

**CHANGES IN THE CONTROL OF YOUTH
AN EXAMINATION OF YOUTH CARCERAL TRENDS
IN MANITOBA**

BY

TIMOTHY LEONARD

**A Thesis
Submitted to the Faculty of Graduate Studies
in Partial Fulfilment of the Requirements
for the Degree of**

MASTER OF ARTS

in Sociology

**Department of Sociology
University of Manitoba
Winnipeg, Manitoba**

(c) Timothy Leonard, 1993



National Library
of Canada

Acquisitions and
Bibliographic Services Branch

395 Wellington Street
Ottawa, Ontario
K1A 0N4

Bibliothèque nationale
du Canada

Direction des acquisitions et
des services bibliographiques

395, rue Wellington
Ottawa (Ontario)
K1A 0N4

Your file *Votre référence*

Our file *Notre référence*

The author has granted an irrevocable non-exclusive licence allowing the National Library of Canada to reproduce, loan, distribute or sell copies of his/her thesis by any means and in any form or format, making this thesis available to interested persons.

L'auteur a accordé une licence irrévocable et non exclusive permettant à la Bibliothèque nationale du Canada de reproduire, prêter, distribuer ou vendre des copies de sa thèse de quelque manière et sous quelque forme que ce soit pour mettre des exemplaires de cette thèse à la disposition des personnes intéressées.

The author retains ownership of the copyright in his/her thesis. Neither the thesis nor substantial extracts from it may be printed or otherwise reproduced without his/her permission.

L'auteur conserve la propriété du droit d'auteur qui protège sa thèse. Ni la thèse ni des extraits substantiels de celle-ci ne doivent être imprimés ou autrement reproduits sans son autorisation.

ISBN 0-315-85939-3

Canada

**CHANGES IN THE CONTROL OF YOUTH
AN EXAMINATION OF YOUTH CARCERAL TRENDS IN MANITOBA**

BY

TIMOTHY LEONARD

**A Thesis submitted to the Faculty of Graduate Studies of the University of Manitoba
in partial fulfillment of the requirements of the degree of**

MASTER OF ARTS

© 1993

**Permission has been granted to the LIBRARY OF THE UNIVERSITY OF MANITOBA
to lend or sell copies of this thesis, to the NATIONAL LIBRARY OF CANADA to
microfilm this thesis and to lend or sell copies of the film, and LIBRARY
MICROFILMS to publish an abstract of this thesis.**

**The author reserves other publication rights, and neither the thesis nor extensive
extracts from it may be printed or other-wise reproduced without the author's written
permission.**

TABLE OF CONTENTS

ACKNOWLEDGEMENTS	iii
AN EXAMINATION OF YOUTH	
CARCERAL TRENDS IN MANITOBA	1
INTRODUCTION	1
THE DECARCERATION LITERATURE	4
CANADIAN LAWS FOR CRIMINAL YOUTH	11
CANADIAN RESEARCH ON YOUTH CUSTODY TRENDS	14
METHODODOLOGY	
CONCEPTUALIZATION	23
CONVERSION OF ABSOLUTE NUMBERS TO RATES	26
DATA COLLECTION	28
DATA DIFFICULTIES	29
1) <i>Provincial Definition of Admission/Discharge</i>	32
2) <i>Group/Foster Home Placements</i>	33
3) <i>Youth held under the Child Welfare Act</i>	34
4) <i>Youths held in adult correctional institutions</i>	35
5) <i>Incompatibility of Records prior to 1969</i>	36
6) <i>The Absence of Case as a Unit of Analysis under the JDA</i>	37
VARIABLE OPERATIONALIZATION	38
Trend Variable 1: Rates of Admissions to Manitoba Youth Correctional Facilities	40
Trend Variable 2: Rates of Discharges from Manitoba Youth Correctional Facilities	41
Trend Variable 3: Average Daily Population of Youth in Manitoba Correctional Institutions	41
Trend Variable 4: Length of Stay in Manitoba Correctional Institutions	42
Trend Variable 4: Comparison of sentence length of the most severe disposition under the JDA and the YOA	43
Trend Variable 5: Rates of Youth Community Corrections in Manitoba	45
Trend Variable 6: Number of Youth Appearing Before Youth Court in Manitoba	46
FINDINGS	47
SUMMARY	57
1) <i>Previous research has been flawed.</i>	58
2) <i>Trend of increased institutionalization in youth custody.</i>	59
3) <i>Evidence of increasing youth custody rates.</i>	59

4) <i>YOA youth are committed to custody more often, but for shorter periods of time.</i>	61
5) <i>Decarceration does not exist.</i>	62
6) <i>Increased recidivism of institutionalized youth.</i>	62
DISCUSSION	64
DECARCERATION	64
THE EFFECT OF THE YOA	66
POLICY/PRACTICE IMPLICATIONS	69
DECARCERATION POLICIES: FAILURES OR SUCCESSES?	71
APPENDIX	78
REFERENCES	95

ACKNOWLEDGEMENTS

There have been many kind and generous people that I have come to know due to this research. In the department of Justice, I would like to acknowledge the support that I received from Don Demers, Don Matheson, Ron Parkinson, Gibb Pritchard, Doug Hanna, Marcia Thomson and especially my colleagues at the Manitoba Youth Centre. These people have offered me unique insights that I could have not received anywhere else.

I would like to extend my appreciation to my thesis committee members, Russell Smandych, Steve Brickey and Len Kaminski. They have challenged my ideas, criticized my writing style and given their support and encouragement. I am grateful to have such a committee. I would also like to thank Lance Roberts for proofreading this thesis.

Special thanks to all of my friends and the support staff, Sandy Froese, Dianne Bulback and Kathe Olafson, within the department of sociology. Each of them has added a special component to my student life and have made the effort of writing a thesis a bit more bearable. My memories of the experiences that I have shared with my sociology friends are very positive. I will miss all of the laughter, the running, the coffee, the antagonizing jabs but most of all, I will miss my friends.

Finally, I wish to thank my wife, Debbi, for all the love, support and encouragement given to me during this endeavour. Debbi has believed in me from the beginning and has always been my inspiration. Thank-you Deb, for being you.

CHAPTER ONE

AN EXAMINATION OF YOUTH CARCERAL TRENDS IN MANITOBA

INTRODUCTION

One of the major changes in social control that has occurred in the 20th century concerns the coercive social control of youth. This thesis examines the coercive, state initiated methods of social control used in dealing with young offenders. Specifically, this study explores several issues surrounding the decarceration of young offenders in Manitoba. The thesis is developed into four chapters. Chapter one discusses decarceration and gives the research problem of this study. Chapter two provides a detailed description of the methodology and describes the decisions that were made during data collection. Chapter three presents the findings of the study. Chapter four discusses the findings and offers an analysis of how they relate to the debate surrounding decarceration and the YOA. In essence, this thesis is concerned with describing what has happened in the past two decades in terms of the coercive control of young offenders in the youth justice system in Manitoba.

Decarceration has been a heavily debated topic among researchers concerned with explaining trends in the sentencing of adult offenders. The revisionist writings of Rothman (1971, 1980), Foucault (1977) and Ignatieff (1978) inspired critical criminologists, led by Andrew Scull (1977) and Stanley Cohen (1979), to examine

decarceration and the sociology of punishment. By the mid-1980s, these examinations had led critical criminologists to conclude that efforts at decarceration had failed miserably and that community corrections had simply widened the net of social control (Chan & Ericson, 1981; Cohen, 1985; Hylton, 1981; Scull, 1984).

Recently, Maeve McMahon (1990, 1992) has challenged these conclusions in her innovative and controversial research on penal trends in adult corrections in Ontario. McMahon argues that decarceration is occurring and that community corrections is an "alternative" to prison and not an "add-on" to the prison system. By analyzing Ontario provincial prisons and scrutinizing several key net-widening studies, McMahon produces empirical support for her thesis that decarceration is occurring in the adult criminal justice system in Ontario. As a result of McMahon's research, social control theorists are now being forced to re-examine their claims about the failure of decarceration and the expansion of the social control net.

Cohen (1985) divides the history of deviancy control into dominant periods encompassing three master patterns: Phase One, pre-18th century, characterized by weak state involvement, mostly non-custodial places of control and public spectacles of bodily punishment; Phase Two, 19th century, known for its centralized state involvement, institutional settings and discrete ways of punishment directed at the mind; and Phase Three, up to the mid-20th century, dominated by ideological attacks on decentralization and strengthening the criminal justice system by aiming punishment towards both body and mind (1985, p. 17). In Phase Three, Cohen illustrates four groups of destructuring movements or ideologies, each directed against

one of the original transformations found in Phase Two. These four groups are: away from the state (e.g. decriminalization, diversion), away from the expert (e.g. deprofessionalization), away from the institution (e.g. deinstitutionalization, decarceration, and community control), and away from the mind (e.g. back to justice, neo-classicism) (Cohen, 1985, p. 31).

These four programs exemplify the policy initiatives that have been directed towards young offenders since the late 1960s. Under the JDA, status offenders were decriminalized, many youth diversionary programs implemented, and decarceration policies were seen as credible alternatives to imprisonment. The dominant focus of social control policy has shifted towards community initiatives and legal reforms that moved the youth justice system from a welfare model to a punishment model (Cohen, 1985; Clark & O'Reilly-Fleming, 1992).

It is in this third phase of deviancy control that the research topic for this thesis can be found. Decarceration initiatives were developed and pursued extensively during this period. It is the objective of this research to evaluate these decarceration policies to determine their effectiveness.

The general research question addressed in this study is the question of whether or not decarceration is occurring in the youth justice system in Manitoba. Underlying this question are two others. The first of these questions is "How has the development of community corrections affected decarceration in the youth justice system?", while the second question is "What has been the effect of the YOA on the decarceration of youth?" Youth custody trends in Manitoba will be examined

regarding these questions.

This study of decarceration in the youth justice system provides a unique opportunity to assess the different sentencing practices under the JDA and YOA. Through the empirical analysis of trends in youth incarceration and sentencing in youth court, an understanding of penal trends and how they relate to social policy is developed.

THE DECARCERATION LITERATURE

The term "decarceration" is used to refer to the deinstitutionalization of offenders and their diversion to community corrections (i.e. probation, community service orders, fines/restitution and alternative measures) and the decriminalization of certain laws. Decarceration refers to those initiatives that are implemented to move offenders out of institutional placements and into the community.

In Canada, there were community alternatives (i.e. probation) dating back to 1857 (Hagan, 1985, p. 78), but it was not until the 1960s that community correction alternatives became popular. The Ouimet Report (1969) was one of the first Canadian reports to conclude that the rehabilitation of the offender in the community was a better alternative than rehabilitation within the confines of an institution. The Ouimet Report was significant in pushing Canadian correctional policy towards community corrections. The proposed purposes of community corrections fell into three categories: 1) to serve as an initial alternative to incarceration (e.g. probation); 2) to shorten the length of time spent incarcerated (e.g. parole); and 3) to provide

temporary relief from incarceration (e.g. day parole, half-way homes) (Griffiths, Klein & Verdun-Jones, 1980, pp. 249-250). Community corrections was to be a substitute for placement within a state institution. The advocates of community corrections made several claims, which included: that the development of community-based correctional alternatives would reduce the number of offenders incarcerated; that they would be more humane or more effective in helping offenders re-adjust to their community; and that they would be less costly to society (Griffiths, Klein & Verdun-Jones, 1980, pp. 275-279). These initiatives seem to provide an effective means of maintaining control and surveillance over the offender at significantly reduced costs. Subsequently, the state enthusiastically pushed forward the massive development of community corrections.

Decarceration has been at the center of a criminological debate for over two decades (Austin & Krisberg, 1981; Chan & Ericson, 1981; Cohen, 1979, 1985; Foucault, 1977; Hylton, 1981; Lemert, 1981; McMahon, 1990, 1992; Ouimet Report, 1969; Rothman, 1980; Scull, 1977, 1983, 1984). Andrew Scull (1977) wrote *Decarceration* in which he evaluated community corrections by examining British and U.S. adult correction rates. In the U.S., Scull displayed that there were 120.8 per 100,000 persons in prison in 1961 compared to 96.7 per 100,000 persons in 1971. Scull concluded that decarceration existed and that community corrections are definite alternatives to imprisonment.

Canadian researchers, Hylton (1981) and Chan and Ericson (1981), were instrumental, by displaying empirical support, in showing that *community corrections*

are add-ons to the criminal justice system, not alternatives to it. Hylton (1981) extended Scull's (1977) analysis of U.S. adult corrections rates and found an increase of 53% from 1962 to 1979. Chan and Ericson (1981) stated that if Scull's thesis is true then there should be a decline in Government expenditures but, from 1960 to 1980, there were gross increases of expenditures in all levels of justice. Incarceration rates may have subsided slightly during the 1970s but have re-bounded to new all time highs even though extensive community corrections programs have been implemented. Hence, the initial purposes of community corrections were subsequently scrutinized by several critics (Chan & Ericson, 1981; Hylton, 1981; Scull, 1984), who countered that community corrections had not reduced the rate of incarceration; that humanitarianism was only assumed (community-based dispositions could be just as coercive); that costs had increased substantially (not decreased); and that the number of offenders controlled by the state had expanded with the use of community corrections (Cohen, 1985; Scull, 1984).

Current critical criminological thought has taken the metaphor of the "net of social control" to explain the expansion of the total correctional population (prison and community corrections) (Lowman, Menzies & Palys, 1987; Cohen, 1985; Chan & Ericson, 1981). For nearly a decade, theorists have agreed that decarceration has been a failure because it has not offered an alternative but an add-on to the criminal justice system. Instead of being a substitute for institutionalization, decarceration policies had become complementary to the already existing system of coercive social control. The appeal of the metaphor of a "fishing net" to explain those social control

mechanisms in society was embedded into academics' imagination (McMahon, 1990, 1992). Cohen (1985, pp. 41-43) describes the metaphor as an ever growing, all encompassing net (i.e. deviancy control system) that is cast into the ocean (i.e. society) and pulls more and more fish (i.e. deviants) into its net. Consequently, the concept of decarceration was so influenced by this metaphor that the existence of decarceration became a myth in the imaginations of social control theorists. As McMahon (1990; 1992) further contends, this myth perpetuated a belief that decarceration could not exist. Academics were attracted to an imaginative metaphor that was critical and anti-state. This attitude has led to a certain sociological pessimism that has hindered any real policy initiative towards corrections in the last 15 years.

In her recent book, Maeve McMahon (1992) has shown that community correctional policies have worked. McMahon examined two very influential studies, Hylton (1981) and Chan and Ericson (1981), and demonstrated how they had made certain methodological errors that affected their results. In discussing Chan and Ericson's study, McMahon comments:

In sum, Chan and Ericson's graph depicting net-widening and penal expansion is questionable on grounds of consistency and validity. More important, however, the inadvertent oversights it reflects give rise to some fundamental issues of methodology in analyses of net-widening (1992, p. 60).

McMahon showed how certain authors (e.g. Cohen, 1985) have used these faulty

research findings to lend support to their argument of net-widening. After having exposed some of the mistakes of the decarceration literature, McMahan presented data from her study of penal trends in the adult correctional system of Ontario, which showed that decarceration is taking place. The four major points from McMahan's work are:

1. Trends in a particular sector of the prison population have been generalized to the prison population as a whole (in Hylton's study). But in fact an increase in provincial jails complemented with a decrease in federal penitentiaries is evidence of decarceration (i.e. shorter sentences).
2. Chan & Ericson used absolute numbers, instead of rates (to control for the effects of population variation), to make statements about longitudinal trends.
3. Prisoner and probation count data have been juxtaposed without sufficient attention to the differing nature of the data in the case of each disposition (Chan and Ericson's graph) (e.g. average length of imprisonment is 30 days but the average length of probation is 365 days, thus a policy of decarceration does mean expanding the net but in a less coercive way).
4. Ontario imprisonment rates from 1951-1984 are one of decline. Any Ontario has a 20% lower chance in 1980 than 1950 in ending up in prison. This is true despite an increasing rate of officially recorded crime as well as expansion of police forces at a faster rate than population growth (McMahan's findings).

McMahan's conclusions are controversial because they force not only academics to review the decarceration literature but they also have certain policy implications for the state. The effort to bring about decarceration through community corrections has been attempted in Western countries for some 25 years. When the state appears to fail at its attempts at decarceration, it comes under continued attack for its failure to develop adequate correctional programs (Martinson, 1974; Shamise,

1981), and receives little but scathing reviews (Chan & Ericson, 1981; Scull, 1984). According to McMahon, the role of researchers should be to carry out research that will help work toward the implementation of positive critically informed policy, rather than carrying out research that inevitably leads to paralysing sociological pessimism. Consequently, McMahon's highly positive findings may encourage the state to review its policies towards the justice system. In a sense, McMahon has renewed not only an academic but also a political interest in decarceration.

