to this program instead” (Youth S21).

“They said I was going to go to a program...and if I didn't go they would come after us” (Youth S79).

“I was being sent to this program. Yes, they just told me I was going to have to do community service and it was up to Zellers if they would charge me money. They said they would for $480” (Youth S76).

“They told me I had to go to this program” (Youth H13).

“At first they said I was going to be charged. But then they told me I was going to this program” (Youth H20).

“If I didn't complete the 20 hours than I'd be charged”(Youth S52).

“They said that because I didn't have a charge I would be sent here [TPS-YRP]” (Youth S11).

“They told me I'd be going to this program” (Youth H1).

The following table examines whether or not youths felt that the police had specifically explained to them, at the time of their arrest, that they had the right not to

---

47 Many of the youths interviewed who had committed thefts from large retail stores received letters from the stores asking for payments typically ranging from $300.00-$500.00 for expenses relating to the theft.
admit to their offence. 55.0% of HYJP interviewed youth, 40.7% of the youths interviewed from the TPS-YRP and 51.0% of youths at court felt that the police had explained to them at the time of arrest that they had the right not to admit to their offence. 25.0% of HYJP youths, 55.8% of TPS-YRP youths and 47.1% of the youths interviewed at court felt that the police had not explained to them at the time of their arrest that they had the right not to admit to their offence.

<table>
<thead>
<tr>
<th></th>
<th>HYJP</th>
<th>TPS-YRP</th>
<th>Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, police did</td>
<td>55.0%</td>
<td>40.7%</td>
<td>51.0%</td>
</tr>
<tr>
<td>explain</td>
<td>(n=11)</td>
<td>(n=35)</td>
<td>(n=6)</td>
</tr>
<tr>
<td>No, police did</td>
<td>25.0%</td>
<td>55.8%</td>
<td>47.1%</td>
</tr>
<tr>
<td>not explain</td>
<td>(n=5)</td>
<td>(n=48)</td>
<td>(n=24)</td>
</tr>
<tr>
<td>Don’t know</td>
<td>20.0%</td>
<td>3.5%</td>
<td>2.0%</td>
</tr>
<tr>
<td></td>
<td>(n=4)</td>
<td>(n=3)</td>
<td>(n=1)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td></td>
<td>(n=20)</td>
<td>(n=86)</td>
<td>(n=51)</td>
</tr>
</tbody>
</table>

Chi square = 13.997, df = 2, p<.01 (HYJP and court)
Chi square = 10.545, df = 2, p<.01 (HYJP and TPS-YRP)

These results highlight one problem related to guaranteeing youths rights in diversion. It was clear from the interviews that most the youths were given the option to admit to their offence –however, this option was in large part illusory because many felt to question their guilt would have precluded diversion and resulted in far more severe consequences for them. For example, one youth stated, “Yes [officers informed me of my rights] they said if I admit I did it I don't have to go to court” (Youth S34). In reality, youths who did not admit guilt would not have been eligible for diversion.

Youths participating in the HYJP and TPS-YRP were supposed to be given a choice by police at the time of their arrest as to whether or not they would like to participate in the programs. Obviously those youth charged and sent to court were not
give the same choice by police. Table 6.9 summarizes what HYJP and TPS-YRP youths felt would have happened to them if they had refused participation in diversion at the time of their arrest. 90.0% of HYJP youths and 82.6% of the TPS-YRP youths who were interviewed believed that the police would have formally charged and taken them to court if they had refused participation in pre-charge diversion.

“I would've gone to court and been charged” (Youth S40).

“I'd have to go to court. The police said that” (Youth H11).

“I would be charged. They told me I would be” (Youth S4).

“My mom would've been mad. I would've had a criminal record and gone to court” (Youth S5).

“I thought they [the police] would fine us and charge us” (Youth S55).

“I thought I would have been charged” (Youth H2).

“I thought they would've charged me with the extortion if I didn't go with what they wanted” (Youth S52).

“I would've gotten arrested and charged” (Youth H17).

“I would have a criminal record. They would've handcuffed me, taking me to the police station” (Youth S46)

“I think I would've been charged in had to do a lot of community service” (Youth S45).

“I would've probably gotten charged and have a court date” (Youth S86).

“I would have to go to court and probation officer” (Youth S63).

“They told me if I didn't show up they would give me the full charge” (Youth S62).

“I would have to be doing court and paying a $5000 fine” (Youth H6).

An additional 10.0% of HYJP youths and 9.8% TPS-YRP youths believed that the police would have taken them directly to jail for turning down the Program.
“I thought the cops would handcuff me and take me to the police station and I would stay there for six months or so ‘til I was bailed out by my parents” (Youth S2).

“They would send me to jail” (Youth S56).

“I thought they would have put me in custody for a while” (Youth S54).

“I thought I was going to jail. The security guy told me I would” (H3)

Finally, 8.1% of the TPS-YRP youths stated they were unsure of what would happen to them if they declined to the offer of diversion.

**Table 6.9 What youths thought would have happened if they refused diversion**

<table>
<thead>
<tr>
<th></th>
<th>HYJP</th>
<th>TPS-YRP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Police would have taken me to court</td>
<td>90.0% (n=18)</td>
<td>82.6% (n=71)</td>
</tr>
<tr>
<td>Police would have taken me to jail</td>
<td>10.0% (n=2)</td>
<td>9.3% (n=8)</td>
</tr>
<tr>
<td>Not sure</td>
<td>0.0% (n=0)</td>
<td>8.1% (n=7)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100.0% (n=20)</strong></td>
<td><strong>100.0% (n=86)</strong></td>
</tr>
</tbody>
</table>

Clearly, most youths felt refusal to participate in diversion would result in more serious consequences. And indeed, had these youths refused to take responsibility and/or refused these programs, it is quite possible that this would have been interpreted by the arresting officer(s) as a ‘bad’ attitude which would have almost certainly increased the likelihood of the youth being charged.

Similar to the youths referred to the HYJP and TPS-YRP, youths sent to court who received extrajudicial sanctions were also given a choice as to whether or not they would like to participate in post-charge diversion once they had appeared before the courts. 58.8% of the youths stated that they believed they would have received more severe sanctions if they had turned down extrajudicial sanctions.

“I’d be in jail probably” (Youth C119).
“They’d send us to jail” (Youth C120).

“The charges would have stayed and be on my record” (Youth C121).

“I would have to go to trial and pay a lot of dollars for a lawyer” (Youth C127).

“I would have to do a month in jail” (Youth C97).

“I would get probation and a curfew” (Youth C95).

“I would’ve been sent to court and Juvy” (Youth C90).

“I would’ve had a criminal record and gone to detention. The assault was nothing but robbery is a big deal” (Youth C89).

25.5% of youths were unsure what would have happened to them. 7.8% believed that they would have gone to trial and received a criminal record. Only 7.8% of the youths believed they would have received less severe sanctions. The youths who believed they would have received less severe sanctions (n=4), indicated that they were innocent of their offence and believed that at trial they would have been found not guilty for their offence. For example, one youth stated “I would have gone to trial and the outcome would’ve been innocent” (Youth C126).

<table>
<thead>
<tr>
<th>Court</th>
<th>%</th>
<th>n</th>
</tr>
</thead>
<tbody>
<tr>
<td>Court (trial and criminal record)</td>
<td>7.8%</td>
<td>(n=4)</td>
</tr>
<tr>
<td>More severe penalties (detention, longer terms)</td>
<td>58.8%</td>
<td>(n=30)</td>
</tr>
<tr>
<td>Less severe penalty (warning, shorter terms)</td>
<td>7.8%</td>
<td>(n=4)</td>
</tr>
<tr>
<td>Don’t know</td>
<td>25.5%</td>
<td>(n=13)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0%</td>
<td>(n=51)</td>
</tr>
</tbody>
</table>

Table 6.10 What youth believed would have happened if not offered EJS by the court

Similar to youths diverted at the pre-charge stage, youths interviewed at court generally felt that if they had refused to participate in EJS the consequences would have been more
severe. And like the HYJP and TPS-YRP youths, most youths interviewed at court believed that they at greater risk of more serious consequences if they had they refused post-charge diversion.

The next question youths were asked was why they agreed to participate in diversion. Table 6.11 summarizes the reasons youth gave for agreeing to participate in the HYJP and TPS-YRP. 70.0% of HYJP youths and 55.3% of TPS-YRP youths interviewed stated that they chose to participate in the program in order to avoid being charged and sent to court.

“I participated in the program so I didn't have to go to court” (Youth S32).
“I didn't want to go to court and this was an easy way to get out of it” (Youth S67).
“I agreed because I couldn't pay for the bill [legal fees], if I didn't do the program” (Youth S66).
“The program was better than going to court” (Youth S82).
“I did it because I didn't want to get charged” (Youth S81).
“I did it because it was easier than trying to beat charge” (Youth S84).
“I thought it would be good for me, and it's better than getting charged” (Youth S11).

An additional 20.0% of HYJP youths and 18.8% of TPS-YRP youths indicated that they chose to participate in the program so that they did not get a criminal record.

“It was better than getting a criminal record” (Youth S30).
“It was personal choice, I didn't want to criminal record (Youth H29).
“I didn't want a criminal record, and also so no one would know [about the offence]” (Youth S27).
“I didn't want to pay a fine or have a criminal record” (Youth S74).
“It was my choice. I didn't want a criminal record” (Youth S1).
“Because I didn't want to have a record and I would have if I had been charged” (Youth S24).

“I didn’t want a criminal record and have to pay for a lawyer” (Youth S85).

“So I wouldn't have a record and nothing could stop me from getting a job” Youth S12).

5.0% of HYJP youths and 3.5% of TPS-YRP youths stated that they chose to participate in the program in order to avoid being sent to jail.

“I participated because I didn't want to go to jail” (Youth H4).

“I'd rather be here [TPS-YRP] than in jail” (Youth S25).

7.1% of the youths from the TPS-YRP indicated that they did not feel that they had a choice as to whether or not they participated in the program.

“I didn't have an option. They told me I was going to this program” (Youth S69).

“So that I could just get it all over with. I couldn't tell him [arresting officer] I didn't want to do it” (Youth S16).

“I didn't think I really had any other choice” (Youth S15).

5.0% HYJP youths and 10.6% of TPS-YRP youths stated that they agreed to participate because they believed these programs would help them somehow.

“I participated because I wanted to do the right thing. I was listening to what the police said” (Youth S70).

“I believed I did something wrong and I should make amends for it” (Youth H18).

“I thought it would help to encourage me not to do bad” (Youth S8).

“Because I see I did something wrong, and it's better if I do community service” (Youth S13).

“It was a chance for me to go better, an opportunity for my life” (Youth S19).
Another 3.5% of youth stated that they agreed to participate in the program because they believed it would be easy to complete.

“It was a free ticket out of court. That's all it [TPS-YRP] really is” (Youth S75).

“Because it's like a slap on the wrist type of thing, it won't get put on my record” (Youth S73).

<table>
<thead>
<tr>
<th>Reason</th>
<th>HYJP</th>
<th>TPS-YRP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Avoid court and charges</td>
<td>70.0% (n=14)</td>
<td>55.3% (n=47)</td>
</tr>
<tr>
<td>Avoid criminal record</td>
<td>20.0% (n=4)</td>
<td>18.8% (n=16)</td>
</tr>
<tr>
<td>Thought it would be easy</td>
<td>0.0% (n=0)</td>
<td>3.5% (n=3)</td>
</tr>
<tr>
<td>Thought it would help me</td>
<td>5.0% (n=1)</td>
<td>10.6% (n=9)</td>
</tr>
<tr>
<td>Did not think I had a choice</td>
<td>0.0% (n=0)</td>
<td>7.1% (n=6)</td>
</tr>
<tr>
<td>Avoid jail</td>
<td>5.0% (n=1)</td>
<td>3.5% (n=3)</td>
</tr>
<tr>
<td>Don’t know</td>
<td>0.0% (n=0)</td>
<td>1.2% (n=1)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0% (n=20)</td>
<td>100.0% (n=85)</td>
</tr>
</tbody>
</table>

Youths were then asked to describe what they felt the police should have done with them following their arrest. Interestingly, the majority of youths within each interview group believed that the actions taken by police at the time of their arrest were appropriate. That data in Table 6.12 show that of the youths referred to the HYJP and TPS-YRP, 80.0% and 53.5% believed the police should have sent them to the program.

For youths sent to court, 66.7% of the youths believed the police should have sent them to court. A few diverted youths felt that the police should have dealt with them more severely, 10.0% of HYJP youth and 14.0% youth felt the police should have sent them to court. And others felt the police should have dealt with them more leniently: 5.0% of HYJP youths, 22.1% of the TPS-YRP youths and 19.6% of youths sent to court believed the police should have just given them warning. 10.5% of the TPS-YRP youths and 2.0% of the court youths were unsure what the police should have done with them following
their arrests. 7.8% of the youths interviewed at court felt that the police should have
taken no further action.

