

Set Up for Failure?
Understanding Probation Orders and
Breaches of Probation for
Youth in Conflict with the Law

by

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A thesis
presented to the University of Waterloo
in fulfillment of the
thesis requirement for the degree of
Doctor of Philosophy
in
Sociology

Waterloo, Ontario, Canada, 2014

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AUTHOR'S DECLARATION

I hereby declare that I am the sole author of this thesis. This is a true copy of the thesis, including any required final revisions, as accepted by my examiners.

I understand that my thesis may be made electronically available to the public.

Jessica Elizabeth Pulis

Abstract

This dissertation examines probation for young people in Canada. Ninety percent of all young people sentenced in Canada receive a non-custodial or community sentence, with probation accounting for the majority (91%) of community supervision admissions (Munch, 2012). However, little is actually known about the judicial use of probation, the conditions that are imposed as a part of this sentence and, more importantly, what factors are associated with breaches of probation. Breaches of probation, have historically been and continue to be significant pathways back into the youth justice system, especially incarceration. Using informal social control theory (wider social processes – family, school and peers) and an integrated sites of oppression lens (an analysis of marginalized populations) this research explores the factors that influence the nature and extent of probation sentences and if there is disparity in the use of probation sentences for female and Aboriginal youth.

This dissertation reports on a province-wide investigation of a sample of all Ontario youth sentenced to probation (N=6051) in 2005 and 2006, using data from the Ministry of Community Safety and Correctional Services and the Ministry of Children and Youth Services. This research also explores a sub-sample of youth on probation who were charged with breach of probation (N=255) during the period of study. It appears judges use probation conditions as a means to mitigate informal social controls that may cause delinquency (e.g. poor parenting, school failure, delinquent peers). Little support was found for the hypotheses that girls would receive particular conditions (curfews, residence orders, non-association orders) because of gender bias. Girls were more likely to receive shorter sentences of probation, which is interesting given that they are more likely to be given probation for violent offences. An examination into the impact of race on probation sentences revealed the need for further investigation into judicial decision making with non-custodial sentences.

Results of the analysis of the breach of probation data indicate that regardless of the commission of a new offence (in addition to a breach or breaches of probation) non-compliance with previous dispositions, like probation, remains a significant pathway back into the youth justice system. Girls, younger youth and Aboriginal youth are all more likely to be charged with breach of probation. Breaching conditions of probation may be unrelated to the original offence (for which the young person received probation) and may be connected to wider concerns about protection and social control. Marginalized youth, in particular, who breach probation, are significantly more likely to be charged by police and receive custody. The aim of this dissertation is to provide a comprehensive understanding of probation and probation violations and broaden the scope of our knowledge of probation. This research adds both empirically and theoretically to the current body of research on youth sentencing in Canada.

Acknowledgements

I would like to acknowledge the support and dedication of my supervisor, Dr. Peter J. Carrington. From the moment we met you showed enthusiasm and dedication to both your students and to the discipline we both love. You have supported me throughout this journey and have always been there to help guide and challenge me, knowing when direction or independence was more fitting. I am honoured to call you my colleague, mentor, and friend.

To my committee; Dr. Jane B. Sprott and Professor Barry McClinchey. Dr. Sprott, you provided me with tremendous support during my Master's and encouraged me to pursue doctoral studies where you continued to have an important impact on my academic career. I gratefully acknowledge your invaluable contributions to the dissertation and I look forward to working together again in the future. Professor McClinchey's sound advice and meaningful questions made integral contributions to the dissertation, especially in regards to education policy. Thank you both.

I would also like to recognize the contributions of my external examiner, Dr. Anthony N. Doob and my internal examiner, Dr. Maureen Drysdale. Their questions about broader significance, policy implications and future directions for publication are greatly acknowledged. I am also appreciative of the Ministry of Children and Youth Services, Correctional Services/Youth Justice Research Division for the rich data used in this dissertation. Specifically, I would like to thank Dr. Greg Brown for providing assistance with access to the data and Kathy Underhill for statistical support. I would like to recognize the support of the Social Sciences and Humanities Research Council of Canada for the opportunity to pursue this research endeavor.

I would like to acknowledge the staff and faculty in the Department of Sociology and Legal Studies at the University of Waterloo, especially Ilona Kosa. Ilona you do so much for the students, you extend yourself unconditionally, and you are always willing to help. Thank you. I would like recognize the incredibly talented group of colleagues whom I had the absolute pleasure of sharing this experience with, especially: Dr. Kristen Frank; Guil Martinelli; Dr. Shane Dixon; Allison Chenier, my academic little sister; Dr. Joanna Jacob, my incredible mentor and friend; and Dr. Sara Cumming, my academic soul mate. Joanna and Sara continue to inspire me both inside and outside of the classroom.

I would like to acknowledge the momentous contribution of my family. To my mom, Carmen Pulis, who is a source of constant devotion and who never faltered in her belief in me. To my sisters Rachael and Vanessa, who were always there when I needed them and who contributed so much in such different ways. Finally, and most importantly, I would like to acknowledge the love, strength and sacrifice of my husband and three children...here at the end of all things.

Dedication

This is dedicated to my husband Jason and my three children:

Olivia

Xavier

Sophia

You provided me with the strength to complete this journey, the unconditional love that transformed my life and the confidence to achieve my dream. Thank you.

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Chapter 1

Introduction

This dissertation examines probation for young people in Canada. Ninety percent of all young people sentenced in Canada receive a non-custodial or community sentence, with probation accounting for the majority (91%) of community supervision admissions (Munch, 2012). However, while probation continues to be the most widely used sentence with youth little is known about the judicial use of probation, judges' reasons for choosing it, the conditions that are imposed as a part of this sentence and more importantly, what factors are associated with probation outcome.

1.1 Empirical and Theoretical Background

To a large extent all of the published research in Canada on probation sentences, conditions of probation and violations was done prior to the *Youth Criminal Justice Act* or in other countries, like; the United Kingdom, Australia and the United States (see Bottoms and McWilliams, 1984; Morgan, 1994; Miller, 1996; Petersilia, 1998; Raynor and Vanstone, 2002; Worrall and Hoy, 2005). Recent Canadian research on probation (Corrado, Odgers, and Cohen 2000; Corrado, Gronsdahl, MacAlister, and Cohen 2010; Latimer, 2011; and Panknin, 2007) add to a sparse current body of literature on probation sentences for young people. Very little research, if any, has focused on exploring conditions of probation and breaches of probation¹. More so, official statistics tell us little about the types of conditions

¹ With the exception of Latimer (2011) (unpublished doctoral dissertation) who explores violations of probation by Ottawa youth.

offenders receive, if there is disparity in the use of probation sentences and what factors are associated with breaching probation.

Traditionally, the focus of probation research tends to concentrate on explicit justifications for its use (reducing recidivism, avoiding custody, etc.). There have been few current Canadian studies that explore theoretical approaches to understanding probation². Using informal social control theory (wider social processes – family, school and peers) and an integrated sites of oppression lens (an analysis of gender, race and class) this research explores the factors that influence the nature and extent of probation sentences and if there is disparity in the use of probation sentences for female, Aboriginal and other marginalized youth.

1.2 Research Problem and Focus

The goal of this research is to describe the day-to-day reality of probation: who gets probation, for what types of offences, what conditions are commonly imposed, what factors are related to probation outcome. More importantly, this research develops a holistic picture of probation from the beginning of the order to completion, which few studies have done (Farrall, 2004). This dissertation reports on a province-wide investigation of a sample of Ontario youth on probation, using data from the Ministry of Community Safety and Correctional Services and the Ministry of Children and Youth Services. The major hypotheses of this dissertation are:

² With the exception of Corrado, Gronsdahl, MacAlister, and Cohen (2010) who explore theoretical approaches to understanding probation supervision under the current *Youth Criminal Justice Act*.

H1: The period (length of time) of the youth probation order and the number and types of conditions attached to it are associated with personal and social characteristics of the youth, the characteristics of the offence(s) for which probation is ordered, the youth's offence history, and any other sentences handed down besides the probation order.

H2: Breach of one or more conditions of a youth probation order is associated with the period (length of time) of the probation order and the number and types of probation conditions, as well as with the factors listed in Hypothesis 1.

This research provides a more current and comprehensive understanding of probation in Canada for young offenders, as existing research is both limited and outdated. The findings broaden the scope of our knowledge of probation and add both empirically and theoretically to the current body of research on youth sentencing in Canada.

1.3 Chapter Overview

Chapter 2 provides a review of the literature on probation, including a brief history of the use of probation with young people and a current examination of youth probation in Canada. Chapter 3 describes the theoretical lens utilized in this research to explore sentences of probation. Chapter 4 explores the proposed research questions and hypotheses. Chapter 5 provides details about research design, methods, and variables of study. Chapter 6 explores understanding orders of probation, while Chapter 7 examines breaches of probation. Finally, Chapter 8 provides some concluding remarks, limitations of the research and policy implications, with a focus on future research.

Chapter 2

Literature Review

2.1 The Development of Probation in Canada

The word ‘probation’ is derived from Latin, meaning a period of proving or trial (Dressler, 1969). As a system, probation was originally developed and used as a legal device to alleviate the harshness of punishment. There was a growing concern about the severity of the punishments that existed during the late 19th century (Smykla, 1984). The social climate during which probation evolved laid the grounds for its widespread acceptance and implementation. Reform movements sweeping across developed nations focused on alleviating the ‘ills’ of society; including: poverty, child labour, the oppression of women, and crime and delinquency. Reformers also focused their efforts on revealing the cruel and inhumane ways in which people were punished. Probation was premised upon the idea that the court would suspend a sentence and allow the offender back into the community, rather than subject them to a harsh prison sentence.

Focusing specifically on young people in Canada, one of earliest mentions of embryonic probation can be found in the *Act for the More Speedy Trial and Punishment of Juvenile Offenders* (1857). This piece of legislation speaks directly about the prosecution and punishment of juvenile offenders and outlines what can be understood as the groundwork of a probation system in Canada (McFarlane, 1969:3). Justices could release an accused juvenile charging a surety with the responsibility of ensuring the future good behaviour of the accused (McFarlane, 1969). One of the first provisions that used the actual term ‘probation’

in relation to juvenile delinquents can be found in *An Act to Permit the Conditional Release of First Offenders in Certain Cases*:

In any case in which a person is convicted before any court of any offence punishable with not more than two years' imprisonment the offender should be released on probation of good conduct. The court may, instead of sentencing him to any punishment, direct that he be released...and in the meantime keep the peace and be of good behaviour

(Statutes of Canada 1889, 52 Victoria, Ch. 44, Sec. 2, cited in McFarlane, 1969:24).

Elements of official probation can also be found in a subsection that was added in 1903 to the Children's Protection Act (1893).

The subsection specified, "without being convicted of a provincial offense, persons under six-teen could be placed by a judge under the care of a probation officer, who would report periodically concerning the progress and welfare of the child" (Leon, 1977:592).

Delinquent youth were beginning to be recognized as individuals who needed to be treated differently from adult offenders. Social reformers, in particular J. J. Kelso and W. L. Scott, called for the complete separation of children and adults before the court and for the creation of juvenile courts. The idea of reformation without punishment became widely accepted and probation soon became an integral part of Canada's first piece of youth justice legislation; the *Juvenile Delinquents Act (JDA)* (1908).

Probation did not derive from a well-developed theory about community supervision (Smykla, 1984). The original rationale for imposing probation was to help, guide, show mercy and provide moral direction rather than sentence an individual to the harshness of prison. It has been suggested that probation "was a response to political, religious and social concerns; a way of reducing the escalating prison population; a method for reducing crime or

drunkenness; a means of saving people from damnation; and/or a way of ameliorating social and personal problems” (Vanstone, 2004:19). These concerns defined and labeled offenders in ways that shaped ideologies about how to best respond to offenders, which included; rehabilitation, providing supervision, diversion from custody and reducing crime and recidivism.

Leon (1977) argues one of the primary objectives of the JDA was to expand the use of probation as an alternative to reformatories. He explains, “probation was designed to protect children through the prevention of ‘crime’ by keeping them out of institutions and providing them with supervision in their home environment” (Leon, 1977:81). The goals and purpose of probation appears to differ throughout history and are largely dependent on the social and political climate of the time. For example, rehabilitation was a key focus of the JDA, supervision and reducing crime were seen as central goals under the *Young Offenders Act* (YOA) (1984) and diversion from court and custody is a central aim of our current youth justice legislation, the *Youth Criminal Justice Act* (YCJA) (2003).

2.2 Goals of Probation

2.2.1 Rehabilitation

When probation was first created, it was not seen explicitly as punishment. Rather, probation was understood as a form of conditional liberty, an expression of the courts’ ‘mercy’ in a deserving case, or a form of social work with offenders to help them overcome personal difficulties (Raynor and Vanstone, 2002). The idea of helping offenders is one of the main rationales behind the use of probation and is largely based on a welfare or rehabilitative model. Garland (1997) summarizes probation under a welfare model: “...it

emphasized a social welfare approach to social problems. The problem of crime was understood as a problem of individuals and families in need of help and support, of communities that were disorganized and disadvantaged” (2). The principle of the ‘best interests of the child’ was a driving ideological factor in sentencing young people to probation. The idea of helping offenders through rehabilitation became a central reason for using probation, especially with young people.

A significant body of research reveals that for most young offenders a community-based sentence that addresses the cause of a young person’s offending is more likely to result in rehabilitation than a custodial sentence (Bala and Anand, 2012; Farrall, 2004; Funk, 1999; MacKenzie, Browning, Skroban and Smith, 1999; Morgan, 1994; Olson, Alderden and Lurigio, 2003; Petersilia, Turner, and Peterson, 1986; Raynor and Vanstone, 2002; Worrall, 1995). Rehabilitation, with a focus on help and treatment, is one of the main rationales for using community penalties (Rex, 2003). Probation officers, therapists, youth workers and other professionals are able to help a young offender and her/his family address the circumstances that may contribute to the young person’s offending behaviour. Conditions are used to help facilitate this process. For example, an offender may have to attend anger management counseling if she or he was involved in an assault or an offender who has a drug addiction may have to attend a program like Narcotics Anonymous.

Probation is often perceived as a program of treatment and not as a criminal justice disposition, in and of itself, because of its emphasis on rehabilitating offenders. However, there has been an ideological shift from the use of probation as a mechanism to advise, assist and befriend offenders to control, enforcement, and surveillance in the community (Worrall

and Hoy, 2005; Corrado, et al, 2010). This shift was largely a result of a growing discussion centered around the ‘nothing works’ debate (an unintended consequence of Martinson’s 1978 work) and as a result rehabilitation as a response to offending behaviour began to be seen as a ‘soft’ approach to crime. If offenders are kept out of prison it was thought that community based sentences should also be tough and demanding (Worrall and Hoy, 2005). A direct reflection of the crime control orientation of the YOA, the result was a probation service that focused on greater control and surveillance of offenders in the community. McMahon (1992) concludes “overall, while probation may have contributed to a reduction of imprisonment in Ontario, with the development of community corrections, probation itself has become a far more severe sanction than it was previously” (119).

The creation of the offence ‘failure to comply with a disposition’, Section 26 under the YOA, is evidence of this paradigm shift. The amendment created the criminal offence of noncompliance with the terms or conditions of a community sentence, which included breaches of conditions of a probation order, for which a young person could now be incarcerated (which was not always the case with breach of probation charges). In an attempt to force compliance with community sentences, young people were often charged, convicted and sentenced to prison for breaching conditions of their probation. These breaches are also known as administrative offences not substantive offences or the commission of a new offence. For example, a young person can be charged with breaching curfew, which by fact of law should be considered a less serious offence than a minor assault. Administrative offences, like breach of probation then became significant pathways to court and into custody for young people in Canada (Sprott and Doob, 2004). Research reveals that probation

officers' had previously been reluctant to proceed formally by instituting breach proceedings (i.e. laying a charge against a noncompliant probationer); thinking it undermined their rehabilitative role. However, Corrado et al (2010) report that youth probation officers favour a modified justice model (fairness, protection of society, accountability, proportionality, rehabilitation) while taking into account the offenders level of maturity when responding to a hypothetical case involving a young offender who was charged with breaching his probation order. Under the YCJA, the rehabilitative element of probation is a central reason for its use, while balancing other principles of the Act, including; fair and proportionate sentencing and offender accountability.

2.2.2 Supervision in the Community

Essentially, probation should allow the courts to accomplish two main objectives: rehabilitate offenders and assist in enforcement. Probation encourages law-abiding behaviour and protects society by controlling the behaviour of young offenders while they are in the community. In theory, conditions of probation restrict any further illegal behaviour, such as the behaviour that resulted in the offender being given probation in the first place. Hogeveen (2001) argues, “probation moved surveillance, discipline, and expert knowledge from prisons and reformatories to the larger community” (58). The young offender is now under the surveillance of a probation officer and under the restrictions of the conditions of the probation order.

Probation agents and staff are considered extensions of the court that carry out court orders in the community and as such, they play a key role in monitoring young offenders in the community. A probation officer is expected to conduct investigations for the court, to

assist and direct the court and to represent the interests of the child in court. Jacobs (1990) explains further, “[probation officers] are supposed to enforce the written and signed rules governing each probationer’s travel, curfew, personal associations and compliance with court orders” (111). The idea is to ensure full compliance with all probation conditions and to make sure, when the young person finishes probation she or he is less likely to engage in offending behaviour.

Supervision by the probation officer includes; regular contact with the offender, parents, families, schools and employers, and helping the young person reach her/his rehabilitative goals while she/he also refrains from engaging in further criminality. Scholars suggest a probation officer must wear many hats including that of police officer, counselor, educator, mentor, and disciplinarian, which creates conflict between the role of the probation officer as helper and as supervisor (Corrado et al, 2010; Corbett, 1999). Providing rehabilitative opportunities requires sensitivity that may not mesh well ideologically and practically with the role of the probation officer as supervisor and law enforcer. The discretionary practice of probation officers has not been the subject of extensive and current research in Canada³, such research could be illustrative of how individual discretion effects decision-making and how probation officers balance these roles.

2.2.3 Diversion from Custody

The idea of diverting appropriate offenders from going to prison, where this was deemed socially unnecessary, has been a central part of the philosophy and practice of the

³ With the exception of Panknin (unpublished MA Thesis, 2007, who explores the role of the PO under the JDA, YOA and YCJA but does not explore discretion specifically) and Latimer (unpublished doctoral dissertation, 2011, who explores youth probation officers discretion and decision making with breaches of probation in the Ottawa area only).

probation service since its inception throughout the world (Bottoms and McWilliams, 1984). It appears that probation may have evolved as more of an afterthought by agents of the criminal justice system in responding to offending through other means than incarceration. Young people continue to mature intellectually, neurologically, psychologically and socially so it is not surprising that custody can have a severely negative impact on this growth. Numerous studies reveal the many risks associated with incapacitation. Custody can be socially stigmatizing, stressful and young people often experience abuse, trauma, and victimization by inmates, which can occur in the context of intimidation, extortion, stealing, destruction of personal possessions, and physical, verbal, mental, and sexual abuse (Doob and Cesaroni, 2004). Leschied, Cunningham, and Mazaheri (1997) argue that victimization in incarceration often results in physical injury and emotional and psychological distress. Furthermore, some young people may be more vulnerable because they may experience some kind of psychiatric or mental health issue for which they are not adequately treated (Doob and Cesaroni, 2004). All of these risks combined may hinder the intellectual, neurological, psychological, and social growth of an institutionalized youth. While legislation guides judicial decision making concerning custodial sentences, judges may be reluctant to sentence an offender to custody to avoid exposure to such risks.

It has also been argued that custodial experience provides an opportunity for less serious offenders to learn from the negative influence, attitudes, and ideas of more serious offenders (Bala and Anand, 2012). The prison experience becomes criminogenic in itself; where prisons provide an opportunity for younger, less experienced criminals to learn from more experienced criminal ‘veterans’. In their study of Canadian Aboriginal youth, Latimer

and Foss (2004) argue the participants "...did perceive incarceration as a chance to improve their criminal skills through association with more experienced youth" (26). Adequate and effective rehabilitation should be holistic and address all the needs of the offender (personal, family, school, community cultural, etc) and given the risks associated with incapacitation it appears unlikely that effective rehabilitation can be achieved in this type of environment. More so, most offending behaviour peaks and desists around the age of 16 and consists predominately of minor and non-violent offences, as a result, incarceration may seem like a harsh response if this is not habitual, serious offending behaviour.

Morris and Tonry (1990) argue the justice system has become too reliant upon polar choices of custody or probation and often fails to utilize intermediate sanctions. Probation may be used as a replacement for less frequently used dispositions like a fine or suspended sentence (Morris and Tonry, 1990, Reitsma-Street, 1993, Marinos, 1999)⁴. Rates of incarceration rose dramatically under the YOA; however, under the YCJA community sentences, like probation, are encouraged while new restrictions discourage the use of custody, reserved only for severe offences or for habitual repeat offenders (discussed in greater below).

2.2.4 Reducing Recidivism

There is debate among scholars about whether or not sentences of probation have an effect on future offending. Various international studies on probation have reported recidivism rates between 15 and 60 percent, compared to other judicial sanctions (Morgan, 1994). Some argue appropriate intervention, especially community-based intervention like

⁴ For a detailed discussion on the use of intermediate sanctions in sentencing refer to Tonry, 1998.

probation, will result in a reduction in the risk of reoffending. A recent report reveals adult offenders in Canada who spent their sentence under supervision in the community (either on probation or serving a conditional sentence), over a two-year time frame, were significantly less likely to become involved in reoffending (11 percent), compared to those who spent their sentences in a custodial facility (30 percent) (Johnson, 2006). Others argue that probation, as a sanction to encourage law-abiding behaviour, has been highly criticized for its failure to rehabilitate and deter offenders (Morgan, 1994).

A well-known but dated American study of recidivism rates of prisoners and probationers revealed that prisoners had a higher rate of recidivism than probationers (72 percent compared to 63 percent) (Petersilia et al, 1986). The researchers also found prisoners are more likely to recidivate faster than probationers (Petersilia et al, 1986). MacKenzie, Browning, Skroban, and Smith (1999) examined the impact of probation on subsequent criminal activity, using self-report data and official data of adult Americans, they conclude, “this research provides evidence that probation is effective in reducing criminal activities”. While inconsistent rates of recidivism have been reported with probationers, many American studies report rates of reoffending by probationers that are consistently lower than those who are incarcerated (Chesney-Lind and Shelden, 1998; Farrall, 2004; MacKenzie et al, 1999; Petersilia et al, 1986).

Farrall (2004) examined the effects of probation supervision on the criminal careers of 199 probationers in the United Kingdom. He argues that most correlates of recidivism are complex and not linear and may interact with one another. Looking at obstacles to desistance (friends, family, finances, drugs, alcohol, social problems, and personal characteristics)

Farrall's research reveals that probationers' individual motivation and her or his social and personal circumstances interact to influence the outcome of supervision. Those who were more likely to reoffend or who did not want to stop offending were younger at the age of their first conviction, had more previous convictions, and had previous orders of probation and custody.

Research on intensive probation supervision (IPS) has consistently produced conflicting results about the effect this type of probation has on recidivism. Lipsey's (1991) meta analysis of IPS reveals that research on IPS indicates this type of sanction had a modest effect on recidivism. While another American study found IPS may in fact increase the risk of reoffending because of increased risk of detection (MacKenzie and Li, 2002). Those who participate in IPS may experience significantly higher chances of reconviction than if they had received traditional probation (Petersilia and Turner, 1989; MacKenzie et al, 1999). An evaluation of one program in Michigan reveals that IPS is no more effective than regular probation or incarceration at reducing recidivism (Barton and Butts, 1990). Hearnden and Millie (2004) conclude: "offenders exposed to tough enforcement regimes have reconviction rates that are no different from those in more lenient probation areas" (55).

American and British studies of IPS reveal that increased surveillance has little effect on an offender's future criminal behaviour (Corbett, 1999; Moore, Gray, Roberts, Merrington, Waters, Fernandez, Hayward, and Rogers, 2004). However, if IPS includes a treatment or rehabilitative component there may be a subsequent decrease in recidivism (Moore et al, 2004). Low-risk offenders tend to recidivate faster when they are given higher levels of supervision than they would if given lower levels of supervision: the increases in

stress on lower-risk youth and increased surveillance actually increase the chances for failure (Altschuler, 1999).

Hedderman and Hough's (2004) study of 782 offenders on probation measured tough and lenient enforcement areas (surveillance by police and probation officers) in London, England. They found 70 percent of the follow-up sample had completed their probation order or had it terminated early for good behaviour. However, they also found those offenders who lived in tougher enforcement areas had breached their order of probation at almost twice the rate of those in lenient enforcement areas.

If probation may reduce future criminal activity, this finding has important implications for research on incapacitation – why imprison when probation is just as effective? If probationers have lower or similar recidivism rates as those young people who are imprisoned for similar offences/with similar criminal records should judicial agents be utilizing the sentencing option that is significantly less costly and has fewer risks associated with its use? Given that recidivism rates for probationers and prisoners are inconsistent and vary greatly, less invasive sanctions are a more appropriate judicial response to youthful offending. Lundman (2001) concludes, “community treatment is a safe and effective intervention for nearly all confinement bound juveniles” (255).

2.3 Probation under the *Youth Criminal Justice Act*

All young people, twelve years of age to their eighteenth birthday, who are charged with an offence, are charged under Canada's current piece of youth justice legislation: the YCJA. Upon being convicted of an offence, a youth court judge may sentence an offender to probation or probation in conjunction with another sentence (community service, fine,

custody, etc.) and probation can be ordered for a maximum of two years. The aim of probation is to encourage law-abiding behaviour and to reduce delinquency through the least restrictive means possible or with minimal court intervention. Essentially the offender is able to serve her or his sentence in the community, while being restricted by the conditions of the probation order. The function probation serves differs throughout periods of its use and can be characterized at times as advising, helping, and protecting a young person to controlling, monitoring and providing surveillance of a young person in the community. Corrado et al (2010) discuss the role of the youth probation officer under the YCJA. They write:

Under the complex mandates of the YCJA, [youth probation officers] strive to balance their “officer of the court” mandate with the responsibility of supervising young offenders, attempting to ensure the youths’ best interests through rehabilitative, treatment-based approaches as well as ensuring the enforcement of court orders to promote accountability and public safety

(Corrado et al, 2010:404).

Under the YCJA, there is a clear emphasis on proportionate sentencing, offender accountability and rehabilitation and reintegration, which is reflected in the use of current conditions of probation. Section 38(2)(c) of the YCJA instructs youth justice court judges to create sentences that are proportionate to the seriousness of the offence and the degree of responsibility of the young person. Under the YCJA, all sentences must be crafted according to the principle of proportionality: the more severe the offence and the greater degree of responsibility of the young person, the more severe the punishment. For example, if the offence is minor then the judge may not impose a lengthy sentence of probation, even if she or he feels it would be helpful to the young offender’s rehabilitation.

In an investigation of proportionality and probation sentences under the YOA and YCJA Pulis and Spratt (2005) found that offenders were issued longer sentences of probation if they were convicted of a more serious offence. Young people convicted of indictable property or person related offences were significantly more likely to receive probation sentences for thirteen months or longer, compared to those young people convicted of administration of justice or summary property related offences (less severe) who were more likely to receive sentences of twelve months or less.

There are two mandatory conditions that appear on all orders of probation under the YCJA: “keep the peace and be of good behaviour” and “appear before the youth justice court when required by the court to do so” (*Youth Criminal Justice Act*, Section 55 (1) (a-b)). There is a broad range of other conditions that a youth justice court judge can impose, including: visit with a probation officer, observe a curfew, attend school regularly, refrain from using alcohol or drugs, refrain from a certain area or place, follow a program, restitution, etc⁵. Conditions must be proportionate and appropriate to the offence committed and should illustrate a clear relationship between the condition itself and the cause of the young person’s offending behaviour (e.g. imposing the condition to attend school may not be directly related to an assault that occurred over the weekend but may be considered important in addressing the reason for the offending behaviour). Conditions are primarily used as a means to assist offenders in their rehabilitation and to assist the court in its supervision of probationers. As a central purpose of our youth justice system, there is a clear emphasis on rehabilitation to mitigate youth sentences, like probation. Sentences must be

⁵ Section 55 (2) (a-i) of the *Youth Criminal Justice Act* outlines conditions that may appear in any probation order.

meaningful to the needs of young people within the limits of both fair and proportionate accountability. For example, a youth court justice may feel a sentence of probation with a condition to attend a counselling program is more appropriate for an offender with an alcohol or drug addiction, but must always take into consideration fair and proportionate accountability of the offender before imposing any sentence.

2.4 Probation in Canada Today

The most recent, publically available data confirms that probation remains the most frequently used sentence by Canadian youth courts. Ninety percent of guilty youth received a community sentence in 2010 and 2011, with probation accounting for 91% of all community sanctions (Munch, 2012). This represents an overall 12% decline in the use of probation since the inception of the YCJA in 2003 (Munch, 2012)⁶. Twenty percent of probation orders ranged from six months or less, 51% of probation orders ranged from 7 to 12 months, while 29% of orders were issued for 13 months or longer (Thomas, 2008)⁷. Property offence convictions accounted for the majority of probation admissions (37.4%), while offences against the person and all ‘other’ offences accounted for a similar percentage of probation admissions (31.3%) (Thomas, 2008)⁸. There appears to be significant provincial variation the use of probation: Nunavut has the highest proportion of youth sentenced to probation

⁶ Under the YOA there was no mandatory period of supervision in the community following a custodial sentence so judges may have used probation as a means to reintegrate offenders back into the community after being released from custody. This decrease is not surprising since the creation and implementation of a mandatory period of supervision in the community following an order of custody under the YCJA.

⁷ The most recent publically available data on length of probation can be found in Thomas, 2008 (not simply mean number of days youth served probation by province/territory, which is reported in Munch, 2012 and is not detailed enough for comparison). These numbers are useful for comparison as the length of time youth have served probation and the offences for which probation is ordered has remained relatively stable over the last several years in Canada (Milligan, 2010).

⁸ Ibid.

(86.2%), compared to 68.5% in Ontario and 43.1% in Saskatchewan (Milligan, 2010)⁹.

Young female offenders made up 22% of the young offender population (Munch, 2012) and account for 24% of all admissions to probation (Calverley, Cotter Halla, 2010)¹⁰.

2.4.1 Factors Associated with Probation Sentences

In their study of variables associated with sentences of probation and custody for young people, Hoge, Andrews and Leschied (1995) found that legal variables like seriousness of the offence and prior record had a significant effect on the type of sentence issued to young offenders in Ontario. Young people not convicted of a serious offence were more likely to receive probation while those who had a prior record were more likely to receive custody (secure or closed). However, the authors' also found that extralegal variables (e.g. family relationship, parental structuring, peer associations, attitude, conduct/personality, and education) were significantly related to the disposition decision.

Pulis (2003) used a sample of Ontario youth probation cases to examine the factors associated with probation sentences (e.g. length of probation, number and types of conditions). The number and types of probation conditions appear to be driven primarily by legal factors like nature of the offence. The more serious the offence, the longer the probation sentence and the more conditions were placed on youths.

In a nationally representative survey of Canadian youth court judges conducted in the late 1990's Doob (2001) found that over 86% of judges feel that probation is 'very useful' or 'somewhat useful' in controlling a young person's behaviour. A further, 94% of those

⁹ Again, data used is the most recent that is publically available that provides information on the national use of probation and not community sentences as a whole.

¹⁰ Ibid with regard to gender.

surveyed suggested that probation was ‘very useful’ or ‘somewhat useful’ in connecting a young person with programs or services. When exploring factors associated in determining length of a probation order 60% of judges reported offence seriousness and ‘how long it will take to connect with services/programs as being relevant in determining the length of a probation order. Judges also cited supervision needed, previous custodial record, and time of year as being factors to consider when determining the length of a probation order.

Young people sentenced to probation are more likely to have committed less serious offences, are perceived as being less of a danger to society and as being more amenable to treatment (Sangster, 2002). Judges take many factors into consideration when sentencing a young person to probation, including: details of the present offence, previous criminal history, role of the offender in the offence, attitude of the offender, personal history, family history, community conditions, presentence report (PSR), available probation programs, treatment and counseling and current youth justice legislation. A PSR is a tool used to assist the courts in making a sentencing decision. Probation officers gather information about an offender from numerous sources, including; family, school, employers, files from previous contact with the criminal justice system, and as a result make recommendations for sentencing.

In an American study of the impact of the PSR Jacobs (1990) reports that 80% of judges follow the recommendation of the probation officer. Maurutto and Hannah-Moffat (2007) report similar findings in Canada. They found 80% of judges followed the recommendations found in the PSR, highlighting possibility similarity in sentencing standards between judges and those who craft the PSR (Maurutto and Hannah-Moffat, 2007). However, Bonta,

Bourgon, Jesseman and Yessine (2005) found that an overwhelming majority (87%) of judges were satisfied with the PSR, compared to only 40% of probation officers. Probation officers' felt limited resources, inadequate training and the inclusion of extraneous details were significant issues related to their dissatisfaction with the PSR (Bonta et al, 2005). Worrall (1995) argues that the PSR constructs who is considered a suitable candidate for supervision. Typical candidates tend to commit less serious offences, are more remorseful, and come from white, middle-class families, with two parents who are present throughout the adjudication process (Worrall and Hoy, 2005).

There are several reasons why judges may use probation with young women. Girls are believed to be more responsive to rehabilitation and treatment (Duffy, 1996; Reitsma-Street, 1999; Corrado, Odgers, and Cohen, 2000; Morash, 2006; Sprott and Doob, 2009) and have significantly lower rates of recidivism following a sentence of probation than male offenders (Funk, 1999; and Olson et al, 2003). However; some argue that research findings have produced inconsistent conclusions about the relationship between gender and recidivism (Olson et al, 2003). Girls are also perceived as being less dangerous and less culpable than boys. Girls tend to be highly represented among those youth charged with prostitution, minor assault and fraud, compared to boys who are more likely to be charged with sexual related offences, possession of drugs, attempted murder and weapons offences (Milligan, 2010), which may explain why more severe sentences are not imposed. If young female offenders commit less violent offences, which do not constitute more severe sanctions like custody, they are given less invasive dispositions like probation. As a result, judges may

consider probation a more appropriate sentencing option for young women who tend to commit certain offences and have a greater chance for success.

Young women may also experience the negative side of judicial paternalism (Erez, 1989; Corrado et al 2000; Sprott and Doob, 2010). It is argued that judges and probation officers think they are “being kind” to girls by putting them on probation because they think it will give them someone to talk to (Gaarder, Rodriguez, and Zatz, 2004; Worrall and Hoy, 2005). While offence type, prior record and lower rates of recidivism may effect a judge's decision to sentence a young woman to probation, gender bias may also be entrenched within the justice system and may invariably affect decision-making¹¹.

Canadian studies have consistently shown that while the majority of young offenders are white, Aboriginal offenders are over-represented at all stages of the youth justice system relative to their proportion in the population. In 2008/2009 Aboriginal youth represented approximately 6% of the total youth population, yet accounted for almost one-third of all cases in custody and 24% of all admissions to probation (Calverley et al, 2010). In Ontario, Aboriginal youth account for 3% of the total youth population and 7% of the probation population (Calverley, et al, 2010). This disparity is even more pronounced for young Aboriginal girls in the Canadian youth justice system. While young Aboriginal girls represent approximately 6% of the total youth population, they represent 34% of the total female correctional population (those on probation, in remand and in custody) (Munch, 2012). There is concern, that subtle, often unconscious, discriminatory attitudes have a cumulative effect over a range of judicial decisions, including: those involving police,

¹¹ For a detailed discussion of gender and probation, please refer to Chapter 3.

prosecutorial failure to use non-court diversion, adjudication and sentencing and decisions made by probation officers and correctional officers. This research adds to a growing body of literature on the nature of probation sentences for young Aboriginal people in Ontario and adds to the literature on race and criminal justice sanctions for youth in Canada.

Researchers note that an exploration of the degree of urbanization or rurality and probation service/practice is a neglected area of research (Olson and Lurigio, 2000, Olson, Weisheit and Ellsworth, 2001; Pugh, 2007). Olson et al (2001) note, “considering that probation takes place in a community setting, variations across urban and rural communities might be expected to have a substantial impact on who is placed on probation, the conditions of probation, and the nature of probation supervision” (5). Their study of adult probationers in Illinois found rural probationers had fewer conditions and were less likely to have technical violations or be rearrested while on probation (Olson et al 2001). While the authors’ note not all rural locations are homogenous and these results would have special meaning for Aboriginal youth who are more likely to receive probation in Canada and are more likely to live in remote areas with limited or no access to programs that urban youth may have the opportunity to participate in.

2.4.2 Probation Outcome: Measuring Success and Failure

Mead (1937) first questioned how relative success or failure is measured in relation to probation in the 1930’s. However; it was not until the 1950’s and 1960’s that researchers began to examine general patterns in the usage of probation and devoted considerable attention to describing which offenders received probation (especially in terms of age, gender and criminal history) and how probation outcome is or should be measured (Farrall, 2004).

Measures of probation failure can be multifaceted and are usually operationalized to mean breaching the order of probation or committing a new offence while on probation. The most common operational definitions of success usually include completion of the probation sentence whereby the youth complied with the conditions of the order or that no new offences were committed while the youth was on probation. Breaches of probation are often referred to as technical violations (i.e. actions by the individual) and mean the offender has violated one or more conditions of the order; these offences are non-violent and represent a technical violation of an existing disposition. The initiation of a breach charge can result from probation officers knowledge of a breach and starting breach proceedings, police laying a charge against a young person (i.e. from the knowledge of a violation (i.e. the action by the individual) and a decision made by an official to respond by an act of formal social control) under Section 137 of the YCJA¹² or a judicial finding of guilt for failing to comply with the probation order. This definition could also include youth reporting on their own experiences while on probation and whether or not they violated a condition of probation (which few researchers have done) that may or may not have come to the attention of a probation officer or police or circumstances where the youth may have received a caution from a police where no charges were laid¹³.

Technical offences, like breach of probation, are operationalized differently than substantive offences, like the commission of a new offence. While both are offences under

¹² Every person who is subject to a youth sentence imposed under any of paragraphs 42(2)(c) to (m) or (s) of this Act, to a victim fine surcharge ordered under subsection 53(2) of this Act or to a disposition made under any of paragraphs 20(1)(a.1) to (g), (j) or (l) of the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985, and who willfully fails or refuses to comply with that sentence, surcharge or disposition is guilty of an offence punishable on summary conviction (*Youth Criminal Justice Act*, Section 137).

¹³ Latimer (2011) argues the number of actual probation violations is essentially unknown since many youth who breach their probation are not charged with a new offence.

the YCJA, one measures administrative offences and the other is a measure of a new offence or offences that may have been committed while on probation. It is important to distinguish between breaching the order of probation (only) or committing a new offence while on probation or committing a new offence that also violates a condition of probation.

Morgan (1994) argues that reconviction reflects failure more accurately because it indicates that a crime has been committed by a probationer and is sufficient enough to prove guilt beyond a reasonable doubt. However, failure also can be operationalized to mean non-completion of the probation order and its conditions and may also include those who were referred back to court but were not convicted of breach of probation or incarcerated because of the noncompliance. Jacobs (1990) discusses the complexity of operationalizing recidivism and reoffending:

Recidivism lends itself to a range of operational definitions, corresponding to different conceptions of the relationship between unofficial and official criminal activity. Should offences or alleged offences be treated equally, differentiated by offence type, or weighted by seriousness? Does the choice of operational definition alter the substantive findings of delinquency or correctional research?