DECARCERATION IN JUVENILE JUSTICE

...confidence in the ability of our institutional system to control juvenile delinquency has been steadily eroding. Public insecurity, fear, and anxiety about youth crime are now intense and widespread, despite the juvenile court and probation system...confidence in the ability of professionals to rehabilitate youthful offenders has been repeatedly undermined by evaluations of a wide variety of treatment programs (Ohlin, 1983, p. 463).

The emergence of concern about the need for community corrections in juvenile justice originated mainly in two U.S federal commissions in the late 1960s, the President's Commission on Law Enforcement and the Administration of Justice and the National Commission on the Causes and Prevention of Violence (Curran, 1988, p. 364). In their recommendations, the commissions advocated six major strategies later identified as: decriminalization of status offenders (those youth who were runaways, truant, incorrigible, violated curfews or committed similar acts

prohibited only for the young); 2) diversion of youth from court procedures into public and private treatment programs; 3) extending due process rights to juveniles; 4) deinstitutionalization (getting young and minor offenders out of the institution and into the community); 5) diversification of services; and 6) decentralization of control (Ohlin, 1983, p. 465); all of which are forms of decarceration. Curran states that by the early 1970s, there was a consensus among juvenile justice practitioners that community corrections was likely the most effective method for reducing recidivism of youthful offenders (1988, p. 367). The purported goals of youth decarceration were similar to those of adult decarceration: reduction of those incarcerated, more humane treatment, and cost reduction. Thus, similar issues existed for juveniles as it did for adults in terms of decarceration.

In the trend toward diversion in the juvenile justice system, Edwin Lemert's *Instead of Court: Diversion in Juvenile Justice* (1971) pointed out how the doctrine of *parens patriae* was outmoded, and suggested models that could be useful for dealing with youths outside the court system. Ten years later, in 1981, he wrote an article, "Diversion in Juvenile Justice: What Hath Been Wrought" in which he voiced a rather different, much more critical, view of diversion. According to Lemert, due to public pressures, it appeared decarceration was occurring, but what in fact was taking place was transcarceration, in that these youths were being controlled by the newly created diversion programs.

Again, similar to the adult system, current criminological thought has declared that the decarceration of juvenile offenders has failed. For not only have institutional

population counts increased, but so have the number of youth within community corrections. Presumably, the effect of the decarceration efforts has been the expansion of the youth justice system and the widening of the net of social control over juveniles (Cohen, 1985; Curran, 1988; Lemert, 1981).

CANADIAN LAWS FOR CRIMINAL YOUTH

Prior to the 20th century, Canadian youth were controlled by the same criminal laws as their parents. There was no official distinction made between the crimes of youth to those of an adult. In this century, we have witnessed the passing of one federal youth act and the introduction of another. These two acts represent the coercive social controls that have guided Canadian youth in and out of correctional institutions for the past 85 years. A brief discussion of these Acts is necessary to facilitate our discussion of youth decarceration in Manitoba.

Since the inception of Canada's Juvenile Delinquents Act (JDA) in 1908, youth have been subject to a judicial system separate from that of the adult justice system. The JDA was a result of patriarchal and humanitarian efforts of the child-saving movement of the late 19th century (Trépanier, 1991). The role of the JDA was a child welfare/rehabilitation orientation, otherwise known as *parens patriae*. The court would act as a supra-parent in its sentencing of youth who were deemed delinquent. Section 38 of the JDA demonstrates this by stating:

This Act shall be liberally construed in order that its purpose may be carried out, namely, that the care and custody and discipline of juvenile

delinquent shall approximate *as nearly as may be that which should be given by his parents*, and that as far as practicable every juvenile delinquent shall be treated not as criminal, but as a *misdirected and misguided child*, and one needing aid, encouragement and help and assistance (JDA, R.S.C., 1970, c.J-3, s.38) (emphasis added).

The juvenile's life situation was made a priority rather than the actual criminal offence. The JDA was criticized for the lack of due process, the use of indeterminate sentencing, status offenses and the *parens patriae* model of justice (West, 1984). A central criticism of the JDA was that it gave the judiciary broad discretionary powers in sentencing juveniles. This discretion permitted a wide variety of possible sentences for similar offenses which led to some delinquents getting "light" sentences, while others would receive a sentence of indeterminate length (Caputo, 1987). The JDA came under attack for various alleged shortcomings and, by the mid-1970s, change was imminent.

Over a period of fifteen years the juvenile justice system continued to be criticized for its ineffectiveness and the federal government examined the problem through a number of proposals put forward that sought to address this issue. The *Children and Young Persons Act* (1965), the *Young Offenders Act* (1971), a bill for *Young Persons in Conflict with the Law Act* (1975), and yet another version of the *Young Offenders Act* in the late 1970s were proposed during this time period (Bala & Clarke, 1981, p. 211). The main question in the resolution of the problem appeared to be the determination of the role of the juvenile justice system. One argument was put forward by advocates of the Positivist School, including social workers, treatment

professionals, and children's rights activists who sought a treatment approach to juvenile justice legislation. The counter argument of those who favoured a Classical viewpoint such as lawyers, police and magistrates, was that a punitive approach was necessary. The resolution of this debate was to be determined by society's changing beliefs regarding youth and crime (Reid & Reitsma-Street, 1984, p. 2).

A new law, which had an ostensibly different orientation from the JDA, was implemented to deal with juvenile delinquents. The Young Offenders Act (YOA) deemed a major social reform, was proclaimed on April 2, 1984 and came into full effect nationwide on April 1, 1985. One objective of the YOA was to make the youth system similar to that of the adult system. Due process, definite sentences, decriminalization, individual rights and accountability were the purported goals. As exemplified in section 3(1) of the YOA, youth were to be held accountable and responsible for their actions but not to the same degree as adults.

...while young persons should not in all instances be held accountable in the same manner or suffer the same consequences for their behaviour as adults, young persons who commit offences should nevertheless bear responsibility for their contravention (YOA, R.S.C., 1985, c.Y1 s.3)

The philosophical switch from *parens patriae* to due process has placed the emphasis on offence specific sentencing decisions rather the current state of delinquency of the youth (Hackler, 1991). This shift in orientation was considered an important turning point in juvenile justice. Both liberal reformers, concerned with due process, and conservatives, concerned with making youth more accountable for their actions, hailed

the YOA for addressing their specific concerns (Reid-MacNevin, 1991).

Since the passing of the YOA, there have been several studies that have compared and contrasted the YOA with the JDA (Caputo, 1987; Hackler, 1991; Markwart & Corrado, 1989; Leschied & Jaffe, 1987, 1991). In these articles the YOA has not received very favourable reviews. It seems that the YOA has failed in its treatment of mentally-ill youths (Leschied & Jaffe, 1991) and represents an Act which favours custody more than its predecessor (Markwart & Corrado, 1989; Leschied & Jaffe, 1987, 1988). This thesis aims to examine the YOA and to evaluate its objectives by displaying the carceral trends of youth in Manitoba.

CANADIAN RESEARCH ON YOUTH CUSTODY TRENDS

The former Juvenile Delinquents Act was criticized for "widening the net", bringing young people into the criminal justice system who would be more appropriately left alone or dealt by welfare agencies. The Young Offenders Act was intended to have the contrary effect by "narrowing the net." It "decriminalized" certain behaviour, raised the minimum age from 7 to 12 and provided alternatives to the judicial process for dealing with young accused. *Despite the statutory effects, it has been suggested that the new legislation is introducing more young people into the criminal justice system* (emphasis added) (Latimer, 1986, p. 10).

Although research on Canadian youth custody has been limited, there have been five Canadian authors who have studied this issue and offer insights into the trends of youth custody.

The Latimer report (1986), *Winnipeg Youth Courts and the YOA*, provides

statistics about the number of youths in custody in the JDA year 1983 and the YOA year 1985. In 1983, 87 and in 1984, 97 youths were put into custody. In 1985, 219 youths were committed to custody; 114 to open custody and 105 to secure custody. This represents a 12.62% increase from 1983 to 1984; a 80.99% increase from 1984 to 1985; and a 151.72% increase from 1983 to 1985. Latimer points out that the number of youth being transferred to adult court decreases over the same years and could account for some of the increase in the custody rates. If all of those transferred had been dealt with in youth court and received custody dispositions, then the increase in custody admissions between 1983 and 1985 would be 66.2% which is higher than anticipated (Latimer, 1986, p. 54). The Latimer report further shows the increase in the number of dispositions that end up as committals to custody. In 1982, 7.55% of all dispositions were committals. As compared to 1983, 14.71% and in 1985, 12.98% of all dispositions ended up as committals. Overall, it appears that the number of custody sentences has definitely increased with the advent of the YOA.

In evaluating Latimer's work, there are a few points that one can take issue with. First, in trying to make a comparison to the JDA, Latimer totally excludes the number of committals of youth to foster and group homes. Lacking this information affects the analysis significantly, yet there is no mention of this. Even with the information provided, Latimer does not mention how the number of adults that are transferred to adult court are controlled. Latimer's analysis is impossible to replicate because of the differing units of analysis between the JDA and the YOA. Hence, even though it appears that Latimer has conclusive evidence of increasing custody, the

methodology of the analysis puts her conclusions in doubt.

Jane Lothian (1990) arrived at a conclusion of transcarceration, similar to Lemert, in her study of changes in the treatment of status offenders in Manitoba. According to Lothian, rather than widening or narrowing the net of social control for youth previously known as status offenders, the net simply changed (1990, p. 97). In Lothian's view, what happened was not deinstitutionalization, but instead the transcarceration of status offenders from the judicial system to the child welfare system. However, Lothian did find some evidence of decarceration. Through interviewing key players in the child welfare system, Lothian found that when this transcarceration took place, status offenders were often added to a system that was already overburdened. One of the solutions to this problem was simply to narrow the admission criteria to the child welfare system. The status offenders, especially those who were 16 and 17 years of age, who would have previously been placed in custody, but did not meet the new admission requirements of the child welfare system, were now simply ignored. Although it may have been an unintentional consequence of fiscal constraints, some status offenders appear to have been deinstitutionalized rather than transcarcerated in Manitoba.

Alan Leschied and Peter Jaffe have examined certain ideological and custodial trends since the advent of the YOA (Leschied & Gendreau, 1986; Leschied & Jaffe, 1987, 1988, 1991; Leschied, Jaffe & Willis, 1991). They conclude that the YOA represents tougher policies that include less treatment and rehabilitative practices, and a trend toward high increases in the rate of incarceration. As an example of current

youth justice ideology, Leschied and Jaffe state,

...the YOA's emphasis in dispositions is partly a recognition of the need to protect the civil rights of a young person (Bala and McConville, 1985); partly a response to the pessimism expressed in reviews of the literature reflecting the ineffectiveness of treatment programs for juveniles (Shamise, 1981); and partly a belief that dispositions under the JDA were 'too soft' (1991, p. 160, 162).

Leschied and Jaffe compare dispositions under the JDA to dispositions under the YOA for the provinces of Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia, and Newfoundland. They claim that a comparison of JDA dispositions and YOA dispositions (which shows a more punitive YOA) makes it apparent that the wishes of the legislators who revised the juvenile justice law have been actualized by making penalties more harsh (1991, p. 165). From their view, the youth justice system has become more severe by increasing the rates of institutionalization and probation supervision (Leschied & Jaffe, 1991).

However, there are some methodological concerns in Leschied and Jaffe's work (1991). The first concern is that they use the number of "delinquencies" determined under the JDA, and the number of "charges" laid under the YOA, as the basis of comparison for dispositions. It is impossible to draw any definitive conclusions about incarceration rates from this unit of analysis. What does an analysis of delinquencies/charges really mean? All it does is give the official count of the number of crimes committed in a particular time frame. It is not possible to give an accurate picture about dispositions using data on the number of

delinquencies/charges. For example, imagine a youth has eight charges and is sentenced to 8 months of custody concurrent for each one. Using Leschied and Jaffe's method, this one youth would be counted eight times because they are counting charges rather than the actual number of youth receiving dispositions (i.e. the case). With this example, only one disposition is given by the court not eight. This is why, it can be argued, Leschied and Jaffe's data set presents misleading information.

The second methodological concern is that the data used by Leschied and Jaffe (1991) are incompatible and, therefore, cannot be used to compare custodial dispositions of youth under the JDA and the YOA. Leschied and Jaffe (1991) use the same provinces as a basis of comparison. However, the problem is that the YOA altered the age at which a young person would fall under its jurisdiction, compared to the practice previously allowed. Under the JDA, each province set its maximum age limits according to their own definition of juvenile delinquency. In addition, the provinces were responsible for the administration of the JDA thus each province had an unique way of handling juvenile delinquency. What one province would consider a criminal charge as a delinquency, another province would consider that identical charge as a child welfare case, while another province would handle the same case in adult court (Statistics Canada, Juvenile Delinquents, 1969-1983). Only the provinces of Manitoba and Quebec had the same maximum age limit of 18 years under the JDA; the age that was subsequently legislated for all provinces under the YOA. A comparison between the JDA and the YOA, without controlling for the age limits, is methodologically unsound and makes Leschied and Jaffe's claims inconclusive.

One of the most recent and thorough analyses of youth custody is found in Alan Markwart's (1992) work "Custodial Sanctions Under The Young Offenders Act". Markwart compares custodial sentences of the JDA against the YOA in three Canadian provinces (British Columbia, Manitoba and Ontario). Markwart found a substantial increase in incarceration rates under the YOA. He then reaches the same conclusion of increasing incarceration rates across Canada by using the federal Youth Court Survey. Markwart suggests that if keeping youth out of custody is a goal, then there are serious concerns with the present YOA (1992, p. 280).

While Markwart has taken certain precautions in filtering out some spurious variables (e.g. controlling for uniform maximum age (UMA)), the way in which he draws his conclusions about the increasing reliance on incarceration is problematic. There are two concerns about his methodology that put his conclusions in doubt. One concern is the way Markwart controls for the differences in the maximum age limits between the JDA and the YOA. In the discussion of British Columbia, he only examines those youth 16 years old and younger. Markwart has to control for UMA in this manner in order to achieve a compatible data set, but by doing so, he eliminates all of the 17 year olds, which are a substantial proportion of the total population of offenders. Similarly, Markwart uses Leschied and Jaffe's (1988) analysis of Ontario youth as the basis for showing the increasing incarceration rates of youth in the 12-15 age range. Again, the results are put in doubt by not including those youth ages 16 and 17. Controlling for the affects of age can be problematic in establishing youth custody trends.

The second concern, and perhaps more significant, is that Markwart only uses the last year of the JDA as the basis of comparison to the YOA. If he wanted to show an increasing reliance on incarceration, it would have been more appropriate to use a longer time frame prior to the enactment of the YOA. It is unlikely that the year 1983-84 is representative of the entire period, from 1908 to 1984, that the JDA was in effect.

Markwart does a similar comparison with Canadian provinces from 1984-85 to 1989-90. As a last methodological concern, he examines the first year of the YOA to the most recent year for which data are available. He then refers to the percentage of change as evidence of how the YOA is growing more punitive. Why does Markwart use the very first year of the YOA as the basis of comparison when the Act is such a radical departure from the former JDA? Surely, a new law should be given at least a year for the youth justice system to familiarize itself with it. One would expect that the 1984-85 year would contain numerous adjustments, so much so that any analysis would be misleading. In fact, if Markwart were to use the following year, 1985-86, as the basis for comparison, he would still find some increases in incarceration but substantially less. For example, the proportion of cases with guilty findings committed to custody (secure and open) would change from a 81% increase to only a 19% increase. This still represents a growth in the number of committals to custody but definitely not as dramatic as what Markwart claims the increases to be.

Similar such stories and findings have appeared across Canada. In Alberta, a study showed that the total number of charges against youth had gone from 4,667 in

the first six months of 1984 to 9,538 charges in a similar period in 1985. These statistics represent an increase of 104% in charges of which the conviction rate has increased by 75% in the same time period (John Howard Society Reporter, 1985 in Caputo, 1987). The Toronto Star indicated that the average sentences for young offenders had more than doubled under the YOA. In Ontario, the average sentence for offenders increased by 135 percent for those being sent to training schools (closed custody) and 210% for those sentenced to group homes (open custody) (Toronto Star, August 6, 1985 in Caputo, 1987).

From the literature and media reports it appears that the YOA has definitely led to widening the net of social control by the increased use of custody. It has been suggested by several authors (Leschied, Jaffe, and Willis, 1991; Hackler, 1991; Markwart, 1992) that the YOA has failed miserably. Not only have we lost the humanitarian virtues of the JDA, but we are placing youth in custody at higher rates than ever. There has been no solid attempt to test this statement, largely due to the complications of having compatible data sets over any length of time. If it is true that the rate of incarceration is increasing, what does this mean about the YOA? The positive and negative aspects of the YOA have been debated theoretically (Caputo, 1987; Hackler, 1991), but thorough empirical investigation is necessary to test existing policies and suggest theoretically informed alternatives to the present situation of the youth justice system.

