

MOVING THE DIAL ON YOUTH WELLBEING

A YouthREX Research to Practice Report

Supporting Positive Outcomes for Youth Involved with the Law

by Siu Ming Kwok, Rebecca Hower,
Heidi HeavyShield, Rebecca Weatherstone,
and Dora Tam



YOUTHREX
Research &
Evaluation eXchange

DEDICATION

This report is dedicated to Eudora Lee, a YouthREX colleague who passed away in March 2017 when she was in her early thirties. Eudora was a Phd Candidate in Sociology at the University of Hong Kong and held a degree in Criminology from the University of Toronto.

The YouthREX team greatly admired and respected Eudora's enthusiasm, professionalism, and devotion to research and action for social justice. Eudora started the literature search for this report and we were very impressed by her exceptional work ethic and meticulous approach. Eudora left us before we were able to finish the report together. Now the report is completed and we would like to dedicate it to our former colleague and good friend – Eudora Lee.

AUTHORS

Dr. Siu Ming Kwok	Professor, Faculty of Social Work Southern Alberta Region, University of Calgary
Rebecca Houwer	Knowledge Exchange Manager, YouthREX PhD Candidate, Faculty of Education, York University
Heidi HeavyShield	Sessional Instructor, Faculty of Social Work Southern Alberta Region, University of Calgary
Rebecca Weatherstone	Registered Social Worker Ontario Ministry of Community Safety and Correctional Services
Dr. Dora Tam	Associate Professor, Faculty of Social Work Southern Alberta Region, University of Calgary

CONTRIBUTORS

Dr. Uzo Anucha	Provincial Academic Director, YouthREX Associate Professor, School of Social Work, York University
Yumi Numata	Knowledge Mobilization & Communications Manager, YouthREX
Anita Sekharan	Lead Designer & Digital Content Manager, YouthREX

ABSTRACT

This report reviews literature that helps us understand how to better support positive outcomes for youth involved with the law. The report is meant to serve as a resource and guide for evidence-based practice for programs that work with youth. The report explores the impact of the Youth Criminal Justice Act (YCJA), the legal statute that governs youth justice programs and systems in Canada. The YCJA's emphasis on using extrajudicial measures to divert first time or less serious and non-violent offenders away from the criminal justice system has successfully shifted the focus of the youth justice system from being more punitive to being more rehabilitative. Nonetheless, the YCJA is only regarded as a “qualified success” because the incarceration rate of Indigenous youth has not decreased, and there have been unintended adverse impacts on youth from racialized groups. This report explores the outcomes of this legislation, reviews “what works” from the literature, and provides recommendations and evidence-based guidelines and principles for practitioners and program developers to support positive outcomes for youth involved in the law.

KEYWORDS

Youth in conflict with the law, Youth Criminal Justice Act, crime, extrajudicial measures, prevention, rehabilitation, intervention, custody, detention, racialized youth, Aboriginal youth, Indigenous youth, visible minority youth, program evaluation, program development, crime, youth justice, delinquency, prevention program, Canada, Ontario, evidence-based practice, promising practice, proven program, positive outcomes, meta-analysis, quantitative review, and systematic review

APA CITATION

Kwok, S.M., Houwer, R., HeavyShield, H., Weatherstone, R. & Tam, D. (2017). *Supporting Positive Outcomes for Youth Involved with the Law*. Youth Research and Evaluation eXchange (YouthREX). Toronto, ON.

RESEARCH TO PRACTICE REPORTS

Moving the Dial on Youth Wellbeing is a series of multi-source plain language Research to Practice reports that selectively review, synthesize and translate practice-relevant research, evaluation and experiential evidence applicable to the work of youth sector stakeholders across Ontario.



This report is licensed under a Creative Commons Attribution- NonCommercial 2.5 Canada License.

This report may be reprinted or distributed, including on the Internet, without permission, provided it is not offered for sale, the content is not altered, and the source is properly credited.

This research was commissioned by the Youth Research and Evaluation eXchange.

YouthREX is primarily funded by the Ontario Ministry of Children and Youth Services with extensive contributions from York University and the four partner universities: Carleton University; King's College University at Western University; Laurentian University and Lakehead University.

YouthREX

School of Social Work
York University
4700 Keele Street
Toronto, Ontario M3J 1P3
Fax: 416-650-3861
youthrex@yorku.ca
www.youthrex.com
www.exchange.youthrex.com

Electronic ISBN 9781550146523

TABLE OF CONTENTS

01 // Introduction	7
1.1 What is this report about?	7
1.2 Who is this report for?	7
1.3 Methodology	7
1.3.1 Guiding principles for literature review	7
02 // Context	9
2.1 A brief history of youth justice in Canada	9
2.2 Youth Criminal Justice Act (YCJA) & Extrajudicial Measures (EJM)	9
2.3 Statistical snapshot of youth at risk and offending in Canada	12
2.3.1 Police-report crime statistics	13
2.3.2 Youth court statistics	14
2.3.3 Youth correctional statistics 2014/2015	15
2.3.4 Ontario context	16
03 // What Do We Know?	18
3.1 Qualified success of Youth Criminal Justice Act (YCJA)	18
3.2 Over-representation of Indigenous youth in youth justice system	18
3.2.1 Good practice with Indigenous youth involved with justice system	19
3.3 Racialized youth in conflict with the law	20
3.4 Characteristics of effective prevention and intervention programs	23
04 // What Works for Youth Involved with the Law	25
05 // Moving the Dial: Recommendations for Improving Outcomes for Youth Involved with the Law in Ontario	27
5.1 System changes and integration	27
5.2 Program design and practices	28
5.3 Program integrity and improvement	28
06 // Conclusion	29
07 // References	30
08 // Glossary	31
09 // Appendices	32

The purpose of this report is to critically review and identify gaps in the research literature and evidence-based practices that support the wellbeing of youth involved with the law.

01 // INTRODUCTION

There are three enduring questions that have been asked throughout the history of youth criminal justice:

- 1) *Why do youth become involved in the justice system;*
- 2) *What is the best way to support them once they do; and*
- 3) *How can Social Science research inform interventions to improve outcomes of youth involved with the law?*¹

This report focuses on responding to the last two questions by reviewing current literature in order to identify evidence-based practices that support positive outcomes for youth involved with law.² This report begins with an introduction to the topic, provides background context on the criminal justice system in Canada with a focus on Ontario, and then examines the most recent evidence to identify “what works” to improve outcomes for youth involved with the law. The report concludes with recommendations for practitioners and organizations working with youth involved with the criminal justice system.

1.1 WHAT IS THIS REPORT ABOUT?

The purpose of this report is to critically review and identify gaps in the research literature, as well as established evidence and evidence-based practices that support the wellbeing of youth involved with the law. As such, this report presents a snapshot of both academic and grey literature, highlighting proven and promising practices that are evidence-based and that provide an important starting point for those who are interested in program development, delivery, and/or practice with youth involved with the law.

1.2 WHO IS THIS REPORT FOR?

The report is aimed at practitioners and administrations of community-based organizations working with youth involved with the law and who are interested in learning about the current literature related to evidence-based practice with this population. Additionally, this report will be relevant to those who are not working in this field but want to understand how

to support positive outcomes for youth who may have been, or might become, involved with the law.

1.3 METHODOLOGY

This selective literature review draws on an array of sources, including academic and peer-reviewed papers and books and grey literature (e.g., policy documents, government reports, conference papers, and unpublished dissertations).

The keywords used were: youth in conflict with the law, crime, youth justice, delinquency, prevention program, intervention programs, treatment programs, Aboriginal youth, indigenous youth, visible minority youth, youth from racialized groups, Canada, Ontario, evidence-based practice, promising practice, proven program, positive outcomes, meta-analysis, quantitative review, and systematic review.

Specific databases used were: Academic Search Premier, Criminal Justice Abstracts, PsychINFO, MEDLINE, Psychology and Behavioural Science Collections and Current Contents, Sociological Abstracts, Scope, Social Work Abstract, Social Sciences Abstracts. In addition, computer and searches were made of listings of unpublished materials (Dissertation Abstracts International, ERIC, ProQuest).

1.3.1 GUIDING PRINCIPLES FOR LITERATURE REVIEW

This report adopts the guiding principles of the Review of Roots of Youth Violence report in reviewing the literature for proven and promising practices for youth involved with the law.³ Proven (model) programs/practices are those that have been proven effective through numerous high-quality evaluations in different communities or settings. Promising programs are those that have been subject to limited evaluation and have produced some positive results. However, unlike proven programs, promising programs may not have been evaluated using the most rigorous scientific standards, may have produced inconsistent results, or may not have been replicated in different types of communities.⁴

¹ Kim, Merlo, & Benekos, 2013.

² Youth involved with the law in this report refer to those youth with the age from 12 to 17 who are being arrested, charged by police or convicted in court under the Youth Criminal Justice Act.

³ McMurtry & Curling, 2008.

⁴ McMurtry & Curling, 2008.

In addition to identifying proven and promising programs, the report prioritized statistical meta-analysis⁵ of program evaluations when available. However, there is very little research or program evaluation evidence about practices that support Indigenous youth and racialized youth involved with the law thus making the use of meta-analytical synthesis on these studies infeasible. Notwithstanding this limitation, literature in this area is included for review and for reference purposes.

A note on assessing the literature: measuring the outcomes of prevention or intervention programs is challenging. First, there are often research design flaws in the strategies used by the researchers to evaluate the programs. The second challenge is inconsistency in evaluation approaches and designs.⁶ The “gold standard”⁷ for evaluations in the Social Sciences, the random control trial, is seldom used in youth justice programs. The problem in identifying successful programs is that the lack of consistency in how analysts review the research base makes it hard to compare programs.⁸

⁵ Meta-analysis is the statistical procedure for combining data from multiple studies. When the treatment effect (or effect size) is consistent from one study to the next, meta-analysis can be used to identify this common effect. When the effect varies from one study to the next, meta-analysis may be used to identify the reason for the variation. In theory, a meta-analysis should be the best way to determine what to expect in the way of effectiveness of youth crime prevention and/or intervention programs.

⁶ Greenwood, 2008.

⁷ “Gold standard” refers to experiments that compare the effects of an intervention on youths who have been assigned randomly to alternative interventions (Shadish, Cook, & Campbell, 2002).

⁸ Greenwood, 2008.

02 // CONTEXT

2.1 A BRIEF HISTORY OF YOUTH JUSTICE IN CANADA

From its inception, and in the context of theory and research, youth justice has been an evolving system seeking effective strategies to reduce recidivism, or re-offending.