Table 6.12 What youth felt the police should have done with after being caught

<table>
<thead>
<tr>
<th></th>
<th>HYJP</th>
<th>TPS-YRP</th>
<th>Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>Send me to diversion</td>
<td>80.0%</td>
<td>53.5%</td>
<td>0.0%</td>
</tr>
<tr>
<td></td>
<td>(n=16)</td>
<td>(n=45)</td>
<td>(n=0)</td>
</tr>
<tr>
<td>Taken me to court</td>
<td>10.0%</td>
<td>14.0%</td>
<td>66.7%</td>
</tr>
<tr>
<td></td>
<td>(n=2)</td>
<td>(n=12)</td>
<td>(n=34)</td>
</tr>
<tr>
<td>Warned me</td>
<td>5.0%</td>
<td>22.1%</td>
<td>19.6%</td>
</tr>
<tr>
<td></td>
<td>(n=1)</td>
<td>(n=19)</td>
<td>(n=10)</td>
</tr>
<tr>
<td>Mediation</td>
<td>0.0%</td>
<td>10.5%</td>
<td>2.0%</td>
</tr>
<tr>
<td></td>
<td>(n=0)</td>
<td>(n=9)</td>
<td>(n=1)</td>
</tr>
<tr>
<td>No action</td>
<td>0.0%</td>
<td>0.0%</td>
<td>3.9%</td>
</tr>
<tr>
<td></td>
<td>(n=0)</td>
<td>(n=0)</td>
<td>(n=2)</td>
</tr>
<tr>
<td>Not sure</td>
<td>5.0%</td>
<td>0.0%</td>
<td>7.8%</td>
</tr>
<tr>
<td></td>
<td>(n=1)</td>
<td>(n=0)</td>
<td>(n=4)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td></td>
<td>(n=20)</td>
<td>(n=86)</td>
<td>(n=51)</td>
</tr>
</tbody>
</table>

Overall, it appears that the youths who were interviewed tended to feel that the police
handled their cases appropriately at the time of their arrest. For diverted youth this may
not be too surprising because many of them felt the alternative to diversion was far more
severe (a criminal record, charges, court appearances and some even believed they might
have ended up in detention).

Voluntariness of Sanctions. The sanctions (or ‘interventions’ as some diversion
program administrators referred to them) were supposed to be activities decided upon by
both the referred youth and program staff. In theory these sanctions were to be voluntary
and mutually agreed upon by youth and staff in both programs. Table 6.13 examines
whether or not youths participating in pre- and post-charge diversion believed they had a
choice in the types of sanctions they were required to complete in each of the programs.
The majority of youths from the HYJP, TPS-YRP and court did not think they had a
choice in the type of sanctions they completed in diversion. By combining responses (“I did not have a choice” and “I was not asked what I thought about the sanction”) we see that 90% of HYJP, 61.7% of TPS-YRP youths and 80.4% of court youths felt they were not given a choice about the types of sanctions they completed. This is interesting because the responses of youths in the HYJP appeared to be somewhat more similar to court interviewed youth than the responses of TPS-YRP youths.

Table 6.13 Youths views on whether they had choice in the types of sanctions in diversion

<table>
<thead>
<tr>
<th></th>
<th>HYJP</th>
<th>TPS-YRP</th>
<th>Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>I had a choice</td>
<td>5.0%</td>
<td>37.2%</td>
<td>19.6%</td>
</tr>
<tr>
<td>(n=1)</td>
<td>(n=32)</td>
<td>(n=10)</td>
<td></td>
</tr>
<tr>
<td>I did not have a choice</td>
<td>75.0%</td>
<td>60.5%</td>
<td>80.4%</td>
</tr>
<tr>
<td>(n=15)</td>
<td>(n=52)</td>
<td>(n=41)</td>
<td></td>
</tr>
<tr>
<td>I was not asked what I</td>
<td>15.0%</td>
<td>1.2%</td>
<td>0.0%</td>
</tr>
<tr>
<td>thought about the</td>
<td>(n=3)</td>
<td>(n=1)</td>
<td>(n=0)</td>
</tr>
<tr>
<td>sanctions</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Don’t know</td>
<td>5.0%</td>
<td>1.2%</td>
<td>0.0%</td>
</tr>
<tr>
<td>(n=1)</td>
<td>(n=1)</td>
<td>(n=0)</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td>(n=20)</td>
<td>(n=86)</td>
<td>(n=51)</td>
<td></td>
</tr>
</tbody>
</table>

Chi-square =3.87, df=1, p<.05 (comparing “yes” with the other three groups combined for TPS-YRP vs. court).

Diversion, at both the pre- and post-charge stages, often utilizes programs which ostensibly focus on reducing crime such as anger management programs, anti-shoplifting workshops, and substance abuse programs. Similar to sanctions overall, Table 6.14 shows that TPS-YRP youth were the most likely to feel that they had a choice in the types of programs they participated in. 44.4% of the youths participating in the TPS-YRP, 20.5% of youths participating in extrajudicial sanctions and none of the HYJP 6 youths who did programs felt they had a choice in participating in scheduled programming as a sanction.
Table 6.14 Youths views of whether they had a choice to participate in specific programs within diversion

<table>
<thead>
<tr>
<th></th>
<th>HYJP</th>
<th>TPS-YP</th>
<th>Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>I had a choice</td>
<td>0.0% (n=0)</td>
<td>44.4% (n=24)</td>
<td>20.5% (n=9)</td>
</tr>
<tr>
<td>I did not have a choice</td>
<td>100.0% (n=6)</td>
<td>55.6% (n=30)</td>
<td>79.5% (n=35)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0% (n=6)</td>
<td>100.0% (n=54)</td>
<td>100.0% (n=44)</td>
</tr>
</tbody>
</table>

Chi square = 5.22, df=1, p<.05 TPS-YP and court

Table 6.15 examines how difficult the diverted youths felt it was to complete the sanctions that they had completed. The majority of youths from each interview group did not appear to find it difficult to complete their sanctions. 55.0% of HYJP youths, 77.9% of TPS-YP youths and 76.5% of the youths interviewed at court felt that their sanctions were easy to complete.

Table 6.15 Youths views on the difficulty of sanction completion within diversion

<table>
<thead>
<tr>
<th></th>
<th>HYJP</th>
<th>TPS-YP</th>
<th>Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sanctions were easy to complete</td>
<td>55.0% (n=11)</td>
<td>77.9% (n=67)</td>
<td>76.5% (n=39)</td>
</tr>
<tr>
<td>Sanctions were difficult to complete</td>
<td>45.0% (n=9)</td>
<td>22.1% (n=19)</td>
<td>23.5% (n=12)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0% (n=20)</td>
<td>100.0% (n=86)</td>
<td>100.0% (n=51)</td>
</tr>
</tbody>
</table>

Perceptions of fairness. Table 6.16 examines whether or not youths viewed the type of sanctions they were required to complete as fair. For all three interview groups, the majority of youths viewed the sanctions that they were required to complete as fair. 85.0% of HYJP youths, 94.2% of the TPS-YP youths and 88.2% of youths from court viewed their sanctions as fair.

---

48 The samples are smaller here because the table only includes those youth who reported taking part in these specific programs.
Table 6.16 Did youth feel the sanctions received in diversion were fair?

<table>
<thead>
<tr>
<th></th>
<th>HYJP</th>
<th>TPS-YRP</th>
<th>Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sanctions were fair</td>
<td>85.0%</td>
<td>95.3%</td>
<td>88.2%</td>
</tr>
<tr>
<td></td>
<td>(n=17)</td>
<td>(n=81)</td>
<td>(n=45)</td>
</tr>
<tr>
<td>Sanctions were unfair</td>
<td>15.0%</td>
<td>3.7%</td>
<td>11.8%</td>
</tr>
<tr>
<td></td>
<td>(n=3)</td>
<td>(n=4)</td>
<td>(n=6)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td></td>
<td>(n=20)</td>
<td>(n=86)</td>
<td>(n=51)</td>
</tr>
</tbody>
</table>

Table 6.17 examines whether or not youths viewed the actual nature or specific details of their sanctions as fair. While youths may have viewed receiving a particular sanction as fair, they may have felt differently about what they were required to do as part of that sanction. For example, youths may have believed receiving community service was fair, however, they may have felt the number of hours they received was unfair. As with their sanctions generally, youths from both groups tended to view the more specific nature of their sanctions as fair. 85.0% of HYJP youths, 88.9% of the TPS-YRP youths and 80.0% of the youths at court viewed the nature of their sanctions as fair.

Table 6.17 Perceptions of fairness in the nature of sanctions

<table>
<thead>
<tr>
<th></th>
<th>HYJP</th>
<th>TPS-YRP</th>
<th>Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sanctions were fair</td>
<td>85.0%</td>
<td>88.9%</td>
<td>80.0%</td>
</tr>
<tr>
<td></td>
<td>(n=17)</td>
<td>(n=56)</td>
<td>(n=32)</td>
</tr>
<tr>
<td>Sanctions were unfair</td>
<td>15.0%</td>
<td>7.9%</td>
<td>20.0%</td>
</tr>
<tr>
<td></td>
<td>(n=3)</td>
<td>(n=5)</td>
<td>(n=8)</td>
</tr>
<tr>
<td>Don’t know</td>
<td>0.0%</td>
<td>3.2%</td>
<td>0.0%</td>
</tr>
<tr>
<td></td>
<td>(n=0)</td>
<td>(n=2)</td>
<td>(n=0)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td></td>
<td>(n=20)</td>
<td>(n=63)</td>
<td>(n=40)</td>
</tr>
</tbody>
</table>

Summary. Comparisons across interview groups must be done cautiously as the samples were not randomly attained. However, despite this, I cannot see any reason to expect that the views and experiences of these youths would be unrepresentative of pre-charge and post-charge diversion participants. In understanding how youths felt about diversion, it was important to first consider what youths thought would happen to them when they were first arrested for their offences. Most of the HYJP and TPS-YRP youths who were interviewed thought that they would go to court or would be sent to court and
then to detention. Others thought they would be referred to some form of child welfare services. This is important because the majority of diverted youths clearly believed (when first arrested) that they would experience far more severe consequences than they actually received. That is, youths referred to the HYJP and TPS-YRP believed that the police were going to deal with them through far more formal criminal justice system processes. In addition, youths who were sent to court also overestimated the likelihood of more formal processing in court. That is, these post charge diverted youths believed that their cases would have been decided by the court and not less formally through extra-judicial sanctions (EJS, or alternative measures or court based diversion).

In terms of legal rights, the majority of youths from all three interview groups felt that the police had explained what would happen to them at the time of their arrest. The explanations youth described most often involved police presenting them with the option of diversion or court/charges. A minority of youths reported that the police had explained to them that they had the right not to admit to their offence(s). The young people referred to these programs were also supposed to have a choice to participate or not. From the perspective of the youth, it is not clear that the programs were ‘voluntary’ in any real sense. The choice to participate in pre-charge diversion was really an illusion from the youths’ perspective. The vast majority of youths from both programs believed that if they refused to participate, the police would have taken them to court while others felt that they would be taken right to detention. Youths sent to court by the police also believed refusal to take part in EJS would result in a more severe penalty. Understood from this perspective, it becomes clear why these young people ‘chose’ diversion. Those youths who ‘chose’ diversion did so because it was the only way, from their perspective,
to avoid much more severe consequences such as court, jail, and a criminal record. This also explains, in part, why most diverted youth felt that referral to diversion was exactly what the police (or court) should have done. As sanctions, the majority of youths from all three interview groups did not believe they had a choice in the sanctions they completed. Yet, despite this the majority of these youths also believed that the sanctions were fair (both in type – for example, community service - and specific nature –for example the number of community service hours - of the sanctions). In summary, the young people referred to diversion were to a large extent quite happy with these programs. The reasons behind their contentment probably had less to do with the diversion programs themselves and more to do with the fact that the majority of HYJP, TPS-YRP and Court youths expected far more severe consequences.
Introduction

In 1979, the first volume of *Crime and Justice: An Annual Review of Research* was published. Among the articles written in 1979 was one by Malcolm W. Klein—an expert in the area of diversion—entitled “Deinstitutionalization and Diversion of Juvenile Offenders: A Litany of Impediments” (1979, p. 145-201). In the article, Klein (1979) provides an extensive review of the literature on diversion of young offenders and concludes that these programs—though supported—have not been shown to be effective.