(188).

What becomes clear is that there is no one definitive measure of success or failure. The operationalization of these measures will often depend on the research questions that are being explored or investigated. What is clear is that measures of success or failure represent the end product of an elaborate process that often does not bear a particularly exact relationship to the behaviour involved (Smykla, 1984). Today there is some consensus

among researchers regarding the variables that are commonly associated with probation outcomes:

- 1) gender (females are more successful than males)
- 2) age (positively correlated with success, older offenders are more likely to succeed)
- 3) marital status (married more successful than non-married offenders)
- 4) education level (positively correlated with success, higher education attained equals more likely to succeed, this correlate is especially important with young people (Hayward, Stephenson and Blyth, 2004:92)).
- 5) race (non-whites less likely to succeed)
- 6) employment (positively associated with success, employed more likely to succeed)
- 7) prior criminal history (negatively correlated with success)
- 8) being a serious offender (negatively associated with success)
- 9) sentence length (higher likelihood of failure for longer sentences)

(Morgan, 1994: 351).

When examining recidivism with probation researchers' should take into account a multitude of social, personal, economic, political and legislative factors and should consider that the "totally "successful" or "unsuccessful" individual...is practically nonexistent" (Dressler, 1969:264). Offenders may show improvement in other areas of their behaviour including a reduction in the frequency of offending or a reduction in the severity of offending.

Definitions of success or failure may need to take into account more subtle ways of measuring outcome. For example, successful completion of a drug or alcohol program that was a condition of probation even though the youth was charged with breaching curfew may still be considered 'successful'.

2.5 Setting Youth Up for Failure? Current Issues in Probation

Probation is not an ideal tool; it is plagued by a scarcity of resources; dense bureaucratic regulations; lack of inter-jurisdictional and intergovernmental cooperation (the courts retain traditional control over probation but the quality of programs and the nature of available services is limited by provincial and municipal restrictions (Silverman and Creechan, 1995); an absence of consensus about goals, poor administrative coordination; and programmes that are not based on effectiveness (Jacobs, 1990). Jacobs (1990) argues that probation is a system of disorganization and administrative weakness that sabotages an attempt at effective solutions. This dissertation does not attempt to evaluate the effectiveness of the probation system as a whole, nor does it suggest that the system is ‘failing’ as Jacobs (1990) argues. Rather, it is argued that in Canada, probation as a judicial system struggles under the weight of high rates of conviction breaching probation, claims of discrimination and a lack of resources and public support.

2.5.1 Breach of Probation

As previously discussed failing to abide by the conditions of one's probation order can result in being found guilty of a summary conviction offence, known formally as ‘wilfully failing or refusing to comply with the terms of an order’ (Section 26 under the YOA and Section 137 under the YCJA). Under the YOA failure to comply (FTC) accounted for 13% of the cases in youth court and 23% of the cases sentenced to custody (Doob and Sprott, 2004). Pulis (2003) and Sprott (2004) both found that young people convicted of failure to comply often receive custody as a result of breaching probation. Breaching probation can be a significant pathway back into the youth justice system for some offenders and breaches

continue to be treated harshly by Canadian youth courts (Sprott, 2006; Sprott and Doob, 2010). As previously, discussed the number of cases in youth court has steadily decreased since the introduction of the YCJA in 2003. However, in 2010-2011 the number of breach of probation cases in youth court increased 7% from the previous year (Brennan, 2012). Furthermore, the percent of youth found guilty of all offences under the YCJA in 2010-2011 was approximately 57%, however, the conviction rate for young people convicted for breaching probation is 66% (Brennan, 2012). This rate is higher than almost all violent offences, including, robbery (59%), sexual assault (54%) and major assault (55%) (Brennan, 2012).

The conditions for imposing custody for administrative offences became much more rigorous under the YCJA. Section 39 outlines four specific criteria that restrict the conditions under which custody can be ordered¹⁴. It is interesting to note that a young person can receive a custodial sentence for breaching an order of probation, if there is a history of failing to comply with community-based sentences, like probation. Breaches remain a

¹⁴39 (1) A youth justice court shall not commit a young person to custody under section 42 (youth sentences) unless

(a) the young person has committed a violent offence;

(b) the young person has failed to comply with non-custodial sentences;

(c) the young person has committed an indictable offence for which an adult would be liable to imprisonment for a term of more than two years and has a history that indicates a pattern of either extrajudicial sanctions or of findings of guilt or of both under this Act or the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985; or

(d) in exceptional cases where the young person has committed an indictable offence, the aggravating circumstances of the offence are such that the imposition of a non-custodial sentence would be inconsistent with the purpose and principles set out in section 38. (*Youth Criminal Justice Act*, 2003).

significant predictor of custodial sentences, especially for young women (Sprott, 2006; Sprott and Doob, 2010).

Studies reveal that judges (Doob, 2001), Crown attorneys (Marinos, 2006¹⁵), police officers (Schulenberg, 2004, Pulis and Schulenberg, 2005) and the courts (Pulis, 2003; Sprott, 2006; Sprott and Doob, 2010; Sprott, 2012) take violations of probation very seriously. Perhaps criminal justice agents see breaches as a sign of disrespect for the law, as evidence of an ‘out of control’ youth or as evidence that a community-based sanction failed to prevent further offending. This evidence suggests that noncompliance continues to be taken very seriously by criminal justice personnel under the YCJA.

In a study of Ontario youth on probation, Pulis (2003) explored extralegal factors and probation violations. The research revealed that girls and younger youth were more likely to be convicted of breaching certain conditions. While controlling for other factors, girls were more likely to be convicted for breaching the condition “reside at an address approved by a youth worker” and girls and younger youth for breaching the condition “obey the rules and discipline of the home or approved facility”. It is unclear if this means there is something specific about gender and age that would explain why girls and younger youths are convicted of breaching those conditions or if they are more likely to receive those conditions in the first place. Pulis (2003) also notes the problematic nature of the “keep the peace” condition and argues this condition is an ambiguous one that can encompass an infinite number of actions

¹⁵ Marinos focused on adult offenders who breached orders of probation. It remains to be seen if Crown attorneys’ take breaches by youth as serious as police officers and judges did of adult offenders in the study by Marinos.

or behaviours and tends to be the most frequently cited condition in failure to comply charges (52% of cases).

The Department of Justice (2003) attributes unsuccessful probation completion to increasingly demanding probation conditions that subsequently increases the chance for failure:

A serious concern in the setting of probation conditions for a young person is that the conditions may set up the young person for failure and, therefore, a possible charge of breach of probation. The result may be that a young person is incarcerated for behaviour that would not justify a criminal charge if it were not related to a probation order.

Young people who may have been brought into the youth justice system for a nonviolent offence (most young people are convicted of property related offences) may be more likely to receive custody as a result of breaching their probation. This research addresses questions that explore breaches of probation, specifically; which youth are more likely to be charged with breaching probation, the conditions related to these breaches, and the outcome. Results of the data analysis indicate that regardless of the commission of new offences (in addition to a breach or breaches) non-compliance with previous dispositions, like probation, remains a significant pathway back into the youth justice system and into incarceration. It appears that probationer noncompliance remains a costly outcome for youth in conflict with the law.

2.5.2 Discrimination

The overuse of probation, or decreased use with certain offenders, may be evidence of discriminatory judicial practices. The use of probation with girls may be problematic because they may have difficulty meeting probation conditions (e.g. high rates of

victimization in the home may make conditions related to parents and home-life problematic to comply with) and their probation failures are becoming a significant pathway into detention and incarceration (Sherman, 2000; Sprott and Doob, 2010). Data from the United States reveals proportionally twice as many girls than boys were being held in custody for violations of probation (Chesney-Lind and Shelden, 1998). Canadian data from 2005-2006 reveals girls violations of probation account for a small proportion of their total caseload yet this number more than doubles at the sentencing and custody stages (Sprott and Doob, 2010). Incurability and vice offences (offences related to 'misbehaving' youth (e.g. truancy, sexual immorality)) found under the JDA were eliminated under the YOA. However, amendments made to the YOA in 1986 re-introduced status-like (acts considered criminal only when a young person or juvenile commits them) offences (such as failure to comply with a disposition), under the guise of punishment-oriented youth justice policies (Reitsma-Street, 1999; Sprott and Doob, 2010, Sprott, 2012). This finding may be particularly true for minority youth, Aboriginal youth in general and young Aboriginal women in particular.

Canadian research on Aboriginal overrepresentation, at all stages of the youth justice system, has been well documented in official statistics (Brennan, 2012; Calverley et al, 2010; Milligan, 2010; Munch, 2012). The youth correctional system is comprised of 26% of youth who identify as Aboriginal, even though Aboriginal youth account for about 6% of the total youth population in Canada (Munch, 2012). This disparity is exemplified when looking at gender and Aboriginal youth in corrections. Calverley et al report that in 2008-2009¹⁶ 22% of the males admitted to probation, 25% admitted to remand, and 34% of males admitted to

¹⁶ The most recent report from the Canadian Centre for Justice Statistics, Statistics Canada, where this data is publically available.

sentenced custody were Aboriginal, in comparison, 31% of females admitted to probation, 34% of those admitted to remand, and 44% of those admitted to sentenced custody were Aboriginal. The disproportionate percentage of Aboriginal youth in the court and corrections system may be evidence of surreptitious racism and inequality.

Worrall and Hoy (2005) report that black and Asian citizens are more likely to be stopped and searched by the police, are more likely to be arrested, be given sentences that involve incarceration and are less likely to receive an order of probation. Overpolicing (the practice of surveillance and enforcement in certain areas over others, usually in poor neighbourhoods by the police) may make it more likely for a non-white offender on probation to be caught breaching their probation order. Worrall and Hoy (2005) argue this may be evidence that probation is reserved for the white, rich and employed and for those with fewer social problems. It is not clear if legislation (in particular the YCJA) has created empowerment across gender and racial lines or classes or whether particular laws and sentences are discriminatory at least for some people and some groups. This dissertation investigates theoretical approaches to understanding probation using informal social control and the intersections of gender, race and class in an attempt to flesh out the factors that influence the nature of probation sentences and explore if disparity exists in the use of probation sentences.

2.5.3 Lack of Resources and Public Support

The rise in probation as the most frequently used disposition by Canadian youth courts has not been accompanied by a subsequent increase in resources towards managing probationers, probation officers and creating effective probation programs. The quality of a probation service and the programs it offers depends on a number factors, most importantly,

available funding and resources, which is usually dependent upon public and political support. Sprott (1998) found that the public is not supportive of non-custodial sentences because they are perceived as ineffective. Bala (2003) explains, “The extent to which community-based sentencing options are available to judges, and the degree to which supervision and support in the community will be meaningful, will depend on the willingness of provincial governments to provide adequate resources” (570). Doob (2001) explains judicial support for the use of probation depends on adequate resources that are made available to probation services and programs. Anecdotal evidence from those working in the youth justice system reveals that probation services in most locations are unable to provide programs and surveillance necessary (Doob, 2001). The public may not support the idea of having resources allotted to probation because they have not seen evidence that this type of sentence will help fulfill judicial sanctioning, protect the public and serve the needs of the offender. Worrall and Hoy (2005) argue “people are not prepared to pay for the punishment of criminals and they are not prepared to pay for their treatment as well” (28). More rigorous, methodologically sound, evidence-based research on probation and probation-related programs is needed to enhance public support and provide policy makers with evidence that allocating resources into probation is the most viable option. More funding does not necessarily mean better services; therefore, what is also required is evidenced-based research on effectiveness.

Unfortunately, we know little about what affects police and probation officer decision making concerning probation and breaches of probation. There may be variability in the reasons why police officers charge or arrest young people for violations and inconsistency in

a probation officer's decision to report a violation. If violations of probation are violations of conditions and not the commission of new substantive offences (Landis, Merger and Wolff, 1969; Langan and Cunniff, 1992; Pulis, 2003), this could mean a return to court and custody for young probationers under the YCJA. Silverman and Creechan argue: "It is interesting to note how few research projects have actually considered the effectiveness of the most widely used intervention... Given that the most common disposition for... guilty pleas in Canadian juvenile courts was probation, the lack of published information about the effectiveness is truly astounding" (1995:26). This particular research project attempts to examine if conditions are harder for certain youth to comply with and to understand how offender, offence and probation variables may affect probationer compliance. These data may help explain if certain offenders breach the conditions of their probation and if there is disparity in the use of probation sentences for female, Aboriginal or marginalized youth.

Chapter 3

Conceptual Framework: Towards a Theory of Probation

3.1 A Theory of Informal Social Control and Probation

Sampson & Laub (1993) explain that for adolescents informal social controls form a structure of interpersonal bonds that link an individual to social institutions like the family, peers and school. The emphasis here is on informal social controls that emerge from the shared role and structures of interpersonal ties that link individuals to one another and to the wider social institutions of society (Sampson and Laub, 1993). Within this framework, informal processes of social control within the family and school provide the key to explaining delinquency. These controls or bonds increase the young person's "social investment to create a web of reciprocal relationships, both of which exercise constraints over criminal behavior" (Hepburn and Griffin, 2004:47). Sampson and Laub (1993) assert, "when the social ties (that is, attachments, commitment) that bind an individual to key societal institutions (such as family, school, work) are loosened, the risk of crime and delinquency is heightened" (65). Relationships between individuals are forms of social capital, defined as strong social ties or bonds (Sampson and Laub, 1993:18), which further contributes to an understanding of delinquency.

For Hagan and McCarthy, social capital "originates in the socially structured relations between individuals, in families, and in aggregations of individuals in neighbourhoods, churches, schools... These relations facilitate social action by generating a knowledge and sense of obligations, expectations, trustworthiness, information channels, norms, and sanctions" (1997:229). Essentially, one's social capital increases control and attachments to

parents, school and conventional friends, which at the same time reduces the chances of delinquency. For example, Sampson and Laub argue that parental deviance (alcoholism or criminality) disrupt the processes by which the family exercises social control over the young person, which increases delinquency (1993). These parents are unable to foster and nurture their children in such a way that will provide them with the social capital they need to resist delinquency. As a result “crime is more likely to occur when an individual’s ties to society are attenuated” (Laub, 2006:242). Results of a recent representative self-report study of Toronto youth, that explored factors associated with delinquency, reveals that youth who reported positive relationships with their mothers and fathers were less likely to report engaging in violent crime (Zeman and Bressan, 2006).

There are many mechanisms of social influence that exist during adolescence, which may affect criminality. Young people tend to want to spend more time with friends during late childhood and early adolescence, the same time when criminal behaviour begins to develop. Dunphy (1990) argues that peer groups have an impact on an individual’s socialization second only to that of the family and these groups eventually replace the family in controlling the life and behaviour of a young person. The nature of the influence may be both negative and positive. Adolescents who engage in delinquency ordinarily do so with their friends and Warr (2002) concludes the number of delinquent peers one has is one of the most significant predictors of one’s own delinquency. Warr (2002) also suggests that young people have the same group of peers whom they associate with when not engaged in delinquency.

Warr (2002) attempts to clarify the nature of peer influence by identifying some of the ways peer influence encourages delinquent behaviour. Warr (2002) argues that fear of

ridicule, loyalty to the peer group and status within the peer group influence delinquent peer relations. Fear of ridicule is considered a mechanism of social control, which can be verbal and non-verbal and may increase criminal participation, and increase conformity to avoid rejection (Warr, 2002). One of the most important elements of friendship during adolescence is loyalty, not ‘ratting’ on friends and remaining loyal to participation in criminal acts creates an illusion of morality, which is a cover for illegal behaviour and criminality (Warr, 2002). Finally, prestige, power and respect are important characteristics within the group and participation in delinquency allows the individual to earn status within the group or among peers (Warr, 2002). Youth who report being part of a peer group that condones or accepts illegal behaviour have significantly higher rates of self-reported delinquency (Zeman and Bressan, 2006). Results of the same study also reveal that youth who report spending more free-time with friends than family had significantly higher rates of self-reported delinquency (Zeman and Bressan, 2006).

The lives of women and girls are especially affected by both formal and informal social controls and these bonds and attachments may have special meanings for girls. Young women are encouraged to conform to specific behaviours when interacting within social institutions, like the family and school, and their position in society may further make these attachments work in such a way that constrains delinquency. Heidensohn argues that women and girls are subject to a series of pressures and rewards to conform. She writes “...Informal sanctions encourage women and girls from straying far from proper behaviour...Fear of crime, harassment, and stigma all aid in this process. A range of other commitments – to children, family, and community – occupy women much more fully than they do men”

(Heidensohn, 2002:521). Conventional roles young women occupy may affect how attachments work to control their behaviour, which simultaneously minimizes delinquency.

For example, in their exploration of family composition and delinquency Hagan, Gillis and Simpson (1987) investigate the conditions under which adolescents deviate from social norms and become delinquent. They argue in traditional patriarchal families, girls are the recipients of greater social control and are less likely to deviate from social norms than boys. Patriarchal families tend to reproduce a double standard for girls, which encourage girls to be risk averse, while boys are encouraged to be risk takers. Hagan et al suggest that avoiding risk is indicative of the passive and submissive female that distinguishes the 'cult of domesticity'. On the other hand, boys are free to deviate from social norms and commit acts of delinquency because of the same stereotype that burdens young women. In contrast, the structure of egalitarian families creates a situation in which both girls and boys are free to deviate from social norms. Young women and men are the recipients of equal social control, which leads to equal opportunity to engage in criminal activity. The nature of girls' lives may make attachments and commitments to the family and school problematic since they often experience higher rates of abuse and victimization in the home, experience teenage pregnancy and school failure, etc.

Attachments to social bonds (that explain conformity) may provide a useful theoretical perspective in explaining the nature of probation sentences. Hepburn and Griffin explain, "if rule-breaking behavior is associated with the strength of the offender's ties to stable, conventional social relationships, there is a clear prescription for probation supervisions: increase and stabilize the probationer's social bonds to society, especially those that arise

from employment or social relationships” (2004:48). Conditions of probation, in particular, may increase and stabilize formal and informal bonds to social institutions and groups. Gottfredson and Hirschi (1990) argue that formal social controls also have an effect on criminal behaviour because of the threat of detection or getting caught. However, it may not be solely the threat of detection that reduces delinquency, rather it may be because of the actual probation order the young person is forced to attach or commit to the family, school, work, etc.

Judges’ interpretation of informal social controls (e.g. poor parenting and delinquent peers) and their effect on delinquency may affect how judges construct sentences of probation. They may see probation and its conditions as a tool to reduce delinquency, as controls are introduced to reinforce pro-social behaviour. For example, for young people who appear to have little or no family conflict, judges may impose the probation condition “obey the rules of the home” or “reside at an approved address” to increase attachments to the family. To increase attachments to school judges may impose the condition “attend school full-time”. To mitigate the influence of delinquent peers the probation condition “refrain from said persons” may be used. These conditions may control the offender in the community, which in theory reduces the chances of reoffending by increasing attachments or controls.

Hepburn and Griffin explain, “probation supervision is designed to encourage or coerce participation in conventional social activities (e.g., school and employment) and relationships with conventional others (family and peers), while discouraging or banning participation in unconventional activities (e.g., drug use and homelessness) and association

with unconventional others (e.g. known felons)” (2004:48). There may also be some expectation, although ideal, that the probation officer will act as a positive role model, encouraging young person to engage in pro-social behaviour (Trotter, 1996; Doob, 2001). In an ideal environment, the young offender’s attachment to a probation officer can replace other poor attachments to unsatisfactory parents or peers, for example. The idea is that probationers need to be assisted with the problems they encounter in their everyday lives (Raynor and Vanstone, 2002) and that the bonds formed with the probation officer can help reduce the social problems that affect offending. MacKenzie and Brame (2001) argue probation officers should establish positive social bonds that will persist even after the deterrent effect of supervision has worn off. Although probation cannot force attachments and social relations they increase the likelihood that bonds may form, which is also consistent with the idea that success on probation is associated with reinforced prosocial bonds (Hepburn and Griffin, 2004).

3.1.1 The Effect of Informal Social Control on Probationer Success or Failure

Exploring the relationship between meaningful bonds (education, family, peers, employment, etc.) and probation success or failure helps to explain factors associated with probation outcome (Morgan, 1994; Mayzer, Grey and Maxwell, 2004; Sims and Jones, 1997). Mixed results; however, have emerged from research that explores the impact of social bonds on successful probation outcome. Some have found social bonds to be a significant predictor of successful probation outcome (MacKenzie and Brame, 2001; Hepburn and Griffin, 2004); while others conclude that it is the deterrent effect of probation rather than social bonds that increases the chance of successful probation outcome

(MacKenzie et al, 1999; Kruttschnitt, Uggen and Shelton, 2000; MacKenzie and Li, 2002). Horney, Osgood, and Marshall (1995) found no evidence that formal social control by the criminal justice system reduced recidivism in probationers.

One must be cautious about hypothesizing a causal relationship between increasing conventional social bonds and a subsequent reduction in criminality. The relationship may in fact be spurious: the cause of the young person's behaviour may in effect also cause failure to form social bonds and failure to complete a sentence of probation. However, it may be the quality of the bond (i.e. strong support of family and friends while on probation rather than limited or weak support during probation) that may ultimately affect probationer outcome. In their research on the effect of social bonds on successful probation outcome for sex offenders in the United States, Hepburn and Griffin explain, "the importance of social support is evident in our finding that probationers who had the support of family or the support of friends during the early months of probation supervision survived on probation significantly longer than probationers who did not have the positive support of either family or friends at this critical time" (2004:71) There is evidence to suggest that positive social bonds are an important factor in how successfully the young offender completes probation. However, this research stresses the importance of the process of judicial-decision making and the many other factors that may affect sentences of probation, including: current legislation, sentencing practices, discretion, organizational demands, probation officer and Crown recommendations.

3.1.2 Defining Weak Bonds through the Risk/Needs Assessment: Correlating Issues

A risk/needs assessment (RNA) is a tool used by the courts and correctional systems in Canada to determine risk of future offending and is based on a correlation of factors and offending patterns (Bala and Anand, 2012). The goal of the RNA is to examine “risk factors and treatment needs to determine a person’s risk level” (Brumbaugh, Hardison, and Winterfield, 2009:7). In Canada, the RNA is prepared by a probation officer to assist the courts in its sentencing process, although this process may differ slightly from province to province to territory. Qualitative or narrative information can be included in the RNA but most standard measures predict risk of reoffending in a given period (usually one year) (Bonta, 2002). An actuarial RNA gives numerical probability of offender risk and scores are collapsed into low, medium, and high risk. Maurutto and Hannah-Moffat (2007) discuss a major concern when using the RNA as a measure of ‘actual’ risk, they write, the RNA may “introduce speculation and morally laden subjective assessments that reflect white, Western middleclass judgments” (467). As Worrall and Hoy (1995) and Gaarder, et al (2004) suggest subtle discrimination may affect the outcome of the RNA.

In their exploration into suitability of assessment instruments for delinquent girls in the United States Brumbaugh et al (2009) write “no research has systematically examined the extent to which existing adolescent instruments used in the juvenile justice system are equally effective for girls and boys” (3). They further outline the major gendered issues with the RNA:

- an instrument may not accurately identify negative behaviours (e.g., offending) if the instrument does not account for the small number of girls who might exhibit the behaviour;

- an instrument may misclassify problematic behaviours (e.g., if girls are clustered into one category, such as low risk, an instrument may not adequately identify high-risk girls because they appear to be at low risk compared with boys);
- an instrument may not distinguish subgroups (e.g., it may not distinguish girls at high and low risk); and
- an instrument may not identify or may misidentify the needs and strengths of girls' because it does not contain items that are particularly relevant to girls (e.g., girls may be strengthened by family or social support networks)

(Brumbaugh, et al, 2009:4).

While the RNA may be considered a valid tool its reliability is questioned. Inherent gender, race or class discrimination may impact final decision-making and the tool may not accurately predict girls and boys risk or needs. In his interview of youth probation officers in the Ottawa region, Latimer (2011) reports officers felt the RNA is limited in its predictive value and overall a "...mandatory, yet not very useful practice" (85). The relative usefulness in predicting future offending of a population whereby a significant proportion desist or 'grow out' of crime may be unnecessary. This dissertation explores the actuarial risk scores and their impact on sentences of probation, specifically in terms of conditions of probation, and their ability to predict probationer success or failure. Certain conditions (e.g. obey rules and regulations of parents/guardians/group home, find employment, attend school, refrain from certain peers, etc.) can be used as a means to increase attachments to family, school, employment and decrease attachments to delinquent peers. Support for the theory that young probationers who receive such conditions will have a greater likelihood of completing probation and decreasing recidivism. Central to this understanding is an examination into the ways in which gender, race and class may affect sentences for young people and their experiences in the criminal justice system.

3.2 Integrated Sites of Oppression: Intersections of Gender, Race and Class

Integrated sites of oppression is a broader sociological framework that emphasizes an examination of gender, race and class is necessary to fully understand the social and economic reality of young people and to provide programming appropriate within this context (Gaarder et al, 2004). Through the use of a social constructionist lens this research explores how perceptions of gender, race and class influence experiences on probation and how these constructions maintain the “disconnect” between image and reality (Gaarder et al, 2004). This lens highlights the importance of the intersections of gender, race and class, which others note as being central to one’s experience in the criminal justice system (Chesney-Lind and Shelden, 1998; Gaarder et al, 2004; Daly and Maher, 1998; Messerschmidt, 1997; Miller, 1996; Morash, 2006; Worrall, 1995). How we define and understand gender, race and class is largely dependent on the social and historical processes associated with one’s experiences in the everyday world.

Our understanding of gender, race and class and our definition of each is embedded in our social situations and the recurrent practices where social relations are structured (Messerschmidt, 1997). Each aspect of the lens is important in its own right and the significance of gender, race and class and how they are connected may change depending on one’s life circumstance and experiences. Messerschmidt (1997) argues, “...gender, race, and class are not absolutes and may not be equally significant in every social setting where crime is realized. That is accountability to gender, race, and class are not always, in all situations, equally critical to the social construction of crime” (8). For example, the experiences of a young Aboriginal girl and a young white, middle-class girl in the youth criminal justice

system will both be structured by gender; however, race and class will likely have a more profound effect on the experiences of the young Aboriginal girl. An understanding of integrated sites of oppression is not an attempt to explain delinquency but rather a means to explore the criminal justice system's response to young people's delinquency and their experiences on probation. Gaarder et al (2004) argue that while studies have explored the role of class and gender on delinquency, few have examined how gender, race, and class interact to influence judicial decision-making. Specific forms of gender, race, and class are available, encouraged, and permitted, depending on one's position in society (Messerschmidt, 1997). The goal of this research is to peel back the layers of social control that construct and characterize the lives of girls and marginalized youth on probation.

Current Canadian empirical research highlights that the police, courts and corrections appear to be more responsive to legal factors (offence, criminal history and sentencing variables) (Carrington, 1996; Schulenburg, 2003; Pulis, 2003; Sprott, 2006) than extralegal factors like gender, race and class. However, it is argued that gender, race and class discrimination are entrenched, in varying degrees, and at all levels of the youth justice system (Denney, Ellis, and Barn, 2006; Fitzgerald and Carrington, 2011; Miller, 1996; Morash, 2006; Reitsma-Street, 1993; Sangster, 2002; Worrall, 1995). This discrimination may take several forms and is not always obvious. For example, Reitsma-Street (1993) argues that girls being charged more often with administrative offences are not a result of the types of offences these offenders commit but is evidence of discriminatory practices. Furthermore, proportionate to their percentage in total youth population, Aboriginal youth comprise a significant percentage of the youth correctional population (Munch, 2012), which cannot be

easily explained through legal factors (e.g. the types of offences these offenders commit).

While there is no specific theory that explores integrated sites of oppression in probation, this lens utilizes a sociological framework and research to investigate what may be evidence of gender, race and class discrimination in the use of probation sentences.

3.2.1 Built in Biases: Boys Break Laws, Girls Violate Gender Norms

Most of the literature and research on probation and girls and women has focused on the services provided for females once they had been given probation, for example drug and alcohol rehabilitation programs (Harris, 1992; Worrall, 1995). Attempts to explore the relationship between gender and probation have revealed a web of complexities, including; the exclusion of women and girls from research on probation and parole (Erez, 1989), changes and bias in the official processing of girls, a failure to understand girls' pathways into delinquency, and most notably a concern that community sanctions are not developmentally sound, culturally competent, or responsive to the special needs of girls (American Bar Association, 2001). Those studies that do include an analysis of gender often fail to explain the nature of the relationship between gender and recidivism (Olson, et al, 2003) or suffer from the 'small number' problem (small number of girls in the sample or studies that only use the adult offender population as the unit of analysis).

Discriminatory treatment of young female offenders has been reported, in varying degrees, at all levels of the youth justice system, including police arrests, disposition decisions and treatment within placement facilities (American Bar Association, 2001; Chesney-Lind and Shelden, 1998; Gaarder et al, 2004; Miller, 1996; Morash, 2006; Reitsma-Street, 1993; Sprott and Doob, 2010; Worrall and Hoy, 1995). Historically, we have seen the

focus of punishment through policing the bodies and sexuality of young women. The creation of status offences (offences that were only considered criminal if committed by youth), which were not considered criminal acts in the adult justice system, aimed to control girls' sexual behaviour and incorrigibility (Sprott and Doob, 2009). Girls were punished more severely for sexual behaviour than were boys for violent acts and serious property crimes and sometimes even more severely than were boys with long criminal histories (Morash, 2006). Heidensohn (2002) notes, "researchers have found a more complex pattern in which courts appear to have somewhat conventional and stereotyped views on gender roles which they then reinforce with conviction and sentencing decisions" (504). More implicitly, if young women are perceived as being promiscuous a youth court judge can keep them under the watchful eye of a probation officer to monitor her behaviour. Conditions of probation may criminalize girls' sexuality and may be used as a tool to police their bodies and behaviour in the community.

The helping, supervision and diversion functions that probation serves have special meaning for girls in the justice system. Girls are often perceived as being in need of protection, which can be attributed to concerns about girls being weak or 'acting out'. "Girls are perceived as requiring state supervision and other interventions, because of fears that they are especially vulnerable to exploitation and victimization, or may otherwise harm themselves, as a consequence of their 'out of control' behaviour" (Federal-Provincial-Territorial Task Force on Youth Justice, 1996: 615). Erez (1989) argues, "probation agencies apply gender-based social control and standards of normalcy with the backing and sanctioning of the legal system" (323). 'Protection' for girls may translate into discriminatory

practices by a justice system that monitors and controls girls' behaviour and bodies. In their study of probation officers perceptions of girls in the United States, Gaarder et al, conclude: "...in an environment marked by scarce resources, gender and racial/ethnic stereotypes this leaves girls few options for treatment and services in the juvenile court" (2004:547).

Sangster argues, "discriminatory practices and punishment still confront girls in conflict with the law, especially when they step out of the bounds of accepted feminine norms" (2002:3). Socially constructed gender norms applicable to young women and men are quite different. Young women are expected to be passive, quiet and concerned with caring for others and not themselves. Boys are permitted to act violently, aggressively and sometimes criminally, which is often tolerated by the social institutions that simultaneously controls and dominate girls (Chesney-Lind and Shelden, 1998). In her seminal work, Campbell (1984) refers to this female delinquent as the 'double deviant'; she is not only rejecting the law but is also rejecting traditional female gender roles.

Worrall (1995) suggests that historically young women were not necessarily drawn into the probation system in the United Kingdom because they had committed offences, but because of concerns about their perceived sexual behaviour or because they are seen to be 'at-risk' of 'offending' against social codes of femininity. As a result, young women's behaviour was condemned when it did not conform to stereotypical notions of femininity. American studies reveal similar findings. Erez (1989) found that gender-role expectations and stereotypes have a significant impact on probation officers' decision-making and guide the application of treatment. In an American study of juvenile presentence reports boys were more likely to be rewarded for sexual behaviour and girls subsequently chastised (Gaarder et

al, 2004). In her study of race and gender and probation, Miller (1996) found that girls' who violate gender norms by participating in offences deemed particularly masculine, like fighting, face harsher dispositions than those girls who commit offences perceived as feminine, like shop lifting. Furthermore, Rosenbaum and Chesney-Lind (1994) found notes in probation officers' case files about girls' physical appearance and sexuality but not about boys'. Gaarder et al (2004) conclude, "when girls did not adhere to "feminine" behaviors or attitudes, there was often an assumption that they were "becoming more like boys", and should be treated as boys would be" (567). Young women are expected to be virtuous, gentle and nurturing and when they do not conform are condemned socially and are subsequently punished for these violations by the youth justice system.

While probation may seem a more lenient sentence this may produce unintended consequences, since "being on probation may have a stigmatising and 'net-widening' effect on a girl, making it more likely that she will go to prison if she commits another offence" (Worrall and Hoy, 2005:19). In their study of American probation officers attitudes towards women's violations of probation, Norland and Mann (1984) found that agents were less likely to initiate a technical violation citing paternalistic attitudes, where women are seen as dependant and not deserved of severe punishments. Corrado et al (2000) revealed Canadian probation officers are motivated to protect the offender when deciding to initiate breaches of probation. The probation officer is charged with the responsibility for monitoring behaviour in the community, ideological assumptions about protection, help and rehabilitation as functions of probation may in fact reinforce prevailing gender discrimination.

Studies of youth court charges and sentencing reveal young women were disproportionately and overwhelmingly charged and imprisoned for administrative breaches and non-criminal behaviour (American Bar Association, 2001; Chesney-Lind and Shelden, 1998; Gaarder et al, 2004; Morash, 2006; Norland and Mann, 1984; Reitsma-Street, 1999; Sangster, 2002; Sprott, 2006; Sprott and Doob, 2009; Worrall, 1995). Deviations from traditional normative boundaries of femininity appear to result in excessive punishment. Girls who fail to comply with probation or disobey the law may be treated more harshly as a result. Sangster (2002) argues: “one of the most troubling misdemeanours for the court was a girl’s violation of probation. If a girl received probation...and she disobeyed, her chances of securing a court appearance and even being removed to a foster home or training school were far greater” (91). The use of probation with girls may be problematic because they may have difficulty complying with probation conditions and their failures appear to be a significant pathway into incarceration. In their current examination of Canadian data, Sprott and Doob (2010) conclude:

First, at each stage, these [failure to comply] cases account for a larger proportion of girls’ cases than of boys’ cases. Second, the deeper into the system one goes, the more of these cases there are, especially for girls. Failure to comply cases start out accounting for around 10% of the girls’ caseload and by the sentencing to custody stage are accounting for around 26% of the caseload for girls

(428).

Breaching conditions of probation may be unrelated to the original offence (for which probation was imposed) and may be connected to concerns about protection and social control (Norland and Mann, 1984). “Probation conditions well beyond the scope of the girl’s offences can be a set-up for failure for girls with histories of running away from home,

school failure, and poor family relationships” (Sherman, 2000:72). Probation has become a system of control and surveillance of girls’ behaviour and implicitly part of a system that normalizes stereotypical gender roles and condemns girls when they do not conform. Part of the research contained in this dissertation aims to add to a scarce body of Canadian literature on the use of probation with young women. This dissertation considers the judicial use of probation with girls (length of the order, types of conditions imposed, etc.) and explores violations of probation and differences in police charging practices for breaches based on gender and other factors.

3.2.2 Racializing Probation

The use of probation with minority youth may be evidence of discrimination in judicial decision-making. Historically, probation was not used with Aboriginal youth for rehabilitative purposes since it was thought that differences in cultures created problems with treatment (i.e. that Aboriginal youth were not amenable to therapy and counseling) (Sangster, 2002). Similar to young women, supervision of Aboriginal probationers provides a chance to ‘normalize’ offenders. Sangster (2002) explains further, “in this period Native culture was seen as backward, impoverished, and in need of assimilation to the normal ‘modern’ world” (168).

Probation can also be used for protective reasons, similar to girls; however, in this case it is also racialized. “Native girls were deemed to be in need of probationary protection...when authorities saw their promiscuity, absences from home, truancy, drinking, and petty theft as being out of control” (Sangster, 2002:169). Aboriginal girls had little chance to redeem themselves while on probation and if caught engaging in some form of

delinquency while on probation girls were often immediately sent to a training school (Sangster, 2002:157). The courts may treat non-white offenders more harshly than white offenders. Morash (2006) found this to be true even when controlling for criminal history, seriousness of the crime and type of crime committed.

Gaarder et al (2004) argue that probation officers tend to explain delinquent acts committed by African American youth in terms of negative internal attributes (e.g. personality characteristics and attitudes) while white delinquency is often attributed to external characteristics (e.g. family structure, substance abuse). Miller examined the impact of race and ethnicity on the processing of girls' probation cases in Los Angeles. She found that white girls were more likely to be given treatment oriented conditions while African-American and Latina girls were more likely to be given a detention oriented placement (Miller, 1996). Miller also examined reports made by probation officers and found key differences in the way girls' behaviours were described. In particular, she found "African-American girls' behavior was framed as a product of inappropriate lifestyle choices while white girls' behavior was described as resulting from low self-esteem, being easily influenced and the result of abandonment" (Miller, 1996:245). Using probation with minority youth may be problematic, especially if a probation officer has prejudicial or discriminatory perceptions of the young person she or he is supervising. Few Canadian studies have explored probation officers views of the young people they monitor and more extensive research is needed in this area.

When exploring probationer outcome Olson and Lurigio (2000) highlight that probationer success and failure may not only be dependent on legal factors like type of

offence committed but also dependent on factors like race and ethnicity. The authors note: “...race continues to be a troubling predictor of probationer rearrest and technical violations. Even when other variables are controlled, minority probationers are still more likely than nonminorities to be arrested and cited for technical violations” (84). They also argue that differential police practices that target impoverished, inner city, minority neighbourhoods, increase the risk of failure.

In a current study of anti-racism policy in the Canadian criminal justice system and an analysis of probation officer presentence reports Denney et al (2006) assert:

The Commission into Systemic Racism (Ontario, 1995:226) commented that references to nationality in pre-sentence reports were often of questionable relevance and at times ‘bizarre’. Some years later, the same comments could have been applied to some of our sample. References to nationality appeared to be a requirement and appeared in all 40 [presentence] reports examined

(7).

The authors conclude: “Although we found no overtly racist views in our research we did find examples of negative subjective contextualisation of race and offending, within presentence reports” (11). It may not necessarily be explicit acts of racism expressed by a few number of probation officers that can explain discrimination in the probation service but may be evidence of a criminal justice system that is entrenched with racism, in varying degrees and at all levels. Denney et al write “We did find a sense of powerlessness expressed by some judges, in that they felt that discriminatory practices had occurred earlier in the criminal justice system, particularly in relation to the police” (11), which may be of significance when exploring Aboriginal youth and breaches of probation.

Current youth justice legislation recognizes the ‘unique’ circumstances of Aboriginal offenders. This recognition has an impact on decisions made by police, probation officers, correctional officers, lawyers and judges and affects how the youth justice system responds to Aboriginal offending. Even if Aboriginal youth are not first-time offenders, consideration should be given to community-based responses rather than overusing court and custody. It is unclear if these legislative mandates have done anything to improve the treatment of Aboriginal young offenders in Canada, or whether probation is still being used monitor and control the behaviour of Aboriginal youth in the community. This dissertation addresses the impact of race on sentences of probation and police charging practices with breaches of probation and aims to address the gap in the research on race and decision-making in probation.