Beginning in 1899 with the founding of the Cook County Juvenile Court in the United States, a defining principle of youth justice has been that youth are different from adults and therefore require different treatment from the criminal justice system. In this narrative, it is generally accepted that children and youth are qualitatively different from adults and therefore their differences warrant a separate court designed to recognize the special nature of child and youth development.⁹

With this historical context, Canada enacted the Juvenile Delinquents Act (1908-1984) and established a separate justice system for children and youth. The 1908 Juvenile Delinquents Act (JDA) represented a major philosophical change in Canada. Before 1908, children in conflict with the law were treated similar to adult criminals, often receiving harsh sentences for relatively minor crimes. Furthermore, despite provisions in the 1892 Canada Criminal Code, they were frequently detained with adults while awaiting trial and sentenced to adult prisons. In contrast, with the context of “child-saving movement”, the JDA took a social welfare approach to youth crime with a focus on rehabilitation. The different focus is immediately apparent in section 38 of the Act, which states: “the care and custody and discipline of a juvenile delinquent shall approximate as nearly as may be that which should be given by its parents, and that as far as practicable, every juvenile delinquent shall be treated, not as a criminal, but as a misdirected and misguided child.”¹⁰ However, the development of youth courts with its emphasis on rehabilitation, have had skeptics and critics because of the high rate of recidivism among juvenile delinquents.¹¹

An increase in youth violence in the 1980s and 1990s contributed to a “moral panic” which resulted in an era of

punitive youth justice that threatened the viability of the youth justice system. Congruent with dominant narratives circulating in the 1970s that “nothing works” to rehabilitate young people, the discourse shifted to “getting tough” with youth; the narrative in juvenile justice intervention shifted from rehabilitation to punishment.¹² Accordingly, the Youth Justice Statute in Canada changed from using the language of “delinquents” to using the language of “young offenders” with the introduction of the Young Offenders Act (1984-2003).

When the youth crime rate decreased and the politicization of crime abated, juvenile justice, with a focus on rehabilitation, re-emerged in the 2000s with a focus on supporting youth development and reducing recidivism through the use of evidence-based programmes, data-driven policies, and best practice models and principles of effective programming.¹³

These programs embed positive youth development, place and community specificity, and culturally responsive approaches.

As well, in response to concerns in Canada about the overuse of the courts and incarceration in less serious cases and the need to better take into account the interest of victims, the Youth Criminal Justice Act (YCJA) came into force on April 1, 2003 and it was amended in 2012.¹⁴ We explain the YCJA in the next section.

2.2 YOUTH CRIMINAL JUSTICE ACT (YCJA) & EXTRAJUDICIAL MEASURES (EJM)

In Canada, the YCJA is the law that governs the youth justice system in this county. It applies to youth who are at least 12, but less than 18, years old and who are alleged to have committed criminal offences.

Experiences in Canada and other countries show that

⁹ Tanenhaus, 2004

¹⁰ The Young Offenders Act: A Revolution in Canadian Juvenile Justice, p. 132

¹¹ Feld, 1999; Tanenhaus, 2004

¹² Merlo & Benekos, 2010

¹³ Lipsey, Howell, Kelly, Chapman, & Carver, 2010

¹⁴ Department of Justice, 2013

community-based interventions and supports outside the court process can provide effective responses to less serious youth crime.¹⁵ Thus, one of the key objectives of the YCJA is to increase the use of effective and timely non-court responses to less serious offences by youth.

Responses to less serious youth offences that can be handled out of the court system are called extrajudicial measures. The YCJA contains provisions to increase the appropriate use of extrajudicial measures for less serious youth offences and includes the following principles:¹⁶

- Extrajudicial measures should be used in all cases where they would be adequate to hold the young person accountable for their actions.
- Extrajudicial measures are presumed to be adequate to hold first-time, non-violent offenders accountable.
- Extrajudicial measures may be used if the young person has previously been dealt with by extrajudicial measures or has been found guilty of an offence. As amended in 2012, the YCJA requires police to keep records of any extrajudicial measures used with a young person. These records will inform police so that they can take appropriate action in the event of subsequent alleged offences.

Additionally, the YCJA requires police officers to consider the use of extrajudicial measures before deciding to charge a young person. Police and prosecutors are specially authorized to use various types of extrajudicial measures prior to considering whether or not to press charges against the youth. The following responses to offense allegations are possible:

- **Take no further action.**
- **Warning**, which are informal warnings given to youth by police officers.
- **Police cautions**, which are more formal warnings given to youth by the police. The YCJA authorizes provinces to establish police cautioning programs. Police cautions may be in the form of a letter from the police to the young person and their parents, or they may involve a process in which the young person and their parents are requested to appear at a police station to talk to a senior police officer.

- **Crown cautions**, which are similar to police cautions but prosecutors give the caution after the police refer the case to them. Crown cautions are in the form of a letter to the young person and the parents.
- **Referral**, which are referrals by police officers of young persons to community programs instead of pressing a charge against the youth. The referral may be to a wide range of community resources, including recreation programs and counselling agencies.
- **Extrajudicial sanction**, which is the most formal type of extrajudicial measure, may be issued pre-charge or post-charge. Unlike the other types of extrajudicial measures, they may be used only if the young person admits responsibility for the offending behaviour and consents to subject to the sanction. The admission of responsibility is not a guilty plea to the alleged offence. Often the offence committed is quite minor and therefore processing within the court system is not warranted.
- **In addition**, the sanctions must be part of an extrajudicial sanction program designated by the Attorney General. If the young person fails to comply with the terms and conditions of the sanction, the case may proceed through the court process. An extrajudicial sanction can be used only if the young person cannot be adequately dealt with by a warning, caution, or referral.

It is important to remember that most adolescents engage in minor crime and naturally grow out of it. Most youth will transition out of involvement with criminal activities, and the less that is done to intervene (particularly through the criminal justice system) the better. Many youth that end up in court eventually have the charges withdrawn. Data from Statistics Canada shows that 42% of cases in youth court in Ontario were stayed or withdrawn.¹⁷ The purpose of pre-charge diversion is to make sure that the cases that are referred are those that would not have otherwise been withdrawn. Frontline youth justice professionals would benefit from guidelines for recommending extrajudicial measures. Guidelines will ensure that we are not criminalizing youth for normal adolescent behaviour.

¹⁵ Department of Justice, 2013; Wilson & Hoge, 2013.

¹⁶ Department of Justice, 2013.

¹⁷ Statistics Canada, n.d.

CASE SCENARIO

Indigenous Extrajudicial Measures (EJM) Program

Shane, 16, is an Indigenous young man who lives with his mother in social housing. The family is on social assistance.

When Shane was eight years old and his sister was two years old, his family moved from their First Nations community to a nearby city in Southwestern Ontario. His father left the family when he was 10 and his mother has suffered from depression since then. His younger sister was taken into care at the age of four under a voluntary agreement with Child Welfare Services. Unfortunately, his sister died in care six months later due to an unfortunate car accident. Shane has had a history of self-harming behaviour after his father left the family and the loss of his sister. He was struggling in school and claimed to be affiliated with an Indigenous urban gang as a fringe member.

One day Shane was hanging out with a friend who was his “big brother” in the gang. The two of them went into a large electronic retail store. A staff of the store witnessed Shane’s friend have a conversation with him in front of the cell phone accessories aisle. The friend then left the store by himself. Shortly after Shane’s friend left shortly, Shane started putting some cell phone accessories in his backpack headed out of the store. Shane was stopped at the exit by a security guard who searched Shane’s backpack and found unpaid cell phone accessories in the amount of \$500. Both Shane’s mother and the police were called.

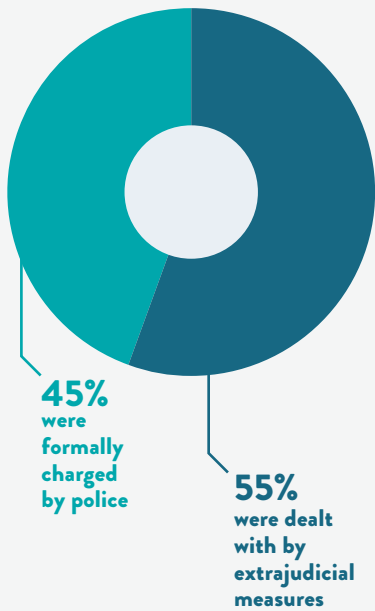
Shane was taken to the police station where he had a meeting with his mother and an Indigenous police officer. During the intake interview, Shane shared that he still struggles with issues of loss over his younger sibling, the absence of his father, and displacement from this home community and culture. After talking to Shane and his mother and understanding more about his family background and situation, the police officer decided to not press charges. Instead, the officer offered Shane an opportunity to participate in a extrajudicial measures (EJM) diversion program that is designed for Indigenous youth.

The program Shane was referred to has been running for 15 years and has supported hundreds of youth to regain community and cultural connections. Youth involved in the program build relationships with Elders and peer mentors. It offers healing supports through a sweat lodge and counselling to work through unprocessed grief and loss. The program offers referral services for Shane’s mother to support her on her healing journey. The program takes a restorative approach to youth justice and hosts healing and sharing circles that can include family and community members. Shane will have support to finish school as well as opportunities to learn skills and enroll in a program that provides on the job training. Shane agreed to voluntarily participate in the EJM program and contacted the community agency that runs the program to get started.

2.3 Statistical Snapshot of Youth at Risk and Youth Offending in Canada

9,200

Youth were accused of a criminal offence Canada in 2015



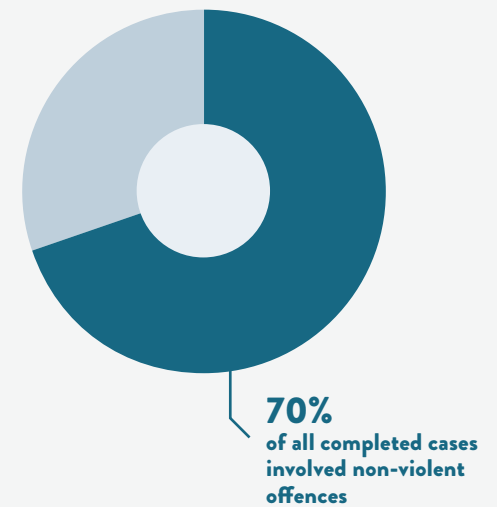
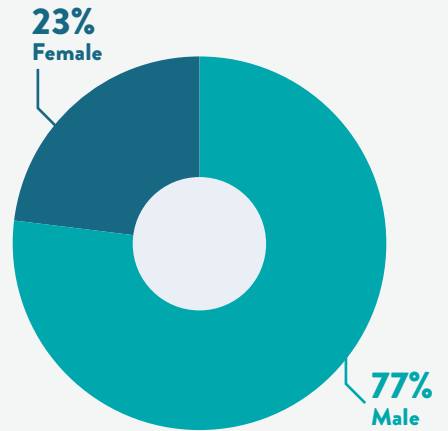
Peak Times for Youth Crime



Youth Court Stats

32,835

Youth Court cases were completed in 2014/2015



Top Ten Common Offences

- Theft - 11%
- Common Assault - 8%
- Break and enter - 8%
- Failure to comply with an order - 7%
- Mischief - 6%
- Major Assault - 6%
- Possess stolen property - 5%
- Drug possession - 5%
- Uttering threats - 5%
- Robbery - 4%