“…[D]iversion of juvenile offenders has been a prominent goal of recent juvenile justice reform efforts…[I]t is an attempt to replace formal, institutional processing with various forms of community treatment. Legislatively mandated, theoretically justified, and responsive to a professional consensus that the conventional juvenile justice system is seriously deficient,…[diversion has] enjoyed broadly based support. For all of that, however, neither program has often been established in accordance with its premises. They have not been meaningfully evaluated and their effectiveness, accordingly, cannot be shown” (Klein, 1979, p. 145).

Similar to many other authors in the mid-to-late 1970s, Klein concluded that diversion was seen as not being able to meet its goals. Klein in his review of the diversion research summarized the problems of diversion policies. In particular, he highlighted that most diversion programs have not been adequately developed or implemented to divert young people from the traditional court process.

“…[Diversion programs] have seldom in fact been implemented. This failure of implementation has occurred…. despite their impressive pedigrees, the powerful theoretical rationales which underlie them, and the strength of the social and political movements to which they are response. This failure and implementation has been exemplified by programs that have been established where they are not needed, in ways that effects could not be objectively assessed
or in ways that have not properly implemented the basic tenets of diversion…” (Klein, 1979, p. 147)

The basic tenets of diversion that Klein (1979) was referring to are the overarching goals of diversion, which are to reduce the use of youth court by referring young people in conflict with the law to some form of community-based programming. Unfortunately, this goal has not been accomplished and has been displaced by other, more easily attainable program goals which provide the illusion of success.

“Given the pressures derived from goal displacement and the many latent functions which may be served by social programs, it is not surprising that ideal formats yield two realities. Alternate rationales are soon espoused; easier, less risky alternate program activities are approved, and alternate goals and outcome measures are accepted. The result, too often, is the success of a program that no longer resembles its original design. The original rationale and the program designed to articulate it do not truly become implemented, the test of rationale and program is not undertaken, although many program audiences believe the test has been made.” (Klein, 1979, p. 156).

While there has been some debate as to how diversion should be defined, the meaning of diversion is clear on one thing - its primary and necessary goal is to divert young people to community programming who would have otherwise been sent through the traditional court process. As Klein (1979) states “…diversion means to turn away from, and one cannot turn away from something toward which he was not already heading. *Diversion programs must handle only youngsters who otherwise would enter, or penetrate further into, the justice system*[emphasis added] (p. 153).

Thirty one years have passed since Klein (1979) reported on the dismal state of diversion research and concluded that “… failure to reveal any consistent pattern of success, should lead to a simple and obvious conclusion: the projects evaluated to date yield little support for the efficacy of the concepts of diversion… as implemented in these
The research evidence on diversion was clear in the 1970’s – diversion has not generally been able to successfully divert young people from the traditional court process. Nevertheless, despite a mountain of evidence, numerous diversion projects continued to be implemented (Klein, 1979). Indeed, diversion programs are as plentiful today as they were in the 1970s. The focus of the main part of this thesis than can be seen as an attempt to understand and explain why diversion has remained such a popular response to youth crime over the last 40 years.
Diversion Programs: What have we learned?

“So successful has the prison been that, after a century and a half of failures, the prison still exists, producing the same results, and there is the greatest reluctance to dispense with it (Foucault, 1977, p.277).

While Foucault’s focus was on the history of the prison, an analogy can be made to the (albeit much shorter) history of diversion itself. Alternatives to the court process are still widely advocated today and there is strong a reluctance to abandon it despite its history of apparent failures.

The Youth Criminal Justice Act in Canada explicitly states that police officers should consider all possible options when deciding to lay charges. Informal as well as formal alternatives to the court process are outlined and are clearly the preferred outcome for many cases in the current legislation. The advocating for diversion is not unique to youth either. Since 1996, when alternative measures were officially included in the Canadian criminal code, a large number of pre- and post-charge adult diversion programs have been developed in Canada. The proliferation of diversion programs then is in part explained by various governments’ support for the use of diversion. At the policy level, diversion continues to be justified in large part by the theoretical justifications that were developed and applied by academics beginning in the 1960’s (see chapter 1 for a discussion of the theoretical justifications of diversion). As Klein (1979) states,

“Accompanying this increasing federal involvement in the delinquency arena was the development of several significant sociological theories, most notably…labeling theory. These theories, the products of activist academics with concern for understanding and shaping public policy, infuses the federal legislation with academically respectable rationales and offers the promise of consistent guidelines for program development.”(p. 146).

To begin to understand whether or not diversion programs have made any meaningful changes in how they operate, the first step, in this thesis, was to examine the
types of cases referred to the two programs under study. Generally, young offenders who are diverted from the court system, at either the pre-charge or post-charge stage are first time offenders who are involved in less serious offences. Kowalski (1999) in a study of alternative measures for youth in Canada found that the most frequently referred cases were for property related crimes. Fifty-seven percent of the cases receiving alternative measures in Canada were for cases of theft under $5000 (Kowalski, 1999). This is important because a large proportion of the cases that end up in, and that are ultimately are sentenced in the courts involve property related offences. They are second only to offences involving failure to comply with a disposition (Sanders, 2000). In fact, roughly 14% of court case loads involve theft under $5000 (See Thomas, 2008). In Canada, admissions to both secure and open custody most commonly involve property related offences (Moldon & Kukec, 2000; Hendrick, 2001; Marinelli, 2002). It is clear, then, that to reduce the number of minor offences entering the court system (as diversion is supposed to do) attention must be paid to the large number of crimes against property being heard in the courts.

Overall, the offences referred to the TPS-YRP and HYJP were relatively minor in nature and the majority involved property crimes. Even with the referral of a wider range of offences in the HYJP, both of these diversion programs in the end involved the referral of very minor types of cases. This is particularly evident when we recognize that along with referring a greater proportion of theft under cases than typically seen in the courts, the youths themselves were on average more likely to be girls and younger youths when compared to the youth court population. This suggests that both programs were likely referring the least serious cases and appeared to be quite different from court-bound
youths particularly as they relate to these three dimensions (age, gender and offence type—as the proportion of very minor theft under cases was considerably greater in diversion).

Once the characteristics of the referred cases were identified it was then important to explore whether or not diversion was in fact doing what it was supposed to be doing—diverting youth from the traditional court process or continuing to widen the net of social control. Certainly, if research had taught us anything, it was that a majority of the cases targeted by diversion programs are cases that would not have otherwise have been sent through the traditional court system.

Thus, the net-widening effects of diversion were examined for the TPS-YRP. When exploring the effects of the introduction of the TPS-YRP in the six program divisions, it was found that once controlling for what was happening in all of the non-YRP divisions, within-division trends over time, and the introduction of the YCJA, three divisions of the six TPS-YRP divisions had significant findings. In 33 and 42 Divisions the introduction of the TPS-YRP was significantly related to a decrease in the number of youths charged with theft under. In 13 Division the TPS-YRP was significantly related to an increase in the number of youths charged. Overall then, there was a significant decrease in the number of youths charged with theft under in two of the six program divisions.

The first and most obvious limitation of this research is the lack of adequate comparison groups for the HYJP. The HYJP was excluded from this analysis because adequate comparisons could not be established. Consequently, I was unable to examine the possible net-widening effects of diversion in Halton Region. That being said, it was clear from the officers interviewed from the HYJP that most officers were referring young people they would have otherwise cautioned in the absence of diversion programming. However, it is impossible to know from this research whether or not the young people referred were truly at risk of charges and therefore court. Refusal to participate in diversion was not something that was documented and thus, what would or did happen in cases where young people declined to participate in the programs is unknown. The HYJP was, then, an example—a quarter of a century later—of Klein’s observation, in discussing deinstitutionalization and diversion of juvenile offenders that “[Neither program has] been meaningfully evaluated and their effectiveness, accordingly, cannot be shown” (p. 145).
divisions in Toronto. Based on these analyses, one might very roughly estimate that perhaps somewhere between 9 to 12 youths might have been diverted each month by the TPS-YRP program. Between March and August 2003, approximately 110 youths a month were referred to the TPS-YRP. Hence one might estimate that no more than approximately 11% of the youths going to the TPS-YRP would, otherwise, have been charged with an offence and sent through the traditional court process. Said differently, this means that approximately 89% of youths referred to this diversion program would have received an informal caution from police in the absence of this formal structure.

In addition to the goal of reducing the use of youth court, diversion programs were (and continue to be) seen as an effective way to reduce reoffending. The results of this research found that in a period of slightly more than a year after the offence that resulted in the referral to the TPS-YRP, police records suggested that 14.3% of those who had completed the TPS-YRP had contact with a police officer relating to an allegation of a subsequent criminal offence. About half of these (7%) had contact that led to a criminal charge. The critical question, then, was how this compared to another group that was comparable in background and who were treated as these youths would have been had they not been diverted through the TPS-YRP. A sample of youths were created whose offending background was similar to the TPS-YRP youths but who had been sent to court, cautioned, or arrested and unconditionally released (for a theft under offence) from the same police division. This group was then compared to the TPS-YRP youths. On various measures – criminal and non-criminal contacts not resulting in charges, criminal charges, and all contacts and charges combined – the results were the same: the TPS-YRP youths did not differ significantly from the comparison group. In this instance, the
outcome for the TPS-YRP, in terms of recidivism, showed no significant differences between those youth referred to diversion, informally cautioned, or sent to court. That is, the program can neither be said to have had a negative (increased reoffending) or positive (reduced reoffending) impact on recidivism among referred youth when compared to similar youth processed via alternate means (court51 or informal cautions).

Taken together these results indicate that diversion programs have not changed much over the last forty years. It appears that despite the enormous amount of research on diversion, we continue to develop and implement programs based on policies that have done little to address this inherent problem of diversion. That is, despite what we know about net-widening, we still argue for limiting the use of youth court for minor offences through diversionary measures. Rather than creating programs in which ‘true’ diversion can occur these programs have instead become an extension of the criminal justice system.

“[A]…major ideological thrust in the move against institutions derives from a desire to limit state intervention. Whether arising from the supposed failures of the treatment model, or the legal argument about the over-reach of the law and the necessity to limit the criminal sanction, or the implicit non-interventionism of labeling theory, or a general disenchantment with paternalism, or simply the pragmatic case for easing the burdens on the system- the eventual message looked the same: the state should do less rather than more. It is ironic then - though surely the irony is too obvious even to be called this- that the major results of the new movements towards "community" and "diversion" have been to increase rather than decrease the amount of intervention directed at many groups of deviants in the system and, probably, to increase rather than decrease the total number who get into the system in the first place. In other words: "alternatives" become not alternatives at all but new programs which supplement the existing system or else expand it by attracting new populations.” (Cohen, 1979, p.346-347).

Research over the last forty years has clearly demonstrated that diversion as it is conceived of in policy has not been fulfilled in practice. Yet, it appears that the empirical

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51 The sample of youths interviewed from court we all young people who had been diverted at the post-charge stage. That is, they each had received extrajudicial sanctions (post-charge diversion programming).
evidence has had little impact on the policies and programs developed over the last forty years. Of course, as Goldson (2010) states “…many considerations other than (social) scientific rationality might impact on policymaking processes including: economic and financial factors; tactical and strategic factors; subjective experience and judgment; habit, tradition and bureaucratic logic; emotion; and specific political imperatives (for which ‘evidence’ might even be perceived as a complicating inconvenience)” (p. 171). The broad policy of reducing the use of youth court (the measure by which diversion has traditionally been assessed) has become secondary to a wide range of politically and more importantly, organizationally salient goals. That diversion policies and programs have continued to be implemented without any meaningful attempts to address the issue of net-widening suggests that these programs, as add-ons to the existing youth justice system, are serving purposes beyond that of ‘true’ diversion.

**Diversion: A ‘Success’ despite the empirical evidence?**

The story of diversion does not end with its failure to reduce the use of youth court. While it is a crucial part of understanding at a base level whether diversion programs are doing what they were intended as formulated in policy, it does little to explain why we continue to use these programs. Rather than limiting state intervention into the lives of young people we have created a mechanism by which greater numbers of young people are subject to some level of state intervention. “…[Diversion] proves a flagpole around which radicals and reformers can still hang their colors, can push forward initiatives and innovations at the margins of the juvenile justice arena. [And] …this has the important consequences of further widening those margins…”(Pratt, 1986,p. 230).
That diversion is as popular today as it was in the 1970’s suggests that, despite concerns about net-widening, it is a policy with mass appeal.

“The widespread popularity of diversionary programs is due to the fact that they offer the appearance of significant reform without any major modification of values. The extension of benign, helping, community-based services to a larger population of youngsters is altogether compatible with the traditional parens patriae values of juvenile Justice -- namely that treatment for juveniles should be therapeutic and non-punitive and that procedures should be informal and non-stigmatizing (Bullington et Al., 1978,p. 65).