3.2.3 Probation and Inherent Class Discrimination

Historically, it was assumed that the working class, the poor and the uneducated were more likely to be the perpetrators of crime and delinquency (Sangster, 2002). Sangster argues Canadian youth justice legislation may be an expression of “ruling-class attempts to manage and regulate the unruly, potentially criminal working class and poor” (18). Under the JDA, social problems were understood as being fundamentally class defined which “resulted in material deprivation, social alienation, and overpolicing of poor areas” (24).

Young people who live in poverty return to this reality while serving out their sentences of probation. Probation may have no real rehabilitative function when used with poor youth since conditions of probation rarely have any impact on improving the overall social conditions of these offenders and may be used, more implicitly, as a mechanism of

social control. Probations 'helping' function can be extended to poor youth, which is similar to the experiences of girls and minority youth. The youth justice system perceives class as being a fundamental pathway into delinquency and as a result probation was meant to help, guide and assist an offender to strive for middle-class notions of cleanliness, decency and virtue (Sangster, 2002). Probation also provides a chance for increased moral surveillance and regulation of poor and marginalized youth.

Sangster (2002) explains, "probation can also be read as an increased surveillance of the morals of working-class families" (101). Predominant themes emerge from research conducted on the social histories of young people sentenced to probation. Many probation officers believe that delinquents come from broken homes, single mothers, poor neighbourhoods, neglectful parents, substandard housing, and low income families (Sangster, 2002; Gaarder et al, 2004). In a content analysis of investigation reports of girls on probation in Los Angeles, Miller (1996) found probation officers use middle-class based standards when making a disposition recommendation that negatively effects lower-class and poor youth. Research on probation and decision-making reveals the poor are often blamed for creating or perpetrating delinquency and apart from the limited evidence presented above the "effect of class on juvenile justice processing is scarce and the topic is largely untheorized in the sense that the thinking behind such decisions is not documented" (Morash, 2006:204).

This dissertation explores sentences of probation, specifically terms of conditions of probation, and their ability to predict probationer success or failure. Certain conditions (e.g. obey parents, find employment, attend school, non-association orders, etc.) can be used as a means to increase attachments to family, school, employment and decrease attachments to

delinquent peers and acquaintances. The findings of this research that young probationers who receive such conditions will have a greater likelihood of completing probation may have significant meaning for judges who impose such conditions. Central to this understanding is an examination into the ways in which gender, race and class may affect sentences for young people and their experiences in the criminal justice system. While there is no specific theory that explores integrated sites of oppression in probation, this lens utilizes a sociological framework and research to investigate what may be evidence of gender, race and class discrimination in the use of probation sentences. Part of the research contained in this dissertation aims to add to a scarce body of Canadian literature on the use of probation with young women and minority youth. This dissertation considers the judicial use of probation with these offenders (length of the order, types of conditions imposed, etc.), breaches of probation and possible differences in police charging practices based on gender, race and class.

Chapter 4

Research Hypotheses

As discussed in Chapter One, two major hypotheses are explored in this dissertation:

H1: The period (length of time) of the youth probation order and the number and types of conditions attached to it are associated with personal and social characteristics of the youth, the characteristics of the offence(s) for which probation is ordered, the youth's offence history, and any other sentences handed down besides the probation order.

H2: Breach of one or more conditions of a youth probation order is associated with the period (length of time) of the probation order and the number and types of probation conditions, as well as with the factors listed in Hypothesis 1.

Based on the paucity of research in Canada on young probationers and other areas for future research identified in the aforementioned discussion the following list of hypotheses was created.

4.1 Major Hypothesis #1

H1 Length of the probation order and the number/types of conditions are associated with offender, offence and criminal history characteristics.

This section begins with a description of who gets probation (i.e. gender, age, etc.), if there is a criminal history, what types of offences probationers are convicted of, and sentences of probation themselves (how long do they typically last, what types of conditions are imposed, etc.). Analysis of the data explores how offender, criminal history, and offence variables affect sentences of probation (length and the number and types of conditions).

- Offenders who live in rural communities will receive fewer conditions (lack of available treatment or supervision) and shorter sentences of probation.
 - Offenders who are in school or are employed will receive fewer conditions of probation.
-
- Girls and younger offenders will receive a greater number of conditions.
 - Girls and younger offenders will have to abide by a curfew as part of their order.
 - Girls will receive conditions to remain in the home and obey the rules of their parents/guardians.
 - Girls will be more likely to receive non-association orders.
 - Aboriginal offenders will receive a greater number of conditions with longer sentences of probation.
 - Poor youth will receive a longer sentence of probation with a greater number of conditions.
 - Poor youth will receive conditions to remain in school and find/maintain employment.
-
- Social histories that reveal little or no family conflict will receive conditions to remain in the home and obey the rules of the home.
 - Social histories that demonstrate low achievement in school or failure will receive conditions that stipulate mandatory and consistent attendance in school.
 - Social histories that reveal problematic issues in the home or at school will receive conditions to find and maintain employment.
-
- Offenders with a prior record will receive longer sentences of probation with more conditions.
 - Offenders with a prior record will receive a higher level of supervision.
-
- Offenders who are convicted of serious or multiple offences will be issued longer sentences of probation.
 - Offenders who are convicted of serious or multiple offences will receive a greater number of conditions.
 - Offenders who are convicted of violent or property offences will be more likely to be issued certain conditions: abstain from owning, possessing or carrying any weapon and refrain from certain areas.
 - Offenders convicted with a co-accused will more likely receive a non-association order.

4.2 Major Hypothesis #2

H2 Breaches of one or more conditions of probation are associated with offender, offence, criminal history characteristics, as well as characteristics of the probation order (length, type/number of conditions).

This section explores offender variables, offence, history and probation variables that affect breaches of probation.

- Females will have fewer breaches or will be less likely to commit a new offence while on probation than males.
- As age increases, the likelihood of probation success increases.
- Aboriginal offenders will be less likely to succeed while on probation.
- Poor youth will be less likely to succeed while on probation.
- Offenders who live in urban areas are more likely to succeed on probation.
- Probationers who are employed will have more success on probation than offenders who are not employed.
- The higher the level of education the greater the likelihood of probation success.
- Family conflict issues will increase the chance of failure.
- Offenders with drug and alcohol dependency will be less likely to succeed while on probation.
- Associations with delinquent friends will increase the chance of failure

- Offenders who receive conditions to remain in the home and obey the rules of the home will have a greater chance of success.
- Offenders who receive conditions that stipulate mandatory and consistent attendance in school will have a greater chance of successfully completing the probation order.
- Offenders who receive non-association orders will have a greater chance of success.

- Offenders who begin their criminal career (age at time of first conviction) at an earlier age will have a greater chance of failure while on probation.
- Offenders with prior convictions will have lower probation success rates.
- Offenders with prior probation experience will be less likely to succeed while on probation.
- Offenders with prior prison experience will be less likely to succeed while on probation.

- Offenders convicted of property offences are more likely to experience probation failure than offenders convicted of violent or other crimes (Morgan, 1994).

- Offenders who receive more than one disposition will be less likely to succeed while on probation.
- Offenders sentenced only to probation will commit less serious offences than offenders who receive probation in conjunction with another disposition.
- Offenders with a greater number of conditions will be less likely to succeed while on probation.
- An increased level of supervision leads to higher rates of failure.
- The longer the probation sentence, the greater the likelihood of probation failure.
- Offenders who experience higher levels of supervision will be less likely to succeed while on probation.

Chapter 5

Research Methods

5.1 Data Source

Quantitative data on probation was obtained from courthouses across Ontario through the Ministry of Children and Youth Services (hereafter referred to as “the Ministry”). Ontario was chosen as the primary research site based on several factors: the significant proportion of young offenders sentenced in Ontario (Munch, 2012), travel time and costs to conduct a national study, available data, and the contacts the author established during previous research endeavours that facilitated access to the data. On any given day, there are approximately 6,000 young people on probation in Ontario (Munch, 2012)

5.2 Data Collection

The Ministry stores all young offender files in North Bay, raw data are transferred from paper files into a system where they are aggregated. The files include information on an offender/offence from intake/charge, to conviction to completion of sentence (or conviction of a new offence). The files for offenders sentenced under the YCJA (i.e. after April 2003) were relatively complete. The population included all young offenders sentenced to probation, from April 2005 to April 2006, and included analysis of the following variables: gender, age, region sentenced in, offender’s social history, criminal history, offence information, multiple offence convictions, conditions of probation, and breaches of probation. This section will outline the methods used to explore the research questions proposed.

Young offender files include information on the following: information on a charge or charges, conviction or acquittal, offender(s) personal information like date of birth, disposition information, prior record information, a Risk/Need Assessment, and all other correspondence with offender(s), parent(s) or guardian(s), judges, probation officers, youth workers, etc. Data from these files are entered into a data system as they come into the Ministry. The population included all young offenders sentenced to probation, for a selected period (2005-2006), and included analysis of the following variables: gender, age, region sentenced in, offender's social history, criminal history, offence seriousness, multiple offence convictions, conditions of probation, and breaches of probation.

The Ministry drew selected a population (based on the criterion selected and available data) from aggregate data available and it was sent, via mail, in an SPSS file from a population of all offenders sentenced to probation in 2005 and 2006. The SPSS offender files were examined in order to assess the quality and completeness of the data. Specific significant data (i.e. gender) were not included in the initial data files and there was a delay in receiving the complete files requested. In regards to offender RNA's, as long as the RNA has been recorded, the Ministry has information for each youth in the core sample. All recorded RNA item scores were attached to an individual offender in the SPSS files. The population included offenders who only received probation or were sentenced to probation in conjunction with another disposition. Each case was marked with a unique case identifier that only the Ministry had access to, names of offenders were not included in any of the files.

5.3 Population

The population is every young offender in Ontario (12 – 18 years of age) who received a sentence of probation, whether alone or in conjunction with another sentence (e.g. custody, community service, etc.). This study included all young offenders sentenced to probation, for a selected period (2005-2006), and included analysis of the following variables: gender, age, region sentenced in, offender's social history, criminal history, offence seriousness, multiple offence convictions, conditions of probation, and breaches of probation. An observation period of 2 years (2005 and 2006) was chosen that would maximize the size of the study population, while making sure all data files were complete. Files for cases sentenced in 2003 and 2004 were not used because insufficient time had elapsed since the YCJA came into effect in April, 2003 to be confident that the Ministry's new data capture procedures that were working at full efficiency and therefore include complete offender files. Files for cases sentenced after the end of 2006 were not used because a sentence of probation can last for a period of 2 years, so a young person sentenced in 2007 could still be on probation in 2009, and their file would not be complete at the time data proposals were drafted. Thus, the study population is every young offender who received a sentence of probation in Ontario during 2005 and 2006. This selection criterion generated a population of 6, 051 offenders. The research design is passive-observational in the sense that it uses data already observed, and involves no intervention in the lives of the subjects. It is correlational in the broad sense that it relies on analysis of associations among variables (not only correlations *per se*).

5.4 Variables of Study¹⁷

These include socio-demographic variables, which will be used to describe the offender.

5.4.1 Offender Characteristics

5.4.1.1 Gender

The term “sex” in reference to one’s biological make-up, as either female or male, historically was used in empirical research. For the purpose of this research, the term gender, defined as the social construction of being a female or being a male, will be used when exploring young people on probation. Young women and men experience the world differently and may have differential experiences on probation; they may also experience different pathways to success and failure while on probation.

5.4.1.2 Age

Offenders charged and convicted under the YCJA range from twelve to eighteen years of age¹⁸ and refers to the age of the offender at the time the probation order started. The Ministry database does not have information on the actual day the young person was charged.

5.4.1.3 Race/Ethnicity

Data on race/ethnicity included in the files from the Ministry were available, but not in all cases. The benefit these statistics provides is a detailed understanding of how certain

¹⁷ The Ministry did not provide a coding scheme to accompany the data file. This had to be created by the researcher in conjunction with Ministry staff.

¹⁸ Offence committed before the offenders 18th birthday.

probation conditions affect certain offenders and if there is disparity in sentences of probation.

5.4.1.4 Geography/Supervision Environment

This variable refers to the geographical area in which the offender was supervised, otherwise known as the ‘supervision environment’. As such, this research will utilize Statistics Canada’s definition of a Census Metropolitan Area (CMA) and Census Agglomeration (CA) to differentiate between rural and urban supervision areas. A CMA is an area that consists of one or more adjacent municipalities situated around a major urban core and must have a total population of at least 100,000 of which 50,000 or more live in the urban core while a census agglomeration must have an urban core population of at least 10,000 (Statistics Canada, 2008). Cities with less than 50,000 people living in the urban core are referred to as ‘rural’.

5.4.1.5 Social History

“Standardized instruments are tools juvenile justice practitioners use to identify individuals who pose some sort of risk (e.g., recidivism) or to identify problem areas (e.g., substance abuse, mental health). These instruments can facilitate the collection of preliminary information critical to security and treatment decisions” (Brumbaugh et al, 2009:3). Utilizing information from the offender file and the RNA¹⁹ data was collected to develop a social history of the offender (refer to Appendix A for a copy of the Ministry of

¹⁹ This researcher acknowledges problems associated with the RNA, especially in terms of explicating the specific needs of female offenders and explaining the factors associated with reoffending. For a more detailed discussion refer to Funk, 1999 and Hannah-Moffat, 2006.

Children and Youth Services Risk/Need Assessment form and scoring guide). Information from the offender's RNA was available for analysis:

- prior and current offences/dispositions
- family circumstances and parenting
- education/employment
- peer relations
- substance abuse
- leisure/recreation
- personality/behaviour
- attitudes/orientation

5.4.2 Offence-Related Variables

Offence related variables are operationalized to include variables that describe what offence the young person received probation for, sentences imposed, etc.

5.4.2.1 Offence Conviction

Although a young person can be convicted of multiple offences (e.g. assault and breach of probation), it is unlikely that she or he will be charged with a significant number of offences at any one time (i.e. more than 3). In those cases where there were multiple convictions, the most serious offence was chosen as the 'first' offence (using the Canadian Centre for Justice Statistics offence seriousness scale). Data was available from the RNA on both current and prior offences and dispositions.

5.4.2.2 Other Sentences (if any)

A young person may also receive one or more sentence to accompany the order of probation (community service order, custody, etc.). Youth justice court judges have several

sentencing options available including custodial and non-custodial sentences²⁰; all other dispositions were coded for and included in the analysis.

5.4.2.3 Was Probation the Most Significant Sentence?

Sentences are ranked in order of their overall effect on a young person and are ordered from least to most serious (or significant – refer to page 28/footnote 15). The disposition with the highest priority or the one that has the greatest effect on a young person is referred to as the most significant. If the disposition with the highest priority is a fine, compensation or restitution, and there is a combination of these, the disposition with the largest dollar value is selected as the most significant.

5.4.2.4 Co-accused (if any)

Since information from each file belongs to a particular offender data on convictions with multiple offenders may or may not be available. Upon receipt of the data, this information was not available for analysis.

5.4.3 Criminal History Variables

Data were collected from the RNA on information the offender's criminal history, including information on previous convictions and sentences.

²⁰ A detailed list of sentencing options under the YCJA includes: Reprimand, Absolute discharge, Conditional discharge, Fine, Compensation, Restitution, Payment to innocent purchaser, Compensation in kind or services, Community Service, Prohibition, seizure or forfeiture, Probation, Intensive support and supervision order, Attendance order, Custody and supervision (regular), Custody and supervision (attempted murder, manslaughter, aggravated sexual assault), Deferred custody and supervision, Custody and supervision (murder), Intensive rehabilitative custody and supervision (*Youth Criminal Justice Act*, Section 42.2).

5.4.3.1 Criminal History

Files from 2005 and 2006 were more likely to include a detailed criminal history (if one existed). This included information on whether a prior record exists, the number of prior findings of guilt, prior failure to comply convictions, prior probation and prior custody. Detailed information on the nature of the previous convictions was not available for analysis.

5.4.4 Probation Sentence Variables

5.4.4.1 Probation Length

As previously mentioned, sentences of probation cannot last longer than 24 months under the YCJA, so information on probation length were collected and collapsed into months (1-24).

5.4.4.2 Level of Control

Under the YCJA the intensive support and supervision program (ISSP) order was created as a new disposition for youth. This sentencing option was created to ensure particular offenders receive a high level of support and supervision in the community and is intended to provide closer monitoring and more support than probation and should be seen as an alternative to custody (Department of Justice, 2003). Since this sentencing option is philosophically different from regular probation, offenders who receive ISSP will not be included in this sample. The level of control will be determined based on the number of conditions imposed. In theory, a youth who receives many conditions will be under a greater level of social control compared to a youth who receives 1 or 2 conditions. The level of control was based on a raw count of the number of conditions.

5.4.4.3 Number of Conditions

In theory, an order of probation can include dozens of conditions; however, this is highly unlikely. This variable will include a raw count of all conditions of probation.

5.4.4.4 Conditions of Probation

When sentencing an offender to probation a youth court judge can impose a number of conditions to achieve several goals of sentencing. Conditions are used as a means to assist offenders in their rehabilitation and to assist the court in its supervision of probationers.

While conditions should be used to promote rehabilitation; there should also be a clear relationship between the condition imposed and a cause of the young person's offending. A detailed list of all conditions will be included in the sample in order to examine what conditions young people are more likely to receive when given an order of probation in Ontario²¹. Collection of this variable permits for an analysis the conditions young people are more likely to breach and an exploration the variables associated with breaching an order of probation.

5.4.5 Probation Outcome: Success or Failure

This research project uses breach of probation charges as a measure of breach of probation and explores data on young people who were charged with breach of probation in comparison to the overall probation population. The breach information does not identify whether or not other charges were involved with the breach. While ideal, it was not possible

²¹ Conditions of probation that a young offender can receive include, but are not limited to: report to and be supervised by the provincial director or a person designated by the youth justice court; remain within the territorial jurisdiction of one or more courts named in the order; make reasonable efforts to obtain and maintain suitable employment; reside with a parent, or any other adult that the youth justice court considers appropriate, who is willing to provide for the care and maintenance of the young person; reside at a place the provincial director may specify, etc. (*Youth Criminal Justice Act*, Section 55 (2) (a-i)).

to explore whether a youth was convicted for breaching probation alone or if it was other charges (if any) along with the breaches that had an impact on judicial decision-making. In other words, it was impossible to control for other offence convictions that would most likely effect whether or not a custodial sentence was imposed.

5.4.6 Variables Not Included in This Study

Once the data were received and analyzed, it was determined that several variables of study could not be explored. First, measuring the impact of class on probationers' experiences on probation is an important area of research that could not be analyzed once the data were received. Information on class was not available in the data requested and there was no reliable way to measure class from the data that were provided. It is suggested that future research in this area is best investigated through interviews with young probationers themselves. Second, while current research highlights the importance of the relationship between groups and youth crime there were no data that indicated if the young person was charged with one or more individuals (or a co-accused). Third, measuring the effect of increased surveillance on probationers is also an important area of research that could not be investigated in a reliable way; it is an area of future research that should also be explored. Finally, previous research demonstrates the effect other sentences have on current dispositions. As previously, discussed prior to the implementation of the YCJA youth justice court judges would use probation as a means to monitor and control young people released into the community following a period of incarceration. Since this is no longer the case (all custodial sentences under the YCJA include a follow-up period in the community, similar to parole for adult offenders) few young people received custody in addition to their sentence of

probation in this study. All analyses revealed whether or not probation was the most significant disposition was statistically non-significant in predicting the length of probation and the number and types of probation conditions.

Chapter 6

Understanding Probation Orders

This chapter explores how offender, offence and criminal history variables affect sentences of probation (length, number and types of conditions). Analyses investigate what drives the length of probation orders and what variables affect the number and types of probation conditions young people receive. Bivariate analyses (i.e. cross tabulations) are used to determine what variables are significant predictors of length, number and types of conditions. Multivariate analyses (i.e. multiple and logistic regression) also explore these relationships further while controlling for other factors. This section also examines the hypothesis that certain conditions may be used by youth justice court judges to increase attachments to social bonds such as the family, school, and employment in order to decrease offending or delinquent behaviour.

6.1 Description of Sample

The sample is comprised of 6051 cases who are 77% (4654) male and 22% (1361) female (36 cases are missing data on gender or about 1% of the total sample). This sample includes all youth in Ontario sentenced to probation in 2005 and 2006. Offenders in this sample were all born between 1981 and 1994. The average age of the offenders at the time the offence was committed was 16 years of age. There were no significant differences in the location of residence for girls and boys. Young probationers tended to live in urban areas like Toronto (8%); London (5%); Barrie (4%); Brampton (4%); Hamilton (3%); and Kitchener/Waterloo (3%), rather than rural areas. The race of the offender was known for approximately 50% of offenders or about 3000 cases. When race is known a majority of

these offenders are white (approximately 66%), followed by Aboriginal (almost 16%), Black (about 11%) and Other (which includes East Asian, South Asian, South East Asian, West Asian, Arabic and Hispanic) (approximately 7%). Both young female and male probationers are more likely to be white, followed by Aboriginal (Table 6.1).

Table 6.1 Relationship between race and gender of the offender

Race	Gender					
	Female		Male		Total	
	%	Number	%	Number	%	Number
White	64.0	365	66.1	1578	65.7	1943
Other	3.2	18	8.2	196	7.2	214
Black	5.8	33	12.8	306	11.5	339
Aboriginal	27.0	154	12.8	306	15.6	460
Total	100.0	570	100.0	2386	100.0	2956

($\chi^2=95.972$, $df=3$, $p<0.001$) (N missing=3109).

Aboriginal offenders are also significantly more likely to reside in rural areas compared to other offenders (Table 6.2).

Table 6.2 Relationship between race and offenders location of residence

Race	Location of Residence					
	Rural		Urban		Total	
	%	Number	%	Number	%	Number
White	16.8	327	83.2	1616	100.0	1943
Other	8.4	18	91.6	196	100.0	214
Black	7.1	24	92.9	315	100.0	339
Aboriginal	43.0	198	57.0	262	100.0	460
Total	19.2	567	80.8	2389	100.0	2956

($\chi^2=223.93$, $df=1$, $p<.001$) (N missing=3095).

Looking at the sample (N=6051) of cases that received probation allows for a comparison of the sample to data from all youth courts in Canada. This sample appears to be

relatively representative of the Canadian population of young probationers, with a few distinctions. First, this sample is comprised of a slightly older population of offenders (Table 6.3). Second, there is a larger proportion of young people sentenced to probation for up to two years. Third, Aboriginal youth are overrepresented in this sample when compared to the rest of Ontario (not shown). National data on youth correctional services indicates that Aboriginal youth account for about 24% of all admissions to probation yet they account for about 7% of admissions to probation in Ontario (Calverley, Cotter, and Halla, 2010). Aboriginal youth account for approximately 3% of the total youth population in Ontario yet they account for 16% of the young people in this sample. It appears Aboriginal youth are greatly overrepresented in this sample, relative to their proportion in the population. This is consistent with other current research on Aboriginal over-representation in the Canadian youth criminal justice system (e.g. Calverley et al, 2010).

Table 6.3 Comparison of national admissions to probation with current sample by gender, age, type of offence and length (N=6051)

		Canada ¹	Current Sample
		%	%
Gender	Males	78.0	77.0
	Females	22.0	23.0
Age	<=14 yrs	21.3	17.5
	15 yrs	20.8	21.1
	16 yrs	26.3	22.6
	>=17 yrs	31.6	39.8
Type of Conviction	Person	31.3	37.8
	Property	37.4	40.4
	Other	31.3	21.8
Length	< 1 yr ²	20.0	10.8
	1 yr ³	51.0	52.2
	> 1yr	29.0	37.0

¹ Data on gender comes from the most recent CCJS report on youth correctional statistics in Canada (Munch, 2012) the remaining data comes from the most current publicly available data on youth custody and community services in Canada that is directly comparable to this study (Calverley, Cotter and Halla, 2010).

² 6 months or less for the “Canada” data

³ 7-12 months for the “Canada” data

The majority of offenders in the sample (40.4%, 2443 cases) were convicted of property related offences (predominately theft under \$5000 or break and enter). Approximately, 38% (2279 cases) of the sample were convicted of offences against the person or violent offences, these offences consisted of minor assault and related offences. The remaining offenders (approximately 22%, 1311 cases) were convicted of ‘other’ offences, most frequently administration of justice offences (breach of court orders, breach of probation, bail violations, etc.) but also includes weapons related offences and drug related offences. Boys were more likely to be convicted of property offences while girls appear to

be significantly more likely to be convicted of an offence against the person and slightly more girls are convicted of “other” offences (Table 6.4). This finding may be evidence of a ‘gender benefit’, where the lower proportion of violence for boys may be because violence offence convictions tend to receive custodial sentences so the offences that may be issued probation more frequently are minor person and property related offences. As noted above ‘other’ offences are comprised largely of administration of justice offences and this finding may again be evidence of probation/police officers taking girls’ violations of court orders more seriously than those of boys. Previous research indicates the likelihood of girls being charged and convicted of breach of probation at a greater rate than boys (American Bar Association, 2001; Calverley, 2007; Chesney-Lind and Shelden, 1998; Gaarder et al, 2004; Morash, 2006; Norland and Mann, 1984; Pulis, 2003; Reitsma-Street, 1999; Sangster, 2002; Sprott, 2006; Sprott and Doob, 2009; Worrall, 1995).

Table 6.4: Relationship between the nature of the first offence and gender

Nature of the first offence	Gender					
	Female		Male		Total	
	%	Number	%	Number	%	Number
Other Offences	22.3	310	21.6	1001	21.7	1311
Property Offences	32.1	447	43.0	1996	40.5	2443
Offences Against the Person	45.6	635	35.4	1644	37.8	2279
Total	100.0	1392	100.0	4641	100.0	6033

($\chi^2=61.097$, $df=2$, $p<.001$) (N missing=18).

When exploring the relationship between race and offence type conviction it appears that white offenders are more likely to be convicted of property related offences while Other, Black and Aboriginal offenders are more likely to be convicted of an offence against the

Table 6.5: Relationship between the nature of the first offence and race

Nature of the first offence	Race									
	White		Other		Black		Aboriginal		Total	
	%	Number	%	Number	%	Number	%	Number	%	Number
Other Offences	20.7	400	23.0	49	25.2	85	21.8	100	21.5	634
Property Offences	46.0	890	29.6	63	27.6	93	38.6	177	41.6	1223
Person Offences	33.3	644	47.4	101	47.2	159	39.7	182	36.9	1086
Total	100.0	1934	100.0	213	100.0	337	100.0	459	100.0	2943

($\chi^2=60.199$, $df=6$, $p<.001$) (N missing=3098).

person (Table 6.5). This finding is consistent with other research (e.g. Fitzgerald and Carrington, 2011).

There was no relationship between the location of residence and the type of offence young probationers were convicted of (Table 6.6).

Table 6.6: Relationship between the nature of the first offence and location of residence

Nature of the first offence	Location of residence					
	Rural		Urban		Total	
	%	Number	%	Number	%	Number
Other Offences	21.2	209	21.8	1102	21.7	1311
Property Offences	43.7	432	39.9	2011	40.5	2443
Offences Against the Person	35.1	347	38.3	1932	37.8	2279
Total	100.0	988	100.0	5045	100.0	6033

($\chi^2=5.429$, $df=2$, $p=.065$) (N missing=18).

A large proportion of offenders (57% or 3452 cases) in this sample were not convicted of a second offence, the remaining 43% (2599 cases) were convicted of a second offence. Of those convicted of a second offence, approximately 46% (1178 cases) were convicted of ‘other’ offences; these offences were comprised primarily of administration of justice offences like breach of a court order. Property offences comprised 32% (826 cases) of all second convictions and were predominately theft under \$5000. Violent offences made up only 22% (577 cases) of all second convictions and were predominately minor assaults.

Boys appear to be slightly more likely to be convicted of a second offence, as almost 80% of all second offence convictions were committed by young male probationers (Table 6.7).

Table 6.7: Relationship between conviction of a second offence and gender

Second offence	Gender					
	Female		Male		Total	
	%	Number	%	Number	%	Number
No	60.5	840	56.3	2612	57.2	3452
Yes	39.7	552	43.7	2029	42.8	2581
Total	100.0	1392	100.0	4641	100.0	6033

(χ^2 , corrected for continuity=7.059, df=1, p<.01) (N missing=18).

Boys and girls appear to be more likely to be convicted of an ‘other’ offence as their second offence. However, girls’ appear to be slightly more likely to be convicted of offences against the person as their second conviction, while boys are more likely to be convicted of a property offence as their second conviction (Table 6.8).

Table 6.8: Relationship between the nature of the second offence and gender

Nature of the second offence	Gender					
	Female		Male		Total	
	%	Number	%	Number	%	Number
Other Offences	49.1	271	44.7	907	45.6	1178
Property Offences	23.7	131	34.3	695	32.0	826
Offences Against the Person	27.2	150	21.0	427	22.4	577
Total	100.0	552	100.0	2029	100.0	2581

(χ^2 =24.136, df=2, p<.001).

There were no significant differences in the age (Table 6.9), race (Table 6.10) and location of residence of offenders (Table 6.11) who were convicted of a second offence.

Table 6.9 Relationship between conviction of a second offence and age

Second offence	Age									
	12-14 yrs		15 yrs		16 yrs		17+ yrs		Total	
	%	Number	%	Number	%	Number	%	Number	%	Number
No	60.5	639	58.3	707	54.4	743	56.9	1363	57.2	3452
Yes	39.5	417	41.7	506	45.6	624	43.1	1034	42.8	2581
Total	100.0	1056	100.0	1213	100.0	1367	100.0	2397	100.0	6033

($\chi^2=9.952$, $df=3$, $p=.091$) (N missing=18).

Table 6.10 Relationship between conviction of a second offence and race

Second offence	Race									
	White		Other		Black		Aboriginal		Total	
	%	Number	%	Number	%	Number	%	Number	%	Number
No	49.6	959	50.7	108	47.5	160	47.7	219	49.1	1446
Yes	50.4	975	49.3	105	52.5	177	52.3	240	50.9	1497
Total	100.0	1934	100.0	213	100.0	337	100.0	459	100.0	2943

($\chi^2=1.110$, $df=3$, $p=.775$) (N missing=3108).

Table 6.11 Relationship between conviction of a second offence and location of residence

Second offence	Location of Residence					
	Rural		Urban		Total	
	%	Number	%	Number	%	Number
No	56.9	562	57.3	2890	57.2	3452
Yes	43.1	426	42.7	2155	42.8	2581
Total	100.0	988	100.0	5045	100.0	6033

(χ^2 , corrected for continuity=.039, df=1, p=.843) (N missing=18).

The average length of a probation order was 12 months. The majority of young offenders in this sample, 52% (3160 cases) were sentenced to serve one year of probation time. Probation orders that were issued for longer than 12 months accounted for 37% (2219 cases) of the sample, while orders for less than 1 year account for 11% (654) of all orders. Significant findings will be discussed in detail in the next section that explores what drives the length of probation orders.

All offenders included in this sample received an order of probation. A majority of offender's received probation as the most significant disposition²². Approximately, 95% (5715 cases) of the entire sample received probation as the most significant disposition²³. The remaining 6% (336) of the sample received some type of custody order that accompanied the order of probation. While only a small number of cases received some type of custody order in addition to probation, it appears that young males are more likely to receive custody as well as probation (Table 6.12). Approximately, 6% of males received probation and custody compared to 4% of females (Table 6.12).

²² The seriousness of the disposition is determined by the effect or impact the sentence has on the young person.

²³ A very small percentage of offenders also received a community sentence order or a fine in conjunction with their order of probation and as such were included in the 'probation' category.

Table 6.12 Relationship between receiving probation only or in conjunction with some type of custody order and gender

Other Sentence	Gender					
	Female		Male		Total	
	%	Number	%	Number	%	Number
Probation	96.3	1340	94.1	4365	94.6	5705
Probation and custody	3.7	52	5.9	276	5.6	328
Total	100.0	1392	100.0	4641	100.0	6033

(χ^2 , corrected for continuity=9.760, df=1, p<.01) (N missing=18).

Race is also significantly related to whether or not a young person received probation only.

Aboriginal youth are significantly more likely than all other youth to receive custody in addition to probation (Table 6.13). They are more than 2 times more likely than white and Other and almost 2 times more likely than Black youth to receive custody in addition to probation (Table 6.13).

Table 6.13 Relationship receiving probation only or in conjunction with some type of custody order and race

Other Sentence	Race									
	White		Other		Black		Aboriginal		Total	
	%	Number	%	Number	%	Number	%	Number	%	Number
Probation	93.8	1814	94.8	202	92.3	311	85.6	393	92.4	2720
Probation and custody	6.2	120	5.2	11	7.7	26	14.4	66	7.7	223
Total	100.0	1934	100.0	213	100.0	337	100.0	459	100.0	2943

($\chi^2=37.305$, $df=3$, $p<.001$) (N missing=3108).

Younger youth also appear more likely to receive probation only, compared to older youth. Those youth aged 17 years or older are more than 4 times more likely to receive custody in addition to probation compared to younger youth aged 12 to 14 years (Table 6.14).

Table 6.14 Relationship between receiving probation only or in conjunction with some type of custody order and age

Other Sentence	Age									
	12-14 yrs		15 yrs		16 yrs		17+ yrs		Total	
	%	Number	%	Number	%	Number	%	Number	%	Number
Probation	98.0	1035	97.0	1179	95.7	1311	90.9	2190	94.4	5715
Probation and custody	2.0	21	3.0	36	4.3	59	9.1	220	5.6	336
Total	100.0	1056	100.0	1215	100.0	1370	100.0	2410	100.0	6051

($\chi^2=103.933$, $df=3$, $p<.001$).

There were no significant differences in regards to the location of residence and whether or not the young person received probation only or some type of custody order in addition to probation (Table 6.15).

Table 6.15 Relationship between receiving probation only or in conjunction with some type of custody order and location of residence

Other Sentence	Location of Residence					
	Rural		Urban		Total	
	%	Number	%	Number	%	Number
Probation	94.5	935	94.4	4779	94.4	5714
Probation and custody	5.5	55	5.6	282	5.6	336
Total	100.0	990	100.0	5061	100.0	6051

(χ^2 , corrected for continuity=.004, df=1, p=.948).

6.2 What Drives the Length of Probation Orders?

Based on previous research a list of variables was created that are expected to drive the length of probation orders for young people. It is expected that legal factors like the nature of the first offence, multiple offence convictions, and criminal history will increase the length of the overall order. Extralegal factors like gender, age, race and location of residence are also explored. These findings will now be discussed.

6.2.1 Offender Related Variables on Length of Probation

Several offender related variables appear to be significantly related to the length of the probation order received. Girls, younger youth, white probationers and those who reside in rural locations all appear to be slightly more likely to receive an order for less than one year.

6.2.1.1 Gender

It was hypothesized that girls will receive shorter sentences of probation than boys and the following analysis provides support for this hypothesis. Both girls and boys are more likely to be issued an order for one year, however; girls appear to be slightly more likely to be issued a probation order for one year than for any other time frame (Table 6.16). As Table 6.16 reveals, nearly 39% of boys received a sentence of probation that lasted longer than one year compared to 30% of girls.

Table 6.16 Relationship between length of probation and gender

Length	Gender					
	Female		Male		Total	
	%	Number	%	Number	%	Number
Less than 1 year	13.7	191	10.0	463	10.8	654
1 year	56.6	788	51.1	2372	52.4	3160
Up to 2 years	29.7	413	38.9	1806	36.8	2219
Total	100.0	1392	100.0	4641	100.0	6033

($\chi^2=44.918$, $df=2$, $p<.001$) (N missing=18).

6.2.1.2 Age of the Offender

Again, it was hypothesized, based on previous research, that younger youth would receive shorter sentences of probation. Initial analyses reveal that indeed younger youth were more likely to serve a shorter sentence of probation when compared to older youth. Slightly more than 12% of those aged 12-14 years and nearly 15% of 15 year olds received a probation order for less than one year compared to approximately 9% of those 16 years or older (Table 6.17).

Table 6.17 Relationship between length of probation and age

Length	Age									
	12-14 yrs		15 yrs		16 yrs		17+ yrs		Total	
	%	Number	%	Number	%	Number	%	Number	%	Number
Less than 1 year	12.2	129	14.9	181	9.0	123	9.2	221	10.8	654
1 year	52.9	559	51.9	629	53.7	734	51.6	1238	52.4	3160
Up to 2 years	34.8	368	33.2	403	37.3	510	39.1	938	36.8	2219
Total	100.0	1056	100.0	1213	100.0	1367	100.0	2397	100.0	6033

($\chi^2=40.344$, $df=6$, $p<.001$) (N missing=18).

6.2.1.3 Race of the Offender

It was hypothesized that Aboriginal offenders would be more likely to receive longer orders of probation, regardless of offence type. There is greater opportunity for surveillance if these young people are on probation for longer than one year. However, this hypothesis was not supported. While all offenders were more likely to receive an order of probation that lasts one year it appears Other and Black offenders are more likely to receive an order for up to two years. Since Other and Black offenders were more likely to be convicted of offences against the person and these types of offences in theory usually warrant longer sentences upon conviction it is not surprising that these offenders were issued probation orders that lasted longer than one year (Table 6.18).

Table 6.18 Relationship between length of probation and race

Length	Race									
	White		Other		Black		Aboriginal		Total	
	%	Number	%	Number	%	Number	%	Number	%	Number
Less than 1 year	8.5	164	4.7	10	9.5	32	21.1	97	10.3	303
1 year	51.4	994	48.4	103	45.4	153	56.6	260	51.3	1510
Up to 2 years	40.1	776	46.9	100	45.1	152	22.2	102	38.4	1130
Total	100.0	1943	100.0	213	100.0	337	100.0	459	100.0	2943

($\chi^2=111.240$, $df=6$, $p<.001$) (N missing=3108).

6.2.1.4 Location of Residence

Location of residence (urban/rural) is expected to be related to the length of probation orders. It was hypothesized that young people who live in rural locations would receive shorter sentences of probation, as there are fewer resources to monitor youth and fewer programs young people can participate in rural communities. This finding is consistent when exploring location of residence and length of probation: all offenders were more likely to receive an order of probation that lasts one year. However, those who reside in rural locations were slightly more likely to receive an order for less than one year and urban probationers more likely to serve probation for longer than one year. Slightly more than thirteen percent of youth who live in rural locations receive an order for less than one year, compared to 10.4% of those young people who live in urban locations (Table 6.19).

Table 6.19 Relationship between length of probation and location of residence

Length	Location of Residence					
	Rural		Urban		Total	
	%	Number	%	Number	%	Number
Less than 1 year	13.3	131	10.4	523	10.8	654
1 year	51.4	508	52.6	2652	52.4	3160
Up to 2 years	35.3	349	37.1	1870	36.8	2219
Total	100.0	988	100.0	5045	100.0	6033

($\chi^2=7.267$, $df=2$, $p<.050$) (N missing=18).

6.2.2 Offence Related Variables on Length of Probation

6.2.2.1 Nature of the First Offence

It was predicted that offenders who were convicted of serious or multiple offences will be issued longer sentences of probation. Looking first at the nature of the first offence conviction it appears that offenders convicted of violent offences would receive longer sentences of probation, while those convicted of a property related offence were more likely to receive an order for one year and ‘other’ offence convictions tend to receive orders issued for less than year. As offence seriousness increases so does the length of the order, while all offenders are still more likely to receive an order for one year (Table 6.20).