Little attention has been given to investigating the impact the YOA has had on the juvenile justice system, youth themselves, and society. The YOA is still in its

infancy, and although it has received careful scrutiny in some areas, the amount of empirical research is minimal, especially research that makes use of "pre and post" YOA data (Markwart, 1992, p. 235). Surprisingly, there has been little information provided in terms of a quantitative analysis of youth custody rates under the JDA and the YOA. Such an analysis will add to our understanding of the extent to which the YOA's goals and objectives have been achieved.

CHAPTER TWO

METHODOLOGY

This chapter provides details about the decisions made and the methods implemented in this longitudinal trend analysis of criminal youth placed in custody in Manitoba. Manitoba is unique among the Canadian provinces for its initiatives towards its deviant youth population. This uniqueness plays an integral part in the design of this research by placing certain restrictions to certain types of data available but also allowing more compatibility of data sets of the JDA and YOA periods than other Canadian provinces.

The limitations of this research are twofold. First, the primary focus is on the most restrictive type of social control placed on youth, placement within custody. Placement within custody can be defined to include any one of the four types of custody sentences given to youth in Manitoba over the past two decades; confinement in a training school, placement of juvenile delinquents in group/foster homes, secure custody and open custody. However, this study restricts attention to looking only at those youth who break the law and are consequently placed in custody through a sentence of the court. It is beyond the scope of this study to examine the other half of the coin, the non-judicial placements into custody by child welfare authorities or those youth who fall under the jurisdiction of mental health. The study of non-judicial placements would be an interesting, and no doubt crucial aspect of any investigation of the wider transcarceration experience of youth.

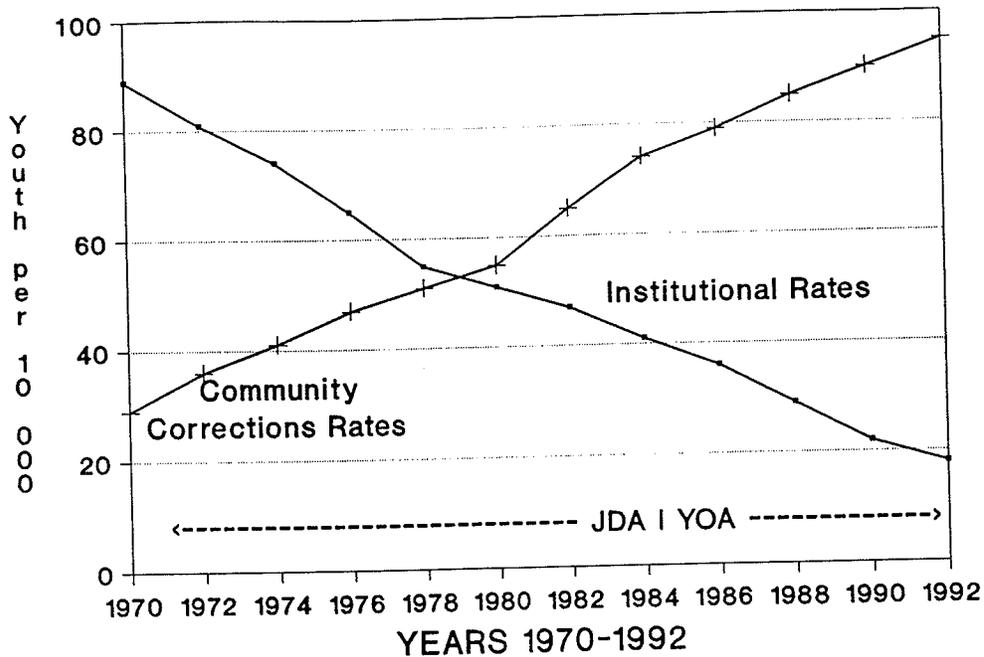
The second limitation of this study involves problems with the data sources.

There are two main sources of data for this study, official court statistics and institutional administrative statistics. There are specific problems with these data and specific solutions for overcoming these inadequacies are detailed. Both sources of data do have their restrictions but are able to provide adequate information to generate an accurate picture of trends in youth custody in Manitoba.

The reader should also be aware of certain types of information that are missing and the reasons concerning their absence. Many studies of deviance will provide an analysis based on several demographic characteristics (i.e. sex, age, ethnicity). I am unable to deal with most of these characteristics because they were simply not available for analysis. For the purposes of this thesis, it is the overall trend of all youth that is significant, not the differentiation between the demographic characteristics.

The main question of this study is "Does a trend toward decarceration exist in the juvenile justice system in Manitoba?" Figure 1 provides a visual representation of this question. This hypothetical picture is important for seeing how the anticipated results of this study are based on the literature review. Building from McMahon's (1990, 1992) work, the study examines the question of decarceration and the net of social control inside the juvenile justice system of Manitoba. It is hypothesized that if a trend of decarceration exists for young offenders in Manitoba then there will be decreasing incarceration rates in accordance with increasing rates of community corrections.

Figure 1 Youth Decarceration Trends



Hypothetical Picture

It is evident that for the existence of decarceration one would expect a decreasing incarceration trend, but the increasing trend of community corrections may seem confusing. McMahon provides an explanation as she notes "... 'net-widening', in terms of correctional population counts, is *by definition* (author's emphasis) a feature of community alternatives to imprisonment." (1992, p. 62). McMahon displays how the average length in prison sentences (31 days) and the average length in probation sentences (365 days) work so that the net expands in terms of the number of days under state supervision but it is a less coercive type of social control. She then gives a hypothetical situation of before and after reform (i.e. probation), and clearly shows how by reducing the prison's population by half it would mean an

increase of 539% in the total correctional population. But, there is not one single extra person added to the total correctional population. Accordingly, McMahon demonstrates that the definition of decarceration will mean certain net-widening effects. As such, if the hypothesis is true then there will be a trend toward the increased use of community corrections.

CONCEPTUALIZATION

Decarceration has been studied empirically in a variety of different ways (Scull, 1977, 1984; Hylton, 1981; Chan & Ericson, 1981; McMahon, 1990, 1992). Most researchers have determined trends in decarceration by examining correctional institutions and determining their carceral trends (e.g. usually looking at admission rates). Depending on the researcher's focus, the decarceration trend variables would vary from government expenditures to various levels of community corrections. For example, Chan and Ericson (1981) examined both admissions rates and government expenditures, while other decarceration research has chosen to examine admission rates and types of dispositions (McMahon, 1992). This study is concerned with producing an accurate picture of trends in youth custody and court dispositions. Thus, other trends that may play a role in the discussion surrounding decarceration (e.g. government expenditures) are beyond the scope of this study.

For the examination of decarceration of youth from Manitoba correctional institutions, six variables have been used to indicate carceral trends. Variables which are derived mainly from Manitoba institutional annual reports are rates of admissions,

discharges, and average daily population as well as length of stay. The variables which are derived from Statistics Canada data sets are an analysis of length of stay and the rates of community corrections and the number of youth appearing before the courts.

Those variables found in Manitoba institutional annual reports provide information relating to the study of decarceration. The two trend variables are "admission rates" and "discharge rates" (see Appendix, Tables 1B & 2). These two variables indicate the number of youth being admitted and released from Manitoba institutions. The third trend variable is "average daily population" (see Appendix, Table 3). This is an important variable for it gives the average daily youth population of all the youth institutions in Manitoba in a specific year. The fourth trend variable is "length of stay" (see Appendix, Table 4) and is perhaps the strongest indicator of decarceration in Manitoba youth correctional facilities.

In a further analysis of "length of stay", length of stay in a male Manitoba JDA training school, is juxtaposed against length of disposition in the YOA courts (see Appendix, Tables 5 & 6). In this manner, the severest sanction of the JDA is compared to the severest sanction of the YOA.

Data from the court surveys, the Juvenile Court Survey (1969-1983) and the Youth Court Survey (1984-85 to 1991-92), are the sources for variables concerning community corrections and the number of youth appearing before the court. The fifth trend variable "community corrections" is examined in four different ways: rates of probation, fines, total community corrections and community corrections without

probation (see Appendix, Tables 7, 8, 9, & 10). For the purposes of this study, open custody does not fall under the definition of community corrections except for those youth placed in Open Custody Homes, not the institution. Unfortunately, comparable data for community corrections under the JDA does not exist.

The sixth trend variable is "number of youth appearing before court". The importance of this variable is that if a youth appears more than once in court in a given year that youth is only counted once. For example, if a youth goes to court on three separate occasions (i.e. three cases), he or she is only counted once in this variable. This variable will indicate the trend of the actual number of people (officially) that are getting caught for committing crime in Manitoba. It is not a measure of the official criminal cases brought before the court.

CONVERSION OF ABSOLUTE NUMBERS TO RATES

In any trend analysis, it is necessary to convert the absolute numbers to rates. The rates standardize the data according to population, thus making the rates comparable over a number of years. The method used to do this involved attaining youth population estimates in Manitoba and deriving a rate based on 10,000 youths. The formula used was as follows:

$$\frac{\text{Absolute Number of Variable}}{\text{Youth Population Estimate}} = \frac{X}{10,000}$$

The youth population estimates were derived from three Statistics Canada publications

of population estimates. In the population projections publications, there are four estimate alternatives available to the researcher to choose from. The first estimate alternative in each publication was chosen for this study.

The population estimates are given in five year blocks. It was decided to combine age blocks 10-14 together with 15-19 to form an age grouping of the youth population at risk between age 10-19 (see Appendix, Table 1A). It is necessary to do this because the JDA and the YOA had different age limits to the definition of a young criminal offender. As very few youth under the age of 10 were placed in custody, or were in the courtroom for that matter, the age of 10 is a satisfactory limit for the JDA as well as a compromise to the age limit of 12 under the YOA. It is necessary to keep the population estimates based on the same "at risk" youth group from 1968-1992 to maintain consistency.

The population estimates in Manitoba show a general decline in the youth between the ages of 10-19. In the early 1970s that particular age group was near 198,000 compared to 1992 where it stands at 153,400; nearly a 25% decrease in the number of youth potentially able to be caught up in the youth justice system. This decrease is even greater when considering the youth must be at least 12 years of age to be charged with an offense.

DATA COLLECTION

The process of data collection included a few different steps. Each step represents a different orientation to the measurement of decarceration in Manitoba.

There were a couple of false starts in the initial stages of data collection. The first attempt at retrieving the necessary data involved going through court dockets from 1950 to 1990. Three days were spent at Manitoba Archives on this task and only one month of one year was compiled into a research instrument. It was apparent that this task was simply too onerous for one researcher. Being unable to use the court dockets, the decision to collect the necessary data from the youth institutions themselves was made.

All of the statistics concerning the Manitoba Youth Centre (MYC) were collected from 1972-1992. These statistics have not been very useful, except for the years 1989 to 1992, because the data were for only one youth institution. Although it would of been more feasible to collect the data from each youth institution compared to the court dockets, too much time would of been spent in the data collection stage of this thesis. However, useful information was found about the "Statistics Division". This division used to collect statistics of a number of government correctional institutions. After some follow-up investigation, inquiries were made at the Manitoba Provincial Library and Manitoba Probation Library, where the annual reports for youth corrections were found.

In Manitoba, the government department responsible for publishing annual reports concerning the youth correctional institutions has changed or used different names. These changes in government names and departments are documented as follows:

<u>YEAR</u>	<u>DEPARTMENT</u>
1967	Attorney General
1968	Juvenile Reception Centre Health and Social Services
1969	Health and Social Services
1970	Health and Social Development
1971	Missing but most information needed is found in later reports
1972-80	Health and Social Development
1981-83	Community Services and Corrections
1984-88	Manitoba Community Services
1988-89	Attorney General
1989-92	No published annual reports from the Attorney General's office. These missing data are filled in by collecting the necessary statistics from the institutions themselves.

Accordingly, the data for transition years when the government department changed are troublesome and, in some cases, incomplete. Some of the variables that have been affected by these changes include the number of admissions and discharges, average number of youth per day, length of stay, number of youth detained under the Child Welfare Act (CWA), the Juvenile Delinquents Act (JDA) and the Young Offenders Act (YOA). The data ranges from 1968 to 1988. The Attorney General's Office of the Government of Manitoba has not published an annual report since 1988-89. However, these problems can be managed through a number of strategies.

These difficulties made data collection somewhat cumbersome. The data that have been collected from annual reports ranging from 1969 to 1989 come from different government departments (e.g. Health & Social Services and the Attorney General). Some of the gaps in the data have been filled by specific institutional data

(e.g. Manitoba Youth Centre & Agassiz Youth Centre), by primary data collection (e.g. group home placements) and by informal discussions with a variety of youth custody specialists (e.g. juvenile counsellors and probation officers).

The data that were collected contained many variables as well as discrepancies. These statistics give information on the number of admissions, discharges, length of stay per resident, average daily population, probation counts and the number of child welfare youths in the facility at the time. At times, when different departments became responsible for corrections, so did the way the data were collected. For example, there is information available about probation in all of the annual reports but the types of information collected changed so often any meaningful trend analysis is rendered useless. As well, there are problems with nearly every trend variable. How these problems were addressed is the topic of the next section.

DATA DIFFICULTIES

The data retrieved from the annual reports are rich with statistics concerning decarceration. However, the data that contain difficulties has caused certain methodological problems. There are four significant problems with the data. Those problems are the provincial definition of admission and discharge, the absence of data concerning youths placed in group or foster homes under the JDA, problems with having youths held under the Child Welfare Act (CWA) in a youth correctional institution, and the number of youth held in adult institutions.

There are also numerous differences between the two court surveys, most of

which have been detailed in a Statistics Canada publication called "Juvenile/Youth Court Statistics: The Transition Period". There are two significant data difficulties with the surveys that have analytical consequences: incompatibility of records prior to 1969, and the absence of *case* as a unit of analysis.

1) *Provincial Definition of Admission/Discharge*

A Manitoba justice analyst pointed to problems with this data and suggested statistics for admissions and discharges should not be used. The principal problem with these data is that they do not indicate what they appear to. The province defines an admission or discharge as every time a youth enters or leaves the institution to go to rural court, hospital or to another youth institution.¹ Hence, the numbers associated with this variable indicate not only the number of youth being admitted and discharged from custody but the movement of rural youth, sick youth and youth who transfer to another institution. This can create severe difficulties in analysis because of the inflated numbers caused by such youth movement.

The data still can be used to show institutional trends by using sentenced youth only. Those youth in remand are eliminated from the study due to the high number of rural court youth in remand custody and the number of CWA placements, yet to be addressed. By using only sentenced youth, there still is the potential problem of controlling for movements of youth between institutions. There are two assumptions

¹As of January, 1992, this was no longer a problem. The youth institutions have changed their record keeping system to accurately reflect the number of youth being held. Now a youth is "transferred" to a new location rather than being discharged and readmitted.

that limit the effect of youth movement. One assumption is that this movement is minimal so there is little effect on the total number of admissions and discharges. The second assumption is that institutional movement happens every year so that it has a normalizing effect over time. In other words, institutional movement is assumed to a constant factor in the admission and discharge rates. Therefore, the data for sentenced youths is meaningful and indicative of a carceral trend for youth in Manitoba.

2) Group/Foster Home Placements

A crucial problem involved finding the number of youth that were sentenced to group or foster homes prior to the YOA. This information is simply not available. A number of exhaustive steps were taken in an attempt to locate such information. Manitoba Probation was contacted to see if they knew of documents pertaining to group/foster home placements. They provided several boxes of documentation pertaining to probation administration from 1980 to the present. From this source, data were obtained concerning the number of admissions to group homes, discharges and the length of stay. Through this primary research, some of the group/foster home data for 1980-84 have been assembled. However, it is suspect as to whether or not all the data during that time period has been collected. It appears that there are more rural youth than urban youth sentenced to group homes. This just does not make sense since there is much more urban youth crime. Attempts were made to find similar records prior to 1980 but none could be found. They are either misfiled, or

possibly even destroyed in accordance with the requirements of the YOA.

Since the group/foster homes were under child welfare jurisdiction, an attempt was made to see if they kept any statistics about the number of JDA youths held. But the Residential Care Licensing office in Manitoba only had statistics for the total number of youth, there was no differentiation between CWA and JDA youths.

The missing data create certain difficulties in the analysis of youth custody trends. As the group/foster home placements were the community placements under the JDA, the open custody homes are the community placements under the YOA. The YOA data are complete, but because of the missing JDA data, a complete comparison is not possible. For this reason, every variable that is under analysis in this study is missing the group/foster home component.

3) Youth held under the Child Welfare Act (CWA)

There is a potential problem of having CWA youth being included in the counts for the years 1973 to 1984. One solution would be to subtract the CWA youth from the total counts of JDA and CWA youth. This is easy to do for the number of admissions and discharges but impossible for average daily population and length of stay. For consistency, the number of CWAs have been included in all calculations. From 1973 to 1984, there were 1388 sentenced JDA youths and 196 CWA youths (see Appendix, Tables 14 & 15). Since the CWA youth comprise 13% of the total population and have little variability between years, the effect is minimal.