While broad claims are made about the general popularity of diversion, little has be done to explore how these programs are viewed by those who use them (the police) and those who experience them (youth). The purpose of this section, then, is to summarize how the police viewed and used the HYJP and TPS-YRP as well how the young people referred to these programs viewed their experiences.

Given the general popularity of diversion, it was not surprising that police officers felt generally positive about it. The majority of officers interviewed felt that diversion was “working”. In general, officers related the programs “working” to their ability to hold youth accountable through the application of sanctions that would, in their eyes, deter youth. That the programs were designed to divert youths who would have otherwise been charged and in turn reduce the number of court referrals was noticeably absent from their discussions of whether or not these program worked. Halton officers tended to be slightly more positive about diversion and this was likely due to the fact that their program had been in operation for eight years at the time of the interviews. That is, pre-charge diversion in Halton was clearly more a part of the culture than in Toronto. Yet, despite the considerable differences in the structure (police run versus outsourced) and handling of youth (severity of sanctions) between these two programs, officers views...
were fairly consistent when asked about whether diversion was working and if it held youth accountable. The majority of officers interviewed indicated that they felt diversion held youth accountable. In general, when officers spoke of accountability reference was typically made to the types of sanctions youth received in diversion. Punishment in diversion was critical to officers’ assessments of accountability – officers felt there was a positive relationship between the severity of punishments and accountability. That is, the greater the punishments were in diversion the greater the accountability was too. In addition, accountability, it would seem, implied specific (and, perhaps, general deterrence). Thus harsher penalties were seen as contributing to crime reduction.

Interestingly, a greater number of officers from the HYJP reported feeling like diversion held youth accountable. One explanation for this difference may be that the HYJP was controlled in-house and it would appear from the actual sanctions handed down that youth in their program were indeed dealt with more punitively when compared to those youths dealt with by Operation Springboard. For example, all HYJP youths were subject to probation like conditions (curfews, non-association orders, attend school, etc.) in their diversion contracts and sanctions (such as community service, counseling, etc.) were imposed in addition to these conditions. TPS-YRP youth on the other hand, were not subject to probation-like contracts and instead were subject to direct sanctions alone. Not surprisingly, officers also indicated that they felt that the diversion program held youth more accountable than the traditional court system. One explanation for this was the very minor nature of the cases referred to the programs.

It was important to understand the views of police officers within the context of how they actually used diversion. Consistent with past research, officers tended to refer
the least serious, least risky youth they dealt with. As one officer stated, “They are good kids who made a mistake…bad kids don't get put through [diversion]” (Officer H17). Diversion created an additional mechanism to which officers could direct young people. From the perspective of officers, these programs provided a ‘third choice’ that was much more than simply an alternative to the court. It was clear in the interviews that many officers felt that these diversion programs were a good way to deal with youths whom they stated they would have otherwise cautioned. While diversion policy did appear to play some role in officers’ decisions (mostly for officers who reported they would have charged youth in the absence of diversion), it appears that the majority of officers saw diversion programming as a means of dealing with youths that was better than doing nothing at all (an informal caution), and more effective than the traditional court system (for specific types of cases - first time, minor offences which would not have been sent to court). Officers seemed to indicate they were referring cases they would have otherwise have cautioned for the youths’ own good. Diversion was popular among officers because it provided them with the means by which certain youths could be dealt with, from their perspective, more effectively. That is, if one believes that the only way you can hold young people accountable is through the application of more severe consequences, diversion programs become a natural fit for the referral of generally ‘good’ kids whom the police would like to see dealt with more harshly. As one officer stated, “There is better accountability [in diversion], youths have to follow through to have the charges dealt with… Court does nothing but dismiss these cases” (Officer T18). That these youth are referred into diversion is likely made possible because diversion is seen as helping young people. But as Cohen (1979) states,
“The softness of the machine might also be more apparent than real. It became common place in historical analyses to suggest that the more benign parts of the system such as the juvenile court masked their most coercive intentions and consequences. This conclusion might apply with equal force to the current strategies of diversion and alternatives. Even more than their historical antecedents, they employ a social work rather than legalistic rationale; they are committed to the principle of blurring the boundaries of social control and they use the all-purpose slogan of ‘community’ which cannot but sound benign” (p. 350).

In addition to serving as a way for police to deal with youth they would have otherwise cautioned, these diversion programs also seemed to become a means by which police increased surveillance of youth populations. Through diversion programs “…police officers, intentionally or not, expand their spheres of intelligence and surveillance” (Dunford, 1978, p. 345). The collection of massive amounts of information from program participants in the HYJP suggests that diversion programs served as an investigative tool which increased surveillance of young people in Halton Region. And while these youth were subject to greater levels of surveillance, the information collected by police was not, at least to my knowledge, ever used to make an arrest. This is not surprising when we consider that the young people police were gathering information from, were, as reported by the officers’ themselves, generally ‘good’ kids with no criminal involvement.

Diversion operates on the margins of the criminal justice system, and as such it is not subject to the same legal rules that guide police procedure. Police-run diversion operates, in many ways, outside of the law. And because there are no laws governing the operation of diversion, the rules themselves are somewhat fluid and at times applied in a haphazard manner. Youth, in agreeing to participate in diversion, agreed to provide a wide range of information to police. Whether or not this information was actually
collected in the TPS-YRP or in the HYJP varied. When information was collected in what done so in a technically legal way (via waivers), however, the necessity of the information collected was clearly questionable. For example, not only did HYJP youth provide detailed information about their offences and friendships outside of the event that brought them to the attention of the police, they were also required to sign waivers in which they agreed to allow the police to contact various external institutions on their behalf. For example, young people regularly agreed to allow the police department to contact their schools regarding attendance and school performance. Indeed, one of the Districts in the HYJP indicated that they regularly contacted schools and received from them the attendance records and grades of referred youths. The records were received by the police department and were checked by the youth office. They were then used to enforce the probation-like diversion contracts that these young people had signed at the start of the program.

We know that those who use diversion generally feel quite positive about it, but what of those who are actually processed in these programs? Much was speculated in past research about how young people might experience diversion, yet, few studies ever explored what youths’ experiences actually were. We know a little about the characteristics of youths referred to diversion from the views of police officers – namely, that they were, in general, first time offenders with little, if any, past criminal involvement. But how did these young people see their participation in diversion? In understanding how youths felt about diversion, it was important first to consider what youths thought would happen to them when they were first arrested for their offences. Most of the youths interviewed thought that at the time of their arrest they would go to
court or would be sent to court and then to detention. Others thought they would be
referred to some form of child welfare services. Clearly, the majority of diverted youths
believed (when first arrested) that they would experience far more severe consequences
than they actually did. That is, youths referred to the HYJP and TPS-YRP believed that
the police were going to deal with them through far more formal criminal justice system
processes. These youth believed they were actually being diverted from the traditional
court process (and in some instances from jail). There was certainly a disconnect between
what the young people thought would happen and how police viewed these young people.
A number of officers reported feeling that these young people ‘knew the system’; that
these youths were so knowledgeable they could manipulate the system. As one officer
stated, “these kids are clever, they know how to play the system” (Officer T54). That
these youths anticipated court and possibly jail is a fairly good indication that, at the very
least, many of the young people who were interviewed were simply not as knowledgeable
about the criminal justice system as the police believed them to be.

In terms of legal rights, the majority of youths from all three interview groups felt
that the police had explained what would happen to them at the time of their arrest. Yet,
the explanations youth described most often involved police presenting them with the
choice between participating in diversion or attending court because charges would be
laid against them. A much smaller number of referred youths reported that the police had
explained to them that they had the right not to admit to their offence(s). Of course, had
the young person decided that he or she did not want to admit to the offence this would
have precluded participation in diversion. The first eligibility requirement of each
program was that participants take responsibility for their actions through the admission of guilt for their offences.

Historically, the recognition that young people should hold the same legal rights as adults had brought into question the role of the *parens patriae* philosophy in youth justice—a philosophy that appears, at least in part, to influence police use of diversion today. Early advocates of this philosophy did not see the need to address the legal rights of young people because, at the time, the youth court was seen as a rehabilitative institution. If the focus of the court was rehabilitation for the good of the child and not punishment, then the need to protect young people from an overly punitive court was unnecessary. “The philosophy of individualized treatment found in many diversion programs is, it is claimed, not so different from the ideals of the juvenile court...Diversion is the same rehabilitation world under a new sheepskin, only this time one that permits far less due process than would otherwise be called for” (Fox 1974 as quoted in Moyer 1980). The reduced prominence of the *parens patriae* philosophy in the youth court left a gap in youth justice that was filled by a system of diversion that was not subject to the same legal constraints. “The juvenile justice system has demonstrated considerable adaptability by avoiding the impact of Gault and other pressures for increased formalization by delegating decisions to its extremities -- police and intake at the beginning, correctional institutions and ‘aftercare’ agencies at the end” (Nejelski, 1976, p. 405). The very placement of these diversion programs—on the edge of the youth criminal justice system—allows police to use and operate them under their own rules. The legal rules that guide police action, for the most part, do not apply in diversion cases.
And because of this, the young people who are referred ‘for their own good’ are subject to interventions that would likely be deemed entirely disproportionate in court.

From the perspective of diverted youth, it is not clear that these programs were ‘voluntary’ in any real sense. The choice to participate in pre-charge diversion was really an illusion from the youths’ perspective. The vast majority of youths from both programs believed that if they refused to participate, the police would have taken them to court while others felt that they would be taken right to detention. Understood from this perspective, it becomes clear why these young people ‘chose’ diversion. Those youths who ‘chose’ diversion did so because it was the only way, from their perspective, to avoid more severe consequences such as court, jail, and a criminal record. The young people referred to diversion were to a large extent quite happy with these programs. Diversion was seen as a good choice when faced with what they believed the alternatives were.

“There can be little doubt that the intentions behind the new movement and - more to the point - its end results, are often humane, compassionate and helpful. Most clients, deviants or offenders would probably prefer this new variety to the stark option of the prison. But this argument is only valid if the alternatives are real ones. The net-thinning and mesh-widening effects, though indicate that the notion of alternatives can be misleading and mystifying” (Cohen, 1979, p. 350, emphasis added).

The important thing here is that these youth believed the alternatives were real. Court and jail were real possibilities to them. The ‘positive’ views youth held about diversion, then, obviously need to be tempered by the fact that they expected more serious consequences at the time of their arrest. In the end, it makes sense that youth were satisfied with these programs, from their perspective they had avoided court, a criminal record and possibly jail- even if each of these was, in fact, an unlikely alternative. But
the reality is we do not know if the alternatives were real or not. We know that a large proportion of the cases sent to youth court and that ultimately results in custody involve property related crimes (see Kowalski, 1999; Moldon & Kukec, 2000; Hendrick, 2001; Marinelli, 2002). It is possible that these youth at the very least could have ended up in court for their offences (of course, most would likely be diverted at the post-charge stage). The vast majority of young people believed that if they refused the programs they would have been charged. Despite all that we know, there was still a possibility of a charge (and a finding of guilt) and these youth knew it. The refusal to participate in diversion might very well have been seen by police as challenging their authority and led them to the conclusion that the youth had a `bad` attitude. Indeed, previous research has shown that a youth’s attitude is related to how police choose to deal with a young person (see Barton, 1976; Conly, 1978; Doob and Chan, 1982). By refusing to participate, these youth may have been at greater risk of having charges laid by police than they would have been had the program not existed and they had not been ‘offered’ the program. Of course much of this is speculation as, to my knowledge; no one ever turned the program down.

Many of the issues raised by Klein (1979) were well known in Canada. Indeed, the first (and, it would appear, the last) diversion conference organized by the Solicitor General of Canada in 1977 had come to the conclusion that “the multiplicity of purposes and goals pursued by the various diversion programs at the time was occasionally incompatible and frequently indistinguishable from such other measures as prevention and screening, community corrections, and social services in general” (p.3).
The concerns raised here are not unique to pre-charge diversion of young offenders. Indeed, research has indicated many of the same concerns in the operation of adult diversion. Adult diversion programs have also been recognized as operating with conflicting program goals. In a study examining a post charge diversion program (John School) for adults, Wortley and Fischer (2002) found that many of the Program’s key stakeholders held different ideas about what constituted an effective Program. Research has also raised concerns regarding the due process rights of adult offenders who agree to participate in diversion. For example, Moore (2007) in a study examining drug treatment courts found that offenders forfeited a number of legal rights. Other research has highlighted concerns regarding the notion of voluntary participation in diversion programming because the alternatives to diversion appear to be far more severe (see Wortley and Fischer, 2002; Wortley, Fischer and Webster, 2002).