Table 6.20 Relationship between length of probation and the nature of the first offence

Length	Nature of the First Offence							
	Other		Property		Person		Total	
	%	Number	%	Number	%	Number	%	Number
Less than 1 year	21.1	276	8.6	209	7.4	169	10.8	654
1 year	55.5	727	53.9	1316	49.0	1117	52.4	3160
Up to 2 years	23.5	308	37.6	918	43.6	993	36.8	2219
Total	100.0	1311	100.0	2443	100.0	2279	100.0	6033

($\chi^2=262.810$, $df=4$, $p<.001$) (N missing=18).

6.2.2.2 Multiple Offence Convictions and the Nature of the Second Offence

Data were available on the number and types of offences young probationers were convicted of. Few offenders were convicted of more than two offences and the following analyses will focus on conviction of a second offence (yes/no) and the nature of this offence conviction. As predicted, offenders who were convicted of two offences are significantly more likely to receive a longer order of probation. Table 6.21 reveals more than 47% of offenders convicted of a second offence served up to two years probation compared to 29% of those who were not convicted of a second offence.

Table 6.21 Relationship between length of probation and conviction of a second offence

Length	Second Offence					
	No		Yes		Total	
	%	Number	%	Number	%	Number
Less than 1 year	14.3	495	6.2	159	10.8	654
1 year	56.8	1960	46.5	1200	52.4	3160
Up to 2 years	28.9	997	47.3	1222	36.8	2219
Total	100.0	3452	100.0	2581	100.0	6033

($\chi^2=257.849$, $df=2$, $p<.001$) (N missing=18).

Second offence convictions are comprised primarily of ‘other’ offences (largely breaches of probation and bail violations). Youth whose second offence convictions (for which probation was ordered) were for property offences and offences against the person are significantly more likely to receive a longer sentence of probation (Table 6.22).

Table 6.22 Relationship between length of probation and the nature of the second offence

Length	Nature of the Second Offence							
	Other		Property		Person		Total	
	%	Number	%	Number	%	Number	%	Number
Less than 1 year	8.4	99	3.3	27	5.7	33	6.2	159
1 year	51.7	609	42.6	352	41.4	239	46.5	1200
Up to 2 years	39.9	470	54.1	447	52.9	305	47.3	1222
Total	100.0	1178	100.0	826	100.0	577	100.0	2581

($\chi^2=313.920$, $df=6$, $p<.001$).

6.2.2.3 Other Sentences

Young people who received some type of custody in addition to the order of probation were significantly more likely to serve longer sentences of probation.

Approximately, 44% of young people who received a probation sentence longer than 1 year

and up to 2 years were also sentenced serve custody, compared to 36% of young people who received probation only (Table 6.23).

Table 6.23 Relationship between length of probation and receiving probation only or in conjunction with some type of custody order

Length	Sentence					
	Probation		Probation and Custody		Total	
	%	Number	%	Number	%	Number
Less than 1 year	11.1	635	5.8	19	10.8	654
1 year	52.5	2294	50.3	166	52.4	3160
Up to 2 years	36.4	2074	43.9	145	36.8	2219
Total	100.0	5703	100.0	330	100.0	6033

($\chi^2=13.407$, $df=1$, $p<.001$) (N missing=18).

6.2.3 Criminal History and Length of Probation

Previous contact with the youth justice system is a strong predictor of recidivism. This is true for both adult and youth offenders. Previous research suggests that youth court judges' current dispositions are more punitive if there is a prior finding of guilt and/or history of probation or custody (Doob, 2001; Matarazzo, Carrington, & Hiscott (2001). Several variables were available for analysis with regard to prior record from the Risk/Needs Assessment (RNA) tool. Information was known if the offender: had three or more prior findings of guilt; had two or more failures to comply convictions; had received a prior probation order; if the offender had received a prior order of custody and if there were three or more current convictions (coded yes = 1, no = 0). A cumulative total Risk/Needs

Assessment score is also provided for prior record and current disposition (this score is ranked: 1 = low, 2 = moderate, 3 = high²⁴).

It is predicated that offenders who had any type of previous contact with the youth criminal justice system will receive longer sentences of probation and in all cases initial analyses reveal offenders who have prior findings of guilt, prior probation or custody experience, and are currently convicted of three or more offences are more likely to receive a longer order of probation. When exploring the overall Risk/Needs Assessment score a majority of offenders (52%) scored low on this measure of risk, 29% of offenders had a moderate risk score and the remaining 19% had a high risk score. Those offenders who score moderate to high (or those who have a more extensive criminal history or current findings of guilt) are significantly more likely to receive an order of probation for one year or longer (Table 6.24).

²⁴ Please see Appendix A for a copy of the Ministry Risk/Need Assessment tool that provides information on the scores that qualify for low, moderate and high for prior/current offences disposition.

Table 6.24 Relationship between length of probation and cumulative Risk/Needs Assessment for prior record/current disposition

Length	RNA Score for Prior Record/Current Disposition							
	Low		Moderate		High		Total	
	%	Number	%	Number	%	Number	%	Number
Less than 1 year	12.1	382	9.3	159	9.6	113	10.8	654
1 year	55.5	1747	51.7	886	45.0	527	52.4	3160
Up to 2 years	32.4	1020	39.0	668	45.3	531	36.8	2219
Total	100.0	3149	100.0	1713	100.0	1171	100.0	6033

($\chi^2=70.417$, $df=4$, $p<.001$) (N missing=18).

6.2.4 Regression for Length of Probation

In order to investigate the independent effects of gender, age, race, location of residence, the nature of the first offence, conviction of a second offence (yes/no), nature of the second offence, other sentences and prior record on length of probation, a multiple regression was run, with length of probation as the dependent variable. All of the following variables were entered in the first step: gender, age, race, rural/urban, nature of the first offence, conviction of a second offence (yes/no), nature of the second offence (if there was a conviction), other sentence and criminal history (see Appendix B for all coding).

The results of the regression reveal an R-squared value of approximately 20% explained variance in length of probation by the predictors. This indicates a moderate relationship between the predictors and understanding what drives the length of probation orders (Table 6.25). Location of residence does not appear to have an effect on probation time, however; several variables remain strong predictors of probation length as Table 6.25 reveals.

Girls and younger youth appear to receive shorter sentences of probation (Table 6.25). Historically, girls tended to be brought into the youth justice system for non-violent, administrative type offences which mitigates the severity of the sentence as measured by length of the probation order (i.e. those youth who commit violent offences receive longer sentences of probation). However, in this regression the type of offence the young person is convicted of is controlled for and girls still receive shorter sentences of probation. This finding may be evidence of judicial paternalism. It may be that judges feel girls are more deserving of their leniency than boys (American Bar Association, 2001; Chesney-Lind and Sheldon, 1998; Gaarder et al, 2004; Morash, 2006; Norland and Mann, 1984; Pulis, 2003; Reitsma-Street, 1999; Sangster, 2002). Younger youth may also be seen as more deserving candidates of shorter sentences compared to older youth who are expected to 'know better'. Aboriginal youth are more likely to be sentenced to probation for violent offences, which would usually warrant a longer sentence of probation. However; Aboriginal youth tend to receive shorter sentences of probation, which cannot be easily explained by the types of offences these offenders are convicted of. This finding may be better understood through the impact of the YCJA. As previously, discussed even if Aboriginal youth are not first-time offenders, consideration should be given to community-based responses (like probation) rather than custody, which could translate into shorter sentences of probation as well. However; these offenders were also twice as likely to receive custody, in addition to probation, compared to other you, which is counterintuitive to the legislation. It could be that judges issue these offenders shorter sentences because they have also served a period of incarceration.

As predicted, the nature of the first offence, the nature of the second offence conviction and moderate and high Risk/Needs Assessment scores for current/previous disposition are all related to the length of the probation order. The more serious the first offence and second offence conviction the longer the probation order. Under the YCJA (Sec. (2)(c)) sentences must be crafted according to principle of proportionality: more severe the offence and greater degree of responsibility of young person, more severe the punishment , it appears judges use the principle to craft sentences of probation in particular with the length of probation orders: the more severe the offence conviction the longer the sentence of probation. The relationship between criminal history and current dispositions and length highlights the importance of legal factors in the crafting probation sentences for young people.

Table 6.25 Regression for length of probation (N=6051)

Dependent Variable - length of probation			
	β	B	SE
Independent Variables (below)			
Constant	-----	1.116	.072
Gender (female=0, male=1)	.113***	.182	.041
Age	.067**	.037	.014
Race(ref) (white=0)	-----	-----	-----
Race1 (Other=1)	.041	.098	.062
Race2 (Black=2)	-.007	-.014	.049
Race3 (Aboriginal=3)	-.154***	.255	.044
Rural/Urban (rural=0, urban=1)	-.028	-.045	.041
Nature of the First Offence (ref) (other=0)	-----	-----	-----
Nature of the First Offence1 (property=1)	.034**	.069	.046
Nature of the First Offence2 (person=2)	.109***	.072	.035
Conviction of a Second Offence (0=no, 1=yes)	.067	.050	.019
Nature of the Second Offence (ref) (other=0)	-----	-----	-----
Nature of the Second Offence1 (property=1)	.172***	.224	.036
Nature of the Second Offence2 (person=2)	.112***	.167	.041
Other Sentence (0=probation only, 1=custody & probation)	-.025	-.051	.054
Prior/Current Record (ref) (low risk/need=0)	-----	-----	-----
Prior/Current Record1 (moderate risk/need=1)	.145***	.055	.038
Prior/Current Record2 (high risk/need=2)	.282***	.044	.037
R	.423		
R-square	.204***		

Notes: *p<.05; **p<.01; ***p<.001

6.3 What Drives the Number and Types of Conditions of Probation?

Information on the conditions of probation was available in 5872 cases (this includes information on the additional conditions that accompanied the two mandatory conditions that

accompany all young peoples' probation orders). The number of additional conditions ranged from 1 condition to 17 conditions²⁵. Young people received an average of 5.9 conditions and the mode was 5 conditions. Reporting conditions, non-association orders and 'other' conditions account for the majority of all additional conditions (Table 6.26). More detailed information on 'other' types of conditions is unavailable once the data are aggregated. Previous research and anecdotal evidence from youth justice court judges reveals the use of "other" conditions allows the judge an opportunity to be creative in the crafting of conditions (e.g. write a letter of apology, clean up a local park, volunteer at a local agency, etc.) or to design specific conditions based on the needs of offenders (e.g. attend the *inREACH* program offered by the John Howard Society in the Waterloo Region if there is suspicion of gang membership).

Table 6.26 Most Frequently Imposed Conditions, the percent of young people who received the condition and the number of cases.

Conditions of Probation	Percent of Young People who Received Condition	Number of Cases
Reporting	98.4%	5776
Non-Association Order	67.3%	3949
Other(1) ²⁶	59.1%	3472
Education	45.7%	2684
Residence	44.1%	2592
Community Service Order	27.7%	1627
Other(2)	26.2%	1537
Curfew	25.9%	1523
Alcohol Restriction	24.8%	1455
Weapons Restrictions	23.8%	1399

²⁵ It is possible that a probation officer may add more conditions to an order of probation but it was impossible to determine what additional conditions a probation officer may have added to an order from the aggregate data.

²⁶ Qualitative data on 'other offences' was not available in all cases and the Ministry could not provide information on why all conditions were classified as 'Other1' or 'Other2'. In some cases the researcher could determine that some offenders received more than one other condition, which resulted in the second other condition being imposed but this information was, again, not available in all cases.

6.3.1 What Drives the Number of Conditions of Probation?

Based on the research questions initial analyses explored the relationship between the number of conditions of probation and several variables of interest related to: current offence, current disposition, prior record, and the individual offender. The following section presents both the mean number and the frequency distributions of the number of conditions offenders received. While the means provide a concise summary, the frequencies provide additional detail on the number of conditions of probation young people received. These findings will now be discussed.

6.3.1.1 Offender Related Variables

6.3.1.1.1 Gender

On average, boys received 0.3 more conditions of probation than girls, and the difference is statistically significant (Table 6.27b). It can be seen in Table 6.27a that this difference is mainly due to the relatively large number of boys who received 10 or more conditions.

Table 6.27 Relationship between the number of conditions of probation and gender

(a) Number of Conditions	Gender					
	Female		Male		Total	
	%	Number	%	Number	%	Number
1 condition	0.9	12	1.4	63	1.3	75
2 conditions	6.4	87	4.9	221	5.2	308
3 conditions	10.2	139	10.0	451	10.0	590
4 conditions	15.6	214	14.4	650	14.7	864
5 conditions	18.0	246	16.6	747	16.9	993
6 conditions	16.4	225	14.3	643	14.8	868
7 conditions	12.3	168	12.7	574	12.6	742
8 conditions	8.4	115	9.4	425	9.2	540
9 conditions	5.4	74	6.9	310	6.5	384
10 or more conditions	6.5	89	9.3	419	8.7	508
Total	100.0	1369	100.0	4503	100.0	5872

($\chi^2=26.430$, $df=9$, $p.01$)

(b) Mean Number of Conditions	Gender					
	Female		Male		Total	
	Mean	Number	Mean	Number	Mean	Number
	5.67	1369	5.97	4503	5.90	5872

($F=14.651$, $df=1$, 5870 , $p<.001$).

6.3.1.1.2 Age

There was no significant relationship between the age of offenders and the number of conditions imposed as hypothesized (Table 6.28).

Table 6.28 Relationship between the number of conditions of probation and age

(a) Number of Conditions	Age									
	12-14 yrs		15 yrs		16 yrs		17+ yrs		Total	
	%	Number	%	Number	%	Number	%	Number	%	Number
1 condition	0.8	8	1.3	16	1.3	18	1.4	33	1.3	75
2 conditions	5.4	56	6.0	72	4.5	60	5.3	120	5.2	308
3 conditions	10.9	114	9.9	119	8.3	112	10.8	245	10.0	590
4 conditions	14.4	151	14.6	176	14.6	197	14.9	340	14.7	864
5 conditions	18.0	188	17.2	207	15.7	211	17.0	387	16.9	993
6 conditions	14.5	152	13.6	163	15.2	205	15.3	348	14.8	868
7 conditions	13.4	140	11.5	138	14.3	192	11.9	272	16.6	742
8 conditions	8.7	91	10.2	123	10.3	139	8.2	187	9.2	540
9 conditions	6.6	69	6.7	80	6.2	83	6.7	152	6.5	384
10 or more conditions	7.4	77	9.0	108	9.6	129	8.5	194	8.7	508
Total	100.0	1046	100.0	1202	100.0	1346	100.0	2278	100.0	5872

($\chi^2=30.823$, $df=27$, $p=.278$)

(b) Mean Number of Conditions	Age									
	12-14 yrs		15 yrs		16 yrs		17+ yrs		Total	
	Mean	Number	Mean	Number	Mean	Number	Mean	Number	Mean	Number
	5.82	1046	5.90	1202	6.06	1346	5.83	2278	5.90	5872

($F=2.870$, $df=3$, 5868 , $p=.055$).

6.3.1.1.3 Race of the Offender

The race of the youth was coded for fewer than 50% (2836) of the probation cases. In these cases, white youth received a greater average number (5.99) of conditions of probation, and youth in the three coded minority groups received approximately the same average number (about 5.65) of conditions (Table 6.29b). This is especially evident for cases receiving 8 or more conditions (6.29a).

Table 6.29 Relationship between the number of conditions of probation and race

(a) Number of Conditions	Race									
	White		Other		Black		Aboriginal		Total	
	%	Number	%	Number	%	Number	%	Number	%	Number
1 condition	1.0	19	3.4	7	3.4	11	0.2	1	1.3	38
2 conditions	4.8	90	5.3	11	7.1	23	5.3	23	5.2	147
3 conditions	9.1	170	7.7	16	9.6	31	11.1	48	9.3	265
4 conditions	15.5	290	19.3	40	13.0	42	18.1	78	15.9	450
5 conditions	17.8	333	18.8	39	19.8	64	16.7	72	17.9	508
6 conditions	13.8	258	15.0	31	14.2	46	17.4	75	14.5	410
7 conditions	12.2	229	10.1	21	13.0	42	12.3	53	12.2	345
8 conditions	9.1	170	5.3	11	6.5	21	7.4	32	8.3	234
9 conditions	7.6	142	5.8	12	5.3	17	4.4	19	6.7	190
10 or more conditions	9.3	174	9.2	19	8.0	26	7.0	30	8.8	249
Total	100.0	1875	100.0	207	100.0	323	100.0	431	100.0	2836

($\chi^2=51.734$, $df=27$, $p<.01$) (N missing=3036)

(b) Mean Number of

Race

Conditions	White		Other		Black		Aboriginal		Total	
	Mean	Number	Mean	Number	Mean	Number	Mean	Number	Mean	Number
	5.99	1875	5.63	207	5.65	323	5.67	431	5.87	2836

(F=3.822, df=3, 2832, p<.01) (N missing = 3036).

6.3.1.1.4 Location of Residence

It was hypothesized that offenders who live in rural communities would receive fewer conditions (due to lack of available treatment or supervision). Probationers who live in urban areas receive an average of slightly more than 0.4 more conditions of probation, and the difference is statistically significant (Table 6.30b). Table 6.30a reveals that this difference is mainly due to the number of young probationers living in urban communities who receive 7 or more conditions.

Table 6.30 Relationship between the number of conditions of probation and location of residence

(a) Number of Conditions	Location of Residence					
	Rural		Urban		Total	
	%	Number	%	Number	%	Number
1 condition	0.6	6	1.4	69	1.3	75
2 conditions	6.2	60	5.1	248	5.2	308
3 conditions	12.7	123	9.5	467	10.0	590
4 conditions	17.4	168	14.2	696	14.7	864
5 conditions	19.0	183	16.5	810	16.9	993
6 conditions	15.5	150	14.6	718	14.8	868
7 conditions	10.9	105	13.0	637	12.6	742
8 conditions	5.7	55	9.9	485	9.2	540
9 conditions	4.1	40	7.0	344	6.5	384
10 or more conditions	7.8	75	8.8	433	8.7	508
Total	100.0	965	100.0	4907	100.0	5872

($\chi^2=52.946$, $df=9$, $p<.001$)

(b) Mean Number of Conditions	Location of Residence					
	Rural		Urban		Total	
	Mean	Number	Mean	Number	Mean	Number
	5.53	965	5.97	4907	5.90	5872

($F=25.430$, $df=1$, 5870 , $p<.001$).

6.3.1.2 Offence Related Variables

6.3.1.2.1 Nature of the First Offence

It was predicted those young people convicted of a violent offence would receive a greater number of conditions. However, youth who were convicted of property offence are also more likely to receive a greater number of conditions (Table 6.31a). Youth convicted of violent offences do receive a greater average number of conditions compared to those convicted of property offences (6.20 and 6.08 respectively) but significantly more than those convicted of other offences (5.04) (Table 6.31b). Those convicted of other offences tend to receive 1 to 4 additional conditions while those youth convicted of property and person related offences tend to receive 5 or more conditions (Table 6.31a).

Table 6.31 Relationship between the number of conditions of probation and nature of the first offence

(a) Number of Conditions	Nature of the First Offence							
	Other		Property		Person		Total	
	%	Number	%	Number	%	Number	%	Number
1 condition	3.0	39	1.0	24	5.0	12	1.3	75
2 conditions	12.5	160	3.8	91	2.6	56	5.2	307
3 conditions	16.0	205	9.0	214	7.8	170	10.1	589
4 conditions	15.2	195	14.8	353	14.4	315	14.7	863
5 conditions	15.6	201	16.1	383	18.5	404	16.9	988
6 conditions	12.0	154	15.3	365	15.8	346	14.8	865
7 conditions	9.5	122	13.3	317	13.7	300	12.6	739
8 conditions	6.5	83	10.1	241	9.8	215	9.2	539
9 conditions	3.8	49	7.3	174	7.3	160	6.5	383
10 or more conditions	6.0	77	9.4	224	9.4	206	8.7	507
Total	100.0	1285	100.0	2386	100.0	2184	100.0	5855

($\chi^2=339.876$, $df=18$, $p<.001$) (N missing=17)

(b) Mean Number of Conditions	Nature of the First Offence							
	Other		Property		Person		Total	
	Mean	Number	Mean	Number	Mean	Number	Mean	Number
	5.04	1285	6.08	2386	6.20	2184	5.90	5855

($F=103.446$, $df=2$, 5852 , $p<.001$) (N missing=17).

6.3.1.2.2 Conviction of a Second Offence

The finding is very clear that those youth who are convicted of a second offence are more likely to receive more conditions of probation (Table 6.32). Approximately, 13% of

offenders convicted of a second offence received 10 or more conditions compared to only approximately 6% of those who were not convicted of a second offence (Table 6.32a).

Young people convicted of a second offence receive a greater average number of conditions (6.55) compared to those young people who were not convicted of a second offence (5.43) (Table 6.32b).

Table 6.32 Relationship between the number of conditions of probation and conviction of a second offence

(a) Number of Conditions	Conviction of a Second Offence					
	No		Yes		Total	
	%	Number	%	Number	%	Number
1 condition	1.7	57	0.7	18	1.3	75
2 conditions	7.2	243	2.6	64	5.2	307
3 conditions	12.6	427	6.6	162	10.1	589
4 conditions	16.8	570	11.9	293	14.7	863
5 conditions	12.8	604	15.6	384	16.9	988
6 conditions	14.4	487	15.3	378	14.8	865
7 conditions	11.3	383	14.4	356	12.6	739
8 conditions	7.5	254	11.6	285	9.2	539
9 conditions	5.1	172	8.6	211	6.5	383
10 or more conditions	5.7	194	12.7	313	8.7	507
Total	100.0	3391	100.0	2464	100.0	5855

($\chi^2=290.699$, $df=9$, $p<.001$) (N missing=17)

(b) Mean Number of Conditions	Conviction of a Second Offence					
	No		Yes		Total	
	Mean	Number	Mean	Number	Mean	Number
	5.43	3391	6.55	2464	5.90	5855

($F=304.225$, $df=1$, 5853 , $p<.001$) (N missing=17).

6.3.1.2.3 Nature of the Second Offence

It was hypothesized that violent offences would receive the greatest number of conditions, however; it appears that youth convicted of property related second offences are more likely to receive the greatest number of conditions (6.33). On average, those convicted of property related offences received .81 more conditions than those convicted of other offences and 0.29 more conditions than those convicted of violent offences (Table 6.33b).

Table 6.33 Relationship between the number of conditions of probation and the nature of the second offence

(a) Number of Conditions	Nature of the Second Offence							
	Other		Property		Person		Total	
	%	Number	%	Number	%	Number	%	Number
1 condition	0.9	10	1.0	8	1.1	6	0.9	24
2 conditions	4.6	53	5.0	40	4.2	24	4.6	117
3 conditions	10.2	119	10.8	86	9.9	56	10.3	261
4 conditions	15.1	175	13.9	111	14.3	81	14.5	367
5 conditions	16.8	195	17.3	138	14.0	79	16.3	412
6 conditions	15.2	176	15.3	122	16.6	94	15.5	392
7 conditions	12.3	143	12.3	98	13.3	75	12.5	316
8 conditions	10.2	118	9.0	72	9.5	54	9.7	244
9 conditions	6.5	75	7.4	59	6.5	37	6.8	171
10 or more conditions	8.4	97	8.3	66	10.6	60	8.8	226
Total	100.0	1161	100.0	800	100.0	566	100.0	2527

($\chi^2=8.707$, $df=18$, $p=.966$) (N missing=72)

(b) Mean Number of Conditions	Nature of the Second Offence							
	Other		Property		Person		Total	
	Mean	Number	Mean	Number	Mean	Number	Mean	Number
	6.18	1161	6.97	800	6.68	566	6.55	2527

($F=24.203$, $df=2,2461$, $p<.001$) (N missing=72).

6.3.1.2.4 Other Sentence²⁷

Table 6.34b reveals that those young people who receive some type of custody in addition to probation receive a greater average number of conditions (6.55) compared to those young people who only received probation (5.87). It can be seen in Table 6.34a that this difference is mainly due to those youth who received custody and probation receiving 6 or more conditions.

²⁷ A reminder to the reader that ‘probation’ also includes the small number of offenders who received a community service order or fine in conjunction with their order of probation.

Table 6.34 Relationship between the number of conditions of probation and receiving probation only or in conjunction with some type of custody order

(a) Number of Conditions	Sentence					
	Probation		Probation and Custody		Total	
	%	Number	%	Number	%	Number
1 condition	1.3	74	0.4	1	1.3	75
2 conditions	5.3	301	3.0	7	5.2	308
3 conditions	10.2	576	3.0	14	10.0	590
4 conditions	14.8	833	13.3	31	14.7	864
5 conditions	17.0	959	14.6	34	16.9	993
6 conditions	14.7	831	15.9	37	14.8	868
7 conditions	12.6	710	13.7	32	12.6	742
8 conditions	9.1	512	12.0	28	9.2	540
9 conditions	6.5	365	8.2	19	6.5	384
10 or more conditions	8.5	478	12.9	30	8.7	508
Total	100.0	5639	100.0	533	100.0	5872

($\chi^2=17.228$, $df=9$, $p=.54$)

(b) Mean Number of Conditions	Sentence					
	Probation		Probation and Custody		Total	
	Mean	Number	Mean	Number	Mean	Number
	5.87	5639	6.55	533	5.90	5872

($F=15.419$, $df=1$, 5870 , $p<.001$).

6.3.1.3 Criminal History Variable

6.3.1.3.1 Risk/Needs Assessment Score for Prior/Current Criminal History

In the previous analyses criminal history and current disposition information was analyzed using a measure of all criminal history variables. Since the effect of multiple convictions is already known as a predictor of a greater number of conditions using the total

Risk/Needs Assessment score for previous/current criminal history would be redundant (this measure takes into consideration 3 or more current findings of guilt). To explore the independent effects of each of these factors (previous findings of guilt, previous sentences and number of current convictions) separate analyses were run for all available variables related to prior record and the number of current guilty findings. In all analyzes any type of previous contact with the youth justice system increases the number of conditions young probationers receive (Table 6.35 and Table 6.36).

Table 6.35 The likelihood of receiving a greater number of conditions by indicators of criminal history (N=5872)

Indicator of Criminal History		N	1-5 Conds	6 or More Conds	Chi-square	df	p <
Total		5872	48.2	51.8			
A. Three or more prior findings of guilt	Yes	1029	41.6	58.4	21.455*	1	.001
	No	4843	49.6	50.4			
B. Two or more prior failures to comply	Yes	1012	40.2	59.8	30.781*	1	.001
	No	4860	49.9	50.1			
C. Prior probation	Yes	2200	46.3	53.7	5.083*	1	.05
	No	3672	49.3	50.7			
D. Previous custody	Yes	932	39.9	60.1	30.032*	1	.001
	No	4940	49.8	50.2			

*corrected for continuity

Table 6.36 Relationship between number of conditions of probation and cumulative Risk/Needs Assessment for prior record/current disposition

(a) Number of Conditions	RNA Score for Prior Record/Current Disposition							
	Low		Moderate		High		Total	
	%	Number	%	Number	%	Number	%	Number
1 condition	1.1	33	1.6	27	1.4	15	1.3	75
2 conditions	5.6	176	5.3	89	4.0	43	5.2	308
3 conditions	10.9	341	9.3	156	8.7	93	10.0	590
4 conditions	16.1	503	13.6	228	12.5	133	14.7	864
5 conditions	18.6	581	15.7	264	13.9	148	16.9	993
6 conditions	14.2	443	14.8	248	16.6	177	14.8	868
7 conditions	12.6	393	13.3	223	11.8	126	12.6	742
8 conditions	8.2	258	9.4	158	11.7	124	9.2	540
9 conditions	6.4	200	6.7	113	6.7	71	6.5	384
10 or more conditions	6.4	200	10.4	174	12.6	134	8.7	508
Total	100.0	3128	100.0	1680	100.0	1064	100.0	5872

($\chi^2=90.776$, $df=18$, $p<.001$)

(b) Mean Number of Conditions	RNA Score for Prior Record/Current Disposition							
	Low		Moderate		High		Total	
	Mean	Number	Mean	Number	Mean	Number	Mean	Number
	5.69	3128	6.02	1680	6.32	1064	5.90	5872

($F=28.686$, $df=2,5869$, $p<.001$).

6.3.1.4 Regression Analysis of Number of Conditions of Probation

In order to assess the independent effects of gender, age, race, location, first offence type, conviction for a second offence, second offence type and criminal history on the number of probation conditions a multiple regression was run (see Appendix B for a list of all coding). The dependent variable was the number of conditions.

The results of the regression reveal an R-squared value of approximately 20% explained variance in the number of conditions young people receive by the predictors. This indicates a moderate relationship between the predictors and understanding what drives the number of conditions (Table 6.37). Extralegal factors like gender, race, and location of residence continue to be significant predictors of the number of conditions young people in Ontario receive. Boys, white youth, and those who live in urban areas have a greater number of conditions attached to their probation orders (Table 6.37). Offence type, multiple offence convictions, two or more failures to comply convictions and prior probation are the only significant predictors of the number of probation conditions (Table 6.37). The more serious the offence the greater the number of conditions placed on young offenders. When exploring criminal history the aggregate criminal record score was replaced in this regression and all four separate indicators of current/prior criminal history were used. This decision was made in order to explore the independent effects of each measure on the number of conditions young people receive. It is argued that prior probation or failure to comply with a disposition convictions will have an impact on the number of conditions imposed, Interestingly, young people who have prior failure to comply convictions and previous probation experience also receive a greater number of conditions. Again, legal factors remain strong predictors in the construction of probation sentences for young people.

Table 6.37 Regression for number of conditions of probation (N=5872)

Dependent Variable - number of conditions of probation			
	β	B	SE
Independent Variables (below)			
Constant	-----	5.181	0.128
Gender (female=0, male=1)	0.049***	0.265	0.070
Age	0.001	0.002	0.026
Race(ref) (white=0)	-----	-----	-----
Race1 (Other=1)	-0.033**	-0.412	0.162
Race2 (Black=2)	-0.043***	-0.432	0.133
Race3 (Aboriginal=3)	-0.020	-0.172	0.120
Rural/Urban (rural=0, urban=1)	0.067***	0.417	0.079
Nature of the First Offence (ref) (other=0)	-----	-----	-----
Nature of the First Offence1 (property=1)	0.065***	0.304	0.067
Nature of the First Offence2 (person=2)	0.183***	1.014	0.078
Conviction of a Second Offence (0=no, 1=yes)	0.133***	1.050	0.102
Nature of the Second Offence (ref) (other=0)	-----	-----	-----
Nature of the Second Offence1 (property=1)	0.116***	1.253	0.091
Nature of the Second Offence2 (person=2)	0.190***	0.676	0.078
Other Sentence (0=probation only, 1=custody & probation)	-0.122	0.042	0.558
3 or More Previous Findings of Guilt (0=no, 1=yes)	0.000	-0.003	0.107
2 or More Failure to Comply Convictions (0=no, 1=yes)	0.059***	0.361	0.108
Prior Probation (0=no, 1=yes)	-0.037**	-0.173	0.073
Prior Custody (0=no, 1=yes)	0.023	0.144	0.100
R	0.312		
R-square	0.195***		

Notes: *p<.05; **p<.01; ***p<.001

It is clear from these analyses that the number of conditions young probationers receive are more often driven by legal factors like offence and probation variables and

criminal history. The number of probation conditions offenders in this sample received is dependent on the nature of the first offence, conviction of a second offence, the nature of the second offence conviction, previous failures to comply convictions and prior probation sentences. It is again unclear how imposing a similar sentence, with more conditions will impact a young person's ability to comply with the new sentence of probation. An investigation into the types of probation conditions young people receive will now be explored.

6.3.2 What Drives the Types of Probation Conditions

As previously discussed, the most common types of probation conditions imposed on offenders in this sample include: report to a youth justice worker (98.4%); non-association orders (67.3%); 'other' conditions (59.1%); education orders (45.7%); and residence orders (44.1%). It is hypothesized that certain young people will be more likely to receive certain conditions. This section aims to examine the possible relationship between imposing certain conditions, increasing social bonds and reducing delinquency. The other sentence (if any) was not significantly related to the types of probation conditions young people received in all analyses. The analyses will investigate types of conditions and offender, offence, probation and criminal history variables.

6.3.2.1 Offender Related Variables

6.3.2.1.1 Gender

There was no significant relationship between girls and boys receiving conditions related to a curfew (Chi-Square, corrected for continuity=0.218, df=1, p=.640) and remaining in the home or designated residence (Chi-Square, corrected for continuity=0.000, df=1, p=.993) as hypothesized. While it is suggested that girls will be more likely to receive non-association orders it appears that boys in this sample are slightly more likely to receive non-association orders when compared to girls (Table 6.38).

Table 6.38 Relationship between receiving a non-association order and gender

Non-Association Order	Gender					
	Female		Male		Total	
	%	Number	%	Number	%	Number
No	37.3	511	31.4	1412	32.7	1923
Yes	62.7	858	68.6	3091	67.3	3949
Total	100.0	1369	100.0	4503	100.0	5872

($\chi^2=16.987$, df=1, p<.001).

A logistic regression was conducted to predict the likelihood of receiving a non-association order, while controlling for other factors. See Appendix B for all coding information. Nagelkerke's R-squared of 0.186 (Table 6.39) indicates a moderate relationship between the predictors and receiving an association order. The Wald criterion demonstrates that gender (p=<.01), race (p=<.001), nature of the first offence (p=<.001), nature of the second offence (p=<.001) and criminal history (p=<.01) made a significant contribution to whether or not a young person would receive an association order as part of her or his probation. Boys and Black youth appear to be more likely to receive this condition. When compared to girls, the odds are higher that boys will receive this condition. Black youth also

appear to be more likely to receive this condition (the odds are higher for these youth compared to white probationers). Young boys may be more likely to commit property crimes with other youth which would result in a non-association order (unfortunately co-offending could not be explored in this research project). Black youth are more likely to be convicted of an offence against the person and as a result may receive an order to refrain from having any contact with the victim(s) or other youth they may have committed the offence with.

Legal factors like offence type and multiple convictions are also strong predictors of receiving this condition (Table 6.39). Young people convicted of an offence against the person are more likely to receive a non-association order. The odds of receiving a non-association are lower for those convicted of property and other offences compared to those convicted of a violent offence. The nature of a second offence conviction (violent verses none, property verses none and other verses none) all have increased odds of association (Table 6.39).

Table 6.39 Logistic regression for ‘Non-Association Order’ (N=5872)

Dependent Variable - non-association order (0=no, 1=yes)				
Independent Variables (below)	Odds Ratio	B	SE	Wald Statistic
Constant	1.708	0.535	0.135	15.714
Gender (female=0, male=1)	1.231 **	0.208	0.072	8.242
Age	1.046	0.045	0.027	2.716
Race(ref) (white=0)	-----	-----	-----	-----
Race1 (Other=1)	1.157	0.146	0.173	0.715
Race2 (Black=2)	1.416 **	0.348	0.145	5.706
Race3 (Aboriginal=3)	0.561 ***	-0.577	0.120	23.264
Rural/Urban (rural=0, urban=1)	1.136	0.127	0.082	2.403
Nature of the First Offence (ref) (other=0)	-----	-----	-----	-----
Nature of the First Offence1 (property=1)	0.276 ***	-.308	.073	17.731
Nature of the First Offence2 (person=2)	0.735 ***	-1.286	0.080	255.498
Conviction of a Second Offence (0=no, 1=yes)	1.006	0.006	0.080	0.006
Nature of the Second Offence (ref) (other=0)	-----	-----	-----	-----
Nature of the Second Offence1 (property=1)	1.386 ***	0.580	0.131	19.631
Nature of the Second Offence2 (person=2)	1.772 ***	0.316	0.111	8.177
Prior/Current Record (ref) (low risk/need=0)	-----	-----	-----	-----
Prior/Current Record1 (moderate risk/need=1)	0.839 **	-0.176	0.071	6.041
Prior/Current Record2 (high risk/need=2)	1.762	-0.271	0.086	9.998
Nagelkerke R-square		.186***		

Notes: *p<.05; **p<.01; ***p<.001

While it was hypothesized that girls would be more likely to receive this condition it appears the influence of delinquent peers may be considered more important in the offending of young boys. Judges may feel young men are more likely to succumb to peer influence, have delinquent friends and perhaps be in need of judicial intervention. It could be that young

men are more likely to engage in offending behaviour with friends or peers resulting in the non-association order, unfortunately this study could not explore the effect of co-offending. The non-association order may also be used as a means to keep offenders away from victims of property crime which boys in this sample are more likely to be convicted of. The significance of race is unclear. It could be that Black youth tend to co-offend with other youth, which would result in this condition. Table 6.39 also illustrates the importance of legal factors (like offence type and multiple offence convictions) on judicial decision-making and the crafting of probation sentences.

6.3.2.1.2 Age

Younger youth appear to be more likely to receive a curfew as a condition of probation (Table 6.40) as well as the condition to remain in a residence designated by the courts (Table 6.41). Both findings support the hypotheses related to age. Conditions to abide by a curfew and remain in a designated residence mimic rules a parent would impose that may be of greater significance to younger youth than older youth. In an attempt to increase attachments to the home and decrease chances for delinquent activity judges may use these conditions as a means to achieve both goals. It appears that 12-14 and 16 year old probationers are also slightly more likely to receive a condition to remain in the residence (Table 6.41). It could be that these youth are more likely to run-away or spend extended periods at friends' residences, which may result in this condition.

Table 6.40 Relationship between receiving a curfew and age

Curfew	Age									
	12-14 yrs		15 yrs		16 yrs		17+ yrs		Total	
	%	Number	%	Number	%	Number	%	Number	%	Number
No	69.0	772	69.9	840	73.9	995	78.7	1792	74.1	4349
Yes	31.0	324	30.1	362	26.1	351	21.3	486	25.9	1523
Total	100.0	1046	100.0	1202	100.0	1346	100.0	2278	100.0	5872

($\chi^2=49.886$, $df=1$, $p<.001$).

Table 6.41 Relationship between receiving a residence order and age

Residence Order	Age									
	12-14 yrs		15 yrs		16 yrs		17+ yrs		Total	
	%	Number	%	Number	%	Number	%	Number	%	Number
No	53.9	564	55.9	672	53.7	723	58.0	1321	55.9	3280
Yes	46.1	482	44.1	530	46.3	623	42.0	957	44.1	2592
Total	100.0	1046	100.0	1202	100.0	1346	100.0	2278	100.0	5872

($\chi^2=8.300$, $df=3$, $p<.05$).

Two separate logistic regressions were run to investigate further and control for other factors. Using "curfew" and "residence order" as the dependent variables (0=no/ 1=yes) all other available predictors (gender, age, race, rural/urban, offence one, offence two and criminal history) were entered. See Appendix B for all coding information.

Table 6.42 reveals a Nagelkerke's R-squared of 0.112, which indicates a weak relationship between the predictors and receiving a curfew as part of one's probation order. The Wald criterion demonstrates that age ($p < .001$), race ($p < .001$), location of residence ($p < .001$), nature of the first offence ($p < .001$), nature of the second offence ($p < .001$) and criminal history ($p < .001$) made a significant contribution to whether or not a young person would receive a curfew.