4) *Youths held in adult correctional institutions*

The number of youth held in adult correctional facilities poses an interesting and complex situation for attempting to address the existence of youth decarceration in Manitoba. There are two ways in which youth held in adult correctional institutions affect this study. First, the objective of this study should be to determine the carceral pattern of all youths placed in custody. Unfortunately the number of youth being held in adult institutions cannot be controlled for. Although there are some data that indicate the number of admissions of inmates under the age of 18, there are no data that provide information on youths in remand, sentenced, discharges, average daily population nor length of stay.

Secondly, because of methodological difficulties in the two youth surveys, it is not possible to obtain accurate information about the number of youth transferred from youth court to adult court. The YOA has made it much more difficult to transfer a youth to adult court (Bala & Lilles, 1989). The YOA has set out specific procedures that must be put in place prior to having a transfer hearing. In Manitoba, the net result of this formality has been fewer youths being transferred to adult court during the time of the YOA (Latimer, 1986).

The situation of youth transfers has posed certain difficulties in this research. One issue is that while it is accepted that there are now fewer youths being transferred, it is difficult to determine how much difference there is between the JDA and the YOA. Latimer (1986, p. 54) says that, in Manitoba, if the number of transfers to adult court are controlled then the number of custody admissions drops to

an increase of 66.2%, compared to a 151.72% increase if such transfers are not taken in consideration. Unfortunately, Latimer does not describe how these figures were derived. These results are not able to be reproduced because the 1983 court data are recorded as number of delinquencies instead of the number of cases (as discussed previously). If Latimer's results are correct, then it would be significant to include the number of youth who are held in adult institutions. The only way of determining these figures is to count the number of transfers to adult court in the youth court dockets which was not done for this project.

The inability to include the number of youth in adult institutions poses certain difficulties in explaining decarceration. If there were previously large numbers of juvenile delinquents in adult court, the only thing that has taken place is transcarceration, not decarceration. The youth justice system is now controlling those youth who used to be under the adult justice system. The inclusion of these youth in the analysis could be a potential partial explanation of the general increase in incarceration under the YOA (Leschied & Jaffe, 1991; Markwart, 1992).

5) *Incompatibility of Records prior to 1969*

Prior to 1969, all juvenile court records were recorded using only those juveniles aged between 7 and 15. Those youth aged 16 and 17 were located in a document call *Statistics of Criminal and other Offences*. The problem is that the data recorded for the 16 and 17 year olds are incompatible with the youth between the ages of 7 and 15. Therefore, in Manitoba, when considering a trend analysis for

youth placed in custody, it is methodologically unsound to use any data prior to 1969.

6) *The Absence of Case as a Unit of Analysis under the JDA*

There are good reasons why there are few JDA/YOA comparisons in the literature. In 1987, the Canadian Centre for Justice Statistics published a document "Juvenile/Youth Court Statistics: The Transition Period" stating the differences in the official data between the JDA and the YOA. The disparities are numerous. The YOA data set is decidedly different from the former JDA data set. Researchers at the Centre for Criminal Justice Statistics changed the way the data were collected and the types of data collected. Under the JDA, the units of analysis were *delinquencies* and *persons*.

In 1969, Manitoba was the first Canadian province to develop a detailed statistical program for juvenile court. The information provided included not only court dispositions for duplicated counts (i.e. the number of delinquencies) and unduplicated counts (i.e. the case) but their socio-demographics as well. This detailed information was collected until 1974, when the Juvenile Delinquents survey became standardized and only court information published for all the provinces. All the data collected were based on two units of analysis, the number of delinquencies and the number of persons. The number of delinquencies serves no useful purpose to this study since it gives us no indication about the number of juveniles receiving particular dispositions. The number of persons is more useful but the data between 1974 and 1983 only gives the number of persons appearing before the court. There is no

information provided about disposition and number of persons in that time period.

The YOA collected the equivalent charges and persons but added a crucial unit of analysis, the *case*. The case is defined as one or more charges against one young person which are presented to the court at the first appearance hearing. If this same person appears in court on a new set of charges the same year, then this constitutes a new case. The juvenile/youth court surveys contain linking mechanisms so that a young person would only be counted once in a twelve month span. On a limited scale, the unit of analysis *persons* is a useful comparison to examine the trend of young persons appearing before the court. Unfortunately, the JDA data set does not give the specifics for persons as it does for delinquencies. Consequently, the useful variable for the unit of analysis of persons is the number of young persons appearing before the court.

Under the JDA, no information is provided about the *case* (except for the years 1969-1973) which is the most significant unit of analysis. For instance, if Youth A in Case A went to court with 8 delinquencies (i.e. charges) under the JDA, then that particular youth will be counted 8 times rather than just once. If Youth A had another case (Case B) in that same year with 5 delinquencies (i.e. charges), then under the Juvenile Court Survey Youth A is counted once for *persons* and 13 times for *delinquencies*. What is missing, but is included in the Youth Court Survey, is the count for *case*. This gives an accurate measure of how many times a youth is sentenced in a given year. For this reason, measures had to be taken to work around this data problem.

Since this study is concerned with examining the use of incarceration, it is the number of youths placed in custody and how many times a youth is placed in custody in a year that is significant. The Youth Court Survey provides this information for all dispositions handed out in youth courts across the country. The Youth Court Survey is useful for analysis after 1984 but there are no official court data that deals with case prior to 1984. Thus, a pre-post-YOA analysis is hindered by not having a comparative unit of case in the JDA. This is why it has been necessary to include the statistics of the correctional institutions themselves. The statistics from the annual reports are not directly comparable to the survey statistics, however a general carceral trend can be established by using both data sets.

VARIABLE OPERATIONALIZATION

The concept of decarceration is measured through the operationalization of key variables such as the rates of admissions and discharges from an institution, the length of stay at the institution, the average daily population of the institution, a comparison of the severest disposition under the JDA and the YOA, rates of community corrections and the number of youths appearing in court.

Trend Variable 1: Rates of Admissions to Manitoba Youth Correctional Facilities

The rates of admissions to an institution is defined as the annual total number of all sentenced youth admissions to correctional facilities in the province of Manitoba per 10,000 youth population. Those facilities included in this study are: the Manitoba

Home for Boys (now known as Agassiz Youth Centre), the Manitoba Home for Girls, Marymound School, the Juvenile Reception Centre and the Manitoba Youth Centre.

Trend Variable 2: Rates of Discharges from Manitoba Youth Correctional Facilities

The rates of discharges from an institution is defined as the annual total number of all sentenced youth discharged from correctional facilities in the province of Manitoba per 10,000 youth population. The facilities from which discharge rates are determined are the same as for admissions.

To control for the number of youth admitted and discharged from Open Custody Homes, those youth have not been counted to eliminate duplication due to transfers from open custody at the Manitoba Youth Centre to the Open Custody Homes.

Trend Variable 3: Average Daily Population of Youth in Manitoba Correctional Institutions

This variable is operationalized as the rates of annual daily average count of all youth held in correctional facilities in Manitoba per 10,000 youth population. All the youth correctional facilities mentioned above will be included as well as Open Custody Homes.

This variable is not affected by youth movement the way admissions and discharges are affected. Regardless of youth movement between institutions, this

variable remains constant. For example, if a youth transfers from AYC to MYC, the institutional daily population will change but not the total institutional daily population.

Again similar to variables 1 and 2, those youth held in group/foster homes are not available for inclusion in the study. A significant drawback to variable 3 is missing information about the number of youth held in adult correctional facilities. There is reason to believe (Latimer, 1986) that the number of youth being transferred to adult court significantly declined after the implementation of the YOA. Accordingly, to achieve a full picture of the institutionalization of youth, then those youth in adult facilities must be included. The secondary data do not provide adequate information on adult transfers to be included in the trend analysis.

Another problem with variable 3, prior to 1980, is that the CWA youth are included. In 1980, all CWA youth were transferred to the Seven Oaks Centre for Youth so that the CWA youth are no longer a problem in the counting of JDA juveniles. The problem is not a major difficulty in that the total number of sentenced CWA youth is not significant enough to affect general trends in the average daily population of JDA juveniles except perhaps for the years of 1973 to 1975. It was after 1975 that Manitoba established a policy of reducing the number of CWA youth placed in custody (see Lothian, 1990).

Trend Variable 4: Length of Stay in Manitoba Correctional Institutions

Variable 4 will be measured by the total length of stay of sentenced youth held

in Manitoba correctional facilities. This variable, like average daily population, includes CWA youth up until 1980. Unlike the variables 1 and 2, it is difficult to estimate the degree of effect that the CWA youth play on length of stay. For sentenced youth, it is difficult to see any significant changes after the years 1975 and 1980 (the two years in which administrative changes were made in regard to CWA youth). Therefore, it is reasonable to assume that the CWA youth have not affected the variable length of stay significantly.

An uncontrollable effect on this variable is the number of times a youth is discharged and admitted because of the transferring between youth institutions (as discussed earlier). Every time a youth is released and readmitted, according to the administrative statistics, that youth is not only counted twice but the length of stay stops and starts again for the new admission. Hence, to some unknown extent, the length of stay variable is somewhat less than what the actual length is, this effect is assumed to be minimal. As well, this variable is affected by not including the data on foster/group homes and those youth held in adult facilities.

It was important to collect additional data to complement the findings found under the analysis of the annual reports and develop further carceral trends. To accomplish this objective, information found in documents at Statistics Canada was used.

Trend Variable 4: Comparison of sentence length of the most severe disposition under the JDA and the YOA

In a further analysis of sentence length, a comparison is made on sentence length of the most severe sentence that could be given under the JDA and the YOA. From 1963-1973, Statistics Canada compiled information on Canadian training schools. From this document, the variable length of stay was divided into five different categories: less than 3 months, 3-6 months, 7-12 months, 13-24 months, and greater than 24 months. The YOA's disposition of secure custody is comparable to the JDA's disposition of training schools. From the Youth Court Survey 1984-1992, data are extracted from its tables for length of disposition in the same five categories. In this manner, a simple comparison between the JDA and the YOA can be made.

A potential criticism of this procedure is the comparison of length of disposition to length of stay. In addition, there is a problem of comparing male and female dispositions to male length of stay. The counter argument is that with the available data, this is the best comparison to be made since comparable court statistics do not exist under the JDA. The difference between the two data sets is not significant since the female custody population is a small proportion of the entire youth custody population. The only serious concern is that statistics for the training schools measure actual time served, while secure custody data indicate how much time the youth has been sentenced. As a consequence, the training school figures for length of stay are shorter than the youth's original length of disposition. Additional carceral trends were examined by using data contained in two youth court surveys to further develop the variable "length of stay."

Several Statistics Canada publications were scrutinized for additional data. For

the purpose of obtaining earlier data on youth custody under the JDA, the document titled *Training Schools 1963-1973* and was used. There are two surveys that have taken place in relation to young persons going to court. The first survey is referred to as *Juvenile Delinquents* and covers the years prior to 1984. The second survey is the *Youth Court Survey* that covers YOA court data from 1984 to present.

Trend Variable 5: Rates of Youth Community Corrections in Manitoba

The Youth Court Survey 1984-1992 represents useful data by analyzing the number of cases that are sent to court and dispositions given. Such dispositions as fines, community service orders, probation and community custody placements fall under this study's description of community corrections. These data are extracted from the data provided in the Youth Court Survey 1984-1992.

Any data prior to 1984 concerning community corrections in Manitoba was not available for analysis because of Juvenile Delinquents survey's use of number of delinquencies rather than number of cases. As well, the annual reports do not have comparable statistics over the transition to YOA so that any community corrections data are incompatible. Hence, the trend for community corrections is measured by using the rates of probation, fines, total community corrections (excluding open custody²) and total community corrections minus probation. The rationale used to develop four separate indicators of community corrections was to test if any one part

² The reason why open custody is excluded is due to Manitoba's use of the institution as a place for open custody instead of than the community. Manitoba's token few open custody homes have not been included to keep custody dispositions and other dispositions separate.

of community corrections showed differing trends from the other parts. Since probation is the most common community corrections disposition, it is separated from other community dispositions so that its effect can be controlled.

Trend Variable 6: Number of Youth Appearing Before Youth Court in Manitoba

As described earlier, the unit of analysis *persons* represents the count of individual youth. If a youth appears before the court several different times for separate incidents, he or she will only be counted once for that year. Variable 6 represents the number of youth appearing before the courts in Manitoba. This variable is the only trend measurement using both survey data sets and presents a nearly complete trend from 1969 to 1991-92 (except for the year 1980³). Variable 6 is important for showing the size of the official criminal youth population. In this manner, any trends will speak to the crime issue surrounding youth and how that may partially explain any youth carceral trends.

Every study possesses its shortcomings, especially those using official statistics. By measuring carceral trend variables from Statistics Canada and the annual reports of government departments responsible for youth corrections, the most accurate description possible of what is occurring in youth custody in Manitoba is provided based on available data. The next chapter will provide this description.

³ The information was not available for the 1980 year.

CHAPTER THREE

FINDINGS

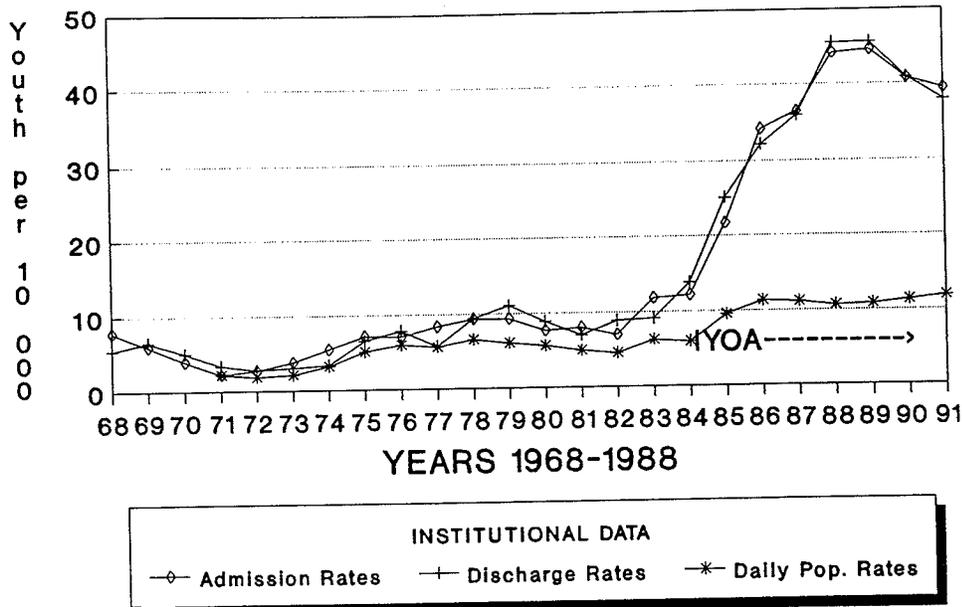
It's a bit amazing that in Canada you can tell how much margarine people are consuming and the brand compared to butter, and you can't tell how many people are put in jail. (Yvon Dandurand, director of research and statistics, federal justice department; quoted in Strauss 1985, p. 15)

The findings presented in this chapter are presented in graph form that are based on their representative tables from the Appendix. Each graph is an analysis of either different variables or based on a different data source. This is where the youth carceral trends in Manitoba are determined.

As described in chapter two, there are four variables used in the trend analysis of the institutional data: admission rates, discharges rates, daily population rates, and length of stay. Consistent with what other researchers (Leschied & Jaffe, 1987, 1988, 1991; Markwart, 1992; Markwart & Corrado, 1988) have found, the first three variables indicate increasing youth custody since the implementation of the YOA. Admission and discharge rates for young offenders in Manitoba peak at 44.6 and 45.6 per 10,000 in 1989 respectively (see Figure 2). There is some stability around 40.0 per 10,000 for both admissions and releases from 1987 to 1991. These YOA rates represent an increase of 400% over the rates from the JDA.

A figure of 400% is misleading given that the admission and discharge figures are not exactly recording what they appear to be measuring. These figures represent

Figure 2 Youth Custody Trends in Manitoba Sentenced Young Offender Rates



SOURCE: from Tables 1B, 2 & 3.

new admissions and discharges as well as movement between institutions. Every time the youth is transferred, he or she is discharged and then readmitted. It is important to reiterate that these statistics for admissions and discharges are confounded in this manner, but this does not detract from the significant increasing trend these variables display, especially since 1984. According to admission and discharge rates, the number of youth in custody has drastically risen since the implementation of the YOA.

The third trend variable is "average daily population", which indicates that more youth are in custody than ever before. The data reveal that the JDA kept an average of 4.7 youths per 10,000 and the YOA has an average of 10.3 youths per

10,000 in custody, an increase of 119%. In general, this percentage increase is quite accurate. However, prior to April 2, 1984 under the JDA, youth institutions also held youth committed under the CWA. However, the number of CWA youth was quite small in comparison to JDA youth (e.g. from 1973 to 1984 there were only 186 youths sentenced under CWA, in the same period there were 1388 youths sentenced under JDA, see Appendix, Tables 14 & 15). Thus, the CWA youth do affect the comparison although the effect is minimal.