2.3.1 POLICE-REPORT CRIME STATISTICS

Overall, the police-reported youth crime rate has been on a general downward trend since peaking in 1991. In total, there were about 9,200 youth accused of a criminal offence in 2015 in Canada. Among these youth, 55% were dealt with by extrajudicial measures, while the remaining 45% were formally charged by police. Since the implementation of the YCJA, the rate of youth dealt with by extrajudicial measures has continued to be higher than the rate of youth formally charged (See Figure 1).¹⁸

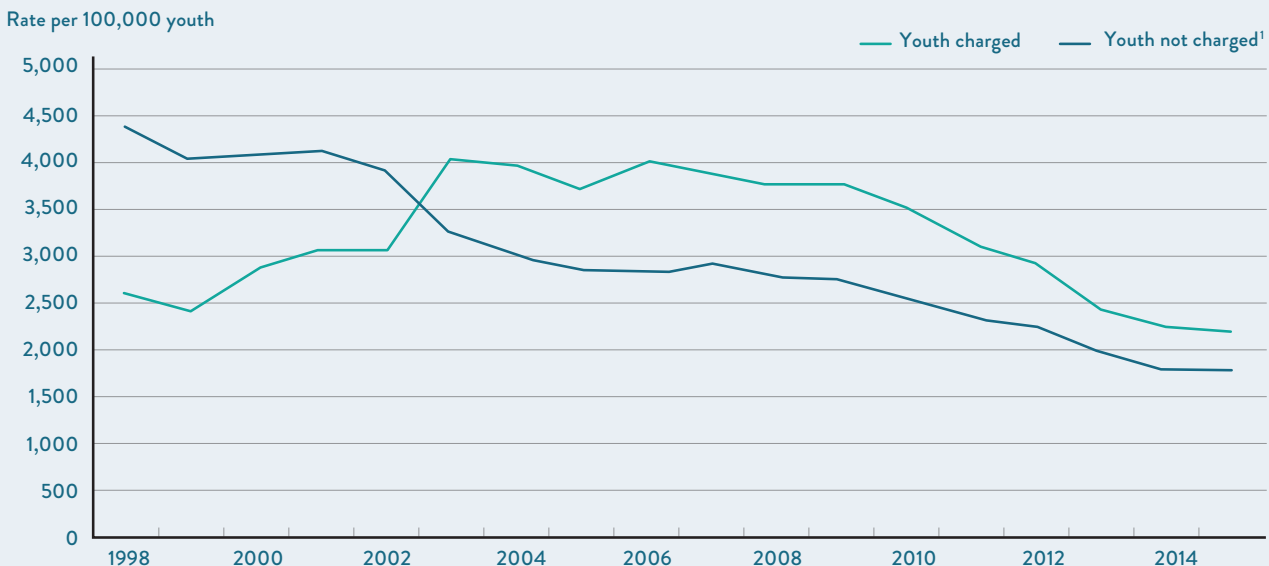
The volume and severity of youth crime has continued on a downward trend as well. Between 2014 and 2015, the *Youth Crime Severity Index* (Youth CSI) which measures both the volume and severity of crime involving accused youth (both charged and not charged) declined 1%, primarily due to a decrease in non-violent crime. The rate of youth accused of crime, as well as the *Youth CSI* continued to decline, while the overall police-reported crime rate in Canada increased between 2014-2015.

The Crime Severity Index (CSI) was developed to address the limitations of the police-reported crime rates being driven by high-volume, relatively less serious offences. The CSI not only takes into account the volume of crime, but also the seriousness of crime. The Youth Crime Severity Index is based on the same principles as the overall Crime Severity Index, which reflects the relative seriousness of different offences, but uses the number of youth accused instead of an incident account.

The peak times for youth crime were:

- After school hours (3 to 6 p.m.), for violent (22%) and non-violent (20%) crime;
- Early afternoon (noon to 3 p.m.) for drug offences (24%).
- Night-time (9 p.m. to midnight) for youth traffic violations (28%)¹⁹

Figure 1 | Youth Accused of crime, by clearance status, Canada, 1998-2015



1. Includes youth diverted from the formal criminal justice system through the use of extrajudicial measures, such as warnings, cautions or referrals to community programs.

Note: Additional data are available on CANSIM (Table 252-0051). Refers to the number of youth aged 12-17 years who were either charged (or recommended for charging) by police or diverted from the formal criminal justice system through the use of warnings, cautions, referrals to community programs, etc. Rates are calculated on the basis of 100,000 youth population. Populations are based on July 1 estimates from Statistics Canada, Demography Division

Source: Statistics Canada, Canadian Centre for Justice Statistics, Uniform Crime Reporting Survey

¹⁸ Milligan, 2010.

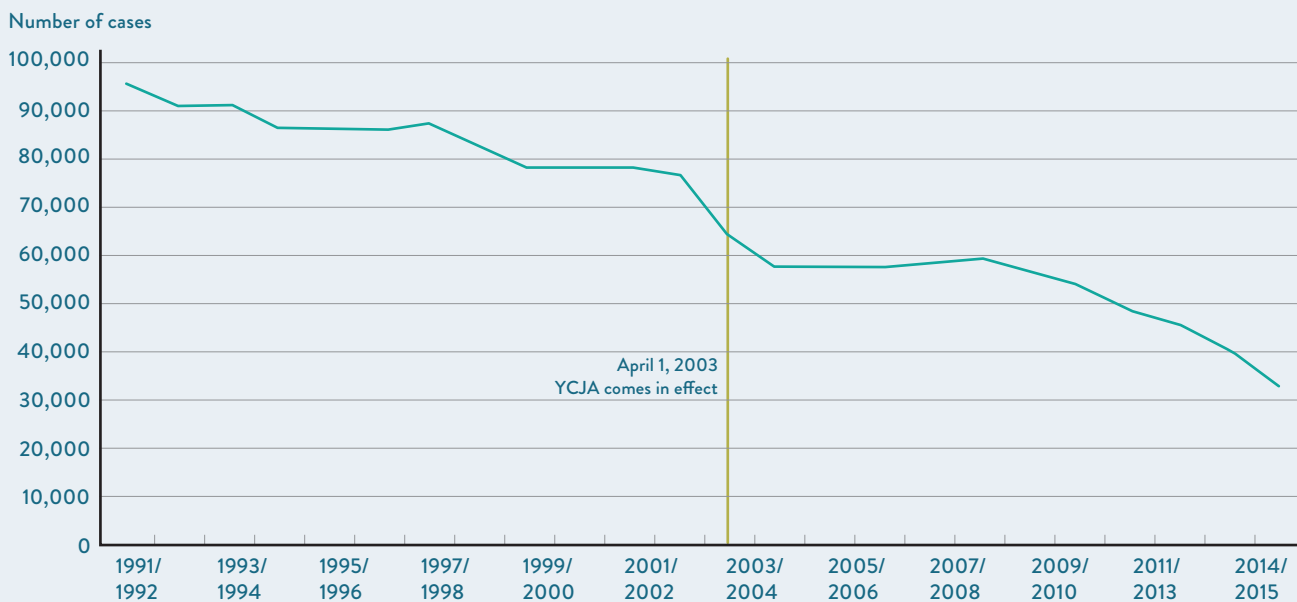
¹⁹ Miladinovic, 2016.

2.3.2 YOUTH COURT STATISTICS

In 2014/2015, Canada’s youth courts completed 32,835 cases involving 120,907 charges related to the Criminal Code and other federal statute offences, including offences related to the YCJA. The number is the lowest of completed youth court cases since these data were first collected by

Statistics Canada in 2001/1992 (See Figure 2).²⁰ Ontario, which reported the largest number of youth cases among the provinces and territories, had the largest absolute decrease in the number of cases (-3,340). This corresponds to 23% fewer completed youth cases in 2014/2015 compared to the previous year in Ontario.²¹

Figure 2 | Cases completed in youth court, Canada, 1991/1992 to 2014/2015



Note: A case is one or more charges against an accused person or company that were processed by the courts at the same time and received a final decision.

Source: Statistics Canada, Canadian Centre for Justice Statistics, Integrated Criminal Court Survey

Moreover, almost all types of completed youth court cases decreased in 2014/2015. Most youth court cases in 2014/2015 involved non-violent offences, representing 70% of all completed cases. Five Criminal Code offence types made up 40% of all completed cases. These five offences were: theft (11%), common assault (8%), break and enter (8%), failure to comply with an order (7%), and mischief (6%) (See Figure 3).²²

In 2014/2015, more than three-quarters of accused persons in youth court were male (%). The proportion of youth accused that are male has consistently ranged between 77% to 78% for the past fifteen years. Although

Figure 3 | Top Ten Common Offences

- Theft - 11%**
- Common Assault - 8%**
- Break and enter - 8%**
- Failure to comply with an order - 7%**
- Mischief - 6%**
- Major Assault - 6%**
- Possess stolen property - 5%**
- Drug possession - 5%**
- Uttering threats - 5%**
- Robbery - 4%**

²⁰ Miladinovic, 2016.

²¹ Miladinovic, 2016.

²² Miladinovic, 2016.

females accounted for 23% of cases overall, they had a higher representation in cases involving non-violent offences, for example prostitution (44%), and failure to appear (39%), were listed as the most common offence types among accused female youth. Cases with the lowest representation of females accused were those involving sexual assault (3%) and other sexual offences (4%).

Generally, individuals accused of having committed an offence when aged 16 to 17 years old, regardless of sex, made up the largest proportion of accused in youth court in 2014/2015 (63% of male youth accused and 59% of female youth accused).