Age remains significantly related to receiving a curfew as part of an order of probation. Younger youth are more likely to receive a curfew attached to their probation order. The age of the offender may be of particular interest to youth justice court judges when crafting probation sentences and imposing conditions. It appears that younger youth receive conditions that resemble parenting interventions, like curfews, etc. and it may be that this group of offenders may be more susceptible to judicial paternalism than older offenders. Young people who live in urban areas are also significantly more likely to receive a curfew compared to young probationers who live in rural areas. Youth justice court judges may feel imposing restrictions on the whereabouts of offenders is of greater importance with young people who live in urban communities.

As with previous analyses, Table 6.42 also reveals the significance of legal factors like offence type, multiple offence convictions, and criminal history on the likelihood of receiving a curfew. Young people convicted of property offences, both as their first offence or second offence have increased odds of receiving a curfew. This could be a reflection of the time these offences were committed. While most youth crime occurs between the hours of three and six in the afternoon/evening, these young people may have been involved in incidences that occurred later in the evening. Young people who have more extensive criminal histories also have higher odds of receiving a curfew. These findings demonstrate the importance of the relationship between conditions of probation and offending behaviour.

Table 6.42 Logistic regression for 'Curfew' (N=5872)

Dependent Variable - curfew (0=no, 1=yes)				
Independent Variables (below)	Odds Ratio	B	SE	Wald Statistic
Constant	0.187	-1.677	0.146	132.242
Gender (female=0, male=1)	0.878	-0.130	0.076	2.940
Age	0.807 ***	-0.214	0.028	59.201
Race(ref) (white=0)	-----	-----	-----	-----
Race1 (Other=1)	0.672 *	-0.398	0.198	4.023
Race2 (Black=2)	0.860 **	-0.151	0.151	1.004
Race3 (Aboriginal=3)	1.476 **	0.389	0.127	9.470
Rural/Urban (rural=0, urban=1)	1.501 ***	0.406	0.091	20.116
Nature of the First Offence (ref) (other=0)	-----	-----	-----	-----
Nature of the First Offence1 (property=1)	1.371 ***	0.678	0.074	84.440
Nature of the First Offence2 (person=2)	1.982 ***	0.323	0.091	12.638
Conviction of a Second Offence (0=no, 1=yes)	1.546	0.436	0.082	28.251
Nature of the Second Offence (ref) (other=0)	-----	-----	-----	-----
Nature of the Second Offence1 (property=1)	0.655 ***	0.408	0.123	11.053
Nature of the Second Offence2 (person=2)	1.196	0.179	0.101	3.132
Prior/Current Record (ref) (low risk/need=0)	-----	-----	-----	-----
Prior/Current Record1 (moderate risk/need=1)	1.344**	0.296	0.074	16.091
Prior/Current Record2 (high risk/need=2)	1.758 ***	0.564	0.085	43.823
Nagelkerke R-square		.112***		

Notes: *p<.05; **p<.01; ***p<.001

The results of the second regression reveal several factors are related to whether or not a young person will receive a condition to remain in a court designated residence. It appears that younger, white youth from urban areas are more likely to receive a residence order, compared to Aboriginal and Other youth. This finding may be a result of the offences

these offenders are more likely to commit, however; it may also be a reflection of unconscious biases of justice personnel that this particular group of young people would benefit from increased attachments to the home. Very similar to the previous findings legal factors like offence type, multiple offences and previous contact with the justice system increase the odds a young person will receive a residence order are part of her or his probation (Table 6.43)

Table 6.43 Logistic regression for 'Residence Order'(N=5872)

Dependent Variable - residence order (0=no, 1=yes)				
Independent Variables (below)	Odds Ratio	B	SE	Wald Statistic
Constant	0.628	-0.465	0.125	13.814
Gender (female=0, male=1)	0.908	-0.096	0.067	2.084
Age	0.928 **	-0.075	0.024	9.396
Race(ref) (white=0)	-----	-----	-----	-----
Race1 (Other=1)	0.612 *	-0.491	0.156	9.968
Race2 (Black=2)	0.831	-0.185	0.126	2.176
Race3 (Aboriginal=3)	0.774 *	-0.257	0.117	4.812
Rural/Urban (rural=0, urban=1)	1.619 ***	0.482	0.078	38.530
Nature of the First Offence (ref) (other=0)	-----	-----	-----	-----
Nature of the First Offence1 (property=1)	0.842 *	-0.172	0.076	5.067
Nature of the First Offence2 (person=2)	1.378 ***	0.321	0.074	18.929
Conviction of a Second Offence (0=no, 1=yes)	0.655	-0.175	0.031	28.251
Nature of the Second Offence (ref) (other=0)	-----	-----	-----	-----
Nature of the Second Offence1 (property=1)	1.802	0.079	0.097	0.668
Nature of the Second Offence2 (person=2)	1.350	0.300	0.097	9.654
Prior/Current Record (ref) (low risk/need=0)	-----	-----	-----	-----
Prior/Current Record1 (moderate risk/need=1)	1.090 ***	0.086	0.064	1.792
Prior/Current Record2 (high risk/need=2)	1.301 ***	0.263	0.078	11.369
Nagelkerke R-square		.084***		

Notes: *p<.05; **p<.01; ***p<.001

6.3.2.2 Probation Sentence Variables

6.3.2.2.1 Nature of the First Offence

Analyses related to the current offence indicate that young people convicted of violent offences are significantly more likely to receive conditions that restrict the young

person from owning or possessing weapons (Table 6.44) and are slightly more likely to receive a condition that restricts movement or travel (Table 6.45) as hypothesized.

Table 6.44 Relationship between receiving a weapons restriction and the nature of the first offence

Weapon Restriction	Nature of the First Offence							
	Other		Property		Person		Total	
	%	Number	%	Number	%	Number	%	Number
No	81.6	1048	88.1	2101	60.1	1312	76.2	4461
Yes	18.4	237	11.9	285	39.9	872	23.8	1394
Total	100.0	1285	100.0	2386	100.0	2184	100.0	5855

($\chi^2=518.305$, $df=2$, $p<.001$) (N missing=17).

Table 6.45 Relationship between receiving a movement/travel restriction and the nature of the first offence

Movement/Travel Restriction	Nature of the First Offence							
	Other		Property		Person		Total	
	%	Number	%	Number	%	Number	%	Number
No	98.4	1265	97.2	2318	96.2	2100	97.1	5683
Yes	1.6	20	2.8	68	3.8	84	2.9	172
Total	100.0	1285	100.0	2386	100.0	2184	100.0	5855

($\chi^2=14.984$, $df=2$, $p<.001$) (N missing=17).

Two separate logistic regressions were run to explore the effect of the nature of the first offence and control for other factors. Using "weapons restrictions" and "movement/travel restrictions" as the dependent variables (0=no/ 1=yes) all other available predictors (gender, age, race, rural/urban, offence one, offence two and criminal history) were entered. See Appendix B for all coding information.

The results of the first logistic regression reveals a Nagelkerke's R-squared of 0.219, which indicates a moderate to strong relationship between the predictors and receiving a weapon's restriction as part of one's probation order (Table 6.46). The Wald criterion demonstrates that gender, ($p < .001$), age ($p < .001$), race ($p < .001$), location of residence ($p < .001$), nature of the first offence ($p < .001$) and nature of the second offence ($p < .001$) are significant predictors of whether or not a young person receive a weapons restriction.

Boys and younger youth were significantly more likely to be given weapons restrictions (Table 6.46). Black and Other youth also have higher odds of receiving this condition. Black youth in particular have significantly higher odds of receiving a weapons restriction compared to white youth who received this condition. This relationship could again be a reflection of the importance of legal factors when exploring what drives the types of conditions of probation. If these young people are more likely to be convicted of offences against a person (which may involve a weapon) then there is a clear relationship between the condition imposed and offence committed. However, these relationships may also be a reflection of police charging practices and perceptions of perceived dangerousness of these offenders and as a result officers may be more likely to charge minority youth. There is also a clear relationship between offence type and receiving a weapons restriction. Regardless of their criminal history, those convicted of offences against the person have higher odds of receiving this condition compared to young people convicted of property or other offences (Table 6.46).

Table 6.46 Logistic Regression for 'Weapons Restriction' (N=5872)

Dependent Variable - weapons restriction (0=no, 1=yes)				
Independent Variables (below)	Odds Ratio	B	SE	Wald Statistic
Constant	0.065	-2.733	0.221	152.912
Gender (female=0, male=1)	1.628 ***	-0.096	0.067	2.084
Age	1.057	-0.075	0.024	9.396
Race(ref) (white=0)	-----	-----	-----	-----
Race1 (Other=1)	1.849 ***	0.615	0.169	13.273
Race2 (Black=2)	3.019 ***	1.105	0.138	64.291
Race3 (Aboriginal=3)	0.52 ***	-0.636	0.183	12.076
Rural/Urban (rural=0, urban=1)	1.863 ***	0.622	0.108	33.381
Nature of the First Offence (ref) (other=0)	-----	-----	-----	-----
Nature of the First Offence1 (property=1)	0.093 ***	-1.646	.083	395.998
Nature of the First Offence2 (person=2)	1.389 ***	-.945	.090	110.961
Conviction of a Second Offence (0=no, 1=yes)	-0.021	0.222	0.009	1.539
Nature of the Second Offence (ref) (other=0)	-----	-----	-----	-----
Nature of the Second Offence1 (property=1)	1.130	.122	.125	.966
Nature of the Second Offence2 (person=2)	2.187 ***	.783	.124	39.581
Prior/Current Record (ref) (low risk/need=0)	-----	-----	-----	-----
Prior/Current Record1 (moderate risk/need=1)	0.831	-0.071	0.080	0.799
Prior/Current Record2 (high risk/need=2)	0.994	-0.112	0.100	1.255
Nagelkerke R-square		.219***		

Notes: *p<.05; **p<.01; ***p<.001

In the second logistic regression that explores the condition related to movement or travel restrictions it appears that older youth are more likely to receive this condition compared to younger youth ($p < .01$) (Table 6.47). It could be that this particular group of young people is more likely to run-away from the home or spend time at friends' houses,

friends who may or may not be delinquent. The nature of the first offence is a predictor of this condition of probation, which demonstrates the relationship between offence severity and condition type. Person related or other offences have higher odds of receiving movement/travel restrictions (Table 6.47). Those convicted of person related offences may have to refrain from an area where the offence occurred or the victim's home or those convicted of other offences, which include drug related offences may have to refrain from certain areas where drug use and/or trafficking occurs more frequently.

Table 6.47 Logistic Regression for 'Movement/Travel Restriction' (N=5872)

Dependent Variable- movement/travel restriction (0=no, 1=yes)				
Independent Variables (below)	Odds Ratio	B	SE	Wald Statistic
Constant	0.025	-3.681	0.371	98.176
Gender (female=0, male=1)	1.154	0.144	0.207	0.480
Age	1.225 **	0.203	0.075	7.324
Race(ref) (white=0)	-----	-----	-----	-----
Race1 (Other=1)	2.116 *	0.750	0.327	5.265
Race2 (Black=2)	2.836 ***	1.043	0.262	15.819
Race3 (Aboriginal=3)	0.503	-0.688	0.445	2.383
Rural/Urban (rural=0, urban=1)	0.737	-0.306	0.211	2.094
Nature of the First Offence (ref) (other=0)	-----	-----	-----	-----
Nature of the First Offence1 (property=1)	0.441	-0.274	0.175	2.451
Nature of the First Offence2 (person=2)	0.760 ***	-0.888	0.257	11.907
Conviction of a Second Offence (0=no, 1=yes)	0.979	-0.021	0.222	0.009
Nature of the Second Offence (ref) (other=0)	-----	-----	-----	-----
Nature of the Second Offence1 (property=1)	1.348	0.370	0.270	1.873
Nature of the Second Offence2 (person=2)	0.477	0.234	2.216	1.539
Prior/Current Record (ref) (low risk/need=0)	-----	-----	-----	-----
Prior/Current Record1 (moderate risk/need=1)	0.776	-0.254	0.186	1.868
Prior/Current Record2 (high risk/need=2)	0.574	-0.555	0.250	4.913
Nagelkerke R-square		.046**		

Notes: *p<.05; **p<.01; ***p<.001

It appears from all analyses that legal factors like offence type, multiple offence convictions and criminal history are of particular importance when exploring what drives the types of conditions young people receive. There is often a direct and clear relationship between the type of offence committed and the type of condition imposed. However, these

analyses also reveal the importance of extra-legal factors in the crafting of probation sentences in Ontario.

Findings associated with age may be a reflection of paternalistic attitudes of youth justice court judges and/or probation officers. Conditions imposed on younger youth often reflect parental interventions, like when to be home and where the young person can be. Findings related to race are of particular interest. Data used in this research reflect judicial decision making after the young person has been charged by a police officer. Black, Other and Aboriginal youth may not be more likely to commit violent offences or offences against a person as this data suggest but these findings may be a reflection of police charging practices. These youth may be more likely to be charged with this type of offence compared to other youth who commit similar offences. A recent *Toronto Star* series that investigated race and policing suggests that police are more likely to stop, collect information from and document young men of colour. Fitzgerald and Carrington (2011) also found that while controlling for all factors (including risks associated with offending behaviours) police charging practices in Canada may be motivated by discrimination. It could be that minority youth may also be more likely to be charged with person related offences while others, in particular white youth, may be diverted. More research in this area is needed to explore the impact of race on judicial decision making at all levels. The next section will explore the types of conditions young people receive and attachments to social bonds.

6.3.3 Informal Social Control and Types of Conditions of Probation

It was hypothesized that youth justice court judges would consider informal social controls (e.g. poor parenting, school failure, delinquent peers) and their influence on delinquency, which affects how they construct sentences of probation. It is further hypothesized that probation and its conditions can be used as a tool to reduce delinquency, as controls in the form of conditions are introduced to reinforce pro-social behaviour. The following section explores the use of conditions to control the offender in the community by increasing attachments or controls.

6.3.3.1 Family Conflict and Residence Orders

When exploring data that describes the risk/needs associated with family circumstances and parenting there were several variables available for analysis, including; inadequate supervision; difficulty in controlling behaviour, inappropriate discipline, inconsistent parenting, poor relations/father-child, poor relations/mother-child (0 = no/1= yes). A total score is also given that designates the overall Risk/Needs Assessment score for family circumstance and parenting (1 = low, 2 = moderate, 3 = high)²⁸. It was hypothesized that if there was little or no family conflict (measured through available Risk/Needs Assessment scores as '0' (there is no issue or conflict) or as an overall score of 'low' (which indicates there were no family circumstance or parenting concerns or there was an issue in one of the six measures)) these young people would be more likely to receive a condition to remain in the home. Unexpectedly, in all cases if there was an indication of conflict or a

²⁸ Please see a Appendix A for a copy of the Ministry Risk/Need Assessment tool that provides information on the scores qualify for low, moderate and high for family circumstance and parenting.

parenting issue the young person was more likely to receive a condition to remain in the residence or home (Table 6.48).

Table 6.48 The likelihood of receiving the condition to remain in the home by indicators of family circumstance and parenting (N = 5872)

Indicator of Family Circumstance and Parenting		N	No Residence	Residence	Chi-square	df	p <
			Restriction %	Restriction %			
Total		5872	55.9	44.1			
A. Inadequate supervision	Yes	1747	51.2	48.8	21.333	1	.00
	No	4125	57.8	42.2	*		1
B. Difficulty controlling behaviour	Yes	3045	51.7	48.3	43.494	1	.00
	No	2827	60.3	39.7	*		1
C. Inappropriate discipline	Yes	978	48.9	51.1	22.868	1	.00
	No	4894	57.3	42.7	*		1
D. Inconsistent parenting	Yes	2312	50.0	50.0	51.911	1	.00
	No	3560	59.6	40.4	*		1
E. Poor relations/father-child	Yes	2604	51.4	48.6	37.689	1	.00
	No	3268	59.4	40.6	*		1
F. Poor relations/mother-child	Yes	1801	49.8	50.2	38.952	1	.00
	No	4071	58.6	41.4	*		1

*corrected for continuity

When exploring the overall score for family circumstances and parenting, again, young people who have a high-risk score in this category are more likely to receive a residence condition (Table 6.49).

Table 6.49 Relationship between receiving a residence order and cumulative Risk/Needs Assessment family circumstance/parenting

Residence Order	RNA Score for Family Circumstance/Parenting							
	Low		Moderate		High		Total	
	%	Number	%	Number	%	Number	%	Number
No	60.1	2113	50.9	881	45.7	286	55.9	3280
Yes	39.9	1402	49.1	850	54.3	340	44.1	2592
Total	100.0	3515	100.0	1731	100.0	626	100.0	5872

($\chi^2=69.994$, $df=2$, $p<.001$).

A logistic regression was run to explore the effect of family circumstance and parenting and control for other factors. Using "residence order" as the dependent variable (0=no/ 1=yes) all other available predictors (gender, age, race, rural/urban, offence one, offence two, criminal history, total Risk/Needs Assessment score for family circumstance and parenting) were entered. The coding was the same as in the previous regressions (see Appendix B for all coding). All factors included in the previous regression that explored age and residence orders remain significant predictors (age, race, rural/urban, offence type, multiple offence conviction).

However, Table 6.50 reveals, while holding other variables constant, youth who have moderate or high risk/needs as they relate to family circumstance and parenting have significantly higher odds of receiving this condition. The odds of receiving a residence order are higher if the young person has moderate or high risk/needs, compared to those young

people who have low risk/needs with regard to family circumstance and parenting. If youth justice court judges use conditions like the residence order to increase attachments to the home and parents it is unclear how conflict in this environment will affect successful completion of probation. If there is inadequate supervision or inconsistent parenting, difficulty in controlling behaviour, inappropriate discipline or poor relations between a mother or father or both this may have a negative impact on the young person's ability to complete the probation order. It could also be that young people who experience family conflict are ordered to a residence that is not the familial home (this data was not available).

Table 6.50 Logistic Regression for 'Residence Order' (N=5872)

Dependent Variable - residence order (0=no, 1=yes)				
Independent Variables (below)	Odds Ratio	B	SE	Wald Statistic
Constant	0.526	-0.642	0.130	24.415
Gender (female=0, male=1)	0.944	-0.057	0.067	0.735
Age	0.946 *	-0.056	0.025	5.090
Race(ref) (white=0)	-----	-----	-----	-----
Race1 (Other=1)	0.629 **	-0.463	0.156	8.823
Race2 (Black=2)	0.852	-0.160	0.126	1.604
Race3 (Aboriginal=3)	0.770 *	-0.262	0.117	4.987
Rural/Urban (rural=0, urban=1)	1.601 ***	0.471	0.078	36.646
Nature of the First Offence (ref) (other=0)	-----	-----	-----	-----
Nature of the First Offence1 (property=1)	0.055	0.054	0.064	0.704
Nature of the First Offence2 (person=2)	0.850 *	-0.162	0.076	4.502
Conviction of a Second Offence (0=no, 1=yes)	1.357 ***	0.306	0.074	17.078
Nature of the Second Offence (ref) (other=0)	-----	-----	-----	-----
Nature of the Second Offence1 (property=1)	.0347	0.073	0.097	0.566
Nature of the Second Offence2 (person=2)	1.076	-0.825	0.104	1.906
Prior/Current Record (ref) (low risk/need=0)	-----	-----	-----	-----
Prior/Current Record1 (moderate risk/need=1)	1.034	0.033	0.065	0.261
Prior/Current Record2 (high risk/need=2)	1.149	0.139	0.082	2.896
Family Circumstance & Parenting (ref) (low risk/need=0)	-----	-----	-----	-----
Family Circumstance & Parenting1 (moderate risk/need=0)	1.304 ***	0.265	0.064	17.154
Family Circumstance & Parenting2 (high risk/need=0)	1.529 ***	0.425	0.096	19.692
Nagelkerke R-square		.088**		

Notes: *p<.05; **p<.01; ***p<.001

6.3.3.2 Education and Employment Conflict and Education Orders

When exploring data that describes the risk/needs associated with education and employment there are again several measures available for analysis. They include disruptive classroom behaviour, disruptive schoolyard behaviour, low achievement, problems with peer relations, problems with teacher relations, truancy, unemployed/not seeking employment (0 = no/1= yes). A total score is also given that designates the overall Risk/Needs Assessment score for education and employment (1 = low, 2 = moderate, 3 = high)²⁹. When exploring the hypothesis ‘young people who demonstrate school failure or low achievement would be more likely to receive the condition to remain in school’ all measures of school risk/need indicate if there is an issue in any of the school related variables the young person is significantly more likely to receive a condition that stipulates mandatory and regular attendance in school (Table 6.51).

²⁹ Please see a Appendix A for a copy of the Ministry Risk/Need Assessment tool that provides information on the scores qualify for low, moderate and high for education/employment.

Table 6.51 The likelihood of receiving an education order by indicators of education and employment (N = 5872)

Indicator of Education and Employment		N	No Education Order %	Education Order %	Chi-square	df	p <
Total		5872	54.3	45.7			
A. Disruptive classroom behaviour	Yes	1909	49.6	50.4	24.733*	1	.001
	No	3963	56.5	43.5			
B. Disruptive schoolyard behaviour	Yes	1713	48.7	51.3	30.300*	1	.001
	No	4159	56.6	43.4			
C. Low achievement	Yes	3461	51.6	48.4	23.757*	1	.001
	No	2411	58.1	41.9			
D. Problems with peer relations	Yes	1891	50.2	49.8	18.710*	1	.001
	No	3981	56.2	43.8			
E. Problems with teacher relations	Yes	1785	48.8	51.2	30.300*	1	.001
	No	4087	56.7	43.3			
F. Truancy	Yes	3289	48.7	51.3	92.411*	1	.001
	No	2583	61.4	38.6			
G. Unemployed/not seeking employment	Yes	971	54.3	45.7	.000	1	.990
	No	4901	54.3	45.7			

*corrected for continuity

When exploring the overall score for education and employment, again, young people who had a moderate or high-risk score in this category were more likely to receive a condition to attend school (Table 6.52).

Table 6.52 Relationship between receiving an education order and cumulative Risk/Needs Assessment for education and employment

Education Order	RNA Score for Education and Employment							
	Low		Moderate		High		Total	
	%	Number	%	Number	%	Number	%	Number
No	65.1	675	54.0	1643	48.6	870	54.3	3188
Yes	34.9	362	46.0	1402	51.4	920	45.7	2684
Total	100.0	1037	100.0	3045	100.0	1790	100.0	5872

($\chi^2=71.645$, $df=2$, $p<.001$).

A logistic regression was run to explore the relationship between low achievement/school failure and receiving an education order. Using "education order" as the dependent variable (0=no/ 1=yes) all other available predictors (gender, age, race, rural/urban, offence one, offence two, criminal history, total Risk/Needs Assessment score for education and employment) were entered. The coding was the same as in the previous regressions (see Appendix B). The results of the logistic regression reveal a Nagelkerke's R-squared of 0.084, which indicates a weak relationship between the predictors and receiving a weapon's restriction as part of one's probation order (Table 6.53). The Wald criterion demonstrates that gender, ($p<.01$), age ($p<.001$), location of residence ($p<.001$), conviction of a second offence ($p<.001$) and nature of the second offence ($p<.01$) are significant predictors of whether or not a young person receives an education order (Table 6.53).

Girls and younger youth were more likely to receive this condition (Table 6.53). These offenders may have greater needs with regards to education (i.e. higher rates of school conflict or low achievement). Girls and younger youth may receive this condition as a means to ensure stable attendance in school that may also reduce delinquency. Youth who reside in urban areas are also significantly more likely to receive an education order. It may be that these youth have higher risk/needs with regard to education. It may also be that mandatory education in school is used as a means to monitor youth in communities that have large populations.

Table 6.53 illustrates the relationship between education and employment conflict and the probability of receiving an education order. Youth whose scores demonstrate conflict with regard to education and employment have higher odds of receiving an education order as hypothesized. Those youth who have moderate or high risk/needs concerning education/employment have significantly higher odds of receiving an education order compared to those youth who demonstrate low risk/needs. It appears youth justice court judges may impose education orders to reduce conflict and increase attachments to school, which may also reduce delinquency and offending behaviour.

Table 6.53 Logistic Regression for 'Education Order' (N=5872)

Dependent Variable - education order (0=no, 1=yes)				
Independent Variables (below)	Odds Ratio	B	SE	Wald Statistic
Constant	0.812	-0.208	0.142	2.164
Gender (female=0, male=1)	0.821 **	-0.197	0.066	8.873
Age	0.749 ***	-0.289	0.025	134.067
Race(ref) (white=0)	-----	-----	-----	-----
Race1 (Other=1)	0.907	-0.097	0.155	0.395
Race2 (Black=2)	0.890	-0.116	0.127	0.843
Race3 (Aboriginal=3)	1.157	0.146	0.115	1.609
Rural/Urban (rural=0, urban=1)	1.414 ***	0.346	0.076	20.564
Nature of the First Offence (ref) (other=0)	-----	-----	-----	-----
Nature of the First Offence1 (property=1)	1.092	0.088	0.064	1.895
Nature of the First Offence2 (person=2)	1.149	0.139	0.075	3.405
Conviction of a Second Offence (0=no, 1=yes)	1.192 **	0.175	0.074	5.608
Nature of the Second Offence (ref) (other=0)	-----	-----	-----	-----
Nature of the Second Offence1 (property=1)	1.338 **	0.291	0.098	8.871
Nature of the Second Offence2 (person=2)	0.904	-0.101	0.109	0.869
Prior/Current Record (ref) (low risk/need=0)	-----	-----	-----	-----
Prior/Current Record1 (moderate risk/need=1)	1.126	0.118	0.065	3.324
Prior/Current Record2 (high risk/need=2)	1.097	0.093	0.079	1.365
Education & Employment (ref) (low risk/need=0)	-----	-----	-----	-----
Education & Employment1 (moderate risk/need=0)	1.455 ***	0.375	0.077	23.585
Education & Employment2 (high risk/need=0)	1.577 ***	0.456	0.086	28.313
Nagelkerke R-square		.084***		

Notes: *p<.05; **p<.01; ***p<.001

6.3.3.3 Family Circumstance and Parenting and Employment Orders

It was hypothesized that young people who had risk/needs as they relate to family circumstance and parenting and education and employment would be more likely to receive the condition to find and maintain employment. Analyses which explored all measures of family circumstance and parenting reveal no significant relationships between this measure and whether or not the youth is more likely to receive a condition to obtain employment as part of her or his probation, as predicted ($\chi^2=2.007$, $df=2$, $p=.444$).

6.3.3.4 Employment Conflict and Employment Orders

When exploring the relationship between education and employment and the likelihood of receiving the condition to obtain employment all measures of education and employment risk/need are not appropriate (since they measure other factors, not only employment (see Appendix A for a copy of the Ministry of Children and Youth Services Risk/Need Assessment scoring guide)). Using the variable that measures employment (only) cross tabulations reveal there is no relationship between current employment status and the likelihood of receiving a condition to find or maintain employment ($\chi^2=6.354$, $df=2$, $p=.147$).

6.3.3.5 Peer Relations and Non-Association Orders

When exploring data that describes the risk/needs associated with peer influences several measures are used: some delinquent acquaintances, some delinquent friends, no or few positive acquaintances and no or few positive friends (0 = no/1 = yes). A total score is also given that indicates the overall Risk/Needs Assessment score for peer relations (1 = low,

2 = moderate, 3 = high)³⁰. It is hypothesized that young people who have some delinquent peer influences or few positive influences will be more likely receive a non-association order. Cross tabulations reveal in some cases youth are more likely to receive this condition, while in others the relationship is not significant (Table 6.54).

Table 6.54 The likelihood of receiving a non-association order by indicators of peer relations (N = 5872)

Indicator of Peer Relations		N	No Non-Assoc. Order %	Non-Assoc. Order %	Chi-square	df	p <
Total		5872	32.7	67.3			
A. Some delinquent acquaintances	Yes	4320	31.6	68.4	9.254*	1	.01
	No	1552	35.9	64.1			
B. Some delinquent friends	Yes	3596	30.7	69.3	17.907*	1	.001
	No	2276	36.0	64.0			
C. No or few positive acquaintances	Yes	1198	32.8	67.2	.000*	1	.994
	No	4674	32.7	67.3			
D. No or few positive friends	Yes	1400	32.4	67.6	.067*	1	.785
	No	4472	32.8	67.2			

*corrected for continuity

It appears those youth who have some delinquent friends or acquaintances are more likely to receive non-association orders while the influence of positive relations is not a significant predictor of receiving this condition. When exploring the overall score for peer relations

³⁰ Please see a Appendix A for a copy of the Ministry Risk/Need Assessment tool that provides information on the scores qualify for low, moderate and high for peer relations.

youth who have a moderate or high risk score in this category are more likely to receive a non-association order (Table 6.55).

Table 6.55 Relationship between receiving a non-association order and cumulative Risk/Needs Assessment for peer relations

Non-Association Order	RNA Score for Peer Relations							
	Low		Moderate		High		Total	
	%	Number	%	Number	%	Number	%	Number
No	35.0	783	31.1	874	32.2	266	32.7	1923
Yes	65.0	1457	68.9	1933	67.8	559	67.3	3949
Total	100.0	2240	100.0	2807	100.0	825	100.0	5872

($\chi^2=8.361$, $df=1$, $p<.010$).

A logistic regression was run to explore the effect of peer relations while controlling for other factors. Prior analyses demonstrate the two positive peer relation scores were not significantly related to association orders, while having delinquent associations were. Therefore, to understand this relationship better, the two delinquent association variables (acquaintances and friends) are included in the model, rather than the Risk/Needs Assessment score for peer relations. Using “non-association order” as the dependent variable (0=no/ 1=yes) all other available predictors (gender, age, race, rural/urban, offence one, offence two, criminal history, some delinquent acquaintances, and some delinquent friends) were entered.

Nagelkerke’s R-squared of 0.194 (Table 6.56) indicates a moderate relationship between the predictors and receiving an association order. The Wald criterion demonstrates that the variables used in the previous analysis of non-association orders remain significant predictors: gender ($p<.01$), race ($p<.001$), nature of the first offence ($p<.001$) and nature

of the second offence ($p < .001$) made a significant contribution to whether or not a young person would receive an association order as part of her or his probation. Table 6.56 also reveals the presence of delinquent friends and acquaintances are strong predictors of likelihood that a young person will receive a non-association order. Research reveals the importance of delinquent peers in predicting criminal behaviour (Warr, 2002) but it appears the influence of friends rather than acquaintances is perhaps of greater importance to youth justice court judges when crafting sentences of probation and conditions that accompany the order. The presence of delinquent friends may have a greater influence on the behaviour of young people rather than delinquent acquaintances. It may be that relationships with delinquent acquaintances is not always known when scoring the Risk/Needs Assessment and therefore not indicated as an area of risk. This finding lends support to peer influence theory and the impact of delinquent friends on judicial decision-making.

Table 6.56 Logistic Regression for ‘Non-Association Order’ (N=5872)

Dependent Variable- non-association order (0=no, 1=yes)				
Independent Variables (below)	Odds Ratio	B	SE	Wald Statistic
Constant	1.024	0.255	0.142	4.300
Gender (female=0, male=1)	1.257 **	0.229	0.073	9.905
Age	1.044	0.043	0.027	2.531
Race(ref) (white=0)	-----	-----	-----	-----
Race1 (Other=1)	1.159 **	0.148	0.173	0.728
Race2 (Black=2)	1.368 **	0.314	0.146	4.626
Race3 (Aboriginal=3)	0.552 ***	-0.594	0.120	24.364
Rural/Urban (rural=0, urban=1)	1.125	0.117	0.082	2.039
Nature of the First Offence (ref) (other=0)	-----	-----	-----	-----
Nature of the First Offence1 (property=1)	0.205 ***	-0.350	0.074	22.476
Nature of the First Offence2 (person=2)	0.770 ***	-1.308	0.081	260.970
Conviction of a Second Offence (0=no, 1=yes)	0.985	-0.015	0.081	0.036
Nature of the Second Offence (ref) (other=0)	-----	-----	-----	-----
Nature of the Second Offence1 (property=1)	1.357 ***	0.592	0.070	71.559
Nature of the Second Offence2 (person=2)	1.801 **	0.588	0.121	23.742
Prior/Current Record (ref) (low risk/need=0)	-----	-----	-----	-----
Prior/Current Record1 (moderate risk/need=1)	0.784	-0.243	0.073	11.245
Prior/Current Record2 (high risk/need=2)	0.675	-0.393	0.088	19.771
Some Delinquent Acquaintances (0=no, 1=yes)	1.190*	0.174	0.081	4.644
Some Delinquent Friends(0=no, 1=yes)	1.342 ***	0.295	0.074	15.774
Nagelkerke R-square		.194***		

Notes: *p<.05; **p<.01; ***p<.001

6.4 Chapter Discussion and Conclusion

The preceding analyses explored the factors that drive the length of probation orders and the number and types of conditions that accompany the order. It appears that legal

factors are of great significance when examining judicial decision-making and the crafting of probation orders for young people in Ontario. Offence type, multiple offence convictions, and criminal history are important predictors of length, number, and types of conditions of probation. Extralegal factors like gender, age, race, and location of residence are also important factors that help understand the types of probation sentences and conditions of probation young people receive.

Little support was found for the hypotheses that girls would receive particular conditions (curfews, residence orders, non-association orders) because of gender bias. Girls tended to receive shorter sentences of probation, which is interesting given they are more likely to be given probation for violent or offences against the person. Judicial paternalism may also affect the probation sentences younger youth receive. These offenders often receive conditions that resemble parenting regulations, like curfews, residence orders, education orders, etc. An examination into the relationship between race and probation sentences revealed the need for further investigation into judicial decision-making. While significant relationships may be evidence of the types of offences minority youth commit they may also be a reflection of the operation of racial stereotypes. Few Canadian studies have explored the effect of location (rural/urban) on the construction of probation sentences. It appears this is an important measure in understanding the types of probation conditions young people receive, as hypothesized.

As predicted, it appears judges use probation conditions as a means to mitigate weak informal social controls that may cause delinquency (i.e. poor parenting, school failure,

delinquent peers). Interestingly, evidence of family conflict increased the likelihood that young people would receive a residence order. Young people may not have been assigned to remain in the residence where the conflict occurs, however; if they do, it is unclear how this would reduce further offending. Conflict in school was also significantly related to receiving an order to attend school; however, it is unclear how this variable may actually 'help' young probationers or reduce reoffending. Simply attending school may not be sufficient to address the cause(s) of the young person's behaviour or decrease the likelihood that she or he will offend again (which is theoretically how attachments/bonds to school would affect crime/delinquency). The school environment may be criminogenic, where students are exposed to delinquent peers/acquaintances, delinquent lifestyles, or receive little or no support from teachers or counselors. No support was found for the hypotheses that family conflict or unemployment would increase the chances of receiving a condition to maintain or find employment. Finally, there was a clear relationship between the presence of delinquent friends and acquaintances and receiving a non-association order, which suggests that judges' subscribe to peer influence theory. The next section will explore breaches of probation and factors associated with probationer success or failure.

Chapter 7

Understanding Breaches of Probation

Little is known about the young people who breach probation conditions and what conditions are breached that may lead to incarceration. Even less is known about what factors increase or decrease the likelihood of completing probation without further offending. This chapter will explore the relationship between offender, offence, criminal history and probation variables, and breaching an order of probation. Bivariate analyses (i.e. cross tabulations) will be used to determine what variables increase the likelihood of breaching an order of probation and breaching certain conditions of probation. Multivariate analyses (i.e. logistic regression) will explore these relationships further while controlling for other factors.

7.1 Description of Sample

At the time when the data were received, there was information on 255 young people (roughly 4% of the total sample) who had breached their order of probation, within the two year time period in which the data were collected. There are several measures of probation success or failure (as discussed at length in Chapter 2 and 5). This research project uses breach of probation charges as a measure of breach of probation. The conditions that most commonly resulted in breach charges include:

- reporting to a probation officer, 26.7% (68 cases);
- curfew, 23.9% (61 cases);
- residence order, 21.2% (54 cases);
- education orders, 14.1% (36 cases); and
- other, 7.0% (18 cases).

Girls comprise a larger proportion of the breach population compared to the probation population, as they account for nearly 32% of the breach population, while boys make up the remaining 68% (Table 7.1). Older probationers account for the largest proportion of youth in the breach population. Similar to the probation population young people who breached their order were more often white and reside in urban locations (Table 7.1). Each file contains information on the status of the breach: either “disposed” or “pending”. Disposed cases account for 62.7% of all breach files and in each case an outcome is noted (e.g. custody, existing probation order amended or extended, withdrawn, etc.). Pending files account for the remaining 37.3% of all breach files and indicate that adjudication is pending. Of those young people whose cases were disposed of approximately 26% received some type of custodial order. However, this finding should be interpreted with caution. The aggregate breach information does not identify whether or not other charges were involved with the breach. New charges (if any) and not the breach alone could have a significant effect on the decision to impose custody. Nevertheless, this percentage (approximately 26%) is considerably higher than those young people who received some type of custody in the probation sample (approximately 5%). Regardless of the commission of new offences (in addition to a breach or breaches) it appears that non-compliance with previous dispositions, like probation, is a significant pathway back into the youth justice system and into incarceration.

Table 7.1 Comparison of current breach population to probation population

		Breach Sample	Probation Sample
		(N=255) %	(N=6051) %
Gender	Males	68.2	77
	Females	31.8	23
Age	<=14 yrs	21.2	17.5
	15 yrs	24.7	21.1
	16 yrs	18.8	22.6
	>=17 yrs	35.3	39.8
Race	White	67	66
	Aboriginal	19.8	16
	Black	7.2	11
	Other	6	7
Location	Rural	12.2	16.5
	Urban	87.8	83.5

The following section will explore young people who were charged with breach of probation in comparison to the overall probation population. This section will address the research questions that explore which youth are more likely to breach probation (boys, those convicted of violent offences, etc.). Ideally this chapter would explore ‘disposed’ cases investigating what variables are related to receiving custody as a result of the breach. However, as previously discussed, it was not possible to explore whether a youth received custody for breaching probation alone or if it was other charges (if any) along with the breaches that had an impact on the decision to impose custody. In other words, it was impossible to control for other offence convictions that would most likely effect whether or not a custodial sentence was imposed. The final section of this chapter will explore the

research questions that address the relationship between receiving certain conditions of probation and the likelihood of success or failure.

7.2 What Factors are Related to Breaches of Probation?

Based on previous research a list of variables was created that are expected to have some type of relationship to whether or not a young person breaches her or his probation. It is expected that legal factors like the nature of the first offence, multiple offence convictions, and criminal history will increase the likelihood of failure. Extralegal factors like gender, age, race and location of residence are also explored. These findings will now be discussed.

7.2.1 Offender Related Variables on Breaches of Probation

7.2.1.1 Gender

It was hypothesized that females will have fewer breaches or be less likely to commit a new offence while on probation, compared to young males. However, the breach population has significantly more girls than expected, nearly 32% compared to 23% in the probation population. Table 7.2 reveals girls are more likely to be charged with a breach. Approximately, 6% of girls in the total sample were charged with breach of probation compared to 4% of boys (Table 7.2).