**What became of the TPS-YRP and HYJP**

This research was conducted over a seven-year period, and over this time, these two programs took quite different paths. The HYJP continues to operate as an in-house pre-charge diversion program in Halton region. The program itself appears to have become a stable entity within the police service. Its stability, obviously, was made easier by the fact that it was institutionalized, at some point, as a permanent item in the police budget. The program has undergone no substantive changes since its inception. Over the course of this research, an evaluation report was provided to HYJP administrators that highlighted areas of the program that that were not achieving policy goals set out for the program at its inception. However, in the two years that followed the submission of the report, program administrators did not appear to change anything about how the program operated. This was almost certainly a result of the fact that the organization itself was
happy with the program as it was operating and its original justification (i.e., diversion) was, by then, irrelevant. Indeed, the police themselves, from the inception of the program, took responsibility for the development, implementation and funding of the HYJP. Although it was not meeting the original broad policy goals that justified its creation, it was meeting the other goals of the organization.

The goals of diversion from the organizations’ perspectives are well illustrated by the TPS-YRP. The TPS-YRP was discontinued, following the results of a program evaluation that showed the program was not doing what it was intended -- reducing the use of youth court. Based on the results of the evaluation, Canada’s Department of Justice (DOJ) showed no interest in continuing to provide funding for the project past its original commitment. However, it is important to realize that the Department of Justice had never contemplated funding the program indefinitely. In contrast, it was probably the original intent of the police (and Springboard) to get (additional) provincial funding on the basis of the idea that by diverting youths from the expensive court system money would be saved. Nevertheless, the discontinuation of funding by the federal government was met with some challenge. The Toronto Police Service and Operation Springboard fought vigorously to maintain funding in order to continue the program’s operation. When it became clear that the DOJ would not continue to fund the project, the Toronto Police Service and Operation Springboard began seeking alternative funding sources. An attempt was made at gaining municipal and then provincial funding. However, funding from neither of these sources ever came through, and in March of 2004 the TPS-YRP was closed.
The survival of the HYJP, and the discontinuation of the TPS-YRP, are likely explained by the differences in how these programs were originally structured. Obviously, the TPS-YRP's dependence on an external source for funding – as an ‘add on’ to their budget - and the police service’s failure, itself, to make a commitment to it by funding it out of the police budget was part of its downfall. That is, had the TPS-YRP been structured as part of ‘normal police operations’ in a way similar to the HYJP it is quite possible it might still exist today. In the end the Toronto Police Service did not want to pay for this type of privatized diversion program. Of course, the fact that the HYJP is still operating does little to explain the attractiveness of diversion programs, other than to provide a concrete example of its longevity and acceptance by police.

The closing of the TPS-YRP provides more background and fills in some of the gaps in terms of why these programs are so popular among police. The fight for additional funding and response to the evaluation of the TPS-YRP demonstrates quite clearly that these programs are well accepted among the police because they serve purposes beyond that of ‘true’ diversion.

The reaction of the Toronto Police Service to the evaluation of the TPS-YRP highlights the multiple goals of diversion and the incredible disconnect between broad policy goals that justified the original funding of the project and the more practical organizational goals of the police in promoting “diversion.” The official response also highlights why diversion is so popular from both the perspective of the organization as well as the front-line officers who used the program. In the examination of the TPS-YRP, the DOJ and evaluators focused on the primary goal of reducing the use of youth court as the ultimate measure of the Program’s success. Of course this made complete
sense to the government and academics involved. Although definitions of diversion may have been contested over time, the notion that diversion should serve to keep young people from being further processed in the criminal justice system where they otherwise might have been, has been a fairly stable part of defining and measuring the success of diversion over time. Furthermore, bringing fewer youths into the youth justice system was a legislated goal of the Youth Criminal Justice Act, the legislation that was used to justify ‘start-up’ funding by the Government of Canada of a local project such as this one. The legislative guidance on the use of extrajudicial measures was important for the development pre-charge diversion programs. As outlined in chapter three, Section 4 of YCJA states about extrajudicial measures,

(a) extrajudicial measures are often the most appropriate and effective way to address youth crime;

(b) extrajudicial measures allow for effective and timely interventions focused on correcting offending behaviour;

(c) extrajudicial measures are presumed to be adequate to hold a young person accountable for his or her offending behaviour if the young person has committed a non-violent offence and has not previously been found guilty of an offence; and

(d) extrajudicial measures should be used if they are adequate to hold a young person accountable for his or her offending behaviour and, if the use of extrajudicial measures is consistent with the principles set out in this section, nothing in this Act precludes their use in respect of a young person who

(i) has previously been dealt with by the use of extrajudicial measures, or

(ii) has previously been found guilty of an offence.

(Section 4, emphasis added)
There is clear emphasis on the use of measures outside of the traditional court process. As stated in the legislation, dealing with young people outside of the traditional court process is seen in many cases as being the most appropriate way for dealing with young people involved in minor types of offending. Obviously, for evaluators, reducing the use of youth court was an important goal for the operation of the TPS-YRP since it was this that largely justified the investment of federal funds into the program. The Youth Criminal Justice Act, like its predecessor, the Young Offenders Act, allowed police officers to warn or caution youths rather than refer them to a program or court. Hence diversion away from more formal (court) processing was the primary goal of the program from the perspective of the DOJ. Yet, as the program developed, priorities changed and ‘diversion’ was no longer the primary goal for the police. By the time the initial funding period was complete, the police, instead, believed diversion was designed to accomplish a much wider range of goals. One of the goals included reduced recidivism which the evaluators, at the request of the police, included in the evaluation report. As a program goal this was something that the police believed was important for the program; the DOJ on the other hand, did not see this as an important measure of the success of diversion largely because they appeared to be skeptical that differences between a ‘diversion program’ and what would likely happen otherwise to youths (e.g., alternative measures or extrajudicial measures or a finding of guilt with few other consequences) would have a differential and measurable impact. More importantly, they were not convinced that ‘holding a youth accountable’ (the goal under the legislation) should be interpreted as relating to reoffending. Nevertheless, the police did note that they did not feel committed to this single goal.
“We feel that the evaluation focuses primarily on one goal of the program and does not sufficiently address the many other goals of the Toronto Police Service Youth Referral Program. The evaluation report consistently states that the main purpose of the program was to reduce use of youth court. It goes so far as to state on page 155 that the program was not accomplishing what it was designed to accomplish. We feel that the YRP has indeed accomplished many of the goals that it was designed to accomplish (Letter to Program evaluators from Toronto Police Service dated April 12, 2004).

In the official response, the Toronto Police Service outlined a large number of goals for the TPS-YRP. A number of the goals were organizational goals that were indeed accomplished by the Program, if the choice of ‘comparison group’ for these assertions could be made flexible. These goals included efficiency in case processing and holding youth accountable. From the perspective of the police, the TPS-YRP operated efficiently particularly when compared to case processing in the courts.

“For the involved divisions, with a program being available, it is easy to see how the decision would be made to use the program as they would consider it to be the best choice of the above. In comparing cases that are sent to court, officers’ experience would have been and the evaluation confirms that the YRP had quicker results and was less expensive than court. The evaluation showed that youth sent to court missed school, parents missed work, etc.” (Letter to Program evaluators from Toronto Police Service dated April 12, 2004).

And while diversion cases in the TPS-YRP (and the HYJP for that matter) were processed more quickly than they would have been had they been sent to court, the reality was that these cases, in the absence of diversion, would, for the most part, never have made it to court. The front-line officers indicated this when interviewed and in the case of the Toronto program, was confirmed by the analyses of the number of cases that went to court. This fact, however, had made little impression on the police department in their evaluations of the program’s success. The fact that diversion was a faster process than court was enough; it didn’t seem to matter that the cases would never have been in court
in the first place. In fact, the Toronto Police Service went so far as to suggest that other police jurisdictions would prefer to use a program such as the TPS-YRP rather than caution when discussing the increase in the number of cases handled informally by police following implementation of the YCJA.

“The evaluation makes references to the fact that the implementation of the YCJA appears to have reduced the number of youth court cases coming from the divisions not involved in the YRP. This was the intention of the YCJA and had the option been available to them, it is very likely those officers would have preferred to refer some of the cases to a community program. In fact, this interest was expressed.” (Letter to Program evaluators from Toronto Police Service dated April 12, 2004).

Obviously, the department was supportive of the idea that diversion was better than doing essentially nothing (issuing an informal caution). But why use diversion in this way? It seems that, along with front line officers, the organization itself believed that diversion could serve a wide range of purposes to which it could benefit.

“The evaluation cites research that indicates (p.156) adolescents grow out of it (delinquency). The Toronto Police Service Youth Referral Program is intended to provide more than the hope or expectation that youth will grow out of it. Through this program, youth can learn importance of accepting responsibility for their behaviour, can acknowledge and repair harm, have a positive experience with police, have opportunity for assessment and early intervention, have interaction with a community agency in performing ‘volunteer’ hours with the possibility of continued involvement. The community benefits from both the community service hours and the overall goal of increased community safety” (Letter to Program evaluators from Toronto Police Service dated April 12, 2004).

This response highlights the fact that rather than limiting state intervention, diversion has extended the reach of the criminal justice system much further into the lives of young people -- so much so that the organization sees itself as responsible for holding youth accountable and preventing future offending. In addition to this, the police saw the program as a means by which they could build better relationships in the community.
Conclusion

The literature on diversion has consistently shown that most programs are unable to accomplish their defining and fundamental goal – redirecting youth who would have been sent through the traditional court process into something less formal. Over time, little has been done on a more practical level to address this issue in the operation of these programs. This of course would not be an easy task because diversion, by its very nature, operates on the margins of the criminal justice system. Unlike those cases that progress through the traditional system which have various safeguards as well as appeal processes, diversion cases are not subject to these same procedures. The lack of formal guidelines and a standardized structure for diversion programs can be seen as being simultaneously an advantage and disadvantage in diversion. On the one hand, it is an advantage as it permits flexibility in how diversion is delivered within a community. On the other hand, the vague nature of diversion policy has likely contributed to some of the conflict in determining what the purposes of diversion programs should be and what it is that these programs should be accomplishing. Of course, these statements are really not new. As with much of what has been said about diversion in the past, the problems of diversion and what needs or should be done have been suggested before. Klein (1979) in a response to reviewers’ requests for an explanation as to who was responsible for the failure of diversion stated,

“If my reviewers want me to lay blame somewhere, it must be on those agencies of federal, state, and local government which have provided the impetus and the funding for these programs. Their emphasis has been so much on the providing that they have come up short on conceptualizing and on maintaining accountability… [I]t should be possible to develop and implement programs which have well-developed conceptual rationales of some intellectual merits and which permit adequate assessment of the effectiveness of the programs and their
rationales. It is incumbent upon the funders to move for clarification of confounding confusions, e.g., the nature of status offenders, the appropriate clients for diversion programs, and the identification of debilitating organizational imperatives. Such clarification should inform future legislation and provide structure for program initiatives” (Klein, 1979, p. 190).

The underlying assumption would seem to be that there is a need to lay blame for why it is that diversion had so clearly failed in 1979. Its continued use and popularity in 2010 would suggest otherwise: it would seem to have ‘succeeded’ from the perspective of those responsible for the programs.

While it would be easy to state, naively, that diversion works because it is holds youth accountable (or that it punishes youths who would not otherwise be punished) or it is a failure because it has not been able to fulfill its promise of ‘true’ diversion, the story of diversion is a more complex one. What this research has demonstrated is that diversion can be simultaneously viewed as being both a success and a failure. One’s perspective on the “effectiveness” of diversion depends in large part on where one stands and what one sees as the alternatives to ‘diversion.’

The police officers interviewed for this research believed in the ‘effectiveness’ of diversion programs that did not ‘divert.’ For these officers and their respective organizations diversion was a success. It was success because it was seen as holding youths accountable for their offences in ways they felt the courts would not. Holding these youth accountable was seen as a means of preventing future offending. Yet, as the closing of the TPS-YRP showed, the external funding organization the Department of Justice, Canada (DOJ) had a very different view of the program. From the perspective of the DOJ and the evaluators (whose mandate was defined by the DOJ) this diversion program had failed to accomplish its original goals that had been invoked to justify
federal funding of the project. This conflict or these differences in perceptions led to very different conclusions about the effectiveness of diversion.