2.3.3 YOUTH CORRECTIONAL STATISTICS 2014/2015

The overall rate of youth in correctional services has decreased. In 2014/2015, there were 7,966 youth aged 12 to 17 years being supervised in either custody or a community program on any given day in the nine reporting jurisdictions (Nova Scotia, Quebec, Saskatchewan and Alberta being the exclusions). This equates to a rate of 54 youth in correctional

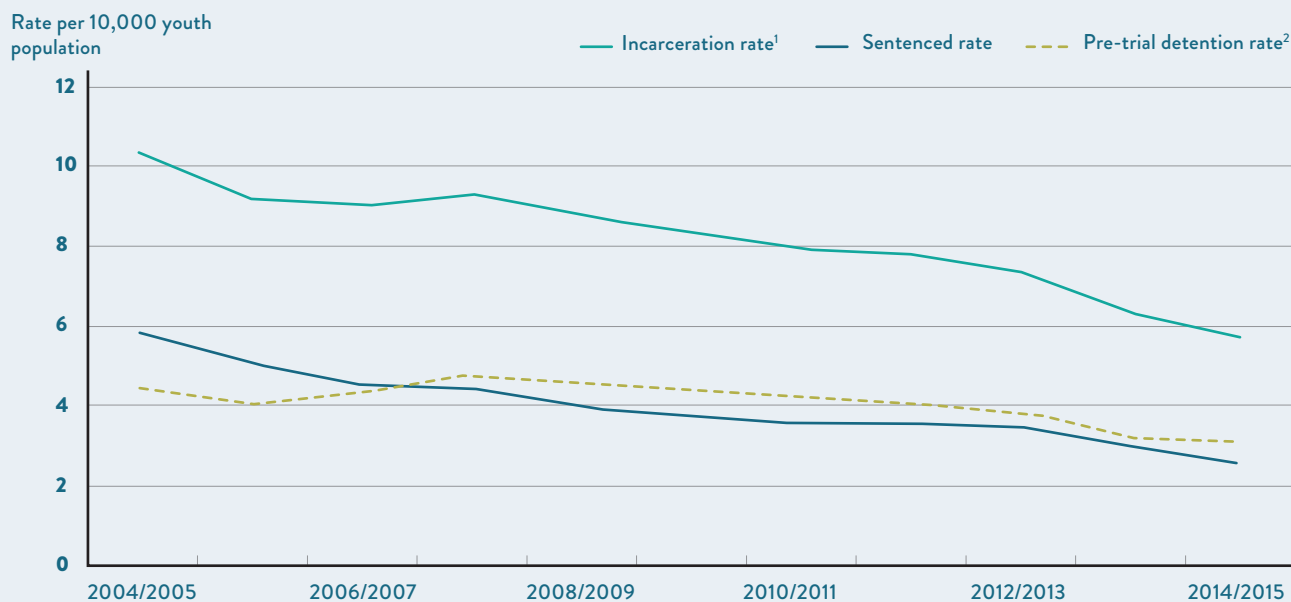
services for every 10,000 youth in Canada. The rate of youth in correctional services among reporting jurisdictions fell 14% from the previous year and was down 31% from five years earlier (See Figure 4).²³

Under the YCJA, the youth justice system is meant to reserve its most serious interventions for the most serious crimes and reduce the system's over-reliance on incarceration. In 2014/2015, in the 12 reporting jurisdictions, there was an average of 1,040 youth being held in some type of custody on any given day. This translates into a youth incarceration rate of 6 per 10,000 youth. The rate was down 12% from the previous year and 26% from 2010/2011.

It should be noted that since 2007/2008, youth held in pre-trial detention have outnumbered those held in sentenced custody. The high pre-trial detention rate is not in line with the spirit of YCJA that asks for using non-custodial means.

²³ Statistics Canada, 2016.

Figure 4 | Youth in custody, eleven jurisdictions, 2004/2005 to 2015



1. Incarceration rate includes sentenced custody, pre-trial detention, and Provincial Director remand.

2. Pre-trial detention is to hold a young person temporarily in custody, while awaiting trial or sentencing. It is equivalent to remand for adults.

Note: The average rate of youth in custody at the provincial and territorial level exclude Quebec and Alberta due to the unavailability of data for part of the period covered. Rates are calculated per 10,000 youth population (12-17 years old) using revised July 1st population estimates from Statistics Canada, Demography Division

Source: Statistics Canada, Canadian Centre for Justice Statistics, Youth Corrections Key Indicator Report, 2014/2015

In Ontario, the number of youth held in pre-trial detention in 2013 was 3,650, and Indigenous youth made up 11% of the total which is slightly higher than previous year of 10.8%.

In 2014/2015, the rate of youth in pre-trial detention was 3.1 per 10,000 youth, while that for sentenced custody was slightly less at 2.5.

The rate of youth supervised in the community continues a decade long downward trend. The majority (90%) of youth being supervised in the community were on probation.

2.3.4 ONTARIO CONTEXT

Facing the tragic loss of young people's lives to violence, the Premier of Ontario commissioned the *Review of the Roots of Youth Violence* by Justice Roy McMurtry and Dr. Alvin Curling (2008), in 2007. In addition to completing an extensive literature review and community consultations, McMurtry and Curling reviewed the JDA, YOA, and the YCJA. They sought to understand how the YCJA was being implemented. Therefore, they collected youth criminal justice data from Alberta, British Columbia, Ontario, and Quebec. They concluded that multiple intersecting factors contribute to the roots of youth violence in Ontario. These include: poverty, racism, community design, issues in the education system, family issues, health, lack of youth voice, lack of economic opportunity for youth, and issues in the justice system itself.

Based upon the findings and recommendations from the *Review of the Roots of Youth Violence* report, the Ontario government introduced *Ontario Youth Action Plan* in 2012, an enhanced *Youth Action Plan* in 2015, and *Ontario's Black Youth Action Plan* in 2017. These action plans contribute to youth violence prevention and intervention by providing targeted funding and other supports to youth and communities most in need. The OYAP initiatives include *Stepping Up: A Strategic Framework to Help Ontario's Youth Succeed* which includes a focus on improving outcomes for youth involved with the law. The OYAP also expands the *Youth in Policing Initiative*, the *Jobs for Youth* program, and supports gang prevention, restorative justice, youth development, youth outreach workers, youth mentorship, collective impact programs focused on preventing youth involvement with the law. In parallel with the OYAP, the Ministry of Children and Youth Services (Ministry), also leads the *Youth Justice Services*

Program which is responsible for providing community and custodial programs and services to Ontario youth, aged 12-17, who have been charged with a crime and are awaiting trial or who have been found guilty by the court. The Ministry also provides some services for youth who are at-risk of committing a crime. The *Youth Justice Services Program* has a number of objectives:

- Reduce reoffending;
- Prevent youth crime;
- Increase community safety; and
- Hold youth accountable and create opportunities for at-risk youth through rehabilitative programming.

Since the creation of the Ministry in 2004, it has repositioned *Youth Justice Services* from a predominantly custody-focused system to one that is more community-based. Less than 2% of youth in Ontario are involved with the youth justice system. Male youth account for 75% of all cases.²⁴

During the 2015/16 year, the average daily population in Canada's youth justice system was about 8,455. Of these, 7,514 youth were under community supervision and 998 were in a youth/custody/detention facility. In Ontario, the number in the youth justice system in 2015/16 was 3,183. Of these 2,872 were under community supervision and 311 were in a youth/custody/detention facility.²⁵

In the 2016/17 fiscal year, the Ministry will spend \$350 million on the *Youth Justice Services Program*, including \$186 million in transfer payments to approximately 220 community-based agencies.²⁶

.....
²⁴ Office of the Auditor General of Ontario, 2012; 2014.

²⁵ Jamil Malakieh, 2017

²⁶ Government of Ontario, 2016

Currently, there is no consistent, national definition of youth justice recidivism. The Ministry defines recidivism as a return to provincial youth justice supervision or adult correctional supervision, within two years, on a new conviction that occurs following the completion of community probation or following the completion of a youth custody order of six months or more.

The Ministry has used its own definition of the recidivism to calculate the recidivism rate for *Youth Justice Service Program* in Ontario. Practically, this means that the Ministry does not track recidivism rates for more than 80% of the youth who have come into contact with the *Youth Justice Service Program*. Groups excluded from the calculation for the 2010/11 fiscal year include all youth held in detention prior to trial, all youth diverted from court through extrajudicial sanction, more than 90% of youth sentenced to custody, and approximately two-thirds of youth sentenced to community supervision. In other words, only youth who have been found guilty through the court process and have served a sentence longer than six months are tracked.²⁷

Using the definition provided by the Ministry, the recidivism rate for youth in Ontario with community-based sentences who are tracked has remained relatively stable over the years at 35%; the rate for youth with custody sentences who are tracked is 59%.²⁸ In the 2014 *Office of the Auditor of Ontario Annual Report*, the Ministry stated that it has identified three outcome measures that it will begin tracking in addition to recidivism (re-offense). For each outcome, the Ministry has also established indicators (Appendix 1).

.....

²⁷ Office of the Auditor General of Ontario, 2012.

²⁸ Office of the Auditor General of Ontario, 2012.

03 // WHAT DO WE KNOW?

Most literature on youth involved with the justice system is specially concerned with evidence about preventing recidivism (re-offending).²⁹

In fact, the bifurcation of the youth justice system³⁰ as laid out in the Youth Criminal Justice Act (YCJA) and the emphasis of this statute on the application of extrajudicial measures to first-time and non-violent youth who come in contact with the law is a response to a growing body of results from empirical research that involvement in the youth justice system, holding all other factors constant, is associated with an increased likelihood of offending behaviour.³¹ As such, the main consideration for youth justice research and youth legal statutes is which interventions for young offenders lead to a reduction in reoffending.

3.1 QUALIFIED SUCCESS OF YOUTH CRIMINAL JUSTICE ACT (YCJA)

The pre-court diversion and sentencing provision of the YCJA brought about a major change in the youth justice system in Canada. The data related to the new legislation demonstrates that the Act has had a significant impact. Without increasing recorded youth crime, the YCJA has resulted in a very significant reduction in the use of courts and custody for adolescent offenders in Canada.³²

Despite the success of the YCJA in achieving its principle objective, the rate of remand custody remains very high. Youth held in pre-trial detention have outnumbered those held in sentenced custody since 2007/2008 (See Chart 4 in previous section).³³ In particular, Indigenous young people remained disproportionately over-represented with respect to remand and custodial sentences.³⁴

3.2 OVER-REPRESENTATION OF INDIGENOUS YOUTH IN YOUTH JUSTICE SYSTEM

Notwithstanding the decrease of youth incarceration in general, the situation for Indigenous youth is concerning. Indigenous youth continue to be overrepresented in the correctional system even after the YCJA.

Indigenous youth are overrepresented in the Canadian youth justice system

IN 2014/2015...

5,700 Indigenous youth were admitted to correctional services

POPULATION IN CORRECTIONAL SERVICES



TOTAL YOUTH POPULATION



*In nine reporting jurisdictions across Ontario

There were just over 5,700 Indigenous youth admitted to correctional services in nine jurisdictions in 2014/2015, representing 33% of admission. This percentage was unchanged from the year before. By way of comparison, Indigenous youth aged 12 to 17 account for about 7% of the youth population in the nine reporting jurisdictions.

In 2014/2015, Indigenous females accounted for 44% of female youth admitted to the corrections system, whereas Indigenous males accounted for 29% of male youth admitted. These figures are virtually unchanged from the previous year.

Sentencing principles in the YCJA mandate that the Court consider alternatives to custody, particularly in the case of Indigenous youth. In 2014/2015, 52% of Indigenous youth

²⁹ Newman, Vigurs, Perry, Hallam, Schertler, Johnson, & Wall, 2012.
³⁰ A dominant theme that exemplifies this aspect of the accommodation process of the Youth Criminal Justice Act is the general acceptance of the conceptual bifurcation of youth involved with the law (between 12 and 17 years of age) into two distinguished groups: serious young offenders and minor young offenders. Longer custodial sentencing applies to serious offenders and imposition of community disposition or diversion from the court system altogether is applicable to minor offenders (Kwok & Tam, 2011).
³¹ Wilson & Hoge, 2013.
³² Bala, Carrington, Roberts, 2009.
³³ Statistics Canada, 2016.
³⁴ Corrado, Kuehn, & Margaritescu, 2014.

admitted to correctional services were admitted to custody whereas the comparable figure for non-Indigenous youth was 42%. Conversely, 48% of Indigenous youth were admitted to community supervision compared to 57% of non-Indigenous youth.