These three trend variables show a strong movement towards greater incarceration of youth. The single common factor in this increased trend is the enactment of the YOA. Several authors have discussed what this means and its implications (Leschied & Jaffe, 1987, 1988, 1991; Leschied, Jaffe & Willis, 1991; Markwart, 1992; Markwart & Corrado, 1988). However, two cautionary notes are in order. First, some increase is to be expected because fewer youth are being transferred to the adult justice system under the YOA. This would be a partial explanation for the increase in average daily population rates. Second, the interpretation of the average daily population trend does not take a certain type of custody into account. Statistics of youth placed in custody in group and foster homes under the JDA are not available for inclusion in the study. This is a crucial factor due to the fact that the YOA brought with it new concepts of institutionalizing youth, specifically, open and secure custody.

Leschied and Jaffe (1988) have compared training schools to secure custody and group homes to open custody. However, the practice of open custody placement

in Manitoba, as well as most other provinces (Markwart, 1992), is usually inside an institution and not in the community. Figure 2 shows the trends for every type of sentenced offender except the one sentenced to group/foster homes under the JDA. As a result, these increases may not be as large as they appear in the data, particularly the average daily population variable that indicates an increase of 119% (more so when taking into account the number of adult transfers). It is quite probable that youth who previously received group/foster home placements are now being sentenced to institutions through open custody dispositions.

The YOA had the unintended effect of moving community placements to institutional ones. Due to certain measurement constraints, only those youth being placed in correctional institutions are being measured in this study. Given the limitations of these three trend variables, an analysis of the fourth variable, length of stay, is necessary.

Length of stay has been analyzed in two different ways: one method using institutional data and the other analyzing the most severe sentence. First, the annual reports (1973-1988) and administrative statistics (1989-1991) indicate a drastic reduction in the average number of days that a youth will be incarcerated. Figure 3 indicates a strong trend towards deinstitutionalization. From 1973 to 1991, there has been a decrease of 75% in length of sentence. There has been a significant decrease in length of stay from 205 days in 1983 to 136.9 days in 1985 (1984 is considered a transition year for the YOA), which represents a 33% reduction of sentence. This information indicates that *there has been a continual trend of handing out shorter*

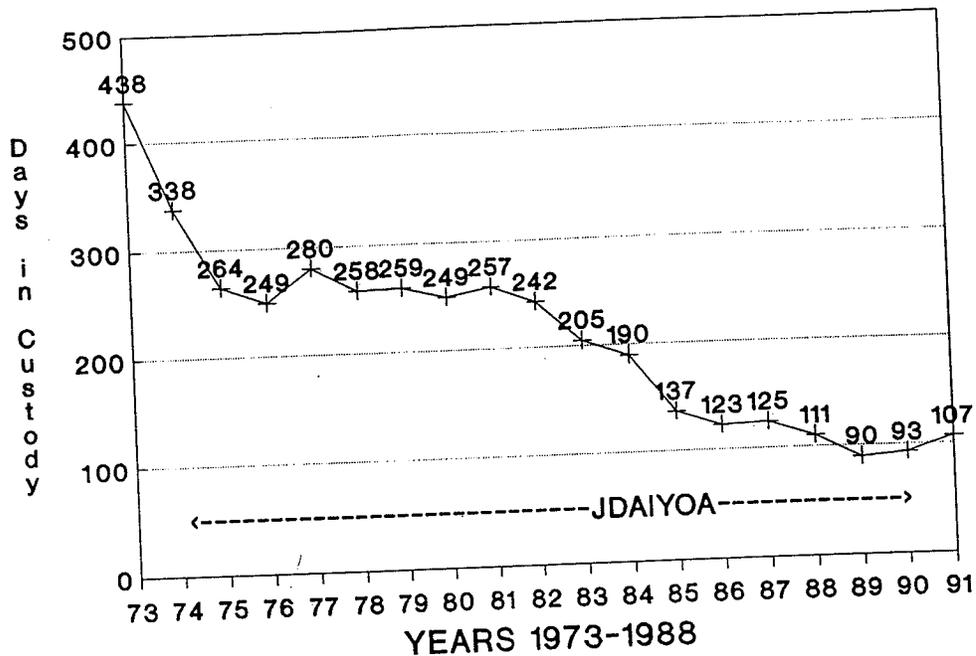
sentences to youth. This is a surprising finding given that one would expect an increase in length of stay because of the large number of youth who used to be transferred to the adult justice system but are now being held in the youth justice system.

In sum, the institutional data indicate that the number of admissions and discharges to custody has significantly increased, especially since the enactment of the YOA. Although the increase has not been as dramatic, the average daily population has also increased since the YOA was implemented. However, the length of time that a youth spends in custody has been a decreasing trend since 1973, with a slightly more dramatic reduction after 1984. The penal trend that presently exists within the youth justice system appears to be one of locking up youth more frequently than under the JDA but for shorter periods of time.

In a further analysis of sentence length, the most severe sentence that could be given under the JDA and the YOA was examined. From 1963-1973, Statistics Canada compiled information on Canadian training schools. In this document the variable length of stay was divided into five different categories: less than 3 months, 3-6 months, 7-12 months, 13-24 months, and greater than 24 months. The YOA's disposition "secure custody" is comparable to the JDA's "length of stay at training schools." From the Youth Court Survey 1984-1992, data were extracted from its tables for length of disposition by the same five categories. In this manner, a simple comparison between the JDA and the YOA can be made.

As mentioned in chapter two, length of disposition and length of stay are not

**Figure 3 Average Length of Stay
Sentenced Youth of YOA & JDA**

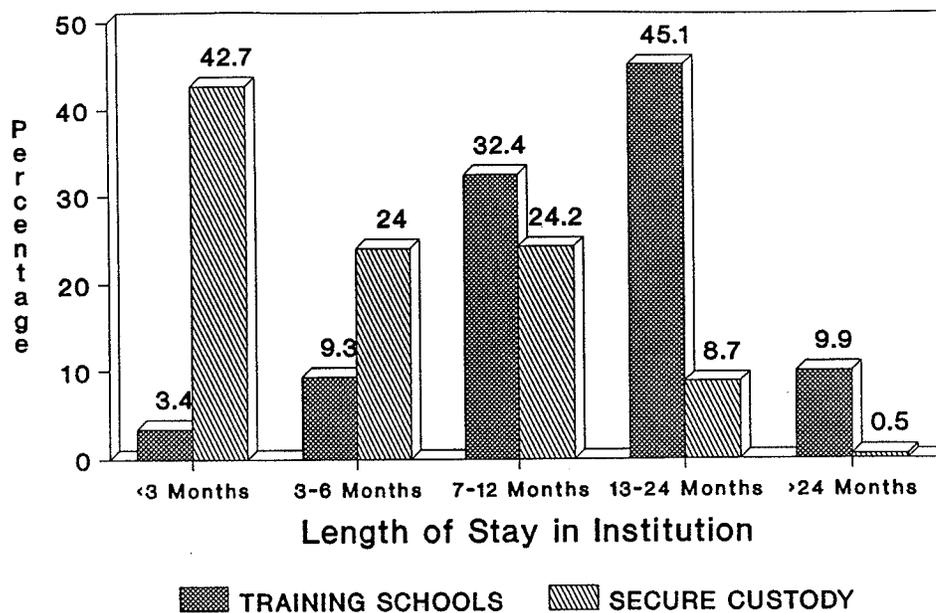


SOURCE: from Table 4.

exactly comparable. However, with the available data, this is the best comparison that can be made since comparable court statistics do not exist under the JDA. Moreover, the difference between the two data sets is minimal. The only real concern is that the statistics for the training schools measure actual time served, while secure custody data indicate how much time the youth has been sentenced. As a consequence, the training schools' figures for length of stay may be shorter than its original length of disposition.

As Figure 4 shows, completely opposite trends exist between the JDA and the YOA. Under the JDA, 55% of all juveniles stayed more than 13 months in custody, while only 3.4% of released juveniles stayed less than 3 months. Under the YOA

**Figure 4 Comparison of Most Severe Disposition
Training Schools & Secure Custody**

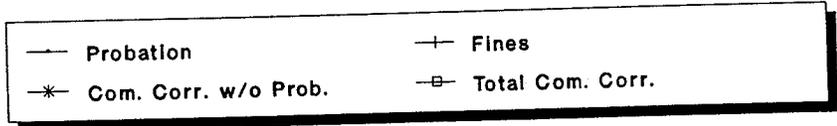
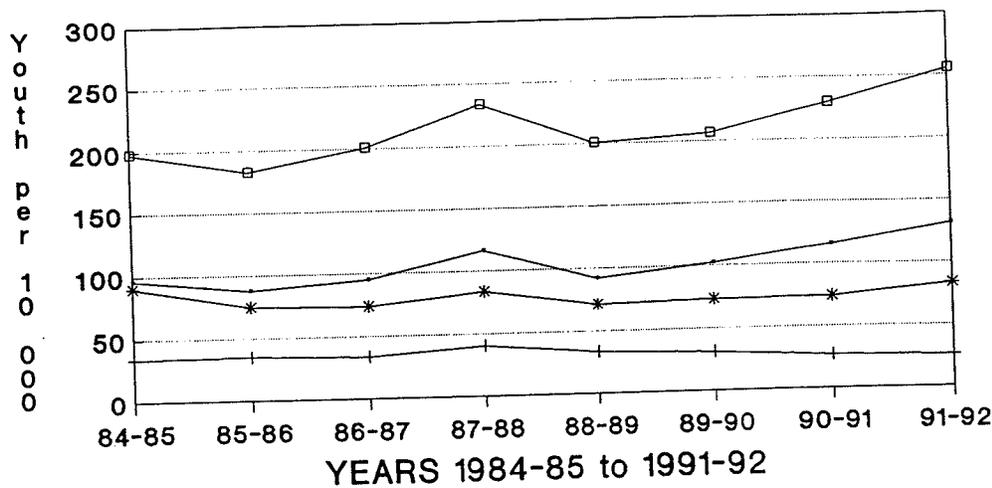


SOURCE: from Tables 5 & 6.

only 9.2% of dispositions are greater than 13 months, while 42.7% of all dispositions are less than 3 months. The middle range of length of stay, 3-12 months, are much closer to each other for the JDA (41.7%) and the YOA (44.2%). The JDA was quite clearly more punitive than the YOA in terms of length of institutional sentencing.

The next variable examined was community corrections. The only available data source for such variables as probation, fines, and community service orders exists in the Youth Court Survey from 1984 to present. As shown in Figure 5, community corrections dispositions have neither increased nor decreased significantly since the passage of the YOA. Thus, even though youth custody counts have skyrocketed since 1984, the rates of community corrections have remained about the

Figure 5 Community Corrections Trends in Manitoba

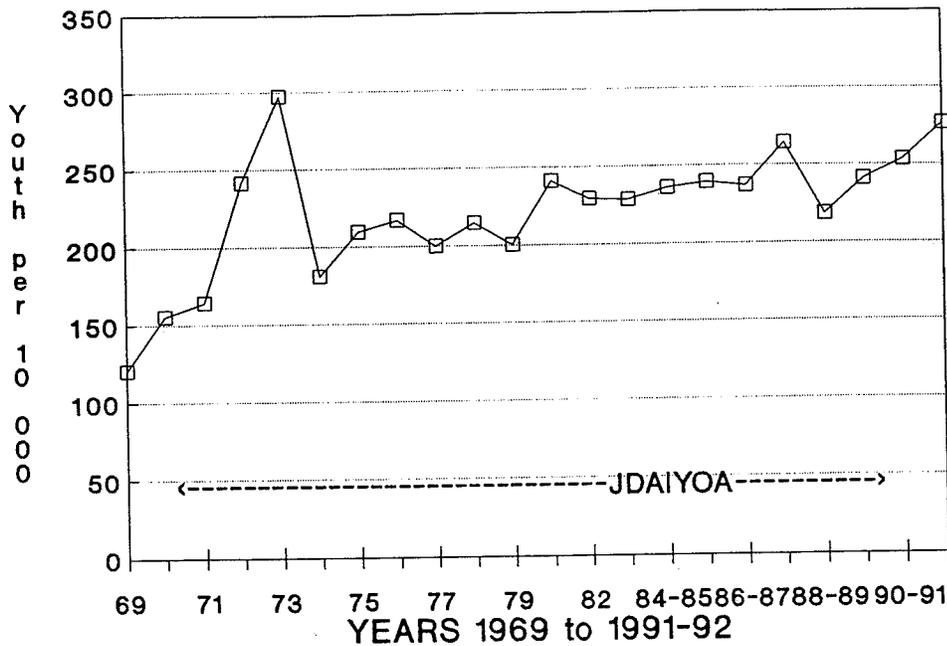


SOURCE: from Tables 7, 8, 9 & 10.

same. This is an interesting finding given that one is likely to expect that as custody sentences increase so do other court dispositions.

This inconsistency between sentencing patterns led to an examination of the total number of young persons receiving a court disposition each year. Figure 6 shows the number of persons per 10,000 that received a disposition from 1971-1982 and 1984-85 to 1991-92. The year 1983 was not included due to difficulties with the Juvenile Court Survey data set. As the figure shows, the trend towards having more youth in the court system does exist. The difference between the JDA years and the YOA years is a 15% increase in the number of youth appearing before the courts in Manitoba. Since the number of youth receiving community corrections dispositions is

Figure 6 Number of Youth Appearing Before the Courts in Manitoba



SOURCE: from Table 11.

relatively unchanged, the conclusion from this data is that youth custody rates would increase by about 15%. But as shown by the youth custody rates, this is not the case. Admissions and discharges have risen sharply, by an estimated 400%, and the average daily population has increased to 119%, which is a significant difference from the 15% increase of number of youth appearing before the court. Why is there such a dramatic difference between the number of youth and the youth custody rates?

The key to solving this question is the trend toward shorter sentencing practices under the YOA. Under the JDA, a juvenile given a disposition to a training school was required, on average, to stay there longer than one year. In contrast, under the YOA, the modal length of sentence to secure custody is less than 3 months.

Young offenders are spending, on average, only 25% of the time in an institution compared to the average length of custody under the JDA.

Numerous possibilities could explain this change in length of stay, but a strong factor in this variable has been the change of sentencing practices by youth court judges. From these data it appears that the custody dispositions have been gradually getting shorter from 1973 to 1991. Shorter sentences allow the opportunity of institutionalized youth to commit more crime due to their increased involvement in the community. This means that the institutionalized youth who are likely to be caught for criminal actions today have much more opportunity to recidivate than under the JDA.

In sum, the findings of this study concur with other research (Leschied & Jaffe, 1987, 1988, 1991; Markwart, 1992) that there is a dramatic rise in official youth crime *but the number of youth committing crime has not increased proportionately to the number of youth committed to custody.* A hypothetical example clarifies this point ("# of youth" represents a youth being counted only once for that particular year regardless of how many cases that youth may have been involved in). As the example indicates, in 1970 there were 400 youths responsible for 500 custody committals. In 1990, there were 460 youths responsible for the 1500 custody

EXAMPLE

Year	# of Youth	# of Committals	Avg. Length
1970	400	500	12 months
1990	460	1500	3 months

committals. The number of young offenders has increased by only 15% compared to the 300% in the number of custody committals. The increase in the number of young offenders is not proportionate to the increase in the number of custody committals. A probable reason why this situation is occurring involves the reduced sentence length given to each youth in 1990 compared to 1970. In 1970, most youth are in custody for one year. In 1990, most youth are finished their institutional stay in 3 months. One factor that one can account for this change in custody length is the change in sentencing patterns at the court level. Judges are dispensing shorter custody dispositions in 1990 than in 1970. This change in sentencing patterns is being reflected in the high number of committals compared to a small increase in the number of youth. In 1990, many youth are being committed to custody at least two more times within that same year. For this reason, the recidivism rates for institutionalized youth have increased because their reinvolvement in crime is a prerequisite to receiving another custody disposition.

SUMMARY

The findings or conclusions derived from this thesis can be summarized in the following six statements. A detailed explanation of these findings is provided afterwards.

- Previous studies of pre-post-YOA youth incarceration rates have been flawed methodologically and thus the evidence of increased incarceration rates from the JDA period is inconclusive.
- There have been increases in institutionalization owing to the provincial policy of placing most open custody youth in the institution rather than in the

community, as the JDA did for group/foster home placements.

- Although there is some evidence of growth in youth custody rates, the data are problematic and should be interpreted cautiously.
- The data indicate that youth under the YOA are being committed to custody more frequently but for shorter periods of time. JDA youth were institutionalized for longer periods of time but there were fewer youth.
- The data suggest that there is no overall trend of decarceration in the youth justice system of Manitoba.
- This study suggests that institutionalized YOA youth have higher recidivism rates than the JDA institutionalized youth.