The story in Halton was a similar one. Although the Halton Regional Police had sought outside assistance in an evaluation of their diversion program, the issues addressed by the evaluator were dismissed. In fact, a meeting with one of the upper level officers in charge of the Program stated that the evaluation “report was bullshit.” What he seemed to mean by this was that it did not come to the conclusions that he was interested in or that would help sustain the project. That report focused, in large part, on a cases being sent to the program as well as those sent to court. It did not contain the information about the police officers’ and youths views of the program. Not surprisingly, the report went nowhere and little (if anything) was done to address the discrepancies across the three districts in the operation of the HYJP. The YCJA emphasizes proportionality in the treatment of young people both within and across offence types and the differences among the three HYJP districts challenged the notion of proportionality. While proportionality is clearly a goal in the legislation, it was not a goal in the HYJP. Consequently, from an organizational perspective it was very easy to dismiss a report that highlighted the programs disproportionate treatment of youth – it was simply not a goal of the program. Instead, it was seen as successful because it was efficient (compared to court) and it held youth accountable.

The multiplicity of goals in the operation of one part of the youth justice system (diversion) is not a problem specific to diversion. This has been recognized as an issue faced by the youth justice system more broadly. In an article exploring the effectiveness of juvenile justice systems, Smith (2005) states, that “many of the conflicts and tensions,
both within the juvenile justice system and in public debate arise because we want the system to do many different things that may be incompatible, or at least hard to reconcile (Smith, 2005, p. 184). In the case of diversion it is not so much that the goals are incompatible, but that they are instead competing goals (for example, the reduction in the use of youth court and holding youth accountable) which result in different interpretations of what constitutes an effective diversion program. Diversion has enjoyed broad based support in spite of the evidence on whether it has ‘diverted’ youth from the formal youth justice system. This suggests, as Pratt (1986) (quoting Foucault) states,

A more pertinent issue to consider is the functionality of this supposed failure. “Can we not see here a consequence rather than a contradiction?” (Foucault, 1977, p.272). A consequence that continues to drive the route of penal reform, a consequence that unites….all shades of the political and penological spectrum. “Let us hide our differences of opinion over the sanctions that should befall serious offenders; instead, it is around the issues of minor illegalities and delinquencies that we can construct a consensus” (Pratt, 1986, p.229).

Diversion, it would appear, has succeeded in being all things to all people; it is a means of creating consensus among divergent groups. One could argue that it is the ability of diversion policies and programs to be all things that explains its survival over time. Indeed, one might further argue that this is what explains its success over time.

Yet, one of the concerns with the unbridled support for diversion programs is the possibility that their intrusive nature may in fact be harmful to the young people referred to them. While police officers may believe that in all cases “doing something” is better than “doing nothing” and, therefore, that referral to a program could do no harm, we might consider that intervening in this manner with otherwise ‘good’ kids may in fact be harmful. Certainly, in terms of the stated goals of the police in referring youths to
diversion programs – reducing subsequent offending – the data would suggest that ‘something’ rather than ‘nothing’ can, in some circumstances be harmful (McCord, 2002; Petrosino et Al., 2000; Petrosino et al., 2003). The literature on whether or not specific types of diversion programs does or does not cause harm youths is limited and because of the many methodological difficulties associated with diversion, research on these questions is often difficult to carry out adequately. Despite this, we do know that some programs can have harmful effects including increased criminal involvement among participating youth (McCord, 2002; Petrosino et Al., 2000). Certainly, this is an area for future research because “If further research confirms either that diversion has no impact or that it is harmful, then the assumption that it is better to do something (in the form of diversion) than to do, nothing becomes unsupportable” (Polk, 1984, p.653).

What does the future hold for diversion? The stories of the TPS-YRP and HYJP are may provide some insight into what the future may hold for diversion. Certainly, as police diversion programs go, the future is a bright one. Diversion is something that both at the individual (front line officers) and organizational levels is tremendously supported by police. The TPS-YRP in spite of being closed was well-supported by police. Yet the program itself was probably doomed to failure at its inception because of its structure (outside of the normal funding structures) and not because of a lack of support within the police service for it. The Toronto Police Service simply did not want to pay an outside agency for the service and appeared not to want to take responsibility for it by funding, and running it, internally. The HYJP on the other hand was a program initiated by the police and the added expense was taken on by the organization itself. It would appear that diversion programs that are structured in this manner (as in-house, police-budgeted
programs) have the possibility of considerable longevity. The HYJP has been in operation for twelve years and remains as popular among police today as it was when first introduced. And no matter the structure these programs take, participants of these programs are quite happy with them. Thus, there is little if any opposition to police diversion.

So, in the end the future really is quite bright for these programs notwithstanding decades of sometimes high quality research demonstrating convincingly that they do not accomplish their primary official objective. In fact, over the course of this research program administrators in the HYJP were routinely called on for advice on the development of diversion program in other jurisdictions. For example, the Peel Regional Police sought the advice of officers in Halton on the development of their own diversion program. The result of this advice was a diversion program in Peel Region which was designed to specifically target shoplifting youth. An excerpt from the Peel Regional Police website taken June 10, 2010 states,

“This program was developed in order to divert routine shoptheft calls from the regular police response cycle and reduce the need for police officer attendance. Some of the benefits include eliminating the costs of officers attending court, increased efficiency in the processing of offenders, less down time for the loss prevention officers, and the prevention of arbitrary detention of offenders”.

This is clearly another example of yet another program developed under the guise of ‘diversion’ to achieve a number of other organizational goals. When these programs are instituted within the organization they are set up to fulfill a number of fairly easily attainable organizational goals and can operate under total police control. The fact that there are no laws governing the operation of diversion programs that operate outside of the Youth Criminal Justice Act such as these allows the police to use them to suit their
organizational needs and treat young people in ways they – and, within limits, they alone – deem most ‘effective’. In some ways, the highly punitive nature of the HYJP should serve as a warning about the future of diversion, particularly if there is the possibility that these programs are indeed doing more harm than good. “The choice is not between diversion of various kinds and the Golden age. The second option is not available. This forces us to contemplate the shape of diversion…on which there is considerable room to maneuver. Let us hope …that some forms of diversion will, in the end, do some good” (Sanders, 1988, p. 529).

Epilogue

After writing an early draft of this final chapter, I was asked the following question:

“Carolyn, you have two children. When they become young offender age, if one of them was picked up by the police for a minor offence and your child was offered the choice of participating in one or the other of these exact programs, what would you advise your child to do, knowing as much as you do about them?” My answer was simple and immediate. I would tell them to take the program because the risks of turning it down are too high.

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Appendices

Appendix A HYJP Youth Officer/Social Worker Interview Questionnaire

District #________ Male Female Age________

Section One: Program Implementation and Officer Training

1. How was the Youth Justice Program introduced to you?

2. How did you feel about the Youth Justice Program when it was introduced to you?

3. Do you feel you received adequate training prior to the Program’s implementation?

4. Were there issues that did not come up in training that you might have found useful once the Program was underway?

5. What are some of the things you feel you had to learn along the way about the Program?

6. How do you feel your training could have been improved?

7. What do you think were some of the problems with implementing the Program?

8. What do you think are some of the problems with how the Program currently operates?

9. Overall, how do you feel about the Program currently (Do you think it is working? why/why not)

10. Do you think that, within the Youth Justice Program, different police officers within this division would handle a case referred to them in the same way? Why/why not?

11. Do you think that youths in other Halton police districts/divisions would be handled in the same way as they are in this division? Why/why not? If not, what are the implications of this? (does it affect referrals?)

12. How much time would you say that you spend on the following types of cases:

i) Youth Justice Program Diversion Cases

Section 2: General Views

13. Over the last five years, do you think that youth crime rates in Halton Region have: INCREASED DECREASED REMAINED THE SAME

14. How do you feel about the Youth Criminal Justice Act?
15. How do you think the Youth Criminal Justice Act compares to the Young Offenders Act?

16. How do you feel about diverting youth from the court process (through the use of formal pre-charge diversion programs)? What are the benefits/drawbacks?

**Section 3: Holding Youth Accountable through Diversion**

17. Do you feel that the Youth Justice Program holds youth accountable for their actions? What does accountability mean to you in this context?

18. Do you feel that the courts hold youth more, less, or equally accountable for similar types of offences (re: diversion cases)?

19. What types of measures do you think should be imposed upon youth diverted into the Youth Justice Program?

20. Which measures do you use most frequently? Least frequently? Why?

21. Do you use similar types of measures for similar types of cases? For example, would all drug possession cases result in the application of substance abuse counseling as a measure?

22. Have you ever charged a young offender who did not complete Program measures?
   
   **YES**  
   **NO**

If yes, think back to your most recent case:

   i) Without using any names or other identifiers, what were some of the details of the case? What was the offence? How old was the youth?
   
   ii) Why did you feel it was necessary to proceed with the charges in this particular case?

23. Have there been instances in which a youth has not completed the program, but you did not proceed with the original charges? If yes, why?
   
   **YES**  
   **NO**

**Section 4: Decisions to Divert Youth through the Halton Youth Justice Program**

24. How often would you say that you divert youth through the Youth Justice Program?

25. How often would you say that you refer the case back to the arresting officer for charges because it is not suitable for diversion?

26. How often would you say that you reject the case for diversion in favour of a warning?
27. Prior to the implementation of the Youth Justice Program, how would you have dealt with a youth suspected of a first time minor offences (such as theft under, mischief under, and minor assault)?

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<th>CAUTION</th>
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<th>CHARGE</th>
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28. Do you think that police officers are charging more, less or equal numbers of youths with first time minor offences since the Youth Justice Program was established?

29. What were the circumstances surrounding your most recent diversion case:
   
   i) Why did you accept that case into the diversion Program?
   
   ii) What offence was the youth suspected of committing?
   
   iii) What would you have done with this particular case had the Youth Justice Program not been available as an option?

30. What types of offences would you say that you generally divert through the Youth Justice Program?

31. Given the types of offences that you divert through the Youth Justice Program, what would you do with these cases if the Program was not available as an option?

32. What are the factors you consider when deciding to divert a youth through the Youth Justice Program?

   Offence Seriousness
   
   First time offence
   
   Victim’s wishes
   
   Youth’s demeanor/attitude
   
   Admission of guilt
   
   Age
   
   Other

33. Given similar types of cases (for example, theft under $5000), what are some of the reasons for not diverting a youth through the Youth Justice Program?

   Youth’s demeanor/attitude
No admission of guilt

Previous contact with police

Previous charges and/or convictions

Other

34. How does a youth’s attitude impacts your decision to divert them through the Youth Justice Program?

35. Do you provide the arresting officer(s) with information on youths successful completion of the Program?

   YES   NO

36. Do you provide the arresting officer(s) with information on youths failure to meet the requirements of the Program?

   YES   NO

37. Are victims made aware of the decision to divert a young person through the Youth Justice Program?

   YES   NO

38. What types of offences would you say are generally diverted through the Youth Justice Program?

39. How do you think a youth suspected of first time, minor offences (such as theft under, mischief under, and minor assault) should be dealt with?

   CAUTION   WARNING   CHARGE

40. What would you say are the reasons for diverting a youth through the Youth Justice Program?

41. What would you say are the reasons for not referring a youth through the Youth Justice Program?

42. Additional comments:
Appendix B  HYJP Front-line officer Interview Questionnaire

District #_________ Male Female Age_________

Section One: Program Implementation and Officer Training

1. Have you ever heard of the Halton Youth Justice Program?  Yes No

2. How was the Youth Justice Program introduced to you?

3. How did you feel about the Youth Justice Program when it was introduced to you?

4. Do you feel you received adequate training prior to the Program’s implementation?

5. Were there issues that did not come up in training that you might have found useful once the Program was underway?

6. What are some of the things you feel you had to learn along the way about the Program?

7. How do you feel your training could have been improved?

8. What do you think were some of the problems with implementing the Program?

9. What do you think are some of the problems with how the Program currently operates?

10. Overall, how do you feel about the Program currently (Do you think it is working? why/why not)

11. Do you think that, within the Youth Justice Program, different police officers within this division would handle a case referred to them in the same way? Why/why not? If not, what are the implications of this? (does it affect referrals, public perceptions/agency perceptions?)

12. Do you think that youths in other Halton police districts/divisions would be handled in the same way as they are in this division? If not, what are the implications of this? (does it affect referrals, public perceptions/agency perceptions?)

13. Have you ever been given advice by administrators of the Youth Justice Program on how to handle a particular type of case?

14. How much time would you say that you spend on the following types of cases:

   i) Youth Justice Program Diversion cases____________________________________

   ii) Similar cases sent to court_____________________________________________
Section 2: General Views

15. Over the last five years, do you think that youth crime rates in Halton Region have:

INCREASED       DECREASED       REMAINED THE SAME

16. How do you feel about the Youth Criminal Justice Act?

17. How do you think the Youth Criminal Justice Act compares to the Young Offenders Act?

18. How do you feel about diverting youth from the court process (through the use of formal pre-charge diversion programs)? What are the benefits/drawbacks?