Between 2004 and 2009, the proportion of male Indigenous youth admitted to remand custody increased from 21.7% to 25.0% of total male youth remand admissions. Similarly, the proportion of female Indigenous youth admitted to remand custody increased from 27.1% to 33.6% during the same timeframe. Similar trends appear to exist regarding the proportion of Indigenous youth admitted to sentenced custody in the wake of the YCJA. Between 2004 and 2009, the disproportionate rate of Indigenous male youths sentenced to custody rose from 29.2% to 34.1% Indigenous female youth went from 36.6% in 2004/2005 to 44.1% in 2008/2009.

*Therefore, as the figures indicate, Indigenous youth over-incarceration appears to be worsening.*³⁵

While the YCJA mandates diversion for all first-time, and non-serious offenders and the restriction of remand and prison to the most serious and/or violent young offenders,³⁶ it also explicitly directs youth court judges to consider the special needs of Indigenous young offenders at the sentencing stage including alternatives to prison.³⁷ But why then, are more Indigenous youth in custody after the YCJA?

When a youth is first in contact with the justice system, a police officer, under YCJA, is encouraged to exercise his or her discretionary authority to use extrajudicial measures and not to charge a young offender based on that officer's independent consideration of the circumstances. However, given the variable of racism that exists in Canadian society, Indigenous youth are more likely to be denied extrajudicial measures in favour of a more formal response.³⁸

Another hypothesis is that racial discrimination and cultural bias embedded within the common law youth justice system, underlying the YCJA sections involving serious and violent offences, have resulted in the disproportionate rates of incarcerated Indigenous young people along with other minorities.³⁹

In addition, Canada increasingly uses risk assessments at almost every decision point in the youth justice system, especially for the preparation of youth pre-sentencing reports when the youth are already involved in the criminal justice system. In this regard, Maurutto and Hannah-Moffat (2007) indicate that there have been concerns from judges, prosecutors, and defence lawyers about the appropriateness of using risk assessment instruments and risk-based sentencing for young offenders, and, particularly, for racialized youth and Indigenous young people; given the background of historical racism and colonialism, racialized and Indigenous young people are usually in a more disadvantaged position than Caucasian youth. The concern is that the classification of criminogenic risks and needs contradicts the legally mandated principle of proportional sentencing under the YCJA.⁴⁰

3.2.1 GOOD PRACTICE WITH INDIGENOUS YOUTH INVOLVED WITH JUSTICE SYSTEM

Indigenous youth involved with the law are overrepresented in the system. What principles and good practices should guide work with them? There is a paucity of literature regarding proven intervention programs with Indigenous youth. Trotter, Baidawi, and Evans (2015) proposed 24 principles of good practices for working with Indigenous youth in Australia that could be a reference in Canada as well (Appendix 2). These 24 principles are categorized under six thematic areas:

Culturally-informed communication

This is very important to Indigenous youth. Culturally informed communication includes attention to language, listening, and non-verbal aspects of communication including body language and physical environment.

³⁵ Jackson, 2015.

³⁶ The YCJA's Declaration of Principles states that any measures imposed on young offenders should "respect gender, ethnic, cultural and linguistic differences and respond to the needs of Indigenous young persons and of young persons with special requirements". In addition, sentencing section 38(2) (d) of the YCJA, which is equivalent to section 718.2(e) of the Criminal Code, instructs judges that, "all available sanctions other than custody that are reasonable in the circumstances should be considered for all young persons with particular attention to the circumstances of Indigenous young persons" (Corrado, Kuehn & Margaritescu, 2014).

³⁷ Bala & Anand, 2009.

³⁸ Jackson, 2015.

³⁹ Bala and Anand, 2009; Rudin, 2005.

⁴⁰ Corrado, Kuehn, & Margaritescu, 2014; Marinos & Innocente, 2008.

Cultural recognition

The court system, supporting organizations, and people who interface and deliver the system should value Indigenous knowledge and learn about good practices with Indigenous youth and communities.

Environmental awareness

Case workers should create stability in chaotic environments and also learn how to proactively intervene on behalf of Indigenous youth in situations that may be unsettled and provocative.

Working with families

Build trust and good relations with immediate and extended family members. Clear communication and involvement with the family will support the young person.

Task-centred practice and role clarification

Provide practical assistance to young people. Offer opportunities outside of the corrections institution. Non-institutional contexts may enable a young person to open up. When making referrals, provide personal introductions and clear plans and follow-up regarding what is to be achieved through the referral.

Casework process

Provide confidentiality and open communication with youth. Offer positive reinforcement and recognition of the young person's accomplishments

3.3 RACIALIZED YOUTH IN CONFLICT WITH THE LAW

In Canada, non-Caucasian people, including youth experience systemic and negative affects of racializing processes that privilege whiteness. Systemic racism impacts the ways in which institutions afford and deny privileges and access. It affects the experiences of racialized youth, their families and their communities across spheres including: education, child welfare, employment, health, politics and the legal system. This leads to compounding social exclusions. According to the *Report on the Commission on Systemic*

Racism in the Ontario Criminal Justice (1995) racialization refers to “the process by which societies construct races as real, different and unequal in ways that matter to economic, political and social life.”⁴¹ Caucasian people benefit from processes of racialization and people of colour do not. Moreover, racialization affects people differently according to any number of factors that often intersect including: county or region of origin, immigration status, generation, first language, religion, class, sexuality, gender, education, disability, customs, country of origin and physical appearance, among others.

Racialized youth are disproportionately overrepresented in Ontario's criminal justice system.⁴² This mirrors a broader trend in the adult prison population: between 2003 and 2013, the federal prison's population of racialized groups⁴³ (adults) increased by 90%,⁴⁴ despite the general decrease in the crime rate in Canada over the last decade. While disaggregated race-based data is difficult to access, data retrieved from Freedom of Information requests found that black male youth are four more times likely to be incarcerated in Ontario than their Caucasian counterparts.⁴⁵ Extensive research also demonstrates that racialized youth, particularly black male youth, are more likely to experience “stop and frisk” encounters with police than other youth.⁴⁶ Hayle, Wortley and Tanner (2016) suggest that “marginalized status plays a very significant role in explaining why black high school students are disproportionately stopped and searched by police” (p. 323).

Racialized male youth from low-income communities who are socially and financially excluded, have the highest risk factors for coming into contact with the law.⁴⁷ As identified by the *Roots of Youth Violence Report*, and many others, there is a need for anti-racist policies and practices that are targeted and systemic to address the inequitable experiences of racialized and black youth in the criminal justice system. Not only do racialized youth experience discrimination within the justice system but they lack structures to equitably support their wellbeing in areas of employment, education, and social

⁴¹ Cited in A Better Way Forward: Ontario's 3-year Anti-Racism Strategic Plan, p. 11

⁴² Rankin, J. & Winsa, P., 2013; Owusu-Bempah & Wortley, 2014; Ministry of Children and Youth Services, 2017

⁴³ Race is a social construct, as opposed to a biological reality, and racialization is a process of “othering” or of ascribing difference between people. Technically we are all racialized. Based on context, some people benefit from processes of racialization and others do not. Moreover, we are racialized differently according to any number of factors that often intersect including: county or region of origin, immigration status, generation, first language, religion, class, sexuality, gender, education, disability and physical appearance.

⁴⁴ Correctional Investigator, Canada, 2014

⁴⁵ Rankin, J. & Winsa, P., 2013; Owusu-Bempah & Wortley, 2014

⁴⁶ Logical Outcomes, 2014; Meng, Giwa, & Anucha, 2015; Hayle, Wortley, & Tanner, 2016; Social Planning Council of Peel, 2015

⁴⁷ Toronto Police Service, 2011

inclusion.⁴⁸ Black youth in the Toronto District School Board have the lowest high school graduate rates compared to other self-identified racial groups.⁴⁹ Perhaps not unrelatedly, racialized and black youth experience disproportionate school expulsions.⁵⁰

Black youth are also disproportionately represented in the child welfare system⁵¹ and there is significant evidence that this involvement increases chances of involvement in the criminal justice system.⁵² Moreover, racialized youth are at a greater risk of witnessing or experiencing victimization within the home and not reporting it.⁵³ This, in addition to ongoing experiences of institutional racism, contributes to secondary and vicarious trauma and mental health issues, as factors that must also be considered.⁵⁴

“The concentration of violence within marginalized communities points to a convergence of the roots of violence around issues of alienation, economic inequality, and growing anger and resentment, especially among young low-income racially marginalized men.”

~ Tewolde & Olowaye, 2013, p. 7

Another racialized group of young people involved with the law are Asians. While there may be similarities between the needs and experiences of Asian youth involved with the law, there are also important differences. In a series of qualitative studies with the youth, parents, service providers, and other stakeholders, in Vancouver and Toronto, between 2006 and 2016, Kwok and Tam⁵⁵ developed a criminal pathway framework (Appendix 3) as well as guiding principles for promising practices (Appendix 4) with Asian, and in particular Chinese, youth in conflict with the law. The principles and practices identified have practice implications for service delivery, intervention focus, and staff training with this population.

The findings include: the following: First, Chinese youth were found to be less likely to get extrajudicial measures

(diversion from court sanction) under the YCJA once they were labelled as a gang member by the police. Further, there is pressure from parents to ask youth to plead guilty in order to get extrajudicial measures/sanctions and avoid further involvement with the justice system.

Second, Chinese youth have no preference for the ethnicity of service providers. This holds true for those parents who speak limited English.

Third, within group differences are found within the Chinese Canadian community along the lines of immigration status and the city of origin. These impact their access to prevention and intervention programs. For example, second generation Chinese immigrant youth were found to be more hostile to mainstream Canadian society than the first generation; Mandarin-speaking Chinese from the People’s Republic of China have more access barriers to social services than the Cantonese-speaking Chinese from Hong Kong because Mandarin-speaking Chinese are relatively less fluent in English.

Fourth, Chinese youth and their parents prefer concrete advice and tangible services (e.g., how to reinstate the youth to normal class at school after suspension) over clinical counselling at the initial stage of intervention.

Fifth, Chinese youth have very close ties with their family regardless of their level of criminal involvement. In fact, strong family linkage is one of the main motivators for them to stop re-offending. Additionally, there is emerging evidence that Asian international students, the number of which increased tremendously over the last decade, are being targeted by international criminal organizations for offence commission such as credit fraud and drug trafficking.⁵⁶ However, studies that have been conducted in this area are sparse and there is no data available to inform how best to serve them.