Table 7.2 Relationship between breaching probation and gender

Breach of Probation	Gender					
	Female		Male		Total	
	%	Number	%	Number	%	Number
No Breach	94.2	1316	96.3	4480	95.8	5796
Breach	5.8	81	3.7	174	4.2	255
Total	100.0	1397	100.0	4654	100.0	6051

($\chi^2=10.785$, $df=1$, $p<.001$).

7.2.1.2 Age

It was hypothesized that older offenders would have a greater chance of probation success. Said differently, it was hypothesized that younger probationers would be more likely to breach. Initial analyses reveal that while there were more older youth in the breach population, in comparison to the probation population younger youth are in fact more likely to breach probation. Table 7.3 reveals younger youth (ages 12 – 15 years)³¹ are more likely to be charged with breaching probation compared to older youth. Slightly more than 5% of 12-15 year olds were charged with a breach compared to nearly 4% of 16 and 17 year olds (Table 7.2). The administration of justice for all youth under the YCJA falls under the direction of the Ministry of Children and Youth Services and is no longer split between ministries (as was the case under the YOA, where Phase I offenders (12-15 year olds) were dealt with by a different ministry than Phase II offenders (16-17 year olds)). However; since the data are from 2005-2006, shortly after the YCJA came into effect, this finding may be

³¹ In the prior analyses age of the offender was presented in categories 12-14, 15, 16 and 17+ years of age, however, age categories in the current analyses were collapsed into 12-15 and 16-17+ years because of the small number of cases.

evidence of different supervision and charging practices with younger youth and not evidence of any behavioural difference on the part of these particular youth.

Table 7.3 Relationship between breaching probation and age

Breach of Probation	Age					
	12-15 Years		16-17 Years		Total	
	%	Number	%	Number	%	Number
No Breach	94.8	2154	96.3	3642	95.8	5796
Breach	5.2	117	3.7	138	4.2	255
Total	100.0	2271	100.0	3780	100.0	6051

(χ^2 , corrected for continuity=7.552, df=1, p<.01).

7.2.1.3 Race

It was hypothesized that Aboriginal probationers would be more likely to breach. This hypothesis is extended to Other and Black youth, in that they will also be more likely to breach their probation compared to white youth. It appears that these youth are no more or less likely to be charged with a breach as hypothesized (Table 7.4).

Table 7.4 Relationship between breaching probation and race

Breach of Probation	Race									
	White		Other		Black		Aboriginal		Total	
	%	Number	%	Number	%	Number	%	Number	%	Number
No Breach	94.2	1831	95.3	204	96.5	327	92.8	427	94.4	2789
Breach	5.8	112	4.7	10	3.5	12	7.2	33	5.6	167
Total	100.0	1943	100.0	214	100.0	339	100.0	460	100.0	2956

(χ^2 =5.267, df=3, p=.153).

7.2.1.4 Location of Residence

While it was hypothesized that young probationers who live in urban areas will be more likely to succeed on probation compared to youth who live in rural areas, Table 7.5 shows that there is no significant relationship between location of residence and breaching probation.

Table 7.5 Relationship between breaching probation and location of residence

Breach of Probation	Location of Residence					
	Rural		Urban		Total	
	%	Number	%	Number	%	Number
No Breach	96.9	958	95.6	4838	95.8	5796
Breach	3.1	31	4.4	224	4.2	255
Total	100.0	989	100.0	5061	100.0	6051

(χ^2 , corrected for continuity=3.016, df=1, p=.076).

7.2.2 Offence Related Variables on Breaches of Probation

7.2.2.1 Current Offence

It was hypothesized that young people convicted of property related offences would be more likely to breach probation. It is also hypothesized that young people who receive more than one disposition will be less likely to succeed while on probation. Analyses reveal that young people who are on probation after being convicted of administration of justice offences are significantly more likely to be charged with breaching probation. Seven percent of young people convicted of an administration of justice offence were also charged with breaching their probation, compared to less than 3% of those convicted of other offences, 4%

convicted of person related offences and almost 5% of those convicted of property offences (Table 7.6).

Table 7.6 Relationship between breaching probation and the nature of the current offence

Breach of Probation	Nature of the First Offence									
	Person		Property		Administration of Justice		Other		Total	
	%	Number	%	Number	%	Number	%	Number	%	Number
No Breach	96.0	2188	95.5	2333	93.0	396	97.4	862	95.8	5778
Breach	4.0	91	4.5	110	7.0	30	2.6	23	4.2	255
Total	100.0	2279	100.0	2443	100.0	426	100.0	885	100.0	6033

($\chi^2=14.955$, $df=3$, $p<.01$).

7.2.3 Probation Sentence Variables on Breaches of Probation

7.2.3.1 Other Sentences

Young people can receive other dispositions in addition to their order of probation. In this sample young people received probation or probation in addition to some type of custody order (custody, deferred custody, custody and conditional supervision order, or intensive rehabilitation and custody). If a young person received some type of custody order (in addition to their order of probation) she or he was significantly more likely to be charged with breaching probation. Table 7.7 reveals that young people are more than 3 times more likely to be charged with breaching probation compared to those young people who received probation only. More than 13% of those who were charged with breaching their order of probation had received a custodial order in addition to the original order of probation

compared to less than 4% of all young people who received probation as their only sentence (Table 7.7).

Table 7.7 Relationship between breaching probation and other sentences

Breach of Probation	Other Sentence					
	Probation Only		Probation and Custody		Total	
	%	Number	%	Number	%	Number
No Breach	96.3	5495	86.6	284	95.8	5779
Breach	3.7	210	13.4	45	4.2	255
Total	100.0	5705	100.0	329	100.0	6033

($\chi^2= 70.473$, $df=1$, $p<.001$).

7.2.3.2 Total Number of Conditions³²

It was hypothesized that offenders who receive a greater number of conditions will be less likely to succeed while on probation. Table 7.8 reveals that if young people do receive more conditions of probation (4 or more) they are more likely to be charged with breaching probation.

³² While the total conditions of probation is presented in raw frequencies, two categories of conditions (1-3 and 4 or more) are presented due to the small number of cases.

Table 7.8 Relationship between breaching probation and total conditions

Breach of Probation	Total Conditions of Probation				Total	
	1-3 Conditions		4 or More Conditions			
	%	Number	%	Number	%	Number
No Breach	97.5	949	95.7	4690	96.0	5639
Breach	2.5	24	4.3	209	4.0	233
Total	100.0	973	100.0	4899	100.0	5872

(χ^2 , corrected for continuity=6.435, df=1, p<.05) (N missing=22).

7.2.3.3 Length of Probation

Table 7.9 which explores the possible relationship between length of the original probation order and breaching probation revealed no support for the proposed hypothesis that the longer the probation sentence, the greater the likelihood of probation failure. Although young people who received probation sentences of 1 year or more were more likely than those with shorter sentences to be charged with breaching probation, the difference was not statistically significant – perhaps because of the small number of cases involved.

Table 7.9 Relationship between breaching probation and length of the probation order

Breach of Probation	Length of Probation							
	Less than 1 Year		1 Year		Up to 2 Years		Total	
	%	Number	%	Number	%	Number	%	Number
No Breach	96.9	634	95.7	3024	95.6	2121	95.8	5779
Breach	3.1	20	4.3	137	4.4	98	4.2	255
Total	100.0	654	100.0	3161	100.0	2219	100	6033

($\chi^2=2.670$, $df=2$, $p=.263$).

7.2.4 Risk/Needs Variables on Breaches of Probation

7.2.4.1 Prior/Current Criminal History

It was hypothesized that offenders with prior convictions and multiple current convictions, prior probation experience, and prior prison experience would all be less likely to succeed while on probation. Using the total RNA score for prior/current criminal history, which measures all of the variables in the aforementioned hypotheses, bivariate analyses reveal support for the predicted relationship. Any type of contact with the youth criminal justice system significantly increases the likelihood that a young person will breach probation. Table 7.10 reveals that young people with high RNA scores for prior/current criminal history are more than 7 times more likely to breach their probation. Over 11% of young people who have a more extensive criminal history were charged with breaching their order of probation compared to slightly more than 1% of young people who had little or no previous contact with the youth criminal justice system (Table 7.10).

Table 7.10 Relationship between breaching probation and prior/current criminal history

Breach of Probation	RNA Score for Prior/Current Criminal History							
	Low		Moderate		High		Total	
	%	Number	%	Number	%	Number	%	Number
No Breach	98.6	3111	95.3	1641	88.9	1044	95.8	5796
Breach	1.4	44	4.7	81	11.1	130	4.2	255
Total	100.0	3155	100.0	1722	100.0	1174	100.0	6051

($\chi^2=199.991$, $df=2$, $p<.001$).

7.2.4.2 Education and Employment

It was hypothesized that young people who are employed or who have a higher level of education will have a greater chance of success while on probation. Table 7.11 reveals that young people who are unemployed or not seeking employment are more than twice as likely to be charged with a breach. Almost 9% of those young people who are unemployed are charged with breaching probation compared to slightly more than 3% of young people who either are employed or are actively seeking employment.

Table 7.11 Relationship between breaching probation and employment status

Breach of Probation	Unemployed/Not Seeking Employment					
	No		Yes		Total	
	%	Number	%	Number	%	Number
No Breach	96.7	4862	91.4	934	95.8	5796
Breach	3.3	164	8.6	88	4.2	255
Total	100.0	5029	100.0	1022	100.0	6051

(χ^2 , corrected for continuity=57.578, $df=1$, $p<.001$).

However, Table 7.12 reveals no support for the hypothesis and indicates a relationship of non-significance between level of education and the likelihood of breaching probation.

Table 7.12 Relationship between breaching probation and level of education

Breach of Probation	Level of Education									
	Upgrading		Grade School		High School		College/University		Total	
	%	Number	%	Number	%	Number	%	Number	%	Number
No Breach	95.1	98	94.7	432	96.2	3488	100	30	96.1	4048
Breach	4.9	5	5.3	24	3.8	136	0	0	3.9	165
Total	100.0	103	100.0	456	100.0	3624	100.0	30	100.0	4213

($\chi^2=3.919$, $df=3$, $p=.270$) (N missing=90).

7.2.4.3 Family Circumstance and Parenting

It was hypothesized that family conflict issues will increase the chance of breaching probation. Family conflict is measured using the total Risk/Need Assessment score for family circumstances and parenting, which includes measures of the following variables: inadequate supervision; difficulty in controlling behaviour; inappropriate discipline; inconsistent parenting; poor relations/father-child; and poor relations/mother-child. Table 7.13 reveals young people who score high on the family conflict measure are more likely to be charged with breaching their probation. Young people who have little or no family conflict are significantly less likely to breach probation compared to those young people who have serious family conflict risk/needs: these youth, in particular, are almost 5 times more likely to be charged with breaching probation (Table 7.13).

Table 7.13 Relationship between breaching probation and family circumstances and parenting

Breach of Probation	RNA Score for Family Circumstances and Parenting							
	Low		Moderate		High		Total	
	%	Number	%	Number	%	Number	%	Number
No Breach	97.7	3515	94.5	1691	89.0	590	95.8	5796
Breach	2.3	84	5.5	98	11.0	73	4.2	255
Total	100.0	3599	100.0	1789	100.0	663	100.0	6051

($\chi^2=114.646$, $df=2$, $p<.001$).

7.2.4.4 Substance Abuse

It was hypothesized that offenders with drug and/or alcohol dependencies will be less likely to succeed while on probation. The Risk/Needs Assessment measures substance abuse using several indicators, including: occasional drug use; chronic drug use; chronic alcohol

use; substance interferes with functioning; and substance use linked to offences (0 = no/1= yes). A total score is also given that designates the overall risk/need score for substance abuse (1 = low, 2 = moderate, 3 = high)³³. It is hypothesized that if there are no substance abuse issues (measured through available RNA scores as '0' (there is no issue) or as an overall score of 'low' (which indicates there were no known substance abuse issues)) these young people will be less likely to breach their probation. In all cases if there was an indication of some degree of substance abuse the young person was more likely to be charged with breaching her/his order of probation:

³³ Please see a Appendix A for a copy of the Ministry Risk/Need Assessment tool that provides information on the scores qualify for low, moderate and high for substance abuse.

Table 7.14 The likelihood of breaching probation by indicators of substance abuse (N = 6051)

Indicator of Substance Abuse		N	No Breach %	Breach %	Chi-square	df	p <
Total		6051	95.8	4.2			
A. Occasional drug use	Yes	3249	94.5	5.5	27.117*	1	.001
	No	2802	97.3	2.7			
B. Chronic drug use	Yes	1280	91.7	8.3	65.252*	1	.001
	No	4771	96.9	3.1			
C. Chronic alcohol use	Yes	588	92.5	7.5	16.355*	1	.001
	No	5463	96.1	3.9			
D. Substance use interferes with functioning	Yes	1263	90.9	9.1	93.072*	1	.001
	No	4788	97.1	2.9			
E. Substance use linked to offences	Yes	1881	94.3	5.7	14.172*	1	.001
	No	4170	96.5	3.5			

*corrected for continuity

When exploring the overall score for substance abuse (which takes into account the effect of the above measures) young people who have moderate or high risk/needs with regard to drug and/or alcohol use are significantly more likely to breach their probation as predicted (Table 7.15). Approximately, 9% of young people who had serious risk/needs with regards to substance abuse were charged with breaching probation compared to slightly more than 2% of those young people who had little or no issues with alcohol and/or drugs (Table 7.15).

Table 7.15 Relationship between breaching probation and substance abuse

Breach of Probation	RNA Score for Substance Abuse							
	Low		Moderate		High		Total	
	%	Number	%	Number	%	Number	%	Number
No Breach	97.6	2054	96.5	2613	91.1	1129	95.8	5796
Breach	2.4	51	3.5	94	8.9	110	4.2	255
Total	100.0	2105	100.0	2707	100	1239	100.0	6051

($\chi^2=87.191$, $df=2$, $p<.001$).

7.2.4.5 Peer Relations

It was hypothesized that associations with delinquent peers or acquaintances will increase the chance of breaching probation. Cross tabulations using the total RNA score for peer relations, which includes measures of the number of delinquent friends and acquaintances and if the young person has few positive friends or acquaintances, reveals support for the hypothesis. Table 7.16 reveals that young people who have delinquent friends and/or acquaintances or few or no positive friends and/or acquaintances are significantly more likely to breach probation. Almost 5% of young people who have moderate risk/needs with regards to peer relations and nearly 10% of those with high risk/needs were charged with breaching their probation compared to slightly less than 2% of those young people who had low risk/needs (Table 7.16).

Table 7.16 Relationship between breaching probation and peer relations

Breach of Probation	RNA Score for Peer Relations							
	Low		Moderate		High		Total	
	%	Number	%	Number	%	Number	%	Number
No Breach	98.4	2249	95.4	2761	90.1	786	95.8	5796
Breach	1.6	36	4.6	133	9.9	86	4.2	255
Total	100.0	2285	100.0	2984	100	872	100.0	6051

($\chi^2=109.374$, $df=2$, $p<.001$).

7.2.5 Logistic Regression for Breaching Probation

A logistic regression was conducted to predict the likelihood of being charged with breaching an order of probation, while controlling for multiple factors. See Appendix B for all coding information. Nagelkerke's R-squared of 0.172 (Table 7.17) indicates a weak to moderate relationship between the predictors and being charged with breaching an order of probation. The Wald criterion demonstrates that gender ($p<.01$), age ($p<.01$), other sentences ($p<.001$), criminal history ($p<.001$), being unemployed ($p<.01$), family conflict ($p<.01$), substance abuse ($p<.01$), and peer relations ($p<.01$) all increase the likelihood that a young person will be charged with breaching an order of probation. Girls and younger youth appear to be more likely to breach probation. The odds are these offenders are more likely to be charged with a breach (Table 7.17) which is consistent with bivariate analyses and previous research. Young people who also receive some type of custody in addition to their order of probation are significantly more likely to breach probation (Table 7.17). It appears that receiving a custodial sentence is associated with an increased likelihood of breaching probation, also consistent with previous research.

Table 7.17 also reveals the odds are lower for those who have a less extensive criminal history to breach probation compared to those young people who have a more extensive criminal history. Those who have moderate or low scores for prior/current criminal history have lower odds of breaching probation compared to those young people who had high scores. Similar findings can also be found for those youth who have some type of family conflict, substance abuse or delinquent peers/acquaintances. Those youth who have moderate or low RNA scores for family circumstances and parenting, substance abuse and the presence of delinquent peers also have lower odds of breaching probation (Table 7.17). Young people who are unemployed or not actively seeking employment are also significantly more likely to breach probation (Table 7.17).

Table 7.17 Logistic Regression for ‘Breaching Probation’ (N=6051)

Dependent Variable - breach probation (0=no, 1=yes)				
Independent Variables (below)	Odds Ratio	B	SE	Wald Statistic
Constant	.027	-3.597	.886	16.494
Gender (female=0, male=1)	.600 **	-0.530	0.152	12.240
Age	.697 **	-0.260	0.066	15.711
Race(ref) (white=0)	-----	-----	-----	-----
Race1 (Other/Black=1)	.812	-.209	.333	.392
Race2 (Aboriginal=2)	.918	-.086	.316	.074
Rural/Urban (rural=0, urban=1)	1.274	.242	.298	.661
Nature of the First Offence (ref) (administration of justice=0)	-----	-----	-----	-----
Nature of the First Offence1 (person=1)	1.197	.180	.405	.197
Nature of the First Offence1 (property=1)	1.225	.203	.386	.276
Nature of the First Offence2 (other=2)	.914	-.090	.497	.033
Other Sentence (probation only=0, custody and probation=1)	2.288 ***	0.828	0.204	16.507
Length (ref) (less than 1 year=0)	-----	-----	-----	-----
Length1 (1year=1)	1.058	.056	.370	.023
Length2 (up to 2 years=2)	1.007	.007	.395	.000
Total Number of Conditions	1.274	.235	.345	.466
Prior/Current Record (ref) (low risk/need=0)	-----	-----	-----	-----
Prior/Current Record1 (moderate risk/need=1)	2.519 **	.924	.323	8.199
Prior/Current Record2 (high risk/need=2)	4.129 ***	1.418	.332	18.200
Unemployed/Not Seeking Employment	1.899 **	.641	.243	6.993
Education (ref) (upgrading=0)	-----	-----	-----	-----
Education1 (grade school=1)	.317	-1.147	.587	3.827
Education2 (high school=2)	.386	-.953	.519	3.371
Education3 (college/university=3)	.000	-1.697	98.670	.000

Family Circumstance & Parenting (ref) (low risk/need=0)	-----	-----	-----	-----
Family Circumstance & Parenting 1 (moderate risk/need=1)	1.017 **	.017	.262	.004
Family Circumstance & Parenting 2 (high risk/need=2)	1.603 **	.472	.310	2.323
Substance Abuse (ref) (low risk/need=0)	-----	-----	-----	-----
Substance Abuse1 (moderate risk/need=1)	1.036 **	-.179	.320	.313
Substance Abuse2 (high risk/need=2)	1.686 **	.522	.335	2.436
Peer Relations (ref) (low risk/need=0)	-----	-----	-----	-----
Peer Relations1 (moderate risk/need=1)	2.216 **	.816	.361	5.098
Peer Relations2 (high risk/need=2)	2.271 *	.820	.412	3.964
Nagelkerke R-square		.172***		

Notes: *p<.05; **p<.01; ***p<.001

While it was hypothesized that race, level of education, the nature of the first offence for which probation was ordered, length of probation, number of conditions and location of residence would have some type of relationship with probation outcome, however; the logistic regression above reveals these relationships are not statistically significant for this sample of Ontario youth. Extralegal factors like gender, age and social history all appear to be strong predictors of breaching probation. Young people who experience family conflict, drug and/or alcohol abuse and have few positive peers/acquaintances are all more likely to be charged with breaching probation. Young people who may have weak social bonds or experience conflict in their lives appear to be less likely to successfully complete probation. Further analyses will explore the relationship between receiving specific conditions of probation that increase attachments to positive social bonds (home, school, etc.) and the likelihood of breaching an order of probation.

7.3 Understanding Failed Conditions of Probation

The following section will explore some of the most commonly breached conditions of probation and what variables increase or decrease the likelihood of breaching certain conditions of probation. Several of these frequently breached conditions (residence orders, education orders, and non-association orders) explore the possible relationship between conditions that increase attachments to the home and school (positive effect on probation outcome) and decrease attachments to delinquent peers (negative effect on probation outcome). The effect of supervision levels on the likelihood of breaching could not be explored (as proposed in the list hypotheses) because data on this variable was not available for analysis.

7.3.1 Reporting

Failing to report to a youth worker, probation officer or police officer was the most commonly breached condition: 26.7% of all young people were charged with breaching this condition. Cross tabulations reveal that several factors are associated with an increase in the likelihood of breaching this condition of probation. Due to the small number (68) of breaches, cell sizes in the crosstabulations were too small with the full number of categories of some independent variables; as a result some categories (race, age, education, offence type, length, number of conditions, and RNA scores for current/prior criminal history, family conflict, education/employment, substance abuse and peer relations) were combined in order to achieve feasible cell sizes.

7.3.1.1 Offender-Related Variables

Table 7.18 reveals that over 2% of girls who received this condition were charged with breaching an order to report compared to slightly less than 1% of boys. Table 7.19 reveals that white and Aboriginal youth are significantly less likely to breach the condition to report. Over 2% of Other and Black youth are charged with breaching this condition, compared to slightly more than 1% of white youth and less than 1% of Aboriginal youth (Table 7.19). It is important to note that the percentage differences between the above findings is small and based on a small number of cases; as a result, these findings should be interpreted with caution.

Table 7.18 Relationship between breaching the condition to report and gender

Report Condition	Gender					
	Female		Male		Total	
	%	Number	%	Number	%	Number
No Breach	97.8	1317	99.1	4391	98.8	5708
Breach	2.2	30	0.9	38	1.2	68
Total	100.0	1347	100.0	4429	100.0	5776

(χ^2 , corrected for continuity=14.779, df=1, p<.001).

Table 7.19 Relationship between breaching condition to report and race

Report Condition	Race							
	White		Other/Black		Aboriginal		Total	
	%	Number	%	Number	%	Number	%	Number
No Breach	98.5	1811	97.5	508	99.8	426	98.5	2745
Breach	1.5	27	2.5	13	0.2	1	1.5	41
Total	100.0	1838	100.0	521	100.0	427	100.0	2786

($\chi^2=8.724$, $df=1$, $p<.05$) (N missing=2990).

Age (Table 7.20), location of residence (Table 7.21) and level of education (Table 7.22) did not have statistically significant relationships with the likelihood of breaching the condition to report. The percentage differences for age and location of residence also suggest little or no relationship with breaching the reporting condition, but there are larger percentage differences for categories of education. The lack of statistical significance may be due to the small number of youth who breached this condition (resulting in small cell sizes) and not necessarily that a relationship is nonexistent.

Table 7.20 Relationship between breaching condition to report and age

Report Condition	Age					
	12-15 Years		16-17 Years		Total	
	%	Number	%	Number	%	Number
No Breach	98.6	2182	99.0	3526	98.8	5708
Breach	1.4	31	1.0	37	1.2	68
Total	100.0	2213	100.0	3563	100.0	5776

(χ^2 , corrected for continuity=1.245, $df=1$, $p=.215$).

Table 7.21 Relationship between breaching condition to report and location of residence

Report Condition	Location of Residence					
	Rural		Urban		Total	
	%	Number	%	Number	%	Number
No Breach	99.1	947	98.8	4661	98.8	5708
Breach	0.9	9	1.2	59	1.2	68
Total	100.0	956	100.0	4820	100.0	5776

(χ^2 , corrected for continuity=.332, df=1, p=.565).

Table 7.22 Relationship between breaching condition to report and level of education

Report Condition	Level of Education									
	Upgrading		Grade School		High School		College/University		Total	
	%	Number	%	Number	%	Number	%	Number	%	Number
No Breach	97.0	97	99.0	417	98.9	3430	100.0	27	98.9	3971
Breach	3.0	3	1.0	4	1.1	39	0.0	0	1.1	46
Total	100.0	100	100.0	421	100.0	3469	100.0	27	100.0	4017

($\chi^2=3.141$, $df=3$, $p=.370$) (N missing=22).

7.3.1.2 Offence-Related Variables

There was no significant relationship between the earlier offence the young person was convicted of (resulting in the probation sentence) and the likelihood of breaching the condition to report (Table 7.23).

Table 7.23 Relationship between breaching condition to report and the nature of the first offence

Report Condition	Nature of the First Offence					
	Property and Other		Person		Total	
	%	Number	%	Number	%	Number
No Breach	98.6	3565	99.1	2126	98.8	5691
Breach	1.4	49	0.9	19	1.2	68
Total	100.0	3614	100.0	2145	100.0	5759

(χ^2 , corrected for continuity=2.162, df=1, p=.141) (N missing=17).

7.3.1.3 Probation Sentence Variables

Crosstabulations reveal that whether or not the young person served some type of custodial sentence (in addition to her or his order of probation) was the only probation sentence variable associated with a significant increase in the likelihood of breaching a condition to report. Young people who served a custodial sentence in addition to probation were nearly 3 times as likely to be charged with breaching this condition compared to young people who served probation only (Table 7.24).

Table 7.24 Relationship between breaching condition to report and other sentences

Report Condition	Other Sentence					
	Probation Only		Probation and Custody		Total	
	%	Number	%	Number	%	Number
No Breach	98.9	5492	96.9	216	98.8	5708
Breach	1.1	61	3.1	7	1.2	68
Total	100.0	5553	100.0	223	100.0	5776

(χ^2 , corrected for continuity=6.019, df=1, p<.05).

Length of the probation order (Table 7.25) and the number of conditions the young person had to comply with (Table 7.26) were not significantly related to the likelihood of breaching the condition to report. Again, this may be a result of the small number of young people charged with breaching this condition, as the percentage differences do suggest that youth with longer probation orders and/or more conditions are more likely to breach the condition to report.

Table 7.25 Relationship between breaching condition to report and length of probation

Report Condition	Length of Probation					
	Less than 1 Year		1-2 Years		Total	
	%	Number	%	Number	%	Number
No Breach	99.5	622	98.7	5069	98.8	5691
Breach	0.5	3	1.3	65	1.2	68
Total	100.0	625	100.0	5134	100.0	5759

(χ^2 , corrected for continuity=2.315, df=1, p=.128) (N missing=17).

Table 7.26 Relationship between breaching condition to report and total number of conditions

Total Conditions of Probation						
Report Condition	1-3 Conditions		4 or More Conditions		Total	
	%	Number	%	Number	%	Number
No Breach	99.4	923	98.7	4785	98.8	5708
Breach	0.6	6	1.3	62	1.2	68
Total	100.0	929	100.0	4847	100.0	5776

(χ^2 , corrected for continuity=2.171, df=1, p=.141).

7.3.1.4 Risk/Need Assessment Variables³⁴

Crosstabulations reveal that several of the Risk/Need Assessment variables are associated with whether or not a young person breaches the reporting condition. High scores for criminal history, family conflict, education/employment conflict, substance abuse and delinquent peers are all significantly related to breaching the condition to report. Youth with a current/previous criminal record (Table 7.27), family conflict (Table 7.28), education or employment issues (Table 7.29), substance abuse issues (Table 7.30) and negative peer influences (Table 7.31) are all more likely to be charged with breaching a condition to report. While the findings are all statistically significant, in some cases there is only a small percentage difference (based on a small number of cases) between comparison groups (e.g. Table 7.29); in these cases, the results should be interpreted with caution.

³⁴ While three risk categories are presented in the preceding analyses, two categories of risk (low/moderate and high) are presented. Due to the small number of breach cases of individual conditions a decision was made to collapse two of the categories (low and moderate) into one category (low/moderate).

Table 7.27 Relationship between breaching condition to report and previous/current criminal history

RNA Score for Prior/Current Criminal History						
Report Condition	Low/Moderate		High		Total	
	%	Number	%	Number	%	Number
	No Breach	99.2	4701	97.0	1007	98.8
Breach	0.8	37	3.0	31	1.2	68
Total	100.0	4738	100.0	1038	100.0	5776

(χ^2 , corrected for continuity=33.732, df=1, p<.001).

Table 7.28 Relationship between breaching condition to report and family circumstance and parenting

RNA Score for Family Circumstance and Parenting						
Report Condition	Low/Moderate		High		Total	
	%	Number	%	Number	%	Number
	No Breach	99.1	5114	96.4	594	98.8
Breach	0.9	46	3.6	22	1.2	68
Total	100.0	5160	100.0	616	100.0	5776

(χ^2 , corrected for continuity=31.707, df=1, p<.001).

Table 7.29 Relationship between breaching condition to report and education/employment

RNA Score for Education and Employment						
Report Condition	Low/Moderate		High		Total	
	%	Number	%	Number	%	Number
	No Breach	99.0	3970	98.4	1738	98.8
Breach	1.0	39	1.6	29	1.2	68
Total	100.0	4009	100.0	1767	100.0	5776

(χ^2 , corrected for continuity=4.152, df=1, p<.05).

Table 7.30 Relationship between breaching condition to report and substance abuse

Report Condition	RNA Score for Substance Abuse					
	Low/Moderate		High		Total	
	%	Number	%	Number	%	Number
No Breach	99.1	4588	97.8	1120	98.8	5708
Breach	0.9	43	2.2	25	1.2	68
Total	100.0	4631	100.0	1145	100.0	5776

(χ^2 , corrected for continuity=11.370, df=1, p<.001).

Table 7.31 Relationship between breaching condition to report and peer relations

Report Condition	RNA Score for Peer Relations					
	Low/Moderate		High		Total	
	%	Number	%	Number	%	Number
No Breach	99.2	4925	96.5	783	98.8	5708
Breach	0.8	40	3.5	28	1.2	68
Total	100.0	4965	100.0	811	100.0	5776

(χ^2 , corrected for continuity=39.736, df=1, p<.001).

7.3.1.5 Logistic Regression for Breaching the Condition to Report

A logistic regression was conducted to explore the likelihood of being charged with breaching the condition to report, while controlling for other factors. However, these preliminary analyses revealed that if all variables of study are entered at once some variables are dropped or become nonsignificant in the logistic regression, while these variables had strong correlations in the bivariate analyses. Initial screenings reveal that RNA scores are significant predictors of breaching the reporting condition but some become nonsignificant in multivariate analyses (i.e. a logistic regression). This is likely a result of the finding that

RNA scores are highly inter-correlated, with each other and other variables like the other sentence the young person received. Interrelationships between these variables are theoretically consistent with the purpose of the measurement tool itself. Young people who have higher overall scores are at a higher risk for recidivating and have a higher level of need to reduce the risk of future offending. It appears that in exploring all breached conditions of probation RNA measures are highly intercorrelated. For example, young people who have high scores for family circumstance/parenting or criminal history/current dispositions are also significantly more likely to have high scores for peer relations, education/employment and substance abuse (see Table 7.32 for an example of the relationship between current/prior criminal history and family circumstance/parenting).

Consistent with previous research (Doob, 2001; Matarazzo et al, 2001) current sentences for young people tend to be more severe depending on the nature of the young person's criminal history. Young people who have more extensive criminal history or multiple charges are also significantly more likely to receive custody in addition to probation (Table 7.33). It is important to segregate out associations between RNA scores and among other variables to explore why some become nonsignificant or are removed from the model. These results are also likely the result of small cells sizes (due to the small sample sizes) or so few breaches of certain conditions and not necessarily that a relationship is nonexistent or that the variable is no longer a significant predictor.

Table 7.32 Relationship between current/prior criminal history and family circumstance and parenting

Prior/Current Criminal History	RNA Score for Family Circumstance and Parenting					
	Low/Moderate		High		Total	
	%	Number	%	Number	%	Number
Low/Moderate	83.7	4510	55.4	367	80.6	4877
High	16.3	878	44.6	296	19.4	1174
Total	100.0	5388	100.0	663	100.0	6051

(χ^2 , corrected for continuity=301.618, df=1, p<.001).

Table 7.33 Relationship between other sentence and current/prior criminal history

Other Sentence	RNA Score for Prior/Current Criminal History					
	Low/Moderate		High		Total	
	%	Number	%	Number	%	Number
Probation Only	97.2	4725	83.7	980	94.6	5705
Probation and Custody	2.8	137	16.3	191	5.4	328
Total	100.0	4862	100.0	1171	100.0	6033

(χ^2 , corrected for continuity=331.574, df=1, p<.001) (N missing=18).

As a result, forward stepwise logistic regression was used (with a .10 criteria for entry) to determine which variables remained in the analysis, which are removed and at which stage the variable is removed. This technique also permits for an analysis of which RNA scores are kept in the final model, not that these variables are nonsignificant but to explore which ones remain while others are removed. See Appendix B for all coding information. The results are presented in Table 7.34 below. Nagelkerke's R-squared of 0.163 (Table 7.34) indicates a weak relationship between the predictors and being charged with breaching the reporting

condition. The Wald criterion demonstrates that gender ($p < .01$), education ($p < .05$), current/prior criminal history ($p < .001$) and family relations ($p < .05$) all are significantly related to the likelihood that a young person will be charged with breaching this condition.

Young women are significantly more likely to be charged with breaching this condition. While boys were no less likely to receive this condition compared to girls it may be that girls are less likely to report when ordered to do so or that boys' may be more compliant. However, it may also be that probation officers' are more likely to report girls who fail to report and/or that police are more likely to charge these girls. Young people who are in grade school and high school have lower odds of being charged with breaching this condition, compared to those young people who are upgrading their education (Table 7.34).

Young people who have more extensive criminal histories or multiple current convictions (for which probation was ordered) are more likely to be charged with breaching this condition (Table 7.34). This finding could be a result of probation officers being more likely to report and police officers being more likely to breach young people with more serious criminal histories. Finally, young people who have a higher RNA score for family conflict are also more likely to be charged with breaching this condition (Table 7.34). This finding could be evidence of the relationship between family conflict and future and further offending.

Table 7.34 Logistic Regression for ‘Breaching Condition to Report’ (N=5776)

Dependent Variable - breaching condition to report (0=no, 1=yes)				
Independent Variables (below)	Odds Ratio	B	SE	Wald Statistic
Constant	0.077	-2.560	.712	12.917
Gender (female=0, male=1)	.274 **	-1.293	.421	9.449
Race(ref) (white=0)	-----	-----	-----	-----
Race1 (Other/Black=1)	1.929	.657	.444	2.193
Race2 (Aboriginal=2)	.146	-1.926	1.036	3.457
Education (ref) (upgrading=0)	-----	-----	-----	-----
Education1 (grade school=1)	.136 *	-1.993	.866	5.293
Education2 (high school=2)	.188 *	-1.670	.663	6.347
Education3 (college/university=3)	.000	-18.092	923.916	.000
Prior/Current Criminal Record (low/moderate risk/need=0, high risk/need=1)	6.422 ***	1.860	.412	20.338
Family Circumstance & Parenting (low/moderate risk/need=0, high risk/need=1)	2.563 *	.941	.426	4.887
Nagelkerke R-square		.163***		

Notes: *p<.05; **p<.01; ***p<.001

7.3.2 Curfew

Abiding by a curfew was the second most commonly breached condition: of the 255 breaches 23.9% of those young people were charged with breaching this condition. Again, due to the small number of breaches (61), cell sizes in the crosstabulations were too small with the full number of categories of some independent variables; as a result some categories (race, age, education, length, number of conditions, and RNA scores for current/prior criminal history, family conflict, education/employment, substance abuse and peer relations) were combined in order to achieve feasible cell sizes.

7.3.2.1 Offender-Related Variables

Gender (Table 7.35), race (Table 7.36), age (Table 7.37), location of residence (Table 7.38) and level of education (Table 7.39) did not have statistically significant relationships with the likelihood of breaching a curfew. Again, the lack of statistical significance may be due to the small number of youth who breached this condition (resulting in small cell sizes) and not necessarily that a relationship is nonexistent.

Table 7.35 Relationship between breaching curfew and gender

Curfew	Gender					
	Female		Male		Total	
	%	Number	%	Number	%	Number
No Breach	94.2	338	96.6	1124	96.0	1462
Breach	5.8	21	3.4	40	4.0	61
Total	100.0	359	100.0	1164	100.0	1523

(χ^2 , corrected for continuity=3.527, df=1, p=.059).

Table 7.36 Relationship between breaching curfew and race

Curfew	Race							
	White		Other/Black		Aboriginal		Total	
	%	Number	%	Number	%	Number	%	Number
No Breach	95.3	488	94.4	101	92.5	132	94.7	712
Breach	4.7	24	5.6	6	7.5	10	5.3	40
Total	100.0	512	100.0	107	100.0	133	100.0	752

(χ^2 =1.701, df=2, p=.427) (N missing=771).

Table 7.37 Relationship between breaching curfew and age

Curfew	Age					
	12-15 Years		16-17 Years		Total	
	%	Number	%	Number	%	Number
No Breach	94.9	651	96.9	811	96.0	1462
Breach	5.1	35	3.1	26	4.0	61
Total	100.0	686	100.0	837	100.0	1523

(χ^2 , corrected for continuity=3.404, df=1, p=.065).

Table 7.38 Relationship between breaching curfew and location of residence

Curfew	Location of Residence					
	Rural		Urban		Total	
	%	Number	%	Number	%	Number
No Breach	98.1	208	95.7	1254	96.0	1462
Breach	1.9	4	4.3	57	4.0	61
Total	100.0	212	100.0	1311	100.0	1523

(χ^2 , corrected for continuity=2.270, df=1, p=.132).

Table 7.39 Relationship between breaching curfew and level of education

Curfew	Level of Education									
	Upgrading		Grade School		High School		College/University		Total	
	%	Number	%	Number	%	Number	%	Number	%	Number
No Breach	95.8	23	95.4	104	96.5	864	100.0	3	96.4	994
Breach	4.2	1	4.6	5	3.5	31	0.0	0	3.6	37
Total	100.0	24	100.0	109	100.0	895	100.0	3	100.0	1031

($\chi^2=0.489$, $df=3$, $p=.921$) (N missing=492).

7.3.2.2 Offence-Related Variables

Table 7.40 reveals the type of offence for which probation was ordered was not significantly related to breaching a curfew.

Table 7.40 Relationship between breaching curfew and the nature of the first offence

Curfew	Nature of the First Offence							
	'Other'		Property		Person		Total	
	%	Number	%	Number	%	Number	%	Number
No Breach	94.7	268	96.4	781	96.0	410	96.0	1459
Breach	5.3	15	3.6	29	4.0	17	4.0	61
Total	100.0	283	100.0	810	100.0	427	100.0	1520

($\chi^2=1.612$, $df=2$, $p=.447$) (N missing=3).

7.3.2.3 Probation Sentence Variables

Cross tabulations reveal all probation sentence variables (other sentences (Table 7.41), length of probation (Table 7.42), and the total number of conditions (Table 7.43)) are not statistically significant predictors of the likelihood of being charged with breaching a curfew. Again, this may be a result of the few number of young people (61) charged with breaching this condition, as the percentage differences do suggest that youth with longer probation orders and/or more conditions are more likely to breach curfew.

Table 7.41 Relationship between breaching curfew and other sentences

Curfew	Other Sentence					
	Probation Only		Probation and Custody		Total	
	%	Number	%	Number	%	Number
No Breach	95.9	1384	97.5	78	96.0	1462
Breach	4.1	59	2.5	2	4.0	61
Total	100.0	1433	100.0	80	100.0	1523

(χ^2 , corrected for continuity=.170, df=1, p=.670).