19. Have you ever charged a young offender? YES NO
   If yes, think back to your most recent case:
   i) Without using any names or other identifiers, what were some of the details of the case? What was the offence? How old was the youth?
   ii) What would have kept you from sending this particular youth to court?

Section 3: Holding Youth Accountable through Diversion

20. Do you feel that the Youth Justice Program holds youth accountable for their actions? What does accountability mean to you in this context?

21. Do you feel that the courts hold youth more, less, or equally accountable for similar types of offences (re: those that are diverted to the youth officer and social worker)?

22. Are you aware of the types of measures used with youths in the Youth Justice Program?
   i) If yes, do you feel that these measures hold youth accountable?

23. What types of measures do you think should be imposed upon youth diverted into the Youth Justice Program?

Section 4: Decisions to Divert Youth through the Halton Youth Justice Program

24. Have you ever diverted a youth through the Youth Justice Program? YES NO
   If yes, continue to question 25
   If no, continue to question 37
**Officers who have diverted cases**

25. How often would you say that you divert youth through the Youth Justice Program?

26. Prior to the implementation of the Youth Justice Program, how would you have dealt with a youth suspected of a first time minor offences (such as theft under, mischief under, and minor assault)?

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27. Are you charging more, less or equal numbers of youths with first time minor offences since the Youth Justice Program was established?

28. What were the circumstances surrounding your most recent diversion case:

i) When did you divert the case?

ii) What offence was the youth suspected of committing?

iii) What would you have done with this particular case had the Youth Justice Program not been available as an option?

iv) Why did you divert this particular case through the Program?

29. What types of offences would you say that you generally divert through the Youth Justice Program?

30. Given the types of offences that you divert through the Youth Justice Program, what would you do with these cases if the Program was not available as an option?

31. What are the factors you consider when deciding to divert a youth through the Youth Justice Program?

- Offence Seriousness
- First time offence
- Victim’s wishes
- Youth’s demeanor/attitude
- Admission of guilt
- Age
32. Given similar types of cases (for example, theft under $5000), what are some of the reasons for not diverting a youth through the Youth Justice Program?

Youth’s demeanor/attitude
No admission of guilt
Previous contact with police
Previous charges and/or convictions

Other

33. How does a youth’s attitude impact your decision to divert them through the Youth Justice Program?

34. Are you made aware when a youth fails to meet the requirements of the diversion program?

YES
NO

i) If yes, did you proceed with the original charge(s)?

YES
NO

ii) If you did not proceed with charges, what were the reasons?

35. Are you made aware when a youth successfully meets the requirements of the diversion program?

YES
NO

36. Are victims made aware of the decision to divert a young person through the Youth Justice Program?

YES
NO

37. Why would you say that you have not diverted any cases through the Youth Justice Program?

38. What types of offences would you say are generally diverted through the Youth Justice Program?
39. How do you deal with youth suspected of first time, minor offences (such as theft under, mischief under, and minor assault)?

CAUTION WARNING CHARGE

40. Have you encountered a youth suspected of first time minor offence?

YES NO

If yes, recall the most recent case:

i) What offence was the youth suspected of committing?

ii) How did you handle this particular case?

iii) Why didn’t you divert this particular case through the Youth Justice Program?

41. What would you say are the reasons for diverting a youth through the Youth Justice Program?

42. What would you say are the reasons for not referring a youth through the Youth Justice Program?

43. Additional comments:
Appendix C   HYJP YOUTH SURVEY QUESTIONS

**Background Information**

1. Circle one: Male  Female

2. How old are you?

3. How would you describe your racial or ethnic background?

**Recent Arrest Experience**

4. What was the reason you were referred to the Halton Youth Justice Program? What was it that you did? (details of offence)

5. Have you previously participated in this Program? Yes  No

6. When you were first caught by store security or by the police for your current offence, what did you think would happen to you?

7. i) Did the police tell you about the Program when you were arrested? Yes  No

   ii) What did they tell you?

8. i) Did the police give you any choices as to how you would be dealt with other than going to the Halton Youth Justice Program? Yes  No

   ii) What options did they give you?

9. Did the police explain that you had the right not to admit that you had done anything?

10. What do you think would have happened to you if you had refused to participate in the program?

11. Why did you choose to participate in the Halton Youth Justice Program?

12. What do you think the police should have done with you?

13. Did you talk to your mom/dad/guardians after you were arrested?

14. Did your mom/dad/guardians know that you would be entering the program?

15. How do you feel your mom/dad/guardians felt about your participation in the program?

**Experience in and Views of the Program**
16. How many meetings did you have with the social worker/youth officer?

17. What happened during your meetings?

18. How did you feel about the meetings (in particular your first meeting with the social worker)?

19. Did you have to miss school or work in order to attend the program?  
   Yes  No

20. i) Did your mom/dad/guardians attend meetings with you?  
   Yes  No
   ii) If yes, did they have to miss work?  
      Yes  No

21. What kinds of things did you agree to complete in the program?  
   1) Apology  _____  
   2) Community Service  _____  Number of hours: _____  Found own placement: yes  no  
   3) Employment skills  _____  
   4) Anger management  _____  
   5) Drug Awareness  _____  
   6) Anti-shoplifting  _____  
   7) Poster  _____  
   8) Essay  _____  
   9) Journal  _____  
   10) Other Counseling  _____  Type: ________________________________________  
   11) Restitution  _____  Amount:__________________________________________  
   12) Drug testing  _____  
   13) OTHER:_________________________________________________________________
   _______________________________________________________________________

22. How long did it take you to complete these things?  
   1) Apology  ______  
   2) Community Service  ______  
   3) Employment skills  ______  
   4) Anger management  ______  
   5) Drug Awareness  ______  
   6) Anti-shoplifting  ______  
   7) Poster  ______  
   8) Essay  ______  
   9) Journal  ______  
   10) Other Counseling  ______  
   11) Restitution  ______  
   12) Drug testing  ______  
   13) OTHER:_________________________________________________________________
   _______________________________________________________________________

23. Do you think you had a choice in the types of measures you agreed to complete?  

24. If you participated in a program (such as counseling or anger management) do you feel that you had a choice to participate, that is, do you think you could have turned down the ’program’?
25. Do you think that what was required of you was fair?

26. How difficult was it to complete the measures(s) that were imposed?

27. Do you think that the nature of the measure(s) – e.g., the number of hours of work that was required – was fair?

28. What do you think would have happened to you if you were not offered the program?

29. Would you have preferred to have the police deal with you in another way instead of the Program? For example, going to court or being warned. Why/why not?

30. Do you think that attending the program will affect what each of the following would think of you: your friends, your mother/father, people at school?

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<tr>
<td>People at school</td>
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</table>

31. What do you think was more important for you: being arrested by the police or being sent to the Program?

32. Did the Program teach you anything?

33. Since participating in the Program have you done any of the following:
   Fighting
   Shoplifting
   Stolen something (other than shoplifting)
   Damaging property
   Used drugs
   Sold drugs
   Other

34. Do you think that participating in this program will have any effect on whether or not you do any of these things?

35. Have you ever done any of the following in the past in which you were not caught by police or store security?
   Fighting
   Shoplifting
   Stolen something (other than shoplifting)
   Damaging property
   Used drugs
   Sold drugs
   Other
36. i) Have you ever previously been in contact with the police for something that you did?  
   Yes  No
   ii) If yes, what was it that you did?
   Fighting
   Shoplifting
   Stolen something (other than shoplifting)
   Damaging property
   Used drugs
   Sold drugs
   Other
   iii) How was this dealt with by the police?
   Caution
   Warning
   Charges
   Other
   iv) How does this experience compare to your experience in the Program?

37. Do you think that this type of Program is a good idea? Why/Why not?

**General Views on crime and the Criminal Justice System**

38. Over the last five years, do you think crime in Ontario has been increasing, decreasing or staying about the same?

   Increasing  Stayed the same  Decreasing

39. Over the past five years, do you think that crime in your neighborhood has been increasing, decreasing, or staying about the same?

   Increasing  Stayed the same  Decreasing

40. In general, would you say that sentences handed down in court are too severe, about right, or not severe enough?

   Too severe  About right  Not severe enough

41. Is there anything else you would like to add about your experiences in the program?
Appendix D
The Toronto police service youth referral program police officer interview questionnaire
Program implementation and officer training
1. Have you heard of the TPS-YRP?
2. How was the TPS-YRP introduced to you?
3. How did you feel about the TPS-YRP when it was first introduced to you? Did you think it would work?
4. Do you feel you received adequate training prior to the program's implementation?
5. Were there issues that did not come up in training that you might have found useful once the program was underway?
6. What were some of the things you feel you had to learn along the way?
7. How do you feel your training could have been improved?
8. What do you think were some of the problems with implementing the program?
9. What do you think are some of the problems with how the program operates currently?
10. Overall, how do you feel about the program currently? Do you think it's working?
11. How much time would you say that you spend in the following types of cases:
   a. youth referral cases
   b. similar cases sent to court.

Holding it accountable
12. Do you feel that the TPS-YRP hold youth accountable for their actions?
13. Do you feel that the courts hold youth more, less or equally accountable for similar types of offenses?
14. Are you aware of the types of sanctions handed down to youths in the youth referral program?
15. If yes, do you feel the sanctions hold youth accountable?
16. What proportion of the cases referred to springboard do you think received each of the following sanctions?
   a. Community service
   b. Apologies
   c. 15 day journals
   d. Essays
   e. Posters
   f. drug or anti-shoplifting workshops
   g. employment skills training
   h. anger management
   i. other
   j. no idea.
17. What types of sanctions, do you think should be imposed upon youth referred to springboard?

Decisions to divert youth
18. Have you ever referred a youth to the TPS-YRP?
   a. Yes
   b. No (if no proceed to question number 32)

19. How often would you say that you refer youth to the TPS-YRP?
20. Prior to implementation of TPS-YRP, how would you have dealt with youth suspected a first time, minor offenses such as theft under, mischief under and minor assault?
21. Are you charging more, less or equal numbers of youths with first time, minor offenses since the youth referral program was implemented?
22. What were the circumstances surrounding your most recent referral case:
   a. when did you make the referral?
   b. What offense was the youth suspected of committing?
   c. What would you have done with this particular case had the TPS-YRP not been available as an option?
   d. Why did you referred this particular case to the TPS-YRP?
23. What types of offenses would you say that you generally refer to the TPS-YRP?
24. Given the types of offenses that you refer to the TPS-YRP, what would you do with these cases if the program was not available as an option?
25. What are the factors you consider when deciding to divert a youth through the youth referral program?
   a. Offense seriousness
   b. first-time offense
   c. victims wishes
   d. youth demeanor/attitude
   e. admission of guilt
   f. age
   g. other
26. given similar types of cases, for example, theft under $5000, what are some of the reasons for not referring youth to the program?
   a. Attitude
   b. no admission of guilt
   c. previous contact with police
   d. previous charges and/or convictions
   e. other
27. How does the youth attitude impact your decision to place them in the TPS-YRP?
28. Are you made aware when the youth fails to complete the program?
29. Are you made aware when the youth successfully completes the program?
30. Do you or have you contacted springboard staff after making a referral?
31. Are victims made aware of the decision to divert the young person?

Officers who had not made referrals to diversion
32. Why would you say that you have not refer to any youth to the TPS-YRP?
33. What types of offenses would you say are generally refer to the TPS-YRP?
34. How do youth deal with youth suspected of first-time minor offenses such as theft under mischief under and minor assault?
35. Have you encountered a youth suspected of a first-time minor offense? If yes recall the most recent case.
   a. What offense was the youth suspected of committing?
   b. How did you handle this particular case?
   c. Why didn't you refer this particular case to the TPS-YRP?
36. What would you say are the reasons for referring youth to the TPS-YRP?
37. What would you say are the reasons for not referring youth to the TPS-YRP?
38. Additional comments
Appendix F  YOUTH INTERVIEW QUESTIONS -Youth Court Sample

POLICE CONTACT PRIOR TO COURT ATTENDANCE

1. What was the reason you were charged? What was the offence(s)?

2. Have you ever committed offence(s) in the past for which you were not caught by police or store security?

3. Have you ever been in contact with the police for something that you did? If yes, what was that you did? And did it result in charges/court attendance?

4. When you were first caught by store security or by the police for your current offence, what did you think would happen to you?