1) *Previous research has been flawed.*

As shown in chapter one, previous studies of pre-post-YOA youth incarceration rates have been flawed methodologically and have shown inconclusive evidence of increased incarceration during the YOA years. Doing any type of empirical research will have certain ramifications on interpretation, but due to the nature of doing pre-post-YOA research, these difficulties are compounded significantly. The methodological complications of previous research have served as a warning of some of the pitfalls of doing empirical youth custody research. Research in the past has not controlled for such problems as uniform maximum age, unstandardized data, using a unit of analysis that makes interpretation difficult, and not making JDA/YOA comparisons based on longitudinal data. By taking these pitfalls into account, these research findings appear to be the most valid to date,

especially when combined with Manitoba's unique situation,⁴ and this study's methodological decisions to minimize data difficulties (see chapter two). In other words, given the difficulties with data and data interpretation, this thesis gives the best picture possible of youth custody trends in Manitoba from 1970-1992.

2) *Trend of increased institutionalization in youth custody.*

Institutionalization has increased with the creation of open custody and the separation of child welfare and criminal youth (e.g. criminal youth can no longer be placed in a child welfare group or foster home). There have been increases in institutionalization owing to the provincial policy of placing most open custody youth in the institution rather than in the community, as the JDA did for group and foster home placements. This policy has caused the movement from community placements to institutional placements, thus increased incarceration does exist.

3) *Evidence of increasing youth custody rates.*

The question of "Has youth custody grown under the YOA?" is difficult to answer accurately. Although there is some evidence of growth in youth custody rates, the data are problematic and should be interpreted cautiously. It appears that there are a greater number of committals to custody under the YOA than under the JDA (see Figure 2). Admission and discharge rates show a remarkable growth of

⁴ Manitoba's unique situation is reflected by the province already having the maximum age limit set at 17 under the JDA, the discouraging of indeterminate sentencing (Harvey, 1988) and the elimination of status offenders from court dockets in the early seventies (Lothian, 1990).

400% since the implementation of the YOA. The average daily population has increased 119% under the YOA years. But due to missing data and data inconsistencies, these statistics are somewhat misleading. It is accurate to conclude that under the YOA there has been a growth in youth custody. Even though the actual statistics for trend variables, admission, discharges, and average daily population can not be taken for their actual values, they still serve as useful and significant estimates.

Even though certain methodological precautions have been taken, several questions remain unanswered. If the number of group/foster home placements could be accounted for, would it offset the increases during the YOA years? How much is the increased population in youth correctional institutions due to fewer youth being transferred to the adult court? Are admission and discharge counts able to accurately reflect trends in youth custody? These questions point to serious problems in making any absolute statements about any trends in youth custody.

If all of these variables could be accounted for, it would still be probable to have an increasing trend of youth custody rates. This statement is grounded in a belief that the number of group/foster home placements combined with the number of youth not being transferred to adult court would be significantly less than the number of YOA youth being committed to open custody. From a conversation with a youth justice professional who was responsible for group/foster home placements under the JDA, it was indicated that about 170 youths were given such a disposition annually. Even with a generous estimate of 80 youths being transferred to adult court per year

(see Juvenile Court Survey 1969-1983), this brings the total missing custody count to be approximately 250 youths. Under the YOA the average number of youth being given open custody is 496 (see Table 13), which means there is about 250 more youths per year being given a custody disposition under the YOA than under the JDA.

Again, it is difficult to put an exact figure on the growth in youth custody during the past twenty years, but it is accurate to state that since the YOA has been enacted there has been a dramatic increase in the growth of youth custody in Manitoba.

4) YOA youth are committed to custody more often, but for shorter periods of time.

The data indicate that youth under the YOA are being committed to custody more frequently but for shorter periods of time. JDA youth were institutionalized for longer periods of time but there were fewer youth. The admission and discharge rates and average daily population (see Figure 2) indicate that young offenders are committed to custody more often, and the analyses of "length of stay" indicate that the youth are serving shorter sentences. Figure 3 has shown that there has been a continual decreasing trend in the length of institutional stays since 1973. It is unknown what causes this trend, but there is likely a strong relationship between judges' sentencing practices and the length of institutional stays. Why has this happened? The numerous debates on youth law reform on Canada's own youth justice system (Corrado & Markwart, 1992) possibly have had a significant impact on changing the focus of judges sentencing practices from a *parens patriae* model to one

of due process. In Manitoba, the 1970s may have been a decade of transition and the YOA was the official acknowledgement of those changes. As indicated by Kueneman and Linden (1983, p. 235) that "the new Act [the YOA] may merely serve to bring legislation into line with established practice in the Winnipeg juvenile court". The change from *parens patriae* model of juvenile justice to a due process model took several years to occur.

5) *Decarceration does not exist.*

The data suggest that there is no overall trend of decarceration in the youth justice system of Manitoba. Decarceration is not happening with respect to young offenders in Manitoba. As stated previously, there appears to some aspects of deinstitutionalization with respect to shorter sentence lengths under the YOA, but this trend is circumvented by an increased committal rate. There is no significant trend of decarceration in any of the possible areas defined earlier for there is no decreasing trend in admissions nor discharges, and there are more youth in custody than ever before. According to the definition of decarceration (see chapter one) community corrections should expand but it has not. The evidence found in this thesis does not support the existence of decarceration.

6) *Increased recidivism of institutionalized youth.*

This study suggests that institutionalized YOA youth have higher recidivism rates than the JDA institutionalized youth. Based on the findings of this study, it

appears that the recidivism rates of young offenders are dramatically higher under the YOA than the JDA. This statement is supported by the data and other research. As stated before, there has been a dramatic increase in youth custody rates but this is disproportionate to the number of youth appearing before the courts.⁵ A possible explanation for this is increased recidivism rates. Young offenders under the YOA are locked up for shorter periods of time (e.g. less than 3 months) than juvenile delinquents under the JDA (e.g. 12 months or greater). By being released sooner, it allows more opportunity for criminally orientated youth to commit more crime. Once the recidivist is caught, he or she is given another custody disposition. This explanation would explain the seemingly unusual trend of increasing custody yet no growth in community corrections. Once a youth receives a custody disposition, it would be unlikely that the youth would receive a community disposition the next time he or she appears in court on a new set of charges. As shown previously, this conclusion is further supported by research published by the Canadian Centre for Justice Statistics (Juristat, 10, (8), 1990).

The findings presented in this chapter display the carceral trends for youth in Manitoba. These carceral trends can be used to address issues surrounding decarceration and the YOA. This discussion will take place in chapter four.

⁵ A possible explanation of this dramatic increase would be the Alternative Measures program. The Alternative Measures may have successfully deterred a large number of youth from the criminal court process. But this is not a possible explanation as Manitoba already had diversion programs set up for youth under the JDA. All the YOA did was to formally acknowledge these diversion programs (under the JDA, diverted youths were referred to as "non-judicial" counts in the Juvenile Court Survey).

CHAPTER FOUR

DISCUSSION

The findings of this study require a discussion about the existence of decarceration and the effect of the YOA on the youth justice system. The policy and practice implications of this study are also addressed.

DECARCERATION

In Manitoba, based on the findings of this study, the decarceration of young offenders does not exist in any of its three elements (as outline in chapter one): decriminalization, deinstitutionalization, or diversion.

Although decriminalization took place in Manitoba, this is not indicative of a trend of deinstitutionalization. While there is evidence of some deinstitutionalization and decriminalization of status offenders in the mid-1970s, the general trend that existed was one of transcarceration (Lothian, 1990). The rates of youth in institutional custody per 10,000 (average daily population) has not declined; on the contrary, it has increased 119% during the YOA years. As a cautionary note, this figure does not take into account community custody rates due to missing data on group/foster home placements.

In two separate analyses the variable, length of stay, shows strong signs of deinstitutionalization. The Manitoba institutional data reveal a decline in the average number of days that a sentenced youth spends in custody. From 1975 to 1982 there is

minimal change. However, from 1973 to 1975 and from 1982 to 1988, there are dramatic drops in the average length of stay. For the years 1973 to 1975, an explanation for the decrease is that status offenders were transcarcerated from the judicial system to the child welfare system as shown by Lothian (1990). From 1982 to 1988, the change can be attributed to the YOA. As Kueneman and Linden (1983) suggest, Manitoba started implementing many of the new youth justice practices prior to the actual passage of the YOA in 1984. Yet, in the years following 1984, there was another significant drop in the average length of stay. The changes brought about by the YOA had the effect of shortening the sentences of youth. This decrease in average length of stay appears to be an element of decarceration.

In the second analysis of length of stay, a JDA/YOA comparison on the most severe disposition was made. The surprising finding of opposing trends emerged (see Figure 4). The modal length under the JDA was longer than 12 months (55% of total juveniles sentenced) while the modal length under the YOA is less than 3 months (42.7% of total youth sentenced). This is a remarkable finding given that the JDA was seen as "too soft" and the YOA was reputed to be more punitive than its predecessor (Latimer, 1986).

Given the strong evidence of deinstitutionalization with regard to the variable length of stay, one might conclude that decarceration is occurring. But, in light of the dramatic increases of 400% in admissions and discharges rates (remembering that this figure is somewhat inflated due to administrative recording of youth movement between and within institutions), and considering that the number of young persons

appearing before the courts in Manitoba has only increased slightly (15%), we conclude that most young offenders are being institutionalized soon after they are released. Supporting evidence for this argument indicates that for youth with only two prior convictions, on average only two months will elapse before that youth is reinvolved and arrested (Juristat 10(8), 1988-89). Decarceration could be claimed if one only examined the variable "average length of stay", but in reality there is no true deinstitutionalization taking place if these youth are being placed back in custody up to possibly three or four times more often under the YOA than under the JDA.

The third element of decarceration is the diversion of offenders away from the institution to community-based alternatives. The findings of this study indicate that there is no diversion taking place from 1984-85 to 1991-92. Unfortunately, there are no comparable JDA/YOA data in terms of community corrections. But, as shown in Figure 5, there are insignificant changes in the community corrections trends during the YOA years. Hence, neither the trend of decarceration nor incarceration is taking place in community corrections.

THE EFFECT OF THE YOA

The data suggest that during the YOA years institutionalized youth recidivism rates have dramatically increased. A partial explanation for this increase is attributed to the shorter custody dispositions given by youth court judges under the YOA. The YOA youth are being locked up for shorter periods of time so that many youth are arrested, sentenced, admitted to an institution and released more frequently than under

the JDA.

The trend of shorter sentences and high recidivism is not an exclusive phenomenon to Manitoba. Canadian newspapers have been reporting of similar occurrences throughout Canada. Below are three such stories that highlight this trend.

Over the last five years, more than 60 per cent of sentences [for young offenders in Canada] have been for three months or less and 97 per cent have been for no more than a year. (1991, December 14). Winnipeg Free Press, p. A3.

An estimated 46 per cent of children in young offenders' courts in Canada in 1990-91 had been previously convicted one or more criminal offenses, the Canadian Centre for Justice Statistics said yesterday...Eighteen per cent of youths had one or two past convictions, 9 per cent had three or four, and 19 per cent had been convicted of five or more offenses. (1992, February 11). The Globe and Mail, p. A6.

The proportion of [young] offenders given a sentence of three months or less increased to 66 per cent in 1990-91 from 56 per cent in 1986-87, says the study [by the Canadian Centre for Justice Statistics] released yesterday. (1992, March 5). The Globe and Mail, p. A9.

The ramifications of increased recidivism is a telling comment on the YOA and the direction of juvenile justice. The YOA was the result of years of research and debate. A much anticipated objective of the YOA was its emphasis on making young offenders more accountable and responsible for their actions. It appears that just the opposite has happened. Youth are serving significantly reduced sentences and many are being placed back in custody soon after their release. According to

Statistics Canada, the average (median) is about four months between the time the Youth Court ordered a disposition for a first conviction and the time of the next offence which eventually resulted in a second conviction. A young offender with four prior convictions is arrested for a fifth offence in about 1.5 months time (Juristat, 10, (8), 1990). The current juvenile justice policy does not act as a deterrent, nor does it make youth accountable and responsible.

The youth custody trends shown in Manitoba are indicative of how the state has chosen to implement those directives of the YOA. As described in the first chapter, the JDA reflected a welfare model of juvenile justice, whereas the YOA shifted to a legalistic model. Theoretically, under the JDA, the youth was absolved from all responsibilities for his or her act because he or she was in a "state of delinquency" which implies that the youth must be treated for his or her condition rather than on the actual offence. It is my position that even though the JDA stated this, it was generally not followed on a provincial level, at least in Manitoba. Kueneman and Linden (1983) state that in Manitoba the basis of sentencing (under the JDA) was the legalistic nature of the offence rather than the societal influences on the child. It is unknown if this was a trend throughout the majority of JDA, likely this may have been a trend toward the latter part of the JDA.

The YOA stands by itself as credible law that was once touted as one of the major social reforms that presents a balanced system of juvenile justice (Kaplan, 1982; Archambault, 1983). In theory, this federal law represents a combination of philosophical perspectives that balances the needs and rights of youth with the

protection of society. But at the point of implementation at the provincial level those players will use the law to serve their own interests. Thus, the interests of those who develop program goals and objectives are different than the stated philosophy of the legislation. Yet both are objectives are achieved. The ambiguity of the legislation allows the professionals to make young offenders accountable through more custody dispositions and less rehabilitation.

POLICY/PRACTICE IMPLICATIONS

At the cost of achieving a more offence orientated system, the YOA appears to have played a significant role in the increase of officially recorded youth crime in Manitoba. What has been the price? If institutionalized youth have higher recidivism rates, the fiscal costs in policing, court time, legal fees, detention and staffing to the youth justice system will have also increased. Both the youth and society have suffered because of the unintended consequences of the YOA. The youth is given several short sharp "shocks" under the YOA and through the process may be desensitized to the issue of his or her criminality. The young offenders are barely in custody long enough to receive the necessary types of programming to benefit themselves and encourage rehabilitation. If the crime rates have increased so have the victimization rates. Society has been put more at risk and is forced to pay the extra costs of recidivism of institutionalized youth.

The state has not only reinforced the "revolving door" concept (e.g. the offender is admitted almost immediately after being released) in the way young

offenders are treated under the YOA in Manitoba, but the state has also accelerated the spinning of the "revolving door". Under the JDA, there were some cases in which professionals working in the system abused their discretionary powers but there was some logic, however arguable, in locking up fewer individuals for longer periods of time. Perhaps if the state focused on placing only those youth who have committed serious and violent crimes in custody, and used community corrections for less serious and non-violent crimes, the "revolving door" would slow down. The decision to remove a youth from the community and place him or her inside of an institution should be a disposition of last resort.

During the YOA years there exists a trend of higher incarceration rates of young offenders. The province of Manitoba, similar to the rest of Canada (Markwart, 1992), puts the majority of its open custody youth inside of institutions instead of open custody home placements (a community setting). The creation of "open custody" under the YOA has created more institutionalization on two different levels of juvenile justice, the courts and the provincial youth corrections. It is my belief that the courts have done two things when sentencing youth to open custody. One is that those youth who would have previously been sentenced to group/foster homes are now being given terms of open custody. Second, those juvenile delinquents who, under the JDA, did not warrant a lengthy term in a training school but received a community disposition such as probation, are now being sentenced to open custody. The result has been the movement from community corrections to institutional corrections for young offenders.

One reason for this institutional movement may be based on fiscal costs saved by the provincial government. The YOA does not support the overlap of the judicial and welfare systems as did the JDA. Prior to 1984, Manitoba justice authorities used the group/foster homes of the child welfare system. Instead of developing a large number of complementary open custody homes, Manitoba chose to place these former community placements inside of institutions. While there may have been some fiscal costs saved, what price did the youth pay? The probabilities of increased rehabilitation and reduced recidivism for open custody youth in Manitoba are quite low under the YOA. Community placements are more intimate and allow for relationships to develop between the home operator and the youth. The institutional environment has never been conducive to the rehabilitation of an offender. There is no reason to believe that Manitoba institutions are any different.

DECARCERATION POLICIES: FAILURES OR SUCCESSES?

As shown in chapter three, the findings of this study conclude that decarceration is not happening to young offenders in Manitoba. What does this finding contribute to the literature dealing with decarceration? Are community corrections simply "add-ons" to the system as suggested by the critics of decarcerative policies (Chan & Ericson, 1981; Hylton, 1981; Scull, 1984)? Does this research point to the success or failure of the original goals of decarceration? What impact do these findings have on McMahon's (1990, 1992) research? The answers to these questions are complex and intricate. It is difficult to answer definitively whether or

not decarceration policies have failed or succeeded. As will be shown, there are several different ways of evaluating decarceration policies.