The need for disaggregated race-based data

There is a desperate need for disaggregated race-based data within the youth criminal justice system.⁵⁷ Unlike the United States and the United Kingdom, the Canadian

⁴⁸ Tewolde & Olowaye, 2013

⁴⁹ Toronto District School Board, 2012

⁵⁰ Mosher, 2008

⁵¹ Ontario Association of Children’s Aids Societies, 2016

⁵² Bala, De Filippis & Hunter 2013.

⁵³ AuCoin, 2005.

⁵⁴ Tewolde and Olowaye, 2013

⁵⁵ Kwok & Tam, 2007; Kwok, 2009; Kwok, Lee, & McMulkin, 2016.

⁵⁶ Kwok & Tam, n.d.

⁵⁷ Owusu-Bempah & Wortley, 2014

If a program wants to engage marginalized, Indigenous, or racialized youth to reduce their re-offending behaviour, people who they can relate to socially, culturally, and/or economically need to be part of the program.

criminal justice system does not systematically collect or publish statistics on the race of individuals processed through the system.⁵⁸ The lack of race-based data regarding youth involved with the law creates barriers to effectively providing appropriate prevention and rehabilitation services and program. As the demographics of Ontario change to become increasingly racialized, it is exceedingly important that the Ontario government collect more race-based statistics to inform policy and program development.

In addition to access to data, there is a need for evidence-based culturally responsive programs and practices that meet the needs of differently racialized youth. It is surprising that there is relatively little literature about good practices for supporting racialized youth within the criminal justice system. Community-based reports have argued the most proactive approach will require systemic collective actions that coordinate outcomes across education, employment, family health, and social inclusion.⁵⁹

There is a need for targeted culturally responsive approaches to working with racialized youth. For example, Black, Asian, Southeast Asian, Latino, and Middle Eastern youth are all racialized. However the reasons for their involvement in the criminal justice system may differ and the responses that will best serve them may differ as well. At present, there is a general lack of data and the data that does exist is in aggregate form, meaning it combines people with very different backgrounds into a single category of racialized or visible minority.

Additional data is required to understand the different needs and experiences of racialized youth involved with the law. Ontario's recently released its *Anti-Racism Strategy* (2017) shows significant leadership and promise for developing systems that are both targeted and responsive to the needs of youth from different racialized groups.

3.4 CHARACTERISTICS OF EFFECTIVE PREVENTION AND INTERVENTION PROGRAMS

In an extensive literature review, Bond and Hauf identify (2004) and summarize ten characteristics of “programs

that work” that are also relevant to primary prevention and intervention programs for youth involved with the law.

- 1. Successful prevention and promotion programs are based upon sound scientific theory and research in their content, structure, and implementation.** A primary reason that certain programs fail is their lack of connection and adherence to a sound theoretical and research base.⁶¹
- 2. Have a clearly defined purpose and goals.** Successful programs have goals that are clear, attainable, and broadly agreed upon by diverse stakeholders affiliated with the program and the agreed upon goals in turn guide assessment of program effectiveness.
- 3. Adopt a multi-system, multi-level perspective that attends to multiple influences on and multiple pathways of development.** In light of the complex situation of crime commission, effective primary prevention and intervention programs employ multiple strategies to address multiple systems across a wide range of program goals. This systemic approach has been demonstrated to work in programs that support youth with problematic behaviours and young offenders.
- 4. Attend carefully to dosage as well as boosters or follow-up to achieve and sustain desired outcomes.** Appreciating the multiple levels and systems involved in the developmental process, the multilinear nature of development, and the need to influence its trajectory in order to be effective, successful prevention and promotion programs implement carefully determined levels of intervention dosage as well as follow-up boosters.
- 5. Consider existing strengths, competence, wellness, and protective factors as well as risks and difficulties facing individuals and systems.** Successful programs have discovered the importance of adopting a strength-based approach and building on those strengths at multiple ecological levels, even when risks and weakness seem most apparent.

⁵⁸ Owusu-Bempah & Wortley, 2014

⁵⁹ Tewolde and Olowaye, 2013

⁶⁰ Government of Ontario, 2017.

⁶¹ Wilson & Hoge, 2013.

6. Be sensitive to the target population in both program content and structure/implementation. Effective programs consider the target population's developmental maturity, cultural specificity, potential stigma involved, variation within the target population, and promote empowerment and ownership.

7. Incorporate high quality evaluation and monitoring into program design. This is essential for many phases of establishing and maintaining a credible, dynamic, responsive program with enduring integrity and applicability.

8. Structure and package the program so as to be transferable and translatable. The degree to which a program is amenable to translation and transfer depends upon features ranging from the quality of its training programs and manuals to its potential to be adapted to local culture.

9. Attend to diverse resource needs. Effective programs involve identifying what resources are needed to

effectively implement the program and in particular looking beyond money to additional resources that may be significant including: time, legitimacy, people, prestige and power.

10. Successful programs are characterized by socio-political sensitivity. Organizations must be willing to participate in the politics of both community planning and community decision-making. They must be adept at building constituencies for their program.

04 // WHAT WORKS FOR YOUTH INVOLVED WITH THE LAW

It is clear from the literature that not every treatment will work to reduce recidivism with all categories of youthful offenders.

Rather than focusing on whether a specific intervention works, there are questions regarding when it works best, why it works best and for whom it works best. This is why program documentation and evaluation is of the utmost importance for the sector.

What's not working: incarceration

Before we turn to what works best, we better cover what's not working to ensure that we divert our scarce societal resources to other promising programs. Clearly, there is compelling evidence demonstrated through meta-analysis of research literature to support that punitive sanctions such as jail, which is designed to shock youth into law-abiding behaviour, does not reduce recidivism.⁶²

Programs are targeted and responsive

Effective programs are those that adhere to the principles of risk, need, and responsivity.⁶³ That is, programs that structure their intensity based upon the risk level of the youth (risk), programs that target criminogenic factors related to recidivism (need), and programs that match the mode of treatment to the learning styles of the youth (responsivity) yield the highest mean reductions in recidivism. The *Toronto Youth Equity Strategy* (2015) also identifies that agencies that are delivering pre-charge diversion programs should be supported in identifying clear, attainable, and measurable goals for their programs.

Diversion programs reduce recidivism

There is strong support in meta-analysis for the efficacy of diversion programs, whether these involve cautioning or more direct interventions with the youth. In all cases, these programs led to lower levels of reoffending than traditional justice system responses like incarceration. Further, it is clear that diversion efforts involving minimal intervention (e.g., cautioning) are appropriate for youth presenting lower levels of risk and needs. Programs accepting low-risk youth demonstrated significantly greater effectiveness when accepting them pre-charge rather than post-charge. However, offenders at moderate and higher levels will benefit from more active interventions.⁶⁴

Targeted intervention forms: multi- and family-focused

Multi-focused (i.e. counselling programs that offer individual, group, and family sessions) and family-focused programs were the most effective response to youth delinquency. Targeting communication and warmth within the family and providing parents with the skills to adequately supervise and monitor their children were related to clear reductions in recidivism, while general family therapy and non-specific family targets demonstrated poor results. In particular, community-based programs that focus on the individual youth rather than on the family are much less successful.⁶⁵

Providing specific vocational skills within a trade (e.g., auto-mechanics) demonstrated very positive results compared to general employment skills (e.g., resume writing). It should be noted that there is a significant correlation between gainful employment and lower recidivism rates.⁶⁶

Involving educators (e.g., teachers, principals, and guidance counsellors) directly in the treatment program and targeting school performance and attendance provided substantial reductions in recidivism, while non-specific academic targets demonstrated ambiguous results.⁶⁷

⁶² Department of Justice Canada, 2013; Kim, Merlo & Benekos, 2013; Greenwood, 2008.

⁶³ Andrew & Bonta, 2010; Andrew et al, 1990.

⁶⁴ Wilson & Hoge, 2013.

⁶⁵ Greenwood, 2013.

⁶⁶ Department of Justice Canada, 2013.

⁶⁷ Department of Justice Canada, 2013.

Among the specific program models that work well with institutionalized youth are cognitive-behavioural therapy⁶⁸ and anger management to address anti-social attitudes.⁶⁹

Treatment length and dosage

Both treatment dosage (i.e., number of hours spent in different treatment) and length (number of total days spent in treatment program) were rather important in the overall success of positive outcomes for youth involved with the law. High-risk offenders are more suitable for a higher treatment dosage and low risk offenders are more suitable for a lower treatment dosage. It still important to remember, however, to maintain a six month limit on the program length as both high-risk and low-risk offenders were successful when the program was shorter than six months.⁷⁰

Treatment setting

The findings on treatment setting (community-based intervention vs. treatment in institutional setting) is inconclusive. It appears that treatment forms are more important than the treatment setting.⁷¹

Program integrity

Those programs that follow program integrity principles (i.e., training, staff supervision, produced manuals, and measured program compliance) generated more positive outcomes compared to programs that did not report efforts to ensure program integrity.⁷²

⁶⁸ Greenwood, 2013.

⁶⁹ Department of Justice Canada, 2013.

⁷⁰ Department of Justice Canada, 2013.

⁷¹ Department of Justice Canada, 2013.

⁷² Department of Justice Canada, 2013.

05 // MOVING THE DIAL – RECOMMENDATIONS FOR IMPROVING OUTCOMES FOR YOUTH INVOLVED WITH THE LAW IN ONTARIO

Based on our review of the literature, we offer the following recommendations. Since the audience of this report is youth sector practitioners and administrations of community-based organizations working with youth involved with the law, most of the recommendations are focused on program design and implementation.

5.1 SYSTEM CHANGES AND INTEGRATION

Create clear guidelines about the use of extrajudicial measures

Provide clear guidelines for front-line youth justice professionals (e.g., police and crown prosecutors) about the use of extrajudicial measures.

In creating these guidelines, it is important to remember that most adolescents engage in minor crime and naturally grow out of it. Most youth will transition out of involvement with criminal activities, and the less that is done to intervene (particularly through the criminal justice system) the better. Many youth who end up in court eventually have the charges withdrawn. Data from Statistics Canada shows that 42% of cases in youth court in Ontario were stayed or withdrawn. The purpose of pre-charge diversion is to make sure that the cases that are referred are those that would not have otherwise been withdrawn. The guidelines need to ensure that we are not criminalizing youth for normal adolescent behaviour. Also, clear guidance would be useful in the context of overrepresentation of Indigenous youth in the criminal justice system and the unintended adverse impact of YCJA on youth from racialized groups.

The guidelines should include information that answers: What are appropriate cases for an informal warning? What are appropriate cases for unconditional discharge? What are appropriate cases for charging? What are appropriate cases for pre-charge?

The guidelines should include information about the types of activities that are appropriate for extrajudicial measures/sanctions and referrals in the community.⁷³

Collect disaggregated race-based data

Disaggregated race-based data is needed to better understand which youth are involved with the law and how to support them.

The lack of disaggregated race-based data regarding youth involved with the law creates barriers to effectively providing appropriate prevention and rehabilitation services and program. Additional data is required to understand the different needs and experiences of racialized youth involved with the law.