5. Did the police explain what would happen to you?

6. Did the police give you any choices as to how you would be dealt with other than going to court?

7. Did the police explain that you had the right not to admit that you had done anything?

8. Do you think that sending you to court was fair? What do you think the police should have done with you?

9. Did you talk to anyone- your parents/guardians, for example- after your arrest?

10. Did one of your parents or guardians know that you would be going to court?

11. How do you feel your parent(s)/guardians felt about your participation in the alternative measures?

THE COURT PROCESS AND SANCTIONS

12. How many times did you have to appear before the Court?

13. About how long did each court appearance take?

14. Did you have to miss school or work in order to appear before the Court? If yes, how many days?

15. When did you agree to participate in alternative measures? (ie. First, second court appearance?)
16. What were the sanctions you agreed to complete for alternative measures?

1) Apology
2) Community Service Number of hours: ____ Found own placement: yes  no
3) Employment skills
4) Anger management
5) Drug Awareness
6) Anti-shoplifting
7) Poster
8) Essay
9) Journal
10) Other Counseling Type: ________________________________________
11) Resititution Amount: ________________________________________
12) OTHER:_________________________________________________________________
                                                                                   
16. How long has it or do you estimate it will take you to complete your sanctions?

17. Do you think you had a choice in the types of sanctions you agreed to complete?

18. If you participated in a program (such as counseling, anti-shoplifting or anger management) do you feel that you had a choice to participate, that is, do you think you could have turned down the ‘program’?

19. Do you think that what was required of you was fair?

20. How difficult was it to complete the sanction(s) that were imposed?

21. Do you think that the nature of the sanction – e.g., the number of hours of work that was required – was fair?

22. Do you think that going to court will affect what each of the following would think of you: your friends, your mother/father, people at school?

23. Do you think that being charged and attending court will have any effect on whether or not you commit a similar offense in the future?

24. Is there anything else you would like to add about your experiences in the Court system?
Appendix G  Detailed Data Analyses (Tables and Figures)

Time Series Analysis: Combined divisions (41 and 42)

Figure 4: Number of youths charged in 41 and 42 Divisions January 2001 to December 2003 (Reference line = May 2002)

Figure 4a: Residual of the number of youths charged in 41 and 42 divisions (January 2001 to December 2003) (Reference line = May 2003)
Figure 5: Number of youths charged for theft under in 41 and 42 Divisions January 2001 to December 2003 (Reference line = May 2002)

Figure 5a: Residual of the number of youths charged for theft under in 41 and 42 divisions (January 2001 to December 2003) (Reference line = May 2003)
**Time Series Analysis 41 Division Alone**

**Figure 7:** Number of youths charged in 41 division January 2001 to December 2003 (Reference line = May 2002)

**Figure 7a:** Residual of the number of youths charged in 41 division January 2001 to December 2003 (Reference line = May 2003)
**Figure 8:** Number of youths charged for theft under in 41 division January 2001 to December 2003 (Reference line = May 2002)

**Figure 8a:** Residual of the number of youths charged with theft under in 41 division January 2001 to December 2003 (Reference line = May 2003)
Figure 9: Number of youths charged for all offences other than theft under in 41 division January 2001 to December 2003 (Reference line = May 2002)

Figure 9a: Residual of the number of youths charged for all offences other than theft under in 41 division January 2001 to December 2003 (Reference line = May 2002)
**Time Series Analysis: 42 Division Alone**

**Figure 10**: Number of youths charged in 42 division January 2001 to December 2003 (Reference line = June 2002)

**Figure 10a**: Residual of the number of youths charged in 42 division January 2001 to December 2003 (Reference line = June 2002)
Figure 11: The number of youths charged for theft under in 42 division January 2001 to December 2003 (Reference line = June 2002)

Figure 11a: Residual of the number of youths charged for theft under in 42 division January 2001 to December 2003 (Reference line = June 2002)
Figure 12: Number of youths charged for all offences other than theft under in 42 division January 2001 to December 2003 (Reference line = June 2002)

Figure 12a: Residual of the number of youths charged for all offences other than theft under in 42 division January 2001 to December 2003 (Reference line = June 2002)
**Time Series North (13, 31, 32, 33) Divisions**

**Figure 13:** Number of youths charged in the north divisions January 2001 to December 2003 (Reference line = January 2003)

![Graph showing the number of youths charged in the north divisions from January 2001 to December 2003. The graph includes a reference line for January 2003.]

**Figure 13a:** Residual of the number of youths charged in the north divisions January 2001 to December 2003 (Reference line = January 2003)

![Graph showing the residual of the number of youths charged in the north divisions from January 2001 to December 2003. The graph includes a reference line for January 2003.]
**Figure 14**: Number of youths charged in the 13 division January 2001 to December 2003 (Reference line = January 2003)

**Figure 14a**: Residual of the number of youths charged in 13 division January 2001 to December 2003 (Reference line = January 2003)
Figure 15: Number of youths charged in 31 division January 2001 to December 2003 (Reference line = January 2003)

Figure 15a: Residual of the number of youths charged in 31 division January 2001 to December 2003 (Reference line = January 2003)
Figure 16: Number of youths charged in the 32 division January 2001 to December 2003 (Reference line = January 2003)

Figure 16a: Residual of the number of youths charged in 32 division January 2001 to December 2003 (Reference line = January 2003)
**Figure 17**: Number of youths charged in 33 division January 2001 to December 2003 (Reference line = January 2003)

**Figure 17a**: Residual of the number of youths charged in 33 division January 2001 to December 2003 (Reference line = January 2003)
**Figure 18**: Number of youths charged for theft under in 33 division January 2001 to December 2003
(Reference line = January 2003)

**Figure 18a**: Residual of the number of youths charged for theft under in 33 division January 2001 to December 2003
(Reference line = January 2003)
**Figure 19**: Number of youths charged for all offences other than theft under in 33 division January 2001 to December 2003 (Reference line = January 2003)

**Figure 19a**: Residual of the number of youths charged for all offences other than theft under in 33 division (effect non YRP divisions removed) January 2001 to December 2003 (Reference line = January 2003)

Recidivism Analyses (Tables 1 thru 12)
### Table 1 Descriptives for Previous Criminal and/or Non-Criminal Contacts with Police (before trigger date)

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<td><strong>Total</strong></td>
<td>138</td>
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<td>.110</td>
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### Table 1a ANOVA for Previous Criminal and Non-criminal Contacts with Police (before trigger date)

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### Table 2 Descriptives for Previous Criminal Contact with Police (before trigger date)

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<th>Upper bound</th>
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<th>Max.</th>
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</thead>
<tbody>
<tr>
<td>TPS-YRP Referral</td>
<td>56</td>
<td>.05</td>
<td>.297</td>
<td>.040</td>
<td>-.03</td>
<td>.13</td>
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<td>.000</td>
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<td>.00</td>
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<td>0</td>
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<tr>
<td>Informal Caution</td>
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<td>.00</td>
<td>.000</td>
<td>.000</td>
<td>.00</td>
<td>.00</td>
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<tr>
<td>Court</td>
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<td>.180</td>
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### Table 2a ANOVA for Previous Criminal Contacts with Police (before trigger date)

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### Table 3 Descriptives for Previous Non-criminal Contact with Police (before trigger date)
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<th>Upper bound</th>
<th>Min.</th>
<th>Max.</th>
</tr>
</thead>
<tbody>
<tr>
<td>TPS-YRP Referral</td>
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<td>.45</td>
<td>.989</td>
<td>.132</td>
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<td>.88</td>
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Table 3a ANOVA for Previous Non-criminal Contacts with Police (before trigger date)

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Table 4 Descriptives for Previous Charges (before trigger date)

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<th>Lower bound</th>
<th>Upper bound</th>
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<th>Max.</th>
</tr>
</thead>
<tbody>
<tr>
<td>TPS-YRP Referral</td>
<td>56</td>
<td>.05</td>
<td>.297</td>
<td>.040</td>
<td>-.03</td>
<td>.13</td>
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<tr>
<td>Unconditional release</td>
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<td>.000</td>
<td>.000</td>
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<td>.00</td>
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<tr>
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<td>.000</td>
<td>.000</td>
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<tr>
<td>Court</td>
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<td>.38</td>
<td>.650</td>
<td>.180</td>
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<td>.78</td>
<td>0</td>
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<tr>
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Table 4a ANOVA for Previous Charges

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Table 5 Descriptives Previous Criminal and Non-criminal Contacts with Police (before trigger date)
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<td>.129</td>
<td>.26</td>
<td>.77</td>
<td>0</td>
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<tr>
<td>Total</td>
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Table 5a  ANOVA for Previous Criminal and Non-criminal Contacts with Police (before trigger date)

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<tr>
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Table 6 Descriptives Previous Criminal Contacts with Police (before trigger date)

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<th>Std. error</th>
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Table 6a  ANOVA for Previous Criminal Contacts with Police (before trigger date)

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Table 7 Descriptives Previous Non-criminal Contacts with Police (before trigger date)

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<tbody>
<tr>
<td>TPS-YP</td>
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<td>.18</td>
<td>.71</td>
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</tr>
<tr>
<td>Comparison group</td>
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<td>.629</td>
<td>.069</td>
<td>.08</td>
<td>.36</td>
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<tr>
<td>Total</td>
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<td>.800</td>
<td>.068</td>
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Table 7a  ANOVA for Previous Non-criminal Contacts with Police (before trigger date)

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### Table 8 Descriptives Previous Charges

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<td>TPS-YRP</td>
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<td>.032</td>
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### Table 8a ANOVA for Previous Charges

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### Table 9 Descriptives Subsequent Criminal and Non-criminal Contacts with Police (after trigger date)

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<th>Mean</th>
<th>Std. Dev.</th>
<th>Std. error</th>
<th>Lower bound</th>
<th>Upper bound</th>
<th>Min.</th>
<th>Max.</th>
</tr>
</thead>
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<td>.77</td>
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### Table 9a ANOVA for Subsequent Criminal and Non-criminal Contacts with Police (after trigger date)

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<th>F</th>
<th>Sig.</th>
</tr>
</thead>
<tbody>
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<td>1.955</td>
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### Table 10 Descriptives Subsequent Criminal Contacts with Police (after trigger date)

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<th>Std. error</th>
<th>Lower bound</th>
<th>Upper bound</th>
<th>Min.</th>
<th>Max.</th>
</tr>
</thead>
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### Table 10a ANOVA for Subsequent Criminal Contacts with Police (after trigger date)

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<th>F</th>
<th>Sig.</th>
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</thead>
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Table 11 Descriptives Subsequent Non-criminal Contacts with Police (after trigger date)

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<th>Mean</th>
<th>Std. Dev.</th>
<th>Std. error</th>
<th>Lower bound</th>
<th>Upper bound</th>
<th>Min.</th>
<th>Max.</th>
</tr>
</thead>
<tbody>
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<td>.113</td>
<td>.17</td>
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<tr>
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<td>.110</td>
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Table 11a ANOVA for Subsequent Non-criminal Contacts with Police (after trigger date)

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<th>F</th>
<th>Sig.</th>
</tr>
</thead>
<tbody>
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<td>Between Groups</td>
<td>.191</td>
<td>1</td>
<td>.191</td>
<td>.218</td>
<td>.641</td>
</tr>
<tr>
<td>Within Groups</td>
<td>119.113</td>
<td>136</td>
<td>.876</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>119.304</td>
<td>137</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Table 12 Descriptives for Charges after trigger offence

<table>
<thead>
<tr>
<th></th>
<th>N</th>
<th>Mean</th>
<th>Std. Dev.</th>
<th>Std. error</th>
<th>Lower bound</th>
<th>Upper bound</th>
<th>Min.</th>
<th>Max.</th>
</tr>
</thead>
<tbody>
<tr>
<td>TPS-YRP</td>
<td>56</td>
<td>.59</td>
<td>3.755</td>
<td>.502</td>
<td>-.42</td>
<td>1.59</td>
<td>0</td>
<td>28</td>
</tr>
<tr>
<td>Comparison group</td>
<td>82</td>
<td>.37</td>
<td>1.310</td>
<td>.145</td>
<td>.08</td>
<td>.65</td>
<td>0</td>
<td>9</td>
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<tr>
<td>Total</td>
<td>138</td>
<td>.46</td>
<td>2.586</td>
<td>.220</td>
<td>.02</td>
<td>.89</td>
<td>0</td>
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</tbody>
</table>

Table 12a ANOVA for Charges after trigger offence

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<tr>
<th></th>
<th>Sum of Squares</th>
<th>df</th>
<th>Mean Square</th>
<th>F</th>
<th>Sig.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Between Groups</td>
<td>1.661</td>
<td>1</td>
<td>1.661</td>
<td>.247</td>
<td>.620</td>
</tr>
<tr>
<td>Within Groups</td>
<td>914.578</td>
<td>136</td>
<td>6.725</td>
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<td></td>
</tr>
<tr>
<td>Total</td>
<td>916.239</td>
<td>137</td>
<td></td>
<td></td>
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</tr>
</tbody>
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