In Manitoba, the rate of young offenders being sentenced to custody has increased dramatically (see Appendix, Tables 12 & 13). In 1984, there is a rate of 516 youths per 10,000 committed to both open and secure custody compared to 1120 youths per 10,000 in 1992. This is a 117% increase in custody committals in just an eight year period. Based on this data alone it appears that the YOA has created more incarceration.⁶ But if one examines the length of disposition, as this thesis and Doob (1992) does, the claim that the rates of incarceration increased become questionable. Doob (1992, p. 140) asks the question "Does the increase in numbers and decrease in length add up to increasing rates of custody in at least some provinces?" He replies that the answer clearly depends on one's perspective. In light of the findings in comparing the most severe disposition under the JDA and the YOA (see Figure 4), this analysis concludes that it is impossible to make a conclusive statements about increasing or decreasing custody rates. If a youth spends one year in custody, whether it be through one 12 month disposition or four 3 month dispositions it does not really matter, that the youth has still spent one year in custody. The one finding that clearly shows an increase in incarceration between the JDA and YOA is found in the rates of the number of youth appearing before the court (see Appendix, Table 11) showing an increase of 15% during the YOA time period. Knowing that community

⁶ Again, remember that there is no comparable court data under the JDA to make a longituntidal trend in association with the YOA data.

corrections dispositions are relatively unchanged, one can assume that this 15% increase in official criminal youth population is represented somewhere in the 117% increase in custody rates.⁷ The point being made is that incarceration has increased during the YOA years because the only place where there is evidence of an increasing trend is in custody.

If decarceration was to exist there must be evidence of a declining prison population and a growth of community corrections dispositions. Although there is evidence of incarceration, one still can not conclude that decarcerative policies have failed or have become add-ons to the juvenile justice system. The fact that community corrections have not increased significantly, especially in terms of fines and total community corrections without probation even though there is a larger component of criminal youth committing crime shows that community corrections is at least not having a detrimental effect.⁸ It is difficult to conclude that there is a higher percentage of custody usage. Higher committals rates are indicative of higher incarceration but shorter custody lengths are indicative of decarceration.

But do the committals rates weight more heavily than the shorter custody lengths? The only way this could be answered would be to determine the total

⁷ Note that it is possible to have a 117% increase in custody rates without any change in number of youth appearing before the court due to shorter sentences and increased livism.

⁸ Probation is the only community corrections disposition that displays a 12% increase in the first four years of the YOA compared to the last four years of the YOA. According to McMahon (1992, pp. 61-71) an increase in probation counts is to be expected under the condition of decarceration.

number of days spent in custody in a given time period. Using the juvenile court data it is not possible to do this for the JDA period because the survey did not keep track of the number of cases being given a custody disposition. If we analyze the administrative statistics, even though there are problematic aspects with the data (see chapter two), there is a significant increase in the average number of days in custody in the YOA years compared the JDA years. During the years under study there is a total of 1925 custody days per 10000 youth per year for the JDA period and 3944.2 custody days per 10000 youth per year during the YOA period. That means that under the YOA there is an additional 2019.2 custody days per youth per 10000 population for each year inside of an correctional institution. It must be noted that the data for foster/group homes is unavailable which seriously hinders this analysis. If an educated guess were to be made about group/foster homes by assuming the average annual discharge rate for these youths to be 170 (as mentioned previously) and that the average length of stay for these youth was 180 days⁹. That means approximately 1500 custody days per 10000 per year accounts for those youth in group or foster homes. So then there would be approximately 3425 custody days per 10000 youth per year under the JDA and only a 15% increase in the number of custody days per 10000 youth per year between the JDA and the YOA.

So again, it appears to be a stalemate as to whether the trend in incarceration

⁹ A conversation with a youth justice official indicated that when youths were placed in child welfare facilities that the youth would be reviewed every six months to determine if placement was still appropriate. Thus six months is the estimate of an average length of stay acknowledging that many youths were released before six months and that many youths were held longer than six months.

or decarceration taking place in youth corrections. The estimated 15% increase is not significant enough to draw any conclusions based on the estimates of group/foster homes custody rates and the corresponding length of stay.

How do the findings of this thesis reflect upon McMahon's (1992) research on decarceration? McMahon (1990, 1992) changes the context of how decarceration should be examined. She makes us aware that if decarceration policies are to work then it means an expansion of community corrections as well as a declining prison population. McMahon also displays how past studies of decarceration have been methodologically flawed. This display highlights the complex nature of doing decarceration research and serves as a model for others as to which pitfalls to be avoided. Finally, McMahon shows conclusive evidence that decarceration is taking place within the adult Ontario prison system. Given the findings of this study show evidence that supports the alternative, incarceration, how does it effect McMahon's conclusions?

The information surrounding decarceration in this thesis is difficult to sort through and one is left with no definite answers. But what is offered or gained is an appreciation of how difficult it can be to work with official statistics and try to establish any sort of carceral trends. Some of the previous literature surrounding decarceration has already been re-examined by McMahon (1992) and there have been some crucial methodological errors committed that drastically change the thought surrounding the effect of decarcerative policies. I can only reemphasize the point that any attempts to obtain accurate youth corrections statistics is difficult and that any

attempts to generalize from the data must be limited. Each province handles their own correction's policy differently. It has not been until the intervention of computers that there have been any standardization of statistics that can offer meaningful data from which policies can be derived from.

The YOA was hailed as one of the most successful pieces of social reform in recent history. However, it has been suggested by several authors (Hackler, 1991; Leschied, Jaffe, & Willis, 1991; Markwart, 1992) that the YOA has failed to address certain needs of youth and society. The YOA and its implementation has done little to benefit the juvenile justice system. The JDA locked up relatively few youth, in comparison to the YOA, but it did so for lengthy periods of time. It can be argued that the process of institutionalizing only the most severe cases for longer terms of custody has more value in protecting society and attempting to meet the needs of those juvenile delinquents incarcerated. At minimum, it is our opinion that institutionalizing fewer youth is a better alternative than placing more youth in custody. Youth should be placed inside institutions as a last resort, not as a convenient way to make youth more accountable for their actions.

The study presented in this thesis also poses theoretical implications for the broader debates over decarceration and the sociology of social control that have been highlighted in McMahon's recent work. The decarceration trend that exists for the adult justice system in Ontario (McMahon, 1990, 1992) is not indicative of any trends that exist for youth in Manitoba. What does this mean to the general decarceration effort of the state? It is likely that decarceration may exist in different provinces for

either the adult or youth justice systems. Systematic empirical research is needed to discover just what the general carceral trend is in Canada and how those findings affect current analyses of social control. Such research is vital to the current criminal justice policies that govern our society.

APPENDIX

TABLE 1A
MANITOBA YOUTH POPULATION ESTIMATES

<u>Year</u>	<u>Age Estimate 10-14</u>	<u>Age Estimate 14-19</u>	<u>Age Estimate 10-19</u>
1968	100.6	92.2	192.8
1969	101.3	93.9	195.2
1970	101.3	95.1	196.4
1971	101.2	96.3	197.5
1972	101.1	97.1	198.2
1973	100.7	98.0	198.7
1974	100.0	98.7	198.7
1975	98.8	99.1	197.9
1976	97.8	100.4	198.2
1977	94.5	101.2	195.7
1978	90.5	101.7	192.2
1979	87.0	101.6	188.6
1980	84.5	99.9	184.4
1981	83.4	96.8	180.2
1982	82.4	93.3	175.7
1983	81.7	89.2	170.9
1984	81.2	86.8	168.0
1985	80.4	84.3	164.7
1986	79.3	83.5	162.8
1987	78.4	83.3	161.7
1988	77.8	83.0	160.8
1989	77.6	81.5	159.1
1990	76.8	80.0	156.8
1991	76.2	78.3	154.5
1992	76.1	77.3	153.4

SOURCES:

[1968-1971] Statistics Canada, Population 1921-1971, Revised Annual Estimates of Population by Sex and Group.

[1972-1975] Statistics Canada, Population Projections for Canada and Provinces, 1972-2001, Projection #1.

[1976-1983] Statistics Canada, Population Projections for Canada, Provinces, 1976-2001, Projection #1.

[1984-1988] Statistics Canada, Population Projections for Canada, Provinces and Territories, 1984-2006, Projection #1.

[1989-1992] Statistics Canada, Population Projections for Canada, Provinces and Territories, 1989-2011, Projection #1.

TABLE 1B
YOUTH INSTITUTIONAL ADMISSION RATES

<u>Year</u>	<u>Sentenced Institutional Admissions</u>	<u>Rates per 10,000 youth*</u>
1968	149	7.9
1969	115	6.0
1970	78	4.0
1971	43	2.2
1972	53	2.7
1973	76	3.8
1974	109	5.5
1975	143	7.2
1976	141	7.1
1977	164	8.4
1978	179	9.3
1979	175	9.3
1980	142	7.7
1981	144	8.0
1982	123	7.0
1983	201	11.8
1984	205	12.2
1985	357	21.7
1986	556	34.2
1987	590	36.5
1988	710	44.2
1989	721	44.6
1990	639	40.8
1991	609	39.4
1992**	884	57.6

SOURCES:

- [1968] Annual Report of Manitoba Juvenile Reception Centre
- [1969] Annual Report of Manitoba Health and Social Services
- [1970-80] Annual Reports of Manitoba Health and Social Development
- [1981-83] Annual Reports of Manitoba Community Services and Corrections
- [1984-88] Annual Reports of Manitoba Community Services
- [1988-89] Annual Report of Manitoba Attorney General
- [1990-92] Collected from Manitoba Youth Centre and Agassiz Youth Centre.

*Rates - These figures are per 10,000 youth for those youth between the ages of 10 and 19 living in Manitoba as found in Table 1A.

**1992 - Due to change in reporting structures, the 1992 admission and discharge statistics are lower. Therefore, the 1992 data is incompatible with previous years.

TABLE 2
YOUTH CUSTODY INSTITUTIONAL DISCHARGE RATES

<u>Year</u>	<u>Sentenced Institutional Discharges</u>	<u>Rates per 10,000 youth*</u>
1968	106	5.5
1969	128	6.6
1970	101	5.1
1971	68	3.4
1972	56	2.8
1973	62	3.1
1974	67	3.4
1975	130	6.6
1976	156	7.9
1977	113	5.8
1978	180	9.4
1979	209	11.1
1980	165	8.9
1981	126	7.0
1982	156	8.9
1983	155	9.1
1984	233	13.9
1985	413	25.1
1986	524	32.2
1987	582	36.0
1988	732	45.5
1989	725	45.6
1990	641	40.9
1991	585	37.9
1992**	896	58.4

SOURCES:

- [1968] Annual Report of Manitoba Juvenile Reception Centre
- [1969] Annual Report of Manitoba Health and Social Services
- [1970-80] Annual Reports of Manitoba Health and Social Development
- [1981-83] Annual Reports of Manitoba Community Services and Corrections
- [1984-88] Annual Reports of Manitoba Community Services
- [1988-89] Annual Report of Manitoba Attorney General
- [1990-92] Collected from Manitoba Youth Centre and Agassiz Youth Centre.

*Rates - These figures are per 10,000 youth for those youth between the ages of 10 and 19 living in Manitoba as found in Table 1A.

**1992 - Due to change in reporting structures, the 1992 admission and discharge statistics are lower. Therefore, the 1992 data is incompatible.

TABLE 3
YOUTH CUSTODY INSTITUTIONAL
AVERAGE DAILY POPULATION RATES

<u>Year</u>	<u>Sentenced Average Daily Population</u>	<u>Rates per 10,000 Youth*</u>
1971	43.3	2.19
1972	37.1	1.87
1973	42.1	2.12
1974	63.3	3.19
1975	103.4	5.22
1976	118.2	5.96
1977	111.2	5.68
1978	127.5	6.63
1979	114.7	6.08
1980	104.4	5.65
1981	89.3	4.96
1982	81.2	4.62
1983	107.6	6.30
1984	101.4	6.04
1985	157.4	9.56
1986	183.7	11.28
1987	181.2	11.21
1988	172.0	10.70
1989	172.1	10.82
1990	177.3	11.31
1991	182.9	11.84
1992**	190.5	12.42

SOURCES:

- [1968] Annual Report of Manitoba Juvenile Reception Centre
- [1969] Annual Report of Manitoba Health and Social Services
- [1970-80] Annual Reports of Manitoba Health and Social Development
- [1981-83] Annual Reports of Manitoba Community Services and Corrections
- [1984-88] Annual Reports of Manitoba Community Services
- [1988-89] Annual Report of Manitoba Attorney General
- [1990-92] Collected from Manitoba Youth Centre and Agassiz Youth Centre.

*Rates - These figures are per 10,000 youth for those youth between the ages of 10 and 19 living in Manitoba as found in Table 1A.

**1992 - Due to change in reporting structures, the 1992 admission and discharge statistics are lower. Therefore, the 1992 data is incompatible with previous years.

TABLE 4
INSTITUTIONAL YOUTH CUSTODY
AVERAGE LENGTH OF STAY PER YOUTH

<u>Year</u>	<u>Average Length of Stay per Sentenced JDA Youth</u>	<u>Year</u>	<u>Average Length of Stay per Sentenced YOA Youth</u>
1973	438	1984	190
1974	338	1985	137
1975	264	1986	123
1976	249	1987	125
1977	280	1988	111
1978	258	1989	90
1979	259	1990	93
1980	249	1991	107
1981	257	1992*	n/a
1982	242		
1983	205		

SOURCES:

- [1970-80] Annual Reports of Manitoba Health and Social Development
- [1981-83] Annual Reports of Manitoba Community Services and Corrections
- [1984-88] Annual Reports of Manitoba Community Services
- [1988-89] Annual Report of Manitoba Attorney General
- [1990-92] Collected from Manitoba Youth Centre and Agassiz Youth Centre.

*1992 - Due to change in reporting structures, the 1992 admission and discharge statistics are lower. Therefore, the 1992 data is incompatible with previous years.

TABLE 5
SEVEREST DISPOSITION OF JDA
PERCENTAGE OF TOTAL CUSTODY

TREND VARIABLE: TRAINING SCHOOL LENGTH OF STAY

<u>Year</u> <u>T4B</u>	<u><3</u> <u>Months</u>	<u>3-6</u> <u>Months</u>	<u>7-12</u> <u>Months</u>	<u>13-24</u> <u>Months</u>	<u>>24</u> <u>Months</u>
1963	3.4	10.2	36.4	42.2	7.8
1964	2.4	7.1	37.6	48.8	4.1
1965	1.5	5.1	27.9	60.3	5.1
1966	0.0	5.6	18.2	60.8	15.4
1967	7.5	8.8	41.5	35.4	6.8
1968	5.2	11.6	29.7	46.5	7.1
1969	3.4	16.0	44.0	29.7	6.9
1970	4.1	8.2	29.9	46.9	10.9
1971	2.7	5.4	25.0	40.2	26.8
1972	2.0	10.1	27.3	45.5	15.2
1973	6.6	14.8	26.2	41.0	11.5
Average	3.4	9.3	32.4	45.1	9.9

SOURCE:

[1963-1973] Dominion Bureau of Statistics (Statistics Canada), cat. No. 85-208
 Annual, Training Schools.

TABLE 6
SEVEREST DISPOSITION OF YOA
PERCENTAGE OF TOTAL CUSTODY

TREND VARIABLE: SECURE CUSTODY LENGTH OF DISPOSITION

<u>Year</u>	<u><3</u> <u>Months</u>	<u>3-6</u> <u>Months</u>	<u>7-12</u> <u>Months</u>	<u>13-24</u> <u>Months</u>	<u>>24</u> <u>Months</u>
1984-85	20.9	23.4	23.4	16.3	1.3
1985-86	38.0	24.9	24.9	12.0	0.0
1986-87	40.8	22.7	22.7	7.8	0.8
1987-88	44.1	27.9	27.9	6.4	0.0
1988-89	41.3	25.5	25.5	7.1	0.0
1989-90	49.5	19.4	19.4	5.3	1.0
1990-91	50.8	21.4	21.4	8.3	0.6
1991-92	48.2	26.7	26.7	8.3	0.2
Average	42.7	24.0	24.2	8.7	0.5

SOURCE:
 [1984-85 to 1991-92] Statistics Canada, Canadian Centre for Justice Statistics, Youth Court Survey.

TABLE 7
COMMUNITY CORRECTIONS RATES

<u>Year</u>	<u>Probation Admissions</u>	<u>Rates per 10,000 youth*</u>
1984-85	1616	96.2
1985-86	1442	87.6
1986-87	1543	94.8
1987-88	1881	116.3
1988-89	1478	91.9
1989-90	1620	101.8
1990-91	1804	115.1
1991-92	2032	131.5

SOURCE:

[1984-85 to 1991-92] Statistics Canada, Canadian Centre for Justice Statistics, Youth Court Survey.

*Rates - These figures are per 10,000 youth for those youth between the ages of 10 and 19 living in Manitoba as found in Table 1A.