Table 7.42 Relationship between breaching curfew and length of probation

Curfew	Length of Probation					
	Less than 1 Year		1-2 Years		Total	
	%	Number	%	Number	%	Number
No Breach	93.6	103	96.2	1356	96.0	1459
Breach	6.4	7	3.8	54	4.0	61
Total	100.0	110	100.0	1410	100.0	1520

(χ^2 , corrected for continuity=1.107, df=2, p=.293) (N missing=3).

Table 7.43 Relationship between breaching curfew and total number of conditions

Curfew	Total Conditions of Probation					
	1-3 Conditions		4 or More Conditions		Total	
	%	Number	%	Number	%	Number
No Breach	97.3	36	96.0	1426	96.0	1462
Breach	2.7	1	4.0	60	4.0	61
Total	100.0	37	100.0	1486	100.0	1523

(χ^2 , corrected for continuity=.000, df=1, p=1.000).

7.3.2.4 Risk/Need Assessment Variables

Young people who have high Risk/Need scores for prior/current criminal history (Table 7.44) and family conflict (Table 7.45) are more likely to be charged with breaching curfew.

Table 7.44 Relationship between breaching curfew and previous/current criminal history

Curfew	RNA Score for Prior/Current Criminal History					
	Low/Moderate		High		Total	
	%	Number	%	Number	%	Number
No Breach	97.1	1098	92.9	364	96.0	1462
Breach	2.9	33	7.1	28	4.0	61
Total	100.0	1131	100.0	392	100.0	1523

(χ^2 , corrected for continuity=12.439, df=1, p<.001).

Table 7.45 Relationship between breaching curfew and family circumstance and parenting

Curfew	RNA Score for Family Circumstance and Parenting					
	Low/Moderate		High		Total	
	%	Number	%	Number	%	Number
No Breach	97.0	1268	89.8	194	96.0	1462
Breach	3.0	39	10.2	22	4.0	61
Total	100.0	1307	100.0	216	100.0	1523

(χ^2 , corrected for continuity=23.164, df=1, p<.001).

Further cross tabulations reveal the remaining RNA scores (education/employment (Table 7.46), substance abuse (Table 7.47), and peer relations (Table 7.48) were not significantly associated with breaching curfew.

Table 7.46 Relationship between breaching curfew and education/employment

Curfew	RNA Score for Education and Employment					
	Low/Moderate		High		Total	
	%	Number	%	Number	%	Number
No Breach	96.6	944	94.9	518	96.0	1462
Breach	3.4	33	5.1	28	4.0	61
Total	100.0	977	100.0	546	100.0	1523

(χ^2 , corrected for continuity=2.355, df=1, p=.125).

Table 7.47 Relationship between breaching curfew and substance abuse

Curfew	RNA Score for Substance Abuse					
	Low/Moderate		High		Total	
	%	Number	%	Number	%	Number
No Breach	96.6	1082	94.3	380	96.0	1462
Breach	3.4	38	5.7	23	4.0	61
Total	100.0	1120	100.0	403	100.0	1523

(χ^2 , corrected for continuity=3.549, df=1, p=.060).

Table 7.48 Relationship between breaching curfew and peer relations

Curfew	RNA Score for Peer Relations					
	Low/Moderate		High		Total	
	%	Number	%	Number	%	Number
No Breach	96.4	1200	94.2	262	96.0	1462
Breach	3.6	45	5.8	16	4.0	61
Total	100.0	1245	100.0	278	100.0	1523

(χ^2 , corrected for continuity=2.181, df=1, p=.140).

7.3.2.5 Logistic Regression for Breaching Curfew

A logistic regression was conducted to explore the likelihood of being charged with breaching the condition to report, while controlling for other factors. Again, preliminary analyses revealed if all variables of study are entered at once some variables are dropped or become nonsignificant in the logistic regression while these variables had strong correlations in the bivariate analyses. Among those youth who received a curfew it appears that RNA scores for criminal history and family conflict are highly intercorrelated. Table 7.49 reveals that young people who received a curfew and who scored high for family circumstance and parenting were more than 3 times more likely to also score high for prior/current criminal history.

Table 7.49 Relationship between family circumstance/parenting and current/previous criminal history

RNA Score for Prior/ Current Criminal History*						
RNA Score for Family Circumstance and Parenting*	Low/Moderate		High		Total	
	%	Number	%	Number	%	Number
Low/Moderate	91.3	1033	69.9	274	85.8	1307
High	8.7	98	30.1	118	14.2	216
Total	100.0	1131	100.0	392	100.0	1523

(χ^2 , corrected for continuity=108.160, df=1, p=<.001).

*sample only includes those youth who received curfew as part of their order of probation

Again, forward stepwise logistic regression was used (with a .10 criteria for entry) to determine which variables remained in the analysis, which are removed and at which stage the variable is removed. See Appendix B for all coding information. Nagelkerke's R-squared of 0.129 (Table 7.50) indicates a weak relationship between the predictors and being charged

with breaching an order to reside. The Wald criterion demonstrates that length ($p < .05$) and family circumstance and parenting ($p < .001$) increase the likelihood that a young person will be charged with breaching this condition.

While percentages did suggest a relationship between length of probation and breaching curfew, young people who were issued shorter sentences of probation (less than one year) appeared to be more likely to breach curfew this finding was not significant in the cross tabulation (see Table 7.50). However, the logistic regression below reveals that length is a significant predictor of breaching curfew; in particular young people who serve a shorter amount of time on probation have a greater likelihood of being charged with breaching this condition (Table 7.50). It is unclear why youth who serve shorter sentences of probation are more likely to breach curfew. Young people who also have high risks/needs with regards to family circumstances and parenting are significantly more likely to breach curfew (Table 7.50). These young people may be less effectively supervised by their parents, or be more likely to stay away from or leave the home to avoid conflict regardless of the court ordered curfew.

Table 7.50 Logistic Regression for ‘Breaching Curfew Condition’ (N=1523)

Dependent Variable- breaching curfew condition (0=no, 1=yes)				
Independent Variables (below)	Odds Ratio	B	SE	Wald Statistic
Constant	0.018	-4.025	1.094	13.535
Rural/Urban (rural=0, urban=1)	5.707	1.742	1.040	2.802
Length (less than 1 year=0, more than 1 year=1)	.308 **	-1.176	.560	4.417
Family Circumstance & Parenting (low/moderate risk/need=0, high risk/need=1)	4.952 ***	1.600	.450	12.657
Nagelkerke R-square		.129***		

Notes: *p<.05; **p<.01; ***p<.001

7.3.3 Residence Order

Table 7.51 shows that young people who received a residence order are slightly more likely to breach probation. Approximately 5% of young people who received a residence order breached probation compared to 3% of young people who did not receive this condition (although of these 133 youth with residence orders who breached probation, only 54 breached the residence order itself; see below). These findings do not support the prediction that young people who receive this condition would be more likely to form positive attachments to the home and therefore be less likely to breach.

Table 7.51 Relationship between breaching probation and receiving a residence order

Breach of Probation	Residence Order					
	No		Yes		Total	
	%	Number	%	Number	%	Number
No Breach	97.0	3180	94.9	2459	96.0	5639
Breach	3.0	100	5.1	133	4.0	233
Total	100.0	3280	100.0	2592	100.0	5872

(χ^2 , corrected for continuity=15.934, df=1, p<.001).

It appears that young people who receive a condition to remain in the home do not have a greater chance of success while on probation, as originally hypothesized. Breaching a residence order is the second most commonly breached condition (21.2% of all young people who were charged with breaching breached this condition). Cross tabulations reveal that several factors increase the chance of breaching this condition of probation. Again, due to the small number of breaches (54), cell sizes in the crosstabulations were too small with the full number of categories of some independent variables; as a result some categories (race, age, education, offence type, length, number of conditions, and RNA scores for current/prior criminal history, family conflict, education/employment, substance abuse and peer relations) were again combined in order to achieve feasible cell sizes.

7.3.3.1.1 Offender-Related Variables

Girls appear to be more than twice as likely to be charged with breaching their residence order (Table 7.52). More than 3% of girls were charged with breaching this condition compared to less than 2% of boys (Table 7.52).

Table 7.52 Relationship between breaching a residence order and gender

Residence Order	Gender					
	Female		Male		Total	
	%	Number	%	Number	%	Number
No Breach	96.5	580	98.3	1958	97.9	2538
Breach	3.5	21	1.7	33	2.1	54
Total	100.0	601	100.0	1991	100.0	2592

(χ^2 , corrected for continuity=6.761, df=1, p<.01).

The remaining offender variables (age (Table 7.53), race (Table 7.54), location of residence (Table 7.55) and education (Table 7.56)) were not significantly related to breaching this condition.

Table 7.53 Relationship between breaching a residence order and age

Residence Order	Age					
	12-15 Years		16-17 Years		Total	
	%	Number	%	Number	%	Number
No Breach	97.5	987	98.2	1551	97.9	2538
Breach	2.5	25	1.8	29	2.1	54
Total	100.0	1012	100.0	1580	100.0	2592

(χ^2 , corrected for continuity=.928, df=1, p=.335).

Table 7.54 Relationship between breaching a residence order and race

Residence Order	Race							
	White		Other/Black		Aboriginal		Total	
	%	Number	%	Number	%	Number	%	Number
No Breach	97.4	911	96.5	220	95.7	156	97.1	1287
Breach	2.6	24	3.5	8	4.3	7	2.9	39
Total	100.0	935	100.0	228	100.0	163	100.0	1326

($\chi^2=1.726$, $df=2$, $p=.414$) (N missing =1266).

Table 7.55 Relationship between breaching a residence order and location of residence

Residence Order	Location of Residence					
	Rural		Urban		Total	
	%	Number	%	Number	%	Number
No Breach	98.8	332	97.8	2206	97.9	2358
Breach	1.2	4	2.2	50	2.1	54
Total	100.0	336	100.0	2256	100.0	2592

(χ^2 , corrected for continuity=1.048, $df=1$, $p=.306$).

Table 7.56 Relationship between breaching a residence order and level of education

Residence Order	Education									
	Upgrading		Grade School		High School		College/University		Total	
	%	Number	%	Number	%	Number	%	Number	%	Number
No Breach	100.0	47	97.6	200	98.8	1489	100.0	14	98.7	1750
Breach	0.0	0	2.4	5	1.2	18	0.0	0	1.3	23
Total	100.0	47	100.0	205	100.0	1507	100.0	14	100.0	1773

($\chi^2=3.380$, $df=3$, $p=.390$) (N missing = 819).

7.3.3.2 Offence-Related Variables

Table 7.57 reveals the type of offence for which probation was ordered was not significantly related to breaching a condition to reside. This finding may again be due to the small number of young people charged with breaching a residence order (54), since the percentage differences do suggest a relationship.

Table 7.57 Relationship between breaching a residence order and nature of the first offence

Residence Order	Nature of the First Offence					
	Other and Property		Person		Total	
	%	Number	%	Number	%	Number
No Breach	98.2	1568	97.4	961	97.9	2529
Breach	1.8	28	2.6	26	2.1	54
Total	100.0	1596	100.0	987	100.0	2583

(χ^2 , corrected for continuity=3.313, df=1, p=.129) (N missing=9).

7.3.3.2.1 Probation Sentence Variables

Table 7.58 reveals that young people who were ordered to serve some type of custodial sentence in addition to probation were significantly more likely to be charged with breaching a residence order. Young probationers who spent time in custody were more than 4 times more likely to breach this condition compared to those young people who were sentenced to probation only (Table 7.58).

Table 7.58 Relationship between breaching a residence order and other sentence

Residence Order	Other Sentence					
	Probation Only		Probation and Custody		Total	
	%	Number	%	Number	%	Number
No Breach	98.2	2432	91.4	106	97.9	2538
Breach	1.8	44	8.6	10	2.1	54
Total	100.0	2476	100.0	116	100.0	2592

(χ^2 , corrected for continuity=22.197, df=1, p<.001).

Further cross tabulations reveal all remaining probation sentence variables (length and the total number of conditions) are not statistically significant predictors of the likelihood of being charged with breaching a residence order (Table 7.59 and Table 7.60).

Table 7.59 Relationship between breaching a residence order and length of probation

Residence Order	Length of Probation					
	Less than 1 Year		1-2 Years		Total	
	%	Number	%	Number	%	Number
No Breach	95.9	139	98.0	2390	97.9	2529
Breach	4.1	6	2.0	48	2.1	54
Total	100.0	145	100.0	2438	100.0	2583

(χ^2 , corrected for continuity=2.175, df=1, p=.140) (N missing=9).

Table 7.60 Relationship between breaching a residence order and total number of conditions

Residence Order	Total Conditions					
	1-3		4 or More Conditions		Total	
	%	Number	%	Number	%	Number
No Breach	96.4	107	98.0	2431	97.9	2538
Breach	3.6	4	2.0	50	2.1	54
Total	100.0	111	100.0	2481	100.0	2592

(χ^2 , corrected for continuity=.651, df=1, p=.252).

7.3.3.3 Risk/Need Assessment Variables

Young people who have high Risk/Need scores for several measures are also more likely to be charged with breaching their residence order. In all cases young people who had high scores for current/previous criminal activity (Table 7.61), family conflict (Table 7.62), education/employment (Table 7.63), substance abuse (Table 7.64) and negative peer influences (Table 7.65) also had a higher likelihood of being charged with breaching the condition to reside.

Table 7.61 Relationship between breaching a residence order and prior/current criminal history

Residence Order	RNA Score for Prior/Current Criminal History					
	Low/Moderate		High		Total	
	%	Number	%	Number	%	Number
No Breach	98.9	2012	94.4	526	97.9	2358
Breach	1.1	23	5.6	31	2.1	54
Total	100.0	2035	100.0	557	100.0	2592

(χ^2 , corrected for continuity=40.025, df=1, p<.001).

Table 7.62 Relationship between breaching a residence order and family circumstance and parenting

Residence Order	RNA Score for Family Circumstance and Parenting					
	Low/Moderate		High		Total	
	%	Number	%	Number	%	Number
No Breach	98.4	2216	94.7	322	97.9	2358
Breach	1.6	36	5.3	18	2.1	54
Total	100.0	2252	100.0	340	100.0	2592

(χ^2 , corrected for continuity=18.007, df=1, p<.001).

Table 7.63 Relationship between breaching a residence order and education/employment

Residence Order	RNA Score for Education and Employment					
	Low/Moderate		High		Total	
	%	Number	%	Number	%	Number
No Breach	98.6	1685	96.6	853	97.9	2338
Breach	1.4	24	3.4	30	2.1	54
Total	100.0	1709	100.0	883	100.0	2592

(χ^2 , corrected for continuity=10.382, df=1, p<.001).

Table 7.64 Relationship between breaching a residence order and substance abuse

Residence Order	RNA Score for Substance Abuse					
	Low/Moderate		High		Total	
	%	Number	%	Number	%	Number
No Breach	98.7	1967	95.2	571	97.9	2538
Breach	1.3	25	4.8	29	2.1	54
Total	100.0	1992	100.0	600	100.0	2592

(χ^2 , corrected for continuity=27.216, df=1, p<.001).

Table 7.65 Relationship between breaching a residence order and peer relations

Residence Order	RNA Score for Peer Relations					
	Low/Moderate		High		Total	
	%	Number	%	Number	%	Number
No Breach	98.7	2122	94.1	416	97.9	2358
Breach	1.3	28	5.9	26	2.1	54
Total	100.0	2150	100.0	442	100.0	2592

(χ^2 , corrected for continuity=35.489, df=1, p<.001).

7.3.3.4 Logistic Regression for Breach of Residence Order

A logistic regression was conducted to explore the likelihood of being charged with breaching a residence order, while controlling for other factors. Again, preliminary analyses revealed if all variables of study are entered at once some variables are dropped or become nonsignificant in the logistic regression while these variables had strong correlations in the bivariate analyses. Among those youth who received a residence order it appears that RNA scores for criminal history, family conflict, education/employment, substance abuse and peer relations are highly intercorrelated.

As a result, forward stepwise logistic regression was used (with a .10 criteria for entry) to determine which variables remained in the analysis, which are removed and at which stage the variable is removed. See Appendix B for all coding information.

Nagelkerke's R-squared of 0.133 (Table 7.66) indicates a weak relationship between the predictors and being charged with breaching an order to reside. The Wald criterion demonstrates that gender (p<.01), current/prior criminal history (p<.001), substance abuse (p<.01) and delinquent peers associations (p<.05) increase the likelihood that a young person

will be charged with breaching this condition. Girls are more likely to be charged with breaching this condition (Table 7.66). As previous research indicates girls are more likely to run-away from the home or approved residence, which increases the probability that the breach will be reported to officials (probation officer, police officer) and subsequently increases the likelihood of being charged with breaching this condition.

Table 7.66 also reveals that young people who have high scores for several RNA measures also have increased odds of being charged with breaching a residence order. Group home staff and probation officers may be more likely to report and police may be more likely to charge these youth as they may be seen as less deserving of a “chance”. Young people with more extensive criminal histories are also more likely to live with family conflict, which may result in these youth spending less time at home, which increases the odds of these young people being charged with breaching a residence order (Table 7.66). Young people with substance abuse issues are also more likely to be charged with breaching this condition (Table 7.66). This seems logical since youth who consume alcohol and drugs would be more likely to engage in this behaviour away from parents or guardians resulting in an increased probability of being reported or caught and charged with a breaching a residence order. Table 7.66 also reveals that young people with known delinquent peers/acquaintances also have higher odds of breaching this condition. Young people who associate with delinquent friends may be influenced by their peers to engage in further offending or these young people may be more likely to leave the home to socialize with delinquent peers also resulting in an

increased probability of being caught and charged with breaching a condition to remain in the home.

Table 7.66 Logistic Regression for ‘Breaching Residence Order’ (N=2592)

Dependent Variable - breaching a residence order (0=no, 1=yes)				
Independent Variables (below)	Odds Ratio	B	SE	Wald Statistic
Constant	0.007	-4.981	.437	129.691
Gender (female=0, male=1)	.443 **	-.813	.287	8.031
Prior/Current Criminal History (low/moderate risk/need=0, high risk/need=1)	2.870 ***	1.054	.319	10.906
Substance Abuse (low/moderate risk/need=0, high risk/need=1)	5.040 **	1.617	.524	9.532
Peer Relations (low/moderate risk/need=0, high risk/need=1)	3.322 *	1.201	.493	5.930
Nagelkerke R-square			.133***	

Notes: *p<.05; **p<.01; ***p<.001

7.3.4 Education Order

It appears that young people who receive an education order, which orders an offender to maintain mandatory and consistent attendance in school, do not have a greater chance of success while on probation, as originally hypothesized. Breaching an education order is the fourth most commonly breached condition (14.1% of all young people who breached, breached this condition) (although of these 150 youth with residence orders who breached probation, only 36 breached the residence order itself; see below). Table 7.67 reveals 5.6% of young people who received an education order breached their probation compared to only 2.6% of youth who did not receive an education order. These findings do

not support the prediction that young people who receive a condition of probation that stipulates mandatory and regular attendance in school would be more likely to form positive attachments to teachers, be regulated by school hours, and so on and would be less likely to engage in delinquency and breach probation.

Table 7.67 Relationship between breaching probation and receiving an education order

Breach of Probation	Education Order					
	No		Yes		Total	
	%	Number	%	Number	%	Number
No Breach	97.4	3105	94.4	2534	96.0	5639
Breach	2.6	83	5.6	150	4.0	233
Total	100.0	3188	100.0	2684	100.0	5872

(χ^2 , corrected for continuity=15.934, df=1, p<.001).

Again, due to the small number of breaches (36), cell sizes in the crosstabulations were too small with the full number of categories of some independent variables; as a result some categories (race, age, education, length, number of conditions, and RNA scores for current/prior criminal history, family conflict, education/employment, substance abuse and peer relations) were combined in order to achieve feasible cell sizes.

7.3.4.1 Offender-Related Variables

Younger probationers are significantly more likely to be charged with breaching an education order. Table 7.68 reveals that over 2% of 12 – 15 year olds breached an education order compared to less than 1% of those 16 years of age and older; however, the percentage

difference is small and based on a small number of cases, so again caution in interpreting the results is advised.

Table 7.68 Relationship between breaching an education order and age

Education Order	Age					
	12-15 Years		16-17 Years		Total	
	%	Number	%	Number	%	Number
No Breach	97.7	1186	99.5	1462	98.7	2648
Breach	2.3	28	0.5	8	1.3	36
Total	100.0	1214	100.0	1470	100.0	2684

(χ^2 , corrected for continuity=14.300, df=1, p<.001).

Gender (Table 7.69), race (Table 7.70), location of residence (Table 7.71) and level of education (Table 7.72) did not have statistically significant relationships with the likelihood of breaching an education order. Again, the lack of statistical significance may be due to the small number of youth who breached this condition (resulting in small cell sizes) and not necessarily that a relationship is nonexistent.

Table 7.69 Relationship between breaching an education order and location of residence

Education Order	Gender					
	Female		Male		Total	
	%	Number	%	Number	%	Number
No Breach	98.1	656	98.9	1992	98.7	2648
Breach	1.9	13	1.1	23	1.3	36
Total	100.0	669	100.0	2015	100.0	2684

(χ^2 , Chi-Square=1.872, df=1, p=.171).

Table 7.70 Relationship between breaching an education order and race

Education Order	Race							
	White		Other/Black		Aboriginal		Total	
	%	Number	%	Number	%	Number	%	Number
No Breach	98.5	859	98.7	220	98.5	197	98.5	1276
Breach	1.5	13	1.3	3	1.5	3	1.5	19
Total	100.0	872	100.0	223	100.0	200	100.0	1295

(χ^2 =.028, df=1, p=.986) (N missing=1389).

Table 7.71 Relationship between breaching an education order and location of residence

Education Order	Location of Residence					
	Rural		Urban		Total	
	%	Number	%	Number	%	Number
No Breach	98.2	385	98.7	2263	98.7	2648
Breach	1.8	7	1.3	29	1.3	36
Total	100.0	392	100.0	2292	100.0	2684

(χ^2 , corrected for continuity=.348, df=1, p=.555).

Table 7.72 Relationship between breaching an education order and level of education

Education Order	Education									
	Upgrading		Grade School		High School		College/University		Total	
	%	Number	%	Number	%	Number	%	Number	%	Number
No Breach	100.0	49	96.7	206	98.7	1621	100.0	8	98.5	1884
Breach	0.0	0	3.3	7	1.3	21	0.0	0	1.5	28
Total	100.0	49	100.0	213	100.0	1642	100.0	8	100.0	1912

($\chi^2=6.139$, $df=3$, $p=.105$) (N missing=772).

7.3.4.2 Offence-Related Variables

Table 7.73 reveals the type of offence for which probation was ordered is significantly related to breaching an education order. Nearly 3% of youth who were convicted of ‘other’ offences (for which probation was ordered) breached an education order, compared to only 1% of those young people who were convicted of person or property related offences (Table 7.73). Again, the result should be interpreted with caution since there is only a small percentage difference between comparison groups (also based on the small number of cases).

Table 7.73 Relationship between breaching an education order and nature of the first offence

Education Order	Nature of the First Offence					
	Other and Property		Person		Total	
	%	Number	%	Number	%	Number
No Breach	99.0	2096	97.5	544	98.7	2640
Breach	1.0	21	2.5	14	1.3	35
Total	100.0	2117	100.0	558	100.0	2675

(χ^2 , corrected for continuity=6.739, df=1, p<.01) (N missing=9).

7.3.4.3 Probation Sentence Variables

Table 7.74 reveals the only probation sentence variable related to breaching an education order is the total number of conditions the young person received. Youth who received 1-3 conditions were more than 3 times more likely to breach an education order compared to those young people who received 4 or more conditions (Table 7.74).

Table 7.74 Relationship between breaching an education order and the total number of conditions

Education Order	Total Conditions					
	1-3 Conditions		4 or More Conditions		Total	
	%	Number	%	Number	%	Number
No Breach	96.0	121	98.8	2527	98.7	2648
Breach	4.0	5	1.2	31	1.3	36
Total	100.0	126	100.0	2558	100.0	2684

(χ^2 , corrected for continuity=4.969, df=1, p<.05).

Cross tabulations reveal all remaining probation sentence variables (other sentences (Table 7.75) and length of probation (Table 7.76)) are not statistically significant predictors of the likelihood of being charged with breaching an education order. Again, this may be a result of the few number of young people (36) charged with breaching this condition.

Table 7.75 Relationship between breaching an education order and other sentence

Education Order	Other Sentence					
	Probation Only		Probation and Custody		Total	
	%	Number	%	Number	%	Number
No Breach	98.7	2552	97.0	96	98.7	2648
Breach	1.3	33	3.0	3	100.0	36
Total	100.0	2585	100.0	99	100.0	2684

(χ^2 , corrected for continuity=1.089, df=1, p=.297).

Table 7.76 Relationship between breaching an education order and length of probation

Education Order	Length					
	Less than 1 Year		1-2 Years		Total	
	%	Number	%	Number	%	Number
No Breach	98.2	216	98.7	2424	98.7	2640
Breach	1.8	4	1.3	31	1.3	35
Total	100.0	220	100.0	2455	100.0	2675

(χ^2 , corrected for continuity=.148, df=1, p=.700) (N missing=9).

7.3.4.4 Risk/Need Assessment Variables

Young people who have high Risk/Need scores for family circumstance and parenting (Table 7.77) and substance abuse (Table 7.78) are more likely to be charged with breaching an education order.

Table 7.77 Relationship between breaching an education order and family circumstance and parenting

Education Order	RNA Score for Family Circumstance and Parenting					
	Low/Moderate		High		Total	
	%	Number	%	Number	%	Number
No Breach	99.0	2309	96.3	339	98.7	2648
Breach	1.0	23	3.7	13	1.3	36
Total	100.0	2332	100.0	352	100.0	2684

(χ^2 , corrected for continuity=14.951, df=1, p<.001).

Table 7.78 Relationship between breaching an education order and substance abuse

Education Order	RNA Score for Substance Abuse					
	Low/Moderate		High		Total	
	%	Number	%	Number	%	Number
No Breach	99.0	2066	97.3	582	98.7	2648
Breach	1.0	20	2.7	16	1.3	36
Total	100.0	2086	100.0	598	100.0	2684

(χ^2 , corrected for continuity=9.095, df=1, p<.01).

Further cross tabulations reveal that the remaining RNA scores (current/prior criminal history (Table 7.79), education/employment (Table 7.80) and peer relations (Table 7.81)) were not significantly associated with breaching an education order.

Table 7.79 Relationship between breaching an education order and prior/current criminal history

Education Order	RNA Score for Prior/Current Criminal History					
	Low/Moderate		High		Total	
	%	Number	%	Number	%	Number
No Breach	98.9	2136	97.7	512	98.7	2648
Breach	1.1	24	2.3	12	1.3	36
Total	100.0	2160	100.0	524	100.0	2684

(χ^2 , corrected for continuity=3.583, df=1, p=.058).

Table 7.80 Relationship between breaching an education order and education/employment

Education Order	RNA Score for Education and Employment					
	Low/Moderate		High		Total	
	%	Number	%	Number	%	Number
No Breach	99.0	1746	98.0	902	98.7	2648
Breach	1.0	18	2.0	18	1.3	36
Total	100.0	1764	100.0	920	100.0	2684

(χ^2 , corrected for continuity=3.328, df=1, p=.068).

Table 7.81 Relationship between breaching an education order and peer relations

Education Order	RNA Score for Peer Relations					
	Low/Moderate		High		Total	
	%	Number	%	Number	%	Number
No Breach	98.8	2219	97.7	429	98.7	2648
Breach	1.2	26	2.3	10	1.3	36
Total	100.0	2245	100.0	439	100.0	2684

(χ^2 , corrected for continuity=2.685, df=1, p=.101).

7.3.4.5 Logistic Regression for Breaching an Education Order

A logistic regression was conducted to explore the likelihood of being charged with breaching an education order, while controlling for other factors. Again, preliminary analyses revealed if all variables of study are entered at once some variables are dropped or become nonsignificant in the logistic regression while these variables had strong correlations in the bivariate analyses. Among those youth who received an education order it appears that RNA scores for family conflict and substance abuse are highly intercorrelated. Table 7.82 reveals that young people who received an education order and who scored high for family circumstance and parenting were more than 2 times more likely to score high on substance abuse issues.

Table 7.82 Relationship between family circumstance and parenting and substance abuse

RNA Score for Family Circumstance and Parenting	Substance Abuse					
	Low/Moderate		High		Total	
	%	Number	%	Number	%	Number
Low/Moderate	89.7	1872	76.9	460	86.9	2332
High	10.3	214	23.1	138	13.1	352
Total	100.0	2086	100.0	598	100.0	2684

(χ^2 , corrected for continuity=65.895, df=1, p<.001).

Forward stepwise logistic regression was used (with a .10 criteria for entry) to determine which variables remained in the analysis, which are removed and at which stage the variable is removed. See Appendix B for all coding information. Nagelkerke's R-squared of 0.116 (Table 7.83) indicates a weak relationship between the predictors and being charged with breaching an education order. The Wald criterion demonstrates that age (p<.05), the total number of conditions attached to the original probation order (p<.01), and substance abuse (p<.01) all increase the likelihood that a young person will be charged with breaching this condition (Table 7.83).

School officials, probation officers and the police may be more likely to officially respond to younger children who are not in school as ordered. School officials and police may be less concerned with a 17-year-old who does attend school, perhaps because they will be leaving the institution soon. Within the context of 12 or 13-year-old behaviour skipping school or not attending regularly may be seen as more important, requiring an official response. In addition, it could be that actions taken with younger children are indicative of paternalistic views. That is, officers may choose to charge the youth for breaching this condition, as a means of teaching this young person that rules have to be followed or negative consequences follow, as a parent would do. It may also be that youth court judges

feel compelled to set out guidelines for younger youth to follow, similar to the police officers who bring in these offenders. It is unclear why youth who have 4 or more conditions of probation attached to their probation order have lower odds compared to those who received fewer conditions (Table 7.83). Youth who have substance abuse issues have significantly higher odds of breaching an education order (Table 7.83). These youth may be more likely to be absent from school as their addiction interferes with daily functioning and the ability to attend school regularly. They may also be more likely to be away from school in order to consume alcohol or drugs, both of which are prohibited on school property and if intoxicated or under the influence school officials may be more likely to report these youth to the police.

Table 7.83 Logistic Regression for ‘Breaching An Education Order’ (N=2684)

Dependent Variable- breaching an education order (0=no, 1=yes)				
Independent Variables (below)	Odds Ratio	B	SE	Wald Statistic
Constant	.073	-2.618	.638	16.816
Age (12-15 years=0, 16-17 years=1)	.241 *	-1.424	.663	4.615
Total Conditions (1-3=0, 4 or more=1)	.170 **	-1.774	.697	6.485
Substance Abuse (low/moderate risk/need=0, high risk/need=1)	4.179 **	1.430	.560	6.527
Nagelkerke R-square		.116***		

Notes: *p<.05; **p<.01; ***p<.001

7.3.5 Non-Association Order

While it was hypothesized that young people who received a non-association order would be more likely to succeed while on probation support for this prediction is inconclusive. Breaching a non-association order is the seventh most commonly breached condition (2.7% of all young people were charged with breaching this condition). Cross

tabulations between receiving this condition and the likelihood of breaching are nonsignificant (Table 7.84).

Table 7.84 Relationship between breaching probation and receiving a non-association order

Non-Association Order						
Breach of Probation	No		Yes		Total	
	%	Number	%	Number	%	Number
No Breach	96.0	1846	96.0	3793	96.0	5639
Breach	4.0	77	4.0	156	4.0	233
Total	100.0	1923	100.0	3949	100.0	5872

(χ^2 , corrected for continuity=.001, df=1, p=.978).

More so, all of the initial bivariate analyses (i.e. cross tabulations) revealed no relationships between the predictor variables (gender, age, nature of the first offence, etc.) and the likelihood of breaching this condition of probation. There is also a lack of empirical support for the prediction that young people ordered to stay away from delinquent peers/acquaintances would be less likely to breach since the influences of these individuals would be reduced or eliminated. This could be due to the small number of young people (n=7) charged with breaching a non-association order: not that the relationship is nonsignificant but that the analysis is unable to determine significance based on the small number of cases.

7.4 Chapter Discussion and Conclusion

The preceding analyses explored the factors that are related to probationer success or failure (being charged with breach of probation). Support was found for most of the proposed hypotheses (see Chapter 4) and several findings emerge that appear to have a significant relationship with breaching an order of probation. Girls and younger youth are more likely to

breach. Breaching conditions of probation may be unrelated to the original offence (for which the young person received probation) and may be connected to concerns about protection and social control. Breaches appear to be a significant pathway back into the justice system for these offenders in particular. Girls and younger youth may be more closely monitored or it may be that these offenders are more likely to be charged with a breach as a means of controlling their behaviour. Since data on other charges (if any) that accompanied the breach were not available it is unclear if these young people were less likely to commit a new offence and rather are more likely to be charged for breaching probation alone.

As previously discussed, officials (school, probation officers) may be more likely to report misbehaviour and police may be more likely to officially respond to younger offenders. Police officers may also feel compelled to make punishments for breaches more meaningful for those young people who were already “given a chance” by being put on probation in the first place. These findings may also be evidence of the operation of gender stereotypes. Girls may be brought back into the youth justice system for violating gender stereotypes or because judicial discretion and diversion are used less frequently with some offenders. It appears that extralegal factors, like gender and age, are important factors in understanding breaches of probation and police decision making with youth who fail to comply with prior sanctions.

Legal factors are also important variables to consider when examining charges for young people who breach probation in Ontario. Custody appears to significantly increase the probability of breaching probation and being brought back into the judicial system, compared to young people who received probation alone. While young people may be more likely to be given custody for violent offences (e.g. minor assault) it appears that young people who are

convicted of administration of justice offences (as the offence for which probation was originally ordered) are more likely to breach probation. This finding suggests that young people convicted of administrative of justice offences are more likely to return to the youth justice system and invariably are more likely to recidivate. Criminal history is also a strong predictor of non-compliance and is negatively related to probationer success. Previous contact with the youth justice system appears to increase the likelihood future offending and appears to have an important influence on police decision making with these offenders.

As predicted, it appears that a breakdown of informal social controls has a significant effect on the likelihood of breaching probation. Family conflict, school failure, being unemployed, substance abuse and the presence of delinquent peers increased the probability of being charged with breaching an order of probation. Youth court judges may use conditions of probation to increase and stabilize formal and informal bonds to social institutions (like the family and school) and reinforce prosocial behaviour, however; conflict within any of these structures appears to negate the affects of imposing such conditions. There is a clear and direct relationship between those young people whose lives are affected by conflict, addiction, negative influences, etc. and the probability of breaching. No support was found for the hypotheses that receiving conditions that increase positive bonds and decrease criminogenic influences (receiving a residence or education order and a non-association order) would have a positive impact on probation failure. In fact, in all cases young people who received these conditions were more likely to breach probation. In the previous analysis of understanding probation conditions evidence of family conflict increased the likelihood that young people would receive a residence order and this appears to have a profound impact on the likelihood of breaching this particular condition.

When exploring the factors that are related to being charged with breaching certain conditions (report, residence, curfew, education) it appears that several factors are related to breaching a specific condition. The relationship between family conflict, in particular, has a significant effect on probationer success or failure: young people who live with conflict are more likely to breach probation. This environment appears to have a profound impact on the recidivism of young probationers in Ontario. While both legal and extralegal factors are important predictors of breaching individual conditions more analysis is required for a more detailed understanding of why young people breach certain conditions and why police choose to pursue breaches for these conditions. The analysis of non-association orders revealed non-significant findings, which may be a result of the small number of cases. A study of probationer non-compliance based on a larger sample would permit a more comprehensive investigation of the factors related to failed conditions.

Chapter 8

Conclusion

8.1 Summary of Results

The purpose of this research was to understand why young people on probation in Ontario breach the conditions of their probation orders. The working assumption is that a significant part of the explanation for breaches lies in the conditions that are ordered and the duration of the probation order. Obviously, a youth is at risk of breaching only while on probation, and only those conditions that are ordered. Therefore, the research explored two major hypotheses. The first part was an exploration of the factors that are associated with the duration of the probation order and the number and types of conditions attached to youth probation orders (H1). The second part studied factors associated with the breach of probation conditions, and the consequences of being charged with a breach (H2).

H1: The period (length of time) of the youth probation order and the number and types of conditions attached to it are associated with personal and social characteristics of the youth, the characteristics of the offence(s) for which probation is ordered, the youth's offence history, and any other sentences handed down besides the probation order.

H2: Breach of one or more conditions of a youth probation order is associated with the period (length of time) of the probation order and the number and types of probation conditions, as well as with the factors listed in Hypothesis 1.

The first data analysis chapter explored factors that drive the length of probation orders and the number and types of conditions. The results indicate that legal factors have a significant impact on judicial decision-making and the crafting of probation orders for young people in Ontario. Offence type, multiple offence convictions and criminal history are

important predictors of length, number and types of conditions of probation (support for H1). Extralegal factors like gender, age, race and location of residence are also important factors that help understand the types of probation sentences and conditions of probation young people receive (support for H1). These findings are also consistent with Canadian and American literature on the factors related to the nature of probation sentences, including the work of Doob, 2001; Hepburn and Griffin, 2004; Horney, et al, 1995; Latimer, 2011; MacKenzie and Brame, 2001; Mayzer, et al, 2004; Morgan, 1994; Pulis, 2003; Pulis and Sprott, 2005; and Sims and Jones, 1995.

Little support was found for the hypotheses that girls would receive particular conditions (curfews, residence orders, non-association orders) because of gender bias. This finding is inconsistent with Pulis, 2003 who found that girls were more likely to receive residence orders and conditions to obey the rules/regulations of the home/residence. However, girls did receive shorter sentences of probation, which is interesting given they are more likely to be given probation for violent offence convictions, which would traditionally warrant longer sentences under the YCJA. Paternalism may affect the probation sentences younger youth receive as these offenders often receive conditions that resemble parenting regulations, like curfews, residence orders, education orders, etc.

An examination into the impact of race on probation sentences revealed the need for further investigation into judicial decision making with non-custodial sentences. While significant relationships may be evidence of the types of offences minority youth commit they may also be a reflection of discriminatory police charging practices and reveals the need for further research (consistent with Fitzgerald and Carrington, 2011). Finally, few Canadian studies (if any) have explored the effect of location on the construction of probation

sentences. The results of this dissertation indicate that the degree of urbanization is an important measure to consider when exploring the types of probation conditions young people receive, since these youth tend to receive more conditions of probation, as hypothesized. These findings are consistent with the work of Olson and Lurigio, 2000; Olson, et al, 2001; and Pugh, 2007.

Support was also found for the hypothesis that judges may consider using conditions of probation to mitigate life circumstances that may increase the likelihood of offending (i.e. poor parenting, school failure, delinquent peers). Surprisingly, if there was some type of family conflict young probationers were more likely to receive a residence order. Young people may not have been assigned to remain in the residence where the conflict occurs (this data was not available) but if they do it is unclear how this would reduce further offending. Conflict in school was also significantly related to receiving an education order. No support was found for the hypotheses that family conflict or unemployment would increase the chances of receiving a condition to maintain or find employment. As predicted, there was strong support for the likelihood of receiving a non-association order if there was a risk identified with regards to delinquent friends, similar to Warr, 2002. This finding lends support for peer influence theory and American research on the use of probation conditions as extensions of social bonds, including the work of Hepburn and Griffin, 2004; Horney, et al, 1995; Kruttschnitt, et al, 2000; MacKenzie et al, 1999; MacKenzie and Brame, 2001; and MacKenzie and Li, 2002.