Coordinate extrajudicial services and supports

All stakeholders working with youth involved with the law should develop a coordinated process that support extrajudicial measures/sanctions.

This recommendation is related to our first recommendation that police and other stakeholders should be aware of all the resources available when exercising discretion on using extrajudicial measures. For example, in Toronto, all of the agencies implementing programs related to extrajudicial measures work independent of each other. There is no known official list of all programs that deliver extrajudicial measures in Toronto.⁷⁴ For a more efficient use of resources, a mechanism should be set up (e.g., Extrajudicial Measure Programs Networks) for better coordination.

Create data-sharing strategies

Program designs should be built on a theoretical framework that identifies clear, attainable, and measurable program goals for implementation and evaluation purposes.

The enduring question of programs working with youth involved with the law is how well they reduce recidivism. However, it is truly difficult to find out the recidivism rate of the youth after they leave the program, as the agency needs access to police data to demonstrate longer-term program outcomes. Agencies need access to police data for a certain period of time (at least one year) after a youth finishes their program. Alternatively, service-providing agencies should begin to work on the new *Youth Justice Outcomes Framework*

⁷³ Toronto Youth Equity Strategy, 2015.

⁷⁴ Toronto Youth Equity Strategy, 2015.

(2016) for identifying new goals and objectives for the programs.

5.2 PROGRAM DESIGN AND PRACTICES

Take a family-focused approach

All programs working with youth involved with the law should focus on family rather than on the youth individually.

There is compelling evidence from literature that family should be involved in prevention and intervention for youth involved with the law. Communication skills and skills-training for parents on how to adequately supervise their children should be a focus for the program. The family-oriented programs would also be relevant to Indigenous and racialized youth involved with the law. For example, research led by the first author finds that Asian youth's sense of re-connection to Asian families and community is a strong motivator for his or her success in any intervention program.⁷⁵

Empower youth with a sense of program ownership

Youth need a sense of empowerment and ownership of the program.

Prevention interventions that focus on supporting protective factors, rather than focusing on trying to fix negative behaviours are more effective. The literature on successful program models confirms that it is best to provide youth with a platform to openly express themselves without a fear of being criticized or judged. Youth who have a sense of hope and belonging within program are more likely to finish the program and stay out of criminal justice system. Moreover, programs should seek to provide youth with resources and opportunities to develop skills that they can apply within meaningful employment experiences. Youth who are able to develop a successful career are less likely to re-offend.⁷⁶

Create programs that respect the cultural backgrounds of youth

Staff are role models and need to have the required level of cultural competency required for implementing the program.

One of the issues identified by the literature is that there is a disconnection between youth and adults. Adults are often seen as “enforcers” and fail to engage youth strengths which includes their culture. In order to truly engage in a program, the youth need to be able to relate to the staff providing the service. If the program wants to engage marginalized,

Indigenous, or racialized youth to reduce their re-offending behaviour, people who they can relate to socially, culturally, and/or economically need to be part of the program.⁷⁷ More importantly, staff members need to have the level of cultural competency to engage youth from a culture different from their own and make the youth feel comfortable. Literature identifies that ethnicity of the staff members is not the deciding factor in terms of helping youth in prevention and intervention programs. Instead, it is the level of cultural competency demonstrated on the part of the staff members that makes the youth and family willing to stay and complete the program.⁷⁸

5.3 PROGRAM INTEGRITY AND IMPROVEMENT

Develop a program manual that is a living document

Ensure program integrity and fidelity by developing a clear and accessible manual that clarifies program objectives and implementation processes.

A successful program depends on the consistency of implementation by all staff members in the program. It is essential for the staff to be fully aware of the objectives of the program, the role of the staff in the program, the length of the program, and the detailed steps of the implementation so that they can contribute to overarching program goals. A program manual can provide a backbone reference for the program, an inventory of forms and documentation, and a record of the program structure that can be continually improved upon through the process of evaluation.⁷⁹

Establish an evaluation framework and plan to support program improvement

Program evaluation should be built in to program processes.

In order for programs to be successful, especially over a sustained period of time, they must include high quality evaluation. This is essential for establishing and maintaining a credible and responsive program. As such, an evaluation framework needs to be created, including a logic model or theory of change, upon which a program can build an evaluation plan. YouthREX's *Evaluation Toolkit, Inventory of Measures and eXchange for Youth Work* can support your program evaluation.⁸⁰

⁷⁵ Kwok, 2009.

⁷⁶ Department of Justice, 2013.

⁷⁷ Toronto Youth Equity Strategy, 2015.

⁷⁸ Kwok & Tam, 2010.

⁷⁹ Greenwood, 2015.

⁸⁰ www.exchange.youthrex.com

06 // CONCLUSION

The youth crime rate has been consistently dropping over the past twenty years. A relatively small number of youth are involved with the law when compared to last decade.

However, data currently collected by the *Ontario Youth Justice Program* only reflects youth who have been sentenced through the criminal justice system. Data is not collected on youth who have been diverted from the system through extrajudicial measures. It is impossible to assess recidivism rates for youth who have received extrajudicial measures because there is not an integrated tracking mechanism that interfaces with the *Ontario Youth Justice Program*. Essentially, it is impossible to prove positive outcomes if community-organizations don't have access to follow-up data on the youth they work with. Moreover, disaggregated race-based data is not available.

Racialized and Indigenous youth are overrepresented in the criminal justice system. While there is ample evidence that the move from punitive to prevention and rehabilitation models create better outcomes for youth involved with the law, Indigenous and racialized youth are still experiencing a more punitive system than non-Indigenous and non-racialized youth. Despite the emphasis on using extrajudicial measures to divert low-risk first-time juvenile offenders from the criminal justice system, police and courts are not using their discretionary powers to divert Indigenous and racialized youth from the criminal justice system to the extent that these diversionary powers are being utilized with Caucasian youth.

There is a need to develop guidelines on extrajudicial measures and their appropriate application for front-line youth justice professionals, including the police, probationary officers, and officers of the court. Additionally, there is a need for community services that provide diversionary supports to coordinate and network their efforts.

While Ontario is investing in a broad range of prevention and rehabilitation programs, little is known about best program models and practices for supporting Indigenous and racialized youth. There is a need to document and evaluate programs that are responsive to the needs and strengths of Indigenous and racialized young people.

The literature does suggest, generally speaking, that programs that take a targeted and multi-dimensional approach and that include families are more successful at reducing recidivism.

There is a need to calibrate programs so that they respond appropriately to the nature of the crime, and that the length of time and intensity of the program are sufficient for effectively supporting the youth involved. It is important that youth have opportunities within diversion and custody programs to develop social and employment skills that can be used to facilitate their social integration. Programs that have a clearly developed model, processes and outcomes and that are evaluated and improved on a regular basis have better outcomes. Finally it is important that programs that work with youth involved with the law are structured and supported to provide youth with staff who are role models, and an experience that is culturally responsive and empowering.

While questions asked in the history of youth criminal justice studies remains the same: 1) Why do youth become involved with the justice system; 2) What is the best way to support them once they do; and 3) how can Social Science research inform interventions to improve outcomes of youth involved with the law?, we learned from the *Roots of Youth Violence* that social exclusion is at the heart of youth violence and that the pathways to exclusion are not linear and often intersect and overlap.

Youth-serving organizations are well-positioned to support prevention and rehabilitation work with youth involved with the law. We hope that this report provides context for work with youth who have been, or may become, involved with the criminal justice system. Like the *Roots of Youth Violence* report, this report emphasizes that there are still gaps within the criminal justice system that need to be addressed and that specifically affect Indigenous and racialized youth. There is a need for improved guidelines and coordination and a more consistent use of extrajudicial measures. We encourage programs working with Indigenous and racialized youth to document, evaluate, and share models that lead to successful outcomes. As we work together to build systems of inclusion and equity for all youth, we look with hope to recent policy and investment announcements including Ontario's collection of disaggregated race-based data, Truth and Reconciliation efforts in Ontario including *Ontario's Indigenous Children and Youth Strategy*, the *Enhanced Youth Action Plan*, and the *Black Youth Action Plan* as examples of commitments leading to much needed action.