**TABLE 8
COMMUNITY CORRECTIONS RATES**

<u>Year</u>	<u>Number of Fines</u>	<u>Rates per 10,000 youth*</u>
1984-85	572	34.0
1985-86	578	35.1
1986-87	550	33.8
1987-88	649	40.1
1988-89	537	33.4
1989-90	490	30.8
1990-91	421	26.8
1991-92	404	26.1

SOURCE:

[1984-85 to 1991-92] Statistics Canada, Canadian Centre for Justice Statistics, Youth Court Survey.

*Rates - These figures are per 10,000 youth for those youth between the ages of 10 and 19 living in Manitoba as found in Table 1A.

TABLE 9
COMMUNITY CORRECTIONS RATES

<u>Year</u>	<u>Total Number of Community Corrections</u>	<u>Rates per 10,000 youth*</u>
1984-85	3132	186.4
1985-86	2670	162.1
1986-87	2744	168.6
1987-88	3227	199.6
1988-89	2623	163.1
1989-90	2780	174.7
1990-91	2961	188.8
1991-92	3314	214.5

SOURCE:

[1984-85 to 1991-92] Statistics Canada, Canadian Centre for Justice Statistics, Youth Court Survey.

*Rates - These figures are per 10,000 youth for those youth between the ages of 10 and 19 living in Manitoba as found in Table 1A.

TABLE 10
COMMUNITY CORRECTIONS RATES

<u>Year</u>	<u>Total Number of Community Corrections w/o Probation</u>	<u>Rates per 10,000 youth*</u>
1984-85	1516	90.2
1985-86	1228	74.6
1986-87	1201	73.8
1987-88	1346	83.2
1988-89	1145	71.2
1989-90	1160	72.9
1990-91	1157	73.8
1991-92	1282	83.0

SOURCE:

[1984-85 to 1991-92] Statistics Canada, Canadian Centre for Justice Statistics, Youth Court Survey.

*Rates - These figures are per 10,000 youth for those youth between the ages of 10 and 19 living in Manitoba as found in Table 1A.

TABLE 11
NUMBER OF YOUTH APPEARING BEFORE THE COURTS

<u>Year</u>	<u>Number of Youth Before Court</u>	<u>Rates per 10,000 youth*</u>
1969	2348	120.3
1970	3050	155.3
1971	3245	164.3
1972	4784	241.4
1973	5909	297.4
1974	3592	180.8
1975	4148	209.6
1976	4299	216.9
1977	3915	200.1
1978	4126	214.7
1979	3777	200.3
1981	4345	241.1
1982	4034	229.6
1983	3908	228.7
1984-85**	3968	236.2
1985-86	3944	239.5
1986-87	3855	236.8
1987-88	4270	264.1
1988-89	3515	218.6
1989-90	3834	241.0
1990-91	3970	253.2
1991-92	4273	276.6

SOURCES:

[1969-1983] Statistics Canada, cat. No. 85-205, Juvenile Court Survey.

[1984-85 to 1991-92] Statistics Canada, Canadian Centre for Justice Statistics, Youth Court Survey.

*Rates - These figures are per 10,000 youth for those youth between the ages of 10 and 19 living in Manitoba as found in Table 1A.

**The YOA was enacted in April, 1984, so that when data compilation took place, the first four months of 1984 were not recorded.

TABLE 12
YOUTH COURT SURVEY
RATES OF SECURE CUSTODY

<u>Year</u>	<u>Number of Secure Custody Dispositions</u>	<u>Rates per 10,000 youth</u>
1984-85	320	19.0
1985-86	350	21.3
1986-87	387	23.8
1987-88	390	24.1
1988-89	392	24.4
1989-90	418	26.3
1990-91	482	30.7
1991-92	494	32.0

SOURCE:

[1984-85 TO 1991-92] Statistics Canada, Canadian Centre for Justice Statistics,
Youth Court Survey

*Rates - These figures are per 10,000 youth for those youth between the ages of 10 and 19 living in Manitoba as found in Table 1A.

TABLE 13
YOUTH COURT SURVEY
RATES OF OPEN CUSTODY

<u>Year</u>	<u>Number of Open Custody Dispositions</u>	<u>Rates per 10,000 youth*</u>
1984-85	196	11.7
1985-86	340	20.6
1986-87	526	32.3
1987-88	545	33.7
1988-89	603	37.5
1989-90	501	31.5
1990-91	634	40.4
1991-92	626	40.5

SOURCE:

[1984-85 TO 1991-92] Statistics Canada, Canadian Centre for Justice Statistics,
Youth Court Survey

*Rates - These figures are per 10,000 youth for those youth between the ages of 10 and 19 living in Manitoba as found in Table 1A.

TABLE 14
JDA AND CWA ADMISSIONS
FOR SENTENCED YOUNG OFFENDERS IN MANITOBA

<u>Year</u>	<u>Number of JDA Admissions</u>	<u>Number of CWA Admissions</u>
1973	48	28
1974	90	19
1975	123	20
1976	132	9
1977	144	20
1978	159	20
1979	153	20
1980	129	13
1981	132	12
1982	112	11
1983	188	13
1984	53	2

SOURCES:

- [1968] Annual Report of Manitoba Juvenile Reception Centre
- [1969] Annual Report of Manitoba Health and Social Services
- [1970-80] Annual Reports of Manitoba Health and Social Development
- [1981-83] Annual Reports of Manitoba Community Services and Corrections
- [1984-88] Annual Reports of Manitoba Community Services

TABLE 15
JDA AND CWA DISCHARGES
FOR SENTENCED YOUNG OFFENDERS IN MANITOBA

<u>Year</u>	<u>Number of JDA Discharges</u>	<u>Number of CWA Discharges</u>
1973	33	29
1974	46	21
1975	112	18
1976	139	17
1977	102	11
1978	163	17
1979	190	19
1980	144	21
1981	113	13
1982	144	12
1983	148	7
1984	154	11

SOURCES:

- [1968] Annual Report of Manitoba Juvenile Reception Centre
- [1969] Annual Report of Manitoba Health and Social Services
- [1970-80] Annual Reports of Manitoba Health and Social Development
- [1981-83] Annual Reports of Manitoba Community Services and Corrections
- [1984-88] Annual Reports of Manitoba Community Services

REFERENCES

- Abbate, G. (1992, March 5). Judges giving shorter sentences. Globe and Mail, A9.
- Almost half in youth court recidivists. (1992, February 11). Globe and Mail, A6.
- Archambault, O. (1983). Young Offenders Act: Philosophy and principles. Provincial Judges Journal, 7, (2), 1-7.
- Austin, J. & Krisberg, B. (1981). Wider, stronger, and different nets: The dialectics of criminal justice reform. Journal of Research in Crime and Delinquency. January, 165-196.
- Bala, N. & Clarke, K.L. (1981). The child and the law. Toronto: McGraw-Hill Ryerson.
- Bala, N. & McConville, B. (1985). Children's rights: For us against treatment. Canada's Mental Health, 33, (4), 2-5.
- Beaulieu, L. (Ed.). (1988). Young offender dispositions: Perspectives on principles and practice. Toronto: Wall & Thompson.
- Caputo, T.C. (1987). The Young Offenders Act: Children's rights, Children's Wrongs. Canadian Public Policy, XIII, (2), 125-143.
- Chan, J. & Ericson, R. V. (1981). Decarceration and the economy of penal reform. Toronto: Centre of Criminology, University of Toronto.
- Clarke, B. & O'Reilly-Fleming, T. (1993). From care to punishment: Rehabilitating young offender programming in Ontario. In T. O'Reilly-Fleming & B. Clarke, (Eds.), Youth injustice: Canadian Perspectives. Toronto: Canadian Scholars Press.
- Cohen, S. (1979). The punitive city: Notes on the dispersal of social control. Contemporary Crises, 3, 339-363.
- Cohen, S. (1985). Visions of social control: Crime, punishment and classification. Cambridge: Polity Press.
- Corrado, R., Bala, N., Linden, R. & LeBlanc, M. (Eds.). (1992). Juvenile justice in Canada: A theoretical and analytical assessment. Toronto and Vancouver: Butterworths.

- Curran, D. J. (1988). Destructing, privatization, and the promise of juvenile diversion: Compromising community-based corrections. Crime and Delinquency, 34, (4), 363-378.
- Doob, A. (1992). Trends in the use of custodial dispositions for young offenders. Canadian Journal of Criminology, 34, 75-84.
- Foucault, M. (1977). Discipline and punish: The birth of the Prison. New York: Pantheon Books.
- Garland, D. & Young, P. (Eds.). (1983). The power to punish: Contemporary penality and social analysis. New Jersey: Humanities Press.
- Griffiths, C.T., Klein, J.F. & Verdun-Jones, S. (1980). Criminal justice in Canada: An introductory text. Toronto: Buttersworth.
- Hackler, J. (1991). Good people, dirty system: The Young Offenders Act and organizational failure. In A. W. Leschied, P. G. Jaffe & W. Willis (Eds.), The Young Offenders Act: A revolution in Canadian juvenile justice (pp. 37-67). Toronto: University of Toronto Press.
- Hagan, J. (1985). Modern criminology: Crime, criminal behaviour and its control. New York: McGraw-Hill.
- Harvey, C. (1988). The early years of the Manitoba home for boys, 1889-1948. Unpublished manuscript, University of Manitoba.
- Hudson, J., Hornick, J., & Burrows, B. (Eds.). (1988). Justice and the young offender in Canada. Toronto: Wall & Thompson.
- Hylton, J. H. (1981). Community corrections and social control: The case of Saskatchewan, Canada. Contemporary Crises, 5, 193-215.
- Ignatieff, M. (1978). A just measure of pain: The penitentiary in the industrial revolution 1750-1850. New York: Columbia University Press.
- Juvenile Delinquents Act, R.S.C., 1970, C. J-3.
- Juvenile incarceration rates holding steady, figures reveal. (1991, December 14). Winnipeg Free Press, A3.
- Kaplan, R. (1982). Highlights of the Young Offenders Act. Ottawa: Ministry of the Solicitor General, Canada.

- Kueneman, R. & Linden, R. (1983). Factors affecting dispositions in the Winnipeg juvenile court. In R. Corrado, M. LeBlanc & J. Trépanier (Eds.), Current issues in juvenile justice (pp. 219-235). Toronto: Butterworths.
- Latimer, C. A. (1986). Winnipeg youth courts and the Young Offenders Act. Winnipeg: Manitoba Attorney General.
- Lemert, E. (1971). Instead of court: Diversion in juvenile justice. Rockville, Md: National Institute of Mental Health.
- Lemert, E. (1981). Diversion in juvenile justice: What hath been wrought. Journal of Research in Crime and Delinquency, January, 34-46.
- Leschied, A. W., Austin, G. W., & Jaffe, P. G. (1988). Impact of the Young Offenders Act on recidivism rates of special needs youth and policy implications. Canadian Journal of Behavioural Sciences, 20, (3), 322-331.
- Leschied, A. W. & Gendreau, P. (1986). The declining role of rehabilitation in Canadian juvenile justice: Implications of underlying theory in the Young Offenders Act. Canadian Journal of Criminology, 28, (3), 315-22.
- Leschied, A. W. & Jaffe, P. G. (1987). Impact of the Young Offenders Act on court dispositions: A comparative analysis. Canadian Journal of Criminology, 29, (4), 421-430.
- Leschied, A. W. & Jaffe, P. G. (1988). Implementing the Young Offenders Act in Ontario: Critical issues and challenges for the future. In J. Hudson, J. Hornick, B. Burrows (Eds.), Justice and the young offender in Canada (pp. 65-80) Toronto: Wall & Thompson.
- Leschied, A. W. & Jaffe, P. G. (1991). Dispositions as indicators of conflicting social purposes under the JDA and the YOA. In A. W. Leschied, P. G. Jaffe & W. Willis (Eds.), The Young Offenders Act: A Revolution in Canadian juvenile justice (pp. 158-169). Toronto: University of Toronto Press.
- Leschied, A. W., Jaffe, P. G., & Willis, W. (Eds.). (1991). The Young Offenders Act: A revolution in Canadian juvenile justice. Toronto: University of Toronto Press.
- Lothian, J. (1990). Status offenders in Manitoba: Hidden systems of social control. Unpublished Masters thesis, Department of Sociology, University of Manitoba.
- Lowman, J., Menzies, R. J., & Palys, T. S. (Eds.). (1987). Transcarceration: Essays in the sociological of social control. Aldershot: Gower.

- Manitoba. (1968). Annual report. Manitoba Juvenile Reception Centre.
- Manitoba. (1969). Annual report. Department of Health and Social Services.
- Manitoba. (1970-1980). Annual reports. Department of Health and Social Development.
- Manitoba. (1981-1983). Annual reports. Department of Community Services and Corrections.
- Manitoba. (1984-1988). Annual reports. Department of Community Services.
- Manitoba. (1988-89). Annual report. Department of Attorney General.
- Markwart, A. (1992). Custodial sanctions under the Young Offenders Act. In R. Corrado, N. Bala, R. Linden & M. LeBlanc (Eds.), Juvenile justice in Canada: A theoretical and analytical assessment (pp. 229-281). Toronto and Vancouver: Butterworths.
- Markwart, A. & Corrado, R. (1989). Is the Young Offenders Act more punitive? In L. Beaulieu (Ed.), Young offender dispositions: Perspectives on principles and practice (pp. 7-26), Toronto: Wall & Thompson.
- Martinson, R. (1974). What works? Questions and answers about prison reform. The Public Interest, 35, 22-54.
- McMahon, M. (1990). "Net-widening" Vagaries in the use of a concept. The British Journal of Criminology, 30, (2), 121-149.
- McMahon, M. (1992). The persistent Prison: Rethinking decarceration and penal reform. Toronto: University of Toronto Press.
- Ohlin, L. (1983). The future of juvenile justice policy and research. Crime & Delinquency, July, 463-473.
- Ouimet, R. [chairman]. (1969). Towards unity: Criminal justice and corrections. Canadian Committee on Corrections Report. Ottawa: Queen's Printer.
- Reid, S.A. & Reitsma-Street, M. (1984). Assumptions and implications of new Canadian legislation for young offenders. Canadian Criminology Forum, 7, (1), 1-19.

- Reid-MacNevin, S. (1991). A theoretical understanding of current Canadian juvenile-justice policy. In A. W. Leschied, P. G. Jaffe & W. Willis (Eds.), The young offender: A revolution in Canadian juvenile justice (pp. 17-36), Toronto: University of Toronto Press.
- Rothman, D. (1971). The rise of the asylum. Boston: Little Brown.
- Rothman, D. (1980). Conscience and convenience: The asylum and its alternatives in progressive America. Boston: Little Brown.
- Scull, A. (1977). Decarceration: Community treatment and the deviant-A radical view. Englewoods Cliffs, NJ: Prentice-Hall.
- Scull, A. (1983). Community corrections: Panacea, progress or pretence? In D. Garland & P. Young, (Eds.), The power to punish. London: Heineman.
- Scull, A. (1984). Decarceration: Community treatment and the deviant-A radical view (2nd ed.). Cambridge: Polity.
- Shamise, S. J. (1981). Anti-social youth: Our treatments do not work-Where do we go from here? Canadian Journal of Psychiatry, 26, 357-64.
- Smandych, R., Dodds, G. & Esau, A. (Eds.). (1991). Dimensions of childhood: Essays on the history of children and youth in Canada. Winnipeg: Legal Research Institute.
- Statistics Canada. (1969-1983). Juvenile court statistics, (cat. 85-202). Ottawa: Canadian Centre for Justice Statistics.
- Statistics Canada. (1987). Juvenile/youth court statistics: The transition period. Ottawa: Canadian Centre for Justice statistics.
- Statistics Canada. (1990). Recidivists in youth court: An examination of repeat offenders convicted in 1988-89. Juristat Service Bulletin, 10, (8). Ottawa: Canadian Centre for Justice Statistics.
- Statistics Canada. (1963-1973). Training schools (cat. 85-208). Ottawa: Canadian Centre for Justice Statistics.
- Statistics Canada. (1984-85 to 1991-92). Youth court statistics: Preliminary data. Ottawa: Canadian Centre for Justice Statistics.
- Strauss, M. (1985, August 10). Justice official stymied by lack of data. Globe and Mail, pp. 15, 17.

Trépanier, J. (1988). Principles and goals guiding the choice of dispositions under the YOA. In L. Beaulieu (Ed.), Young Offender Dispositions: Perspectives and principles and practice (pp. 27-66). Toronto: Wall & Thompson.

Trépanier, J. (1991). The origins of the Juvenile Delinquents Act of 1908: Controlling delinquency through seeking its causes and through youth protection. In R. Smandych, G. Dodds, & A. Esau (Eds.), Dimensions of childhood: Essays on the history of children and youth in Canada (pp. 205-232). Winnipeg: Legal Research Institute.

West, W. G. (1984). Young offenders and the state: A Canadian perspective on delinquency. Toronto: Butterworths.

Young Offenders Act. R.S.C., 1985, c. Y-1.