The second data analysis chapter explored the factors that are related to breaching probation. Significant support was found for the proposed hypotheses (H2 and the sub-hypotheses proposed in Chapter 4) regarding factors associated with breaching probation.

Legal factors, like criminal history, history of incarceration and the type of offence conviction had a profound impact on the likelihood of breaching probation. Interestingly, young people in this study who were convicted of administration of justice offences (for which probation was originally ordered) are significantly more likely to breach probation. Criminal history also appears to be a strong predictor of non-compliance and is negatively related to probationer success, similar to the meta-analysis of factors that increase probation failure offered by Morgan, 1994. Previous contact with the youth justice system appears to affect the likelihood of future offending and may have a considerable impact on judicial decision-making and the use of discretion, consistent with the work of Matarazzo et al, 2001.

Chapter 7 also reveals that extralegal factors appear to be significant predictors of probation violations. Girls, younger youth and Aboriginal youth are all more likely to be charged with breaching probation. Breaching conditions of probation may be unrelated to the original offence (for which the young person received probation) and may be connected to concerns about protection and social control. Breaches appear to be a significant pathway back into the justice system for these offenders, in particular. Girls and younger youth may be more closely monitored or it may be that these offenders are more likely to be charged with a breach as a means of controlling their behaviour. Officials (school staff, probation officers, etc.) may be more likely to report younger youth who misbehave and police may be more likely to officially respond to younger offenders. Police officers and youth court judges may also feel compelled to make punishments for breaches more meaningful for those young people who were already “given a chance” by being put on probation in the first place. These findings may be evidence of the operation of gender and racial stereotypes in the youth justice system. Girls may be brought back into the youth justice system for violating gender

stereotypes or because judicial discretion and diversion are used less with some offenders. The research findings discussed above have produced similar results to and are consistent with the findings of the American Bar Association, 2001; Chesney-Lind and Shelden, 1998; Corrado, et al, 2000; Erez, 1989; Gaarder et al, 2004; Heidensohn, 2002; Miller, 1996; Morash, 2006; Norland and Mann, 1984; Reitsma-Street, 1999; Sangster, 2002; Sprott, 2006; Sprott and Doob, 2009; Worrall, 1995; Worrall and Hoy, 1995.

As predicted, it appears that a breakdown in informal social controls has a significant effect on the likelihood of breaching probation. Family conflict, school failure, being unemployed, substance abuse and the presence of delinquent peers increased the probability of being charged with breaching an order of probation (similar conclusions are reached by Hepburn and Griffin, 2004; Horney, et al, 1995; and MacKenzie and Brame, 2001). Youth court judges may use conditions of probation to increase and stabilize formal and informal bonds to social institutions (like the family and school), however; conflict within any of these structures appears to negate the affects of imposing such conditions. There is a relationship between those young people whose lives are affected by conflict, addiction, negative influences, etc. and the probability of breaching. No support was found for the hypotheses that receiving conditions that increase positive bonds and decrease criminogenic influences (receiving a residence or education order and a non-compliance order) would have a positive impact on probation failure. In fact, in all cases young people who received these conditions were more likely to breach probation (which is similar to the work of Kruttschnitt, et al, 2000 and MacKenzie and Li, 2002). In the previous analysis of understanding probation conditions evidence of family conflict increased the likelihood that young people would receive a

residence order and this appears to have a profound impact on breaching this particular condition.

When exploring the factors that are related to being charged with breaching certain conditions (report, residence, curfew, education) it appears that several factors are related to breaching a specific condition. While both legal and extralegal factors are important predictors of breaching individual conditions more analysis is required to achieve a more comprehensive understanding of why young people breach certain conditions and why police and youth court judges choose to pursue breaches for these conditions. The analysis of non-association orders revealed non-significant findings, which may be a result of the small number of cases. A larger study of probationer non-compliance would permit for a more detailed investigation of the factors related to failed conditions.

8.2 Limitations and Future Directions

Strictly speaking, the limitations in time and jurisdiction of the sample limit the generalizability of the findings to Ontario youth probationers sentenced in fiscal 2005/06. However, it is not unreasonable to expect the findings to hold at least for Ontario for several years, as there has not been any significant changes made to youth justice court sentencing and the Ontario youth probation system. Findings may also be generalizable to other provinces if their probation systems are not too dissimilar. The results of multivariate correlational analyses are always subject to possible bias due to specification error, when variables that are associated with the dependent variable are omitted from the model because they are not available. However, the proposed research incorporates a wide variety of independent variables that have been found to affect other youth justice outcomes and a review of the literature did not find any significant determinants of probation conditions or

breaches that are omitted from the research project. Alternatively, the study of probation conditions and breaches is not well advanced, so there may be significant determinants that are as yet unknown.

Once the data were received and analyzed it was determined that several variables of study could not be explored. First, measuring the impact of class on probationers' experiences on probation is an important area of study that could not be analyzed once the data were received. Information on class was not available in the data requested and there was no reliable way to measure class from the data that were provided. It is suggested that future research in this area is best investigated through interviews with young probationers themselves. Second, while current research highlights the importance of the relationship between groups and youth crime there were no data that indicated if the young person was charged with one or more individuals (or a co-accused). Third, measuring the effect of increased surveillance on probationers is also an important area of research that could not be investigated in a reliable way; it is an area of future research that should also be explored. Fourth, previous research demonstrates the effect other sentences have on current dispositions. As previously discussed prior to the implementation of the YCJA youth justice court judges would use probation as a means to monitor and control young people released into the community following a period of incarceration. Since this is no longer the case (all custodial sentences under the YCJA include a follow-up period in the community, similar to parole for adult offenders) few young people received custody in addition to their sentence of probation in this study. All analyses revealed whether or not probation was the most significant disposition was statistically insignificant in predicting the length of probation and the number and types of probation conditions. Finally, since data on other charges (if any)

that accompanied the breach were not available it is unclear if young probationers' were more likely to commit a new offence or are more likely to be charged for breaching probation alone. A large proportion of breach cases had not yet been disposed of at the time the data were received and analyzed so it is unclear how Ontario judges' adjudicate large samples of breaches of probation.

Financial and time constraints and ethical issues made it unfeasible to incorporate field research into this study. In future research, drawing on the results of this research, interviews with probationers themselves would be able to capture their social and personal circumstances in a way that variable-oriented file data cannot. Chui, Tupman, & Farlow (2003) explain: "A number of probation researchers...point out the real voice of probationers has been neglected and marginalised in the study of offending and in evaluating probation work, and have stressed the importance of participation by offenders" (269). This type of data could generate vital information about current experiences on probation as Latimer (2011) also concludes. Interviews with youth justice court judges, youth probation officers and police officers should also be conducted. These individuals are at the forefront of implementing, enforcing and monitoring probation orders; as such, their experiences and perceptions should be explored. Interviews create an ideal environment for police officers and youth probation officers to explain what processes and factors relate to compliance with a probation order and why and when breaches are formally reported (police officer and probation officer discretion). Interviews can also provide rich data on what factors influence youth justice court judges when they are deciding the length and type of conditions of probation to impose on an offender and the factors that influence adjudication with breaches of probation.

What little research has been conducted on the effectiveness of probation is not exhaustive and generally focuses on intensive probation supervision (Chesney-Lind and Shelden, 1998:210; Clear, 1991; Lundman, 2001:178; MacKenzie et al, 1999:425; Moore, 2004:169; and Petersilia et al, 1986). The effectiveness of a community-based sentence, like probation, is dependent on a number of factors, including; legislation, adequate staff and funding, public support, effective and timely services, judicial application, the offender, etc. Corbett argues, “despite the fact that it is clearly the treatment of choice for most juvenile offenders, there has been amazingly little research done on the effectiveness of probation” (1999:124). While there has been numerous evidence-based research studies conducted on probation in the United Kingdom (Chui and Nellis, 2003; Raynor and Vanstone, 2002; Mair, 2004; Worrall and Hoy, 2005) there have not been similar research efforts in Canada. The Federal-Provincial-Territorial Task Force on Youth Justice (1996) addresses why a gap in evaluation research is problematic: “...a lack of evaluation does not allow administrators to determine whether programs are working or to fine tune them so that they are more effective. As well, it leads to an absence of evidence which might otherwise be useful in assuaging the concerns of a skeptical public” (270).

As a consequence, claims about how probation can rehabilitate and reduce recidivism cannot be made with certainty. If we use a reduction in recidivism as our standard for success then a program than reduces reoffending, even slightly, may be an effective program worth investing in. Doob and Cesaroni (2004) argue that it is not difficult to find programs that treat delinquency (at varying levels of causation) but finding effective, evidence-based programs is difficult. Almost two decades ago, Silverman and Creechan (1995) argued “this is probably a good point in history to fund a major longitudinal study to determine the

effectiveness of youth probation in Canada” (49), to date, a large scale, longitudinal study into the effectiveness of probation has yet to be conducted.

8.3 Policy Implications: Setting Young Probationers Up for Failure?

There is a significant lack of research on probation in Canada. We simply do not know what works, with what offenders and we do not know if the types of programs that accompany probation are adequate or effective. In 2001, the National Probation Service (NPS) was created in the United Kingdom to centralize and organize probation agents and agencies. Guidelines from the NPS covers a broad scope and provides detailed instructions about the administration of orders: “they cover frequency of contact, record-keeping, rules about enforcement and the taking of breach actions, and the content of supervision sessions” (Worrall and Hoy, 2005:84). Under the NPS “probation programs are now centrally led and centrally funded, the goal was to standardize variable and inconsistent practices across the country, increase PO accountability, limit individual discretion of the PO and focus on managing supervision” (Worrall and Hoy, 2005:84). Policy driven research should explore if such guidelines, and even a national probation service, may be effective in Canada.

While probation continues to be the most frequently used disposition by Canadian youth courts there has not been a subsequent increase in resources towards managing probationers, probation officers and toward the creation of meaningful and effective probation programs. The quality of probation services and the programs that are offered depend on a number of factors; including; available funding and resources, which is usually dependent upon public and political support. Worrall and Hoy assert “people are not prepared to pay for the punishment of criminals and they are not prepared to pay for their treatment as well” (2005:28). The public will not necessarily support allocation of resources

to community-based sanctions, like probation, because they have not seen evidence that this type of sentence will protect the public and/or service the needs of the offender (e.g. rehabilitation). More rigorous, evidence-based research on probation is needed to enhance public support and provide politicians and policy makers with evidence that allocating resources into probation is the best option. More funding does not necessarily mean better services and we simply do not know what programs work with what offenders.

This dissertation explores sentences of probation, specifically conditions of probation and their ability to predict probationer success or failure. Certain conditions (e.g. obey parents, find employment, attend school, non-association orders, etc.) can be used as a means to increase attachments to family, school, employment and decrease attachments to delinquent peers and acquaintances. The findings of this research that young probationers who receive such conditions will have a greater likelihood of completing probation and decreasing recidivism may have significant meaning for judges who impose such conditions. Central to this understanding is an examination into the ways in which gender and race may affect sentences for young people and their experiences in the criminal justice system. While there is no specific theory that explores integrated sites of oppression in probation, this lens utilizes a sociological framework and research to investigate what may be evidence of gender and race discrimination in the use of probation sentences. Part of the research contained in this dissertation aims to add to a scarce body of Canadian literature on the use of probation with young women and minority youth. This dissertation considers the judicial use of probation with youth in conflict with the law (length of the order, types of conditions imposed, etc.), violations of probation and differences in police charging practices based on gender, race and class. This dissertation provides a comprehensive understanding of

probation and probation violations and broadens the scope of our knowledge of probation.

The results add both empirically and theoretically to the current and growing body of research on youth sentencing in Canada and highlights areas for future research.

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**Appendix A: Copy of Ministry of Children and Youth Services Risk/Need
Assessment Form (RNA) and Scoring Guide**

**Ministry of Children and Youth Services
Risk/Need Assessment Form
Scoring Guide**

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Introduction

This Manual and Item Scoring Key has been prepared to accompany the Ministry Risk/Assessment Form. This instrument was devised to assist in the assessment of young persons at various stages of processing. It provides a comprehensive and systematic assessment of personal characteristics of the youth and their circumstances. The Form also links the assessment to the determination of classification/supervision level and the development of a case management plan, which targets relevant treatment and rehabilitative needs.

The Manual is divided into three sections:

- I. Principles of Assessment
- II. Scoring Instructions
- III. Item Scoring Key

Section I

Principles of Assessment

There are some basic assumptions regarding rehabilitative efforts with young persons. The first assumption is that the “nothing works” debate is over; there are now clear indications in the literature that appropriately delivered services can decrease youth criminality. A second assumption is that successful interventions depend on some conditions. Speaking very broadly, effective programs are those that provide appropriately targeted services to higher risk youths and that emphasize cognitive-behavioral techniques.

These assumptions are also represented in the three principles of intervention articulated by Andrews, Bonta and Hoge (1990):

Risk Principle: Higher levels of service are reserved for high-risk cases. In brief, intensive service is reserved for higher risk cases because they respond better to intensive service than to less intensive service, while lower risk cases do as well or better with minimal levels of intervention.

Need Principle: Targets of service are matched with the criminogenic needs of offenders. By criminogenic needs we are referring to characteristics of the youth that, when altered in a positive manner, reduce the chances of criminal activity.

Responsivity Principle: Styles and modes of service are matched to the learning styles and abilities of offenders. In other words, a professional offers a type of service that is matched not only to criminogenic need but also to those attributes and circumstances of the youth that render them likely to profit from that particular type of service.

These principles have clear implications for assessment practices. Very generally, they imply that the accurate assessment of risk, need, and responsivity factors in the client are critical to

decisions about intervention. Further, it follows that assessments should be systematic and guided to some extent by a structured format to increase the reliability and validity of the assessment.

The advantages of standardized assessments can also be summarized as follows:

- a. We all have biases and “blind spots”, and the use of a standard kind of format forces us to look broadly and objectively at the client.
- b. The use of a standard form facilitates communication among professionals; to some extent at any rate, we are all talking the same language.
- c. The use of a systematic assessment provides some protection where judgments are questioned; we can show that the assessment was based on a thorough and objective assessment of the client.
- d. Standardized assessment provides quality information for management accountability and decision making purposes.
- e. Finally, the use of standardized assessment tools shows that we are professionals; that our approach to our job is systematic and consistent.

None of the above arguments is designed to contradict the contributions of the professional worker. Two considerations are relevant. First, any assessment tool that is developed must take account of the accumulated experience of professional workers. Any “expert” who attempts to impose an artificially devised instrument is bound to failure. Second, any assessment system that is developed, while it will have an important role in guiding decisions about the client, will have to include a ‘professional discretion’ provision. Final decisions about the client rest with the professional/assessor.

Three influences shaped the development of the Risk/Need Assessment Form (RNA). First, it reflects the most recent theoretical and empirical developments regarding criminal activity in young people (see Hoge, 2001; Hoge & Andrews, 1996; Lahey, Moffitt, & Caspi, 2003; Leschied, Cummings, Van Brunschot, Cunningham, & Saunders, 2001). Second, experiences

with the Ministry of Community Safety and Correctional Services' Toronto Case Management System and the Risk Indicator Form were also utilized. Third, several revisions of the instrument were guided by extensive consultations with probation officers and other service providers in the field.

Considerable reliability and validity research has now been conducted with the RNA (and its parallel instrument, the Youth Level of Service/Case Management Inventory). That research has provided solid support for reliability and various forms of validity. Of particular importance are demonstrations that scores from the RNA significantly predict reoffending behavior. Summaries of this research are available from Hoge (2005) and Hoge and Andrews (2002).

Finally, we would stress again that the Risk/Need Assessment Form is not designed to eliminate professional judgments. These will continue to be critical within the intervention process. Rather, the RNA is designed to assist the professional worker in forming judgments about the risks and needs in the young offender.

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Section II

Scoring Instructions

The instrument consists of five parts:

- Part I: Assessment of Risk and Needs
- Part II: Summary of Risk/Need Factors
- Part III: Assessment of Other Needs/Special Considerations
- Part IV: Case Manager's Assessment of Overall Risk Level
- Part V: Case Management Plan

A discussion of each of these sections follows.

Part I: Assessment of Risks and Needs

The items in this checklist reflect variables that have been demonstrated in the literature as risk factors in the determination of criminal activity and recidivism. They also constitute need factors in the sense that improvements in these areas will serve to reduce the chances of recidivism.

The items in this section are divided into eight groups which represent the identified correlates or risk factors of criminal activity: (a) prior and current offences/dispositions; (b) family circumstances/parenting; (c) education/employment; (d) peer relations; (e) substance abuse; (f) leisure/recreation; (g) personality/behavior; and (h) attitudes/orientation.

Within each of the risk factors there is a set of individual items; simply check those items that, to the best of your knowledge, apply to the youth. Most of the items are self-explanatory, but an item-scoring key is contained in this manual.

After the items in a risk category have been reviewed, indicate the total number of checks. An opportunity is also provided to indicate the level of risk for that particular area. For example, in risk category number one, Prior and Current Offences/Dispositions, 0 checks indicate low risk, 1 to 2 checks indicates medium risk, and 3 to 5 checks indicates high risk for this risk category. It must be emphasized that these guidelines are tentative in that they

are based on normative data collected previously for these items. They will be revised as we collect more data across Ontario.

For risk factors 2 through 8, indicate whether a particular strength is represented in the risk category. For example, while a youth may have serious problems relating to peer group associations and criminal attitudes, the family context may be particularly strong and represent a potential source of strength. These strength or protective factors do not enter directly into the risk/need scores, but they should be considered in case planning. It is important to note as well that low risk does not necessarily denote strength. These are relatively independent judgments.

Each of the risk factor categories of Part I provide space for narrative comments and an indication of the source of information on which the rating is based. In addition, note that for each risk factor category there is space available to comment on any of the items checked in the section.

Completion of the items in Part I is dependent on accessing as much information as you can about the youth. This will involve a file review and interviews with the client and, where available, collaterals (e.g., parents, teachers, probation officers). A guide for scoring the items is provided below, but you will sometimes be asked to exercise your professional judgment. Your ability to do this will depend on the quality of the information you have available.

Part II: Summary of Risk/Need Factors

This section is designed to present an overall picture of the levels of criminological risk as assessed in Part I. First, record the total scores from each of the eight risk factor categories of Part I, across Row One of the Summary of Risk/Need Factors Profile. Include the overall risk score at the end of this row. Additionally, indicate the corresponding risk level for each of the eight risk factor categories. Finally, an overall risk level is also to be recorded. Note that there are four levels of risk represented here (low, moderate, high and very high), and that these are determined from the overall total.

Part III: Assessment of Other Needs/Special Considerations

The items in this section represent variables that, while not always directly related to criminal activity, do constitute factors that may be relevant to various decisions about the youth.

The first category of items in this section relates to family and parenting factors and the second to the youth. These items are defined in the Item Scoring Key. There is also an

opportunity in this section to record comments or to cite any factors not listed which should be considered in developing a case management plan. These may relate to special responsibility considerations including the need for culturally specific services.

Part IV: Case Manager's Assessment of General Risk/Need Level

An opportunity is provided here for the case manager or other service provider to record their assessment of the overall risk/need level of the youth. If the assessor has determined that the overall risk level should be overridden either higher or lower, then the rationale and reasons for the rating are to be placed in this section. The mitigating/aggregating factors and/or strength are often used to form the rationale for overriding the overall risk level.

Part V: Case Management Plan

An opportunity to indicate service goals is provided in this section. In addition, the means for achieving the goals are to be included. For example, one goal might be to improve the youth's classroom conduct, and the means to achieve that goal might involve establishing a behavior management program in cooperation with the classroom teacher.

Item Scoring Key

PART I: ASSESSMENT OF RISKS AND NEEDS

1. Prior and current offences/dispositions
 - a. 3 or more prior “findings of guilt”: check this item if the youth has 3 or more “findings of guilt” prior to the current “findings of guilt” for which the youth is being dealt with. A “finding of guilt” refers to one or more prior offences for which there is a finding of guilt, all of which occurred at approximately the same time (e.g., over a weekend); these count as one set of offences related to a crime spree. Therefore, look for sets of offences, which occurred at different points in time. Do not count Provincial Offences Act offences.
 - b. 2 or more prior failures to comply: these include violations of noncustodial orders and breaches of DCSO, CCSOs, and IRCS; failure to appear; probation and parole violations; escape from custody; failure to comply with alternative measures/extrajudicial sanctions.
 - c. prior probation: check if the youth has ever been on probation. Do not include probation ordered under the Provincial Offences Act.
 - d. prior custody: check if the youth has ever received a disposition or sentence of open or secure custody. Do not include prior pre-trial detention time.
 - e. 3 or more “findings of guilt”: the youth has received three or more current “findings of guilt.” Count sets of offences for which there has been “a finding of guilt” occurring at different points in time.
2. Family Circumstances/Parenting
 - a. inadequate supervision: check this item if parents or guardians leave the youth frequently unattended, are not aware of activities of the youth or in your judgment otherwise exercise inadequate supervision of the youth. Check this item if the youth is living independently without adequate supervision.
 - b. difficulty in controlling behavior: parents have problems in exercising control over the youth’s behavior; youth is “out of control” and very difficult to manage; youth is living independently and behavior is not controlled.

- c. inappropriate discipline: there is an excessive use of corporal punishment, frequent use of yelling and threats, overly strict rules, enforcement practices or otherwise poor disciplinary practices on the part of the parent(s)/ guardian(s); overly permissive parenting practices with little direction and structure.
- d. inconsistent parenting: the parent(s)/guardian(s) are inconsistent in the application of rules or in use of punishment/rewards; periods of harsh discipline may alternate with periods of neglect or extreme permissiveness. Also mark this item if the parent(s) cannot form (or articulate) clear rules regarding homework, curfews, or friends.
- e. poor relationship/father-child: there is a particularly hostile or indifferent/uncaring relationship between father/father-figure and youth (though not necessarily an abusive relationship). The youth does not have to be living with his or her father/stepfather for you to rate this item. In cases where there is a natural father and stepfather, base your evaluation on the most prominent relationship.
- f. poor relationship/mother-child: there is a particularly hostile or indifferent/uncaring relationship between mother/mother figure and youth (though not necessarily an abusive relationship). The youth does not have to be living with his or her mother/stepmother for you to rate this item. In cases where there is a natural mother and stepmother, base your evaluation on the most prominent relationship.

3. Education/Employment

Note. Items c, d, e, and f may be completed on the basis of performance in a work setting for those youth over 16 years and engaged in full or part-time employment.

- a. disruptive classroom behavior: the youth is engaged in acting-out, attention-seeking, defiant or other disruptive behaviors within the classroom setting or school building.
- b. disruptive schoolyard behavior: the youth is initiating violent actions, is defiant toward teachers or otherwise disruptive while in the schoolyard; youth engages in misconducts or criminal activity such as theft, vandalism, drug abuse, peer violence; questions related to school suspensions and disciplinary practices including calling parents to the school, are encouraged.
- c. low achievement: the youth is currently failing a subject or there are other indications of achievement problems. For older employed youth, check if evidence of poor work performance.

- d. problems with peer relations: there is evidence that the youth is disliked, isolated, withdrawn or there is other evidence of poor peer relations within the school setting. For older employed youth, check if evidence of poor relations with co-worker.
- e. problems with teacher relations: there is evidence of significant and continuing problems with his/her teacher. For older employed youth, check if evidence of poor relations with supervisors/bosses.
- f. truancy: youth is currently missing school days or skipping classes without legitimate excuses. For older employed youth, check if evidence of frequent work absences.
- g. unemployed/not-seeking employment: youth should have a job but is not seeking employment.

4. Peer Relations

- a. some antisocial acquaintances: some of the youth's acquaintances/casual friends are known offenders; questions related to gang membership should be considered.
- b. some antisocial friends: some of the youth's close friends are known offenders, are involved in criminal activity or exhibit antisocial attitudes. Note, if this item is checked, then item 4. a. should also be checked.
- c. no or few positive acquaintances: the youth has very few acquaintances/casual friends who are neither offenders nor positive role models
- d. no or few positive friends: few or none of the youth's close friends represent positive role models.

5. Substance Abuse

- a. occasional drug use: there is evidence that the youth is an occasional user of an illicit drug but it is not problematic; a drug and alcohol history is encouraged; do not mark this item if the youth has discontinued alcohol or drug use for more than a year.
- b. chronic drug use: there is evidence that the youth is a regular user of an illicit drug and drug use is a problem in at least one major life area (do not consider alcohol use in scoring this item). For example, there may be a history of drug related arrests, employment or school problems, contacts with medical facilities, withdrawal symptoms, personality changes, family or social problems, or recent diagnosis of drug abuse or

dependence, or concerns about relapse. NOTE, if this item is checked, then, item 5. a. should also be checked.

- c. chronic alcohol use: check this item if the youth regularly consumes alcoholic beverages (more than three times per week) as well as an alcohol-related problems in more than one major life area. For example, the youth often passes out, has had drink-related arrests, employment or education problems, contacts with medical facilities, withdrawal symptoms, personality changes, family or social problems, or recent diagnosis of alcohol dependence, or concerns about relapse.
- d. substance use interferes with functioning: drug and/or alcohol use affects the youth's physical or social functioning and/or is associated with anti-social activity; questions related to the young person's perspective of the level of interference as well as those of parents, teachers, friends, etc., are encouraged.
- e. substance use linked to offences: there is good reason to believe that the youth's criminal activity is related to drug or alcohol use; use of alcohol or drugs is contributing, has contributed or might contribute to future violations of the law or the young person's supervision; look for trafficking of drugs to support a drug habit, potential breaking and entering and theft of property offences/behavior in order to support drug/alcohol use. Look for the abuse of substances, which lead to law violations. Note, a drug trafficker may not always use the drug and therefore in this case should not be marked on this item.

6. Leisure Recreation

- a. limited organized participation: there is no evidence that the youth participates in team sports, clubs or other types of organized positive activities at school or in the community.
- b. could make better use of time: the youth spends too much time in passive (e.g. television watching) or unconstructive activities (e.g., playing games at arcades).
- c. no personal interests: the youth appears to have no personal interests of a positive nature (e.g., reading, hobbies, sports); score item if the youth expresses interests but is not acting on them.

7. Personality/Behavior

- a. inflated self-esteem: youth thinks he/she is superior to others, brags constantly, is dominant over others, etc.

- b. physically aggressive: the youth initiates acts of physical aggression toward others; often initiates fights.
- c. tantrums: youth uses displays of temper or loss of control to get her/his own way or when frustrated or angry. Tantrums are usually directed against objects.
- d. short attention span: the youth has difficulty attending to the task at hand; difficulty completing tasks; difficulty with sustained attention/concentration; or may be hyperactive.
- e. poor frustration tolerance: the youth deals poorly with frustration, can be verbally abusive toward others, tends to react impulsively, loses patience easily.
- f. inadequate guilt feelings: the youth feels no remorse when her/his behavior has caused harm to another, does not accept responsibility for his/her actions, or offers excuses for behavior. Note, this item refers to the youth's feelings about his/her actions and should not be confused with item 8. e.
- g. verbally aggressive: the youth is often verbally abusive hostile or threatening language) in dealings with others.

8. Attitudes/Orientation

- a. antisocial/criminal attitudes: the youth's attitudes are supportive of a criminal or anti-conventional life style; consider attitudes, values, beliefs and rationalizations concerning the victim or the offending behavior which show that that the youth does not think social rules and laws apply to him/her. Look for an emphasis on the utility of criminal activity, a mixed attitude toward criminal behavior in which the youth expresses a willingness to bend the rules when convenient; or the youth expresses a general disregard (hostility, nonsupport, rejection) for conventional noncriminal alternatives and the underlying values of society; or the youth is supportive of some pro-social activities as well as some criminal behavior.
- b. not seeking help: the youth is not seeking help; is reluctant to seek needed interventions.
- c. actively rejecting help: the youth is actively resisting the interventions of helping persons or agencies.
- d. defies authority: the youth refuses to follow directions from parents, teachers or other authority figures and is hostile toward the criminal justice system.

- e. callous, little concern for others: the youth shows little concern for the feelings or welfare of others; lacks empathy.

PART II: ASSESSMENT OF OTHER NEEDS/SPECIAL CONSIDERATIONS

1. Family/Parents

- a. chronic history of crime: check item if members of the youth's immediate family (parents or siblings) have engaged in repeated criminal acts.
- b. emotional distress/psychiatric: either or both parents have a current psychiatric disability or a recent history of such problems.
- c. drug-alcohol abuse: either or both parents have a current substance abuse problem or a recent history of such a problem.
- d. marital conflict: the parents are currently in conflict or have recently experienced conflict.
- e. financial/accommodation problems: the family is currently facing a financial or housing problem.
- f. uncooperative parents: the parent(s) is unwilling to cooperate in efforts to address the youth's problems.
- g. cultural/ethnic issues: the family is facing difficulties or conflicts relating to cultural/ethnic/religious adjustment.
- h. abusive father: the father has engaged in physical, emotional or sexual abuse of a family member.
- i. abusive mother: the mother has engaged in physical, emotional or sexual abuse of a family member.
- j. significant family trauma: this may relate to death or illness in the family, a family break-up, or a similar type of crisis.

2. Youth

- a. health problems: the youth is currently suffering from a medical problem.
- b. physical disability: the youth suffers from a disabling physical condition.

- c. low intelligence/developmental delay: the youth exhibits obvious and disabling intellectual deficits; there may be a diagnosis of a developmental delay disorder.
- d. learning disability: while of normal intelligence, the youth suffers from a learning disability which has either formally been diagnosed or informally identified.
- e. underachievement: the youth has traditionally performed below his/her capacity in school.
- f. problem solving skills: the youth has difficulty in resolving personal /social problems.
- g. victim of physical/sexual abuse: the youth has experienced abuse at any time in his/her life.
- h. victim of neglect: the youth has experienced neglect at any time in his/her life.
- i. shy/withdrawn: the youth lacks significant relationships with others and the motivation/desire to form such relationships.
- j. peers outside age range: the youth spends a lot of time with significantly younger or older youth.
- k. depressed: the youth appears to be in a more-or-less chronic state of depression.
- l. low self-esteem: the youth has little feeling of self-worth or a poor self-concept.
- m. inappropriate sexual activity: the youth engages in illegal or otherwise inappropriate sexual activities (e.g. prostitution or exhibitionism).
- n. racist/sexist attitudes: the youth expresses antisocial attitudes regarding women, religious or ethnic groups.
- o. poor social skills: the youth appears to function poorly in social situations; lacks normal social skills.
- p. engages in denial: the youth seems unable to admit that he/she has problems and unable to admit to feelings of guilt.
- q. suicide attempts: there is a history of suicide attempts; questions regarding periods or bouts of depression and or irritability are encouraged.

- r. diagnosis of psychosis: there has been or there is currently a diagnosis of psychosis or other serious psychiatric disturbance.
- s. third party threat: the youth is at risk of harm from other individuals.
- t. history of sexual/physical assault: the youth has a history of directing sexual or physical assaults against others.
- u. history of assault on authority figures: the youth has a history of violent assaults on teachers, parents, counselors or other authority figures.
- v. history of weapon use: the youth has a history of using any type of weapon.
- w. history of fire setting: the youth has a history of arson or arson attempts.
- x. history of escapes: there is a history of escapes or escape attempts from custody facilities.
- y. protection issues: child welfare/protection issues are involved.
- z. adverse living conditions: the youth is living on the street or otherwise inappropriately housed.

RISK/NEED ASSESSMENT (RNA)

Youth's Name: _____

D.O.B: _____

PART 1 - ASSESSMENT OF RISKS & NEED		
1) Prior and Current Offences/Dispositions		Comments (include any mitigating/aggravating factors):
a)	three or more prior "findings of guilt"	
b)	two or more prior failures to comply	
c)	prior probation	
d)	prior custody	
e)	three or more current "findings of guilt"	

Risk Level: Low (0) Moderate (1-2) High (3-5)

2) Family Circumstances/Parenting		Comments (include any mitigating/aggravating factors):
a)	inadequate supervision	
b)	difficulty in controlling behavior	

c) inappropriate discipline		
d) inconsistent parenting		
e) poor relations/father-child		
f) poor relations/mother-child		
Total		Source(s) of Information: Date:

Strength

Risk Level: Low (0-2) Moderate (3-4) High (5-6)

3) Education/Employment		Comments (include any mitigating/aggravating factors):
a) disruptive classroom behavior		
b) disruptive schoolyard behavior		
c) low achievement		
d) problems with peer relations		
e) problems with teacher relations		
f) truancy		
g) unemployed/not seeking employment		
Total		Source(s) of Information: Date

Strength

Risk Level: Low (0) Moderate (1-3) High (4-7)

4) Peer Relations		Comments (include any mitigating/aggravating factors):
a) some antisocial acquaintances		
b) some antisocial friends		

c) no or few positive acquaintances		
d) no or few positive friends		
Total		Source(s) of Information: Date

Strength

Risk Level: Low (0-1) Moderate (2-3) High (4)

5) Substance Abuse		Comments (include any mitigating/aggravating factors):
a) occasional drug use		
b) chronic drug use		
c) chronic alcohol use		
d) substance use interferes w/functioning		
e) substance use linked to offences		
Total		Source(s) of Information: Date

Strength

Risk Level: Low (0) Moderate (1-2) High (3-5)

6 Leisure/Recreation		Comments (include any mitigating/aggravating factors):
a) limited organized participation		
b) could make better use of time		
c) no personal interests		
Total		Source(s) of Information: Date

Strength

Risk Level: Low (0) Moderate (1) High (2-3)

7) Personality/Behavior		Comments (include any mitigating/aggravating factors):	
a)	inflated self esteem		
b)	physically aggressive		
c)	tantrums		
d)	short attention span		
e)	poor frustration tolerance		
f)	inadequate guilt feelings		
g)	verbally aggressive, impudent		
Total		Source(s) of Information:	Date

Strength

Risk Level: Low (0) Moderate (1-4) High (5-7)

8) Attitudes/Orientation		Comments (include any mitigating/aggravating factors):	
a)	antisocial/procriminal attitudes		
b)	not seeking help		
c)	actively rejecting help		

d) defies authority		
e) callous, little concern for others		
Total		Source(s) of Information: Date

Strength

Risk Level: Low (0) Moderate (1-3) High (4-5)

PART III - SUMMARY OF RISK/NEEDS (from Part 1)										
		Prior and current	Family Factors	Education	Peer Relations	Substance Abuse	Leisure Recreation	Personality	Attitudes/Orientation	Overall Total
	Total									<input type="checkbox"/> Low (0-8) <input type="checkbox"/> Moderate (9-26) <input type="checkbox"/> High (27-34) <input type="checkbox"/> Very High (35-42)
Risk Level	Low									
	Moderate									
	High									

PART III - ASSESSMENT OF OTHER NEEDS/SPECIAL CONSIDERATIONS

1. Family/Parents

Chronic history of offences
mother

Financial/accommodation problems

Abusive

Emotional distress/psychiatric
family trauma

Uncooperative parents problems

Significant

Specify

Drug-alcohol abuse

Cultural/ethnic issues

Marital conflict

Abusive father

Other

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2. Youth

- | | | |
|---|--|--|
| <input type="checkbox"/> Health problems
threat | <input type="checkbox"/> Peers outside age range | <input type="checkbox"/> Third party |
| <input type="checkbox"/> Physical disability | <input type="checkbox"/> Depressed | <input type="checkbox"/> History of sexual/physical assault |
| <input type="checkbox"/> Low intelligence/Developmental delay | <input type="checkbox"/> Low self-esteem | <input type="checkbox"/> History of assault on authority figures |
| <input type="checkbox"/> Learning disability | <input type="checkbox"/> Inappropriate sexual activity | <input type="checkbox"/> History of weapon use |
| <input type="checkbox"/> Underachievement | <input type="checkbox"/> Racist/sexist attitudes | <input type="checkbox"/> History of fire setting |
| <input type="checkbox"/> Poor Problem solving skills | <input type="checkbox"/> Poor social skills | <input type="checkbox"/> History of escapes |
| <input type="checkbox"/> Victim of physical/sexual abuse | <input type="checkbox"/> Engages in denial | <input type="checkbox"/> Protection issues |
| <input type="checkbox"/> Victim of neglect | <input type="checkbox"/> Suicide attempts | <input type="checkbox"/> Adverse living conditions |
| <input type="checkbox"/> Shy/withdrawn | <input type="checkbox"/> Diagnosis of psychosis | <input type="checkbox"/> Other |

Comments (note any special responsivity consideration including the need for culturally specific services):

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PART V – CASE MANAGEMENT PLAN

Goal 1	Means of Achievement
Goal 2	Means of Achievement

Goal 3	Means of Achievement
Goal 4	Means of Achievement

Summary: Please indicate any additional actions relevant to the terms of the disposition.

Appendix B: Coding of Variables Included in Analyses

- Gender:
 - 0=female
 - 1=male
- Age:
 - 1=<=14 years old
 - 2=15 years old
 - 3=16 years old
 - 4=17 or 18 years old
- Race:
 - 0=white
 - 1=Other
 - 2=Black
 - 3=Aboriginal
- Nature of the First Offence:
 - 0=other offences
 - 1=property related offence
 - 2=offences against the person
- Conviction of a Second Offence:
 - 0=no
 - 1=yes
- Nature of the Second Offence:
 - 0=offence against the person
 - 1=property related offence
 - 2=other
- Length of the Probation Order:
 - 0= less than 12 months
 - 1=12 months
 - 2=longer than 12 months
- Length of Probation In Raw Days:
 - total number of days in raw score
- Total of Conditions:

- total number of conditions in raw score
 - also appears in the aggregate 1 thru 9 conditions and 10 or more conditions
- Prior Criminal History and Current Disposition Overall Risk/Needs Assessment Score:
 - 0=low
 - 1=moderate
 - 2=high
 - Individual Measures of Prior Criminal History and Current Disposition (all 0=no, 1=yes):
 - Three or more prior findings of guilt
 - Two or more prior failures to comply
 - Prior probation
 - Prior custody
 - Three or more current findings of guilt
 - Family Circumstance and Parenting Overall Risk/Needs Assessment Score:
 - 0=low
 - 1=moderate
 - 2=high
 - Individual Measures of Family Circumstance and Parenting (all 0=no, 1=yes):
 - Inadequate supervision
 - Difficulty in controlling behaviour
 - Inappropriate discipline
 - Inconsistent parenting
 - Poor relations/father-child
 - Poor relations/mother-child
 - Education and Employment Overall Risk/Needs Assessment Score:
 - 0=low
 - 1=moderate
 - 2=high
 - Individual Measures of Education and Employment (all 0=no, 1=yes):
 - Disruptive classroom behaviour
 - Disruptive schoolyard behaviour
 - Low achievement
 - Problems with peer relations
 - Problems with teacher relations
 - Truancy
 - Unemployed/not seeking employment

- Peer Relations Overall Risk/Needs Assessment Score:
 - 0=low
 - 1=moderate
 - 2=high

- Individual Measures of Peer Relations (all 0=no, 1=yes):
 - Some delinquent acquaintances
 - Some delinquent friends
 - No or few positive acquaintances
 - No or few positive friends