07 // REFERENCES

- Allen, M. (2016). *Police-reported crime statistics in Canada, 2015*. Juristat (Catalogue no. 85-002-X). Ottawa, ON: Statistics Canada.
- Andrew, D.A., Zinger, I., Hoge, R.D., Bonta, J., Gendreau, P., & Cullen, F.T. (1990). Does correctional treatment work? A clinically relevant and psychologically informed meta-analysis. *Criminology*, 28, 369-404.
- Andrew, D.A., & Bonta, J. (2010). *The psychology of criminal conduct (5th)*. New Providence, NJ: Anderson.
- Andrew, D.A., & Bonta, J. (2010). The psychology of criminal conduct (5th). New Providence, NJ: Anderson.
- Bala N., & Anand, S. (2009). *Youth Criminal Justice Law*. Toronto: Irwin Law.
- Bala, N., Carrington, P.J., & Roberts, J.V. (2009). Evaluating the Youth Criminal Justice Act after five years: A qualified success. *Canadian Journal of Criminology and Criminal Justice*, 51(2), 131-167. DOI: 10.3138/cjccj.51.2.131.
- Bond, L.A & Haulf A.M.C. (2004). Taking stock and putting stock in primary prevention: Characteristics of effective programs. *The Journal of Primary Prevention*, 24(3), 199-221.
- Caputo, T., & Vallée, M. (2008). A comparative analysis of youth Justice approaches. *The Review of the Roots of Violence Volume 4: Research Papers*.
- Commission on Systemic Racism in the Ontario Criminal Justice System. (1995). Report of the commission on systemic racism in the Ontario criminal justice system. Queen's Printer for Ontario.
- Corrado, R.R., Kuehn, S., & Margaritescu, I. (2014). Policy issues regarding the over-representation of incarcerated young offenders in a Canadian context. *Youth Justice*, 14(1), 40-62. DOI: 10.1177/1473225413520361.
- Department of Justice Canada (2013). *The youth Criminal Justice Act: Summary and Background*. Author: Queen's Print.
- Feld, B. (1999). *Bad kids: Race and the transformation of the juvenile court*. New York, NY: Oxford University Press.
- Goraya, J. (March 9, 2015). The overrepresentation of minority youth in Canada's criminal justice system. The Public Policy and Governance Review. Retrieved from: <https://ppgreview.ca/2015/03/09/the-overrepresentation-of-minority-youth-in-canadas-criminal-justice-system/>
- Government of Ontario (2016) Expenditure Estimates Volume 1 (2016-17). Toronto: Queen's Printer for Ontario. Retrieved from <https://www.ontario.ca/page/expenditure-estimates-ministry-children-and-youth-services-2016-17>
- Government of Ontario. (2017). A Better Way Forward: Ontario's 3-Year Anti-Racism Strategic Plan. Toronto, ON: Queen's Printer for Ontario. Retrieved from: <https://www.ontario.ca/page/better-way-forward-ontarios-3-year-anti-racism-strategic-plan>
- Hayle, S., Wortley, S., & Tanner, J. (2016). Race, Street Life, and Policing: Implications for Racial Profiling 1. *Canadian Journal of Criminology and Criminal Justice*, 58(3), 322-353.
- Greenwood, P. (2008). Prevention and intervention programs for juvenile offenders. *The Future of Children*, 18(2), 185-210.
- Jackson, N. (2015). Aboriginal youth overrepresentation in Canadian Correctional Services: Judicial and non-judicial actors and influence. *Alberta Law Review*, 52(4), 927-947.
- Jamil Malakieh (2017) Youth correctional statistics in Canada 2015/2016. Juristat (Catalogue no. 85-002-X). Statistics Canada
- Kim, B., Merlo, A. V., & Benekos, P. (2013). Effective correctional intervention programmes for juveniles: review and synthesis of meta-analytic evidence. *International Journal of Police Science and Management*, 15(3), 169-189. DOI: 10.1350/jips.2013.15.3.310.
- Kwok, S.M. (2009). How do Asian youth cope with the criminal justice system in Canada: A grounded theory approach. *Asian Pacific Journal of Social Work and Development*, 19(2), 21-37. DOI: [org/10.1080/21650993.2009.9756061](http://dx.doi.org/10.1080/21650993.2009.9756061)
- Kwok, S.M., & Tam, D.M.Y. (2010). Chinese immigrant youth and justice system in Canada. *Canadian Social Work Journal*, 12(2), 114-122.
- Kwok, S.M., & Tam, D.M.Y. (2011). Bifurcation of youth justice policy in Canada: Is it the end or just another round of youth penal policy debate? *Crime and Criminal Justice International*, 17 (Sept), 89-114.
- Kwok, S.M., Lee, B., & McMullin, M. (2016). *Promising Practice for Chinese Youth in Conflict with the Law in Canada*. Presented at the 2016 Council on Social Work Education 64th Annual Program Meeting (November 3-6, 2016), Atlanta, Georgia, USA.
- Latimer, J., Dowden, C., Dowden, D., & Morton-Bourgon, K.E. (2003). Treating youth in conflict with the law: A new meta-analysis. *Research and Statistics Division*, Department of Justice Canada. Retrieved from <http://www.justice.gc.ca/eng/rp-pr/cj-jp/yj-jj/rr03-yj3-rr03-jj3/index.html>.
- Lipsey, M.W., Howell, J.C., Kelly, M.R., Chapman, G., & Carver, D. (2010). *Improving the effectiveness of juvenile justice program: A new perspective on evidence-based practice*. Washington, DC: Centre for Juvenile Justice Reform, Georgetown University.
- Marinos, V. (2008). Factors influencing police attitudes towards extrajudicial measures under the Youth Criminal Justice Act. *Canadian Journal of Criminology and Criminal Justice*, 50(4), 469-489. DOI: 10.3138/cjccj.50.4.469.
- Maurutto, P., & Hannah-Moffat, K. (2007). Understanding risk in the context of the Youth Criminal Justice Act. *Journal of Criminology and Criminal Justice* 49(4): 465-491.
- McMurtry, R., & Curling, A. (2008). *The review of the roots of youth violence*. Toronto: Queen's Printer for Ontario. Retrieved from: www.rootsofyouthviolence.on.ca
- Meng, Y., Giwa, S., & Anucha, U. (2015). Is There Racial Discrimination in Police Stop-and-Searches of Black Youth? A Toronto Case Study. *Canadian Journal of Family and Youth/Le Journal Canadien de Famille et de la Jeunesse*, 7(1), 115-148.
- Merlo, A.V., & Benekos, P.J. (2010). Is punitive justice policy declining in the United States? A critique of emergent initiatives. *Youth Justice*, 10, 3-24.
- Miladinovic, Z. (2016). Youth court statistics in Canada 2014/2015. Juristat (Catalogue no. 85-002-X). Ottawa, ON: Statistics Canada.
- Milligan, S. (2010). Youth court statistics 2008/2009. Juristat 30(2). Ottawa, ON: Statistics Canada.
- Mosher, J. E. (2008). Lessons in Access to Justice: Racialized Youths in Ontario's Safe Schools. *Osgoode Hall LJ*, 46, 807.
- Newman, M., Perry, A., Hallam, G., Schertler, E., Johnson, M., Wall, R. (2012). A systemic review of selected interventions to reduce juvenile re-offending. Technical report. *Research Evidence in Education Library*. London: EPPI-Centre, Social Science Research Unit, Institute of Education, University of London.
- Office of the Auditor General of Ontario (2012). *2012 Annual Report*. Toronto, ON: Queen's Printing for Ontario.
- Office of the Auditor General of Ontario (2014). *2014 Annual Report*. Toronto, ON: Queen's Printing for Ontario.

- Office of the Correctional Investigator (2014). *Annual Report 2013/2014*. Ottawa, ON: Queen's Printing.
- Office of the Provincial Advocate for Children and Youth. (2013). "It depends who's working." The youth reality at the Roy McMurtry Youth Centre. Toronto, ON. Retrieved from: https://provincialadvocate.on.ca/documents/en/RMYC_report_EN.pdf
- Ontario Association of Children's Aids Societies. (2016). One vision, One voice: changing the Ontario Child Welfare System to better serve African Canadians. Retrieved from: <http://www.oacas.org/>
- Owusu-Bempah, A., & Wortley, S. (2014). Race, crime, and crime justice in Canada. In S. Bucerius & M. Tonry (Eds). *The Oxford Handbook of Ethnicity, Crime, and Immigration* (pp.281-320). New York: Oxford University Press. DOI:10.1093/oxfordhb/9780199859016.013.020
- Rankin, J., & Winsa, P. (2013). Unequal justice: Aboriginal and black inmates disproportionately fill Ontario jails. *Toronto Star*. Retrieved from: https://www.thestar.com/news/insight/2013/03/01/unequal_justice_aboriginal_and_black_inmates_disproportionately_fill_ontario_jails.html
- Shadish, W.R., Cook, T.D., & Campbell, D.T. (2002) *Experimental and quasi-experimental designs for generalized causal inference*. Boston: Houghton-Mifflin.
- Social Planning Council of Peel (2015). The Black Community in Peel: Summary of Research Findings from Four Reports. Region of Peel, ON: F.A.C.E.S. of Peel Collaborative. Retrieved from <http://www.unitedwaypeel.org/faces/images/summary-sm.pdf>
- Statistics Canada. (2016). *Youth correctional statistics in Canada 2014/2015*. Retrieved from <http://www.statcan.gc.ca/pub/85-002-x/2016001/article/14317-eng.htm>.
- Statistics Canada. (n.d.). Youth courts, number of cases and charges by type of decision. Table 252-0064. Retrieved from <http://www5.statcan.gc.ca/cansim/a26?lang=eng&id=2520064>).
- Tanenhaus, D.S. (2004) *Juvenile justice in the making*. New York, NY: Oxford University Press.
- Tewolde, Y. & Olawoye, L. (2013). From analysis to action: a collective approach to eliminate youth violence. Youth anti-violence task force. Toronto, ON.
- The Toronto District School Board (2012). TDSB Grade 9 Cohort 2006-2011: Trend Data Fact Sheet No.1 & 2. Toronto, Ontario, Canada: Toronto District School Board. Retrieved from: <http://www.tdsb.on.ca/Portals/0/Community/Community%20Advisory%20committees/ICAC/research/September%202012%20Cohort%20dataAcrobat%20Document.pdf>
- Toronto Police Service. (2011). Planning for the Future: Scanning the Toronto Environment. n.pag. Accessed March 12, 2017. Web.
- Toronto Youth Equity Strategy. (2015). *Pre-charge diversion*. Retrieved from: <http://exchange.youthrex.com/report/toronto-youth-equity-strategy-tyes-pre-charge-diversion>
- Trotter, C., Baidawi, S., Evans, P. (2015) Good practice in community-based supervision of Aboriginal youth offenders. *Australian Social Work*, 68(1), 5-18 DOI: 10.1080/0312407X.2014.940359.
- Wilson, H.A., & Hoge, R.D. (2013). The effect of youth diversion programs on recidivism: A meta-analytic review. *Criminal Justice and Behaviour*, 40(5), 497-518. DOI:10.1177/0093854812451089.
- Wortley, S. (2008). A Province at the Crossroads: Statistics on Youth Violence in Ontario. The Review of the Roots of Violence Volume 4: Research Papers. Province of Ontario: Queen's Printer for Ontario.

08 // GLOSSARY

Community supervision: where regular reporting to a probation officer is generally required

Crime commission: the act of perpetrating an offence

Criminogenic risk factors: characteristics, traits, problems, or issues of an individual that directly relate to the individual's likelihood to re-offend and commit another crime.

Delinquent: a young person or that person's behavior showing or characterized by a tendency to commit crime, particularly minor crime.

Extrajudicial measures (EJM): Extrajudicial measures are less formal responses to crime than court proceedings that are used to deal with youth who have broken the law. They can be used instead of formal charges and formal court proceedings. Common examples include police warnings and referrals to community programs.

Extrajudicial sanction: Extrajudicial sanctions are to be used only if the other forms of extrajudicial measures would not be sufficient to hold a young person accountable. Examples of extrajudicial sanctions include volunteer work, compensating the victim, and attending specialized programs. Unlike the other forms of extrajudicial measures, which are used as an alternative to laying charges, extrajudicial sanctions can be imposed either before or after a young person is charged with an offence.

Juvenile Delinquents Act: The Juvenile Delinquents Act (1908) was a law passed by the Parliament of Canada to improve its handling of juvenile crime. The act established procedures for the handling of juvenile offenses, including the government assuming control of juvenile offenders.

Open custody/detention: a type of group home in the community

Pre-sentencing report: refers to the investigation into the history of a young person convicted of a crime before sentencing to determine if there are extenuating circumstances which should ameliorate the sentence or a history of criminal behavior to increase the harshness of the sentence.

Pre-trial diversion: Pretrial diversion is an alternative to prosecution which seeks to divert certain offenders from traditional criminal justice processing.

Pre-trial detention: Pretrial detention refers to detaining of an accused person in a criminal case before the trial has taken place, either because of a failure to post bail or due to denial of release under a pre-trial detention statute.

Probation: A punishment given out as part of a sentence which means that instead of jailing a person convicted of a crime, a judge will order that the person reports to a probation officer regularly and according to a set schedule.

Proportional sentencing: A sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender

Rehabilitation: Rehabilitation is the re-integration into society of a convicted person

Remand custody: When a person is remanded in custody it means that they will be detained in a prison until a later date when a trial or sentencing hearing will take place.

Recidivism: MCYS defines recidivism as a return to provincial youth justice supervision or adult correctional supervision, within two years, on a new conviction that occurs following the completion of community probation or following the completion of a youth custody order of six months or more

Risk-based sentencing: to determine the substantial risk the offender will re-offend

Secure custody/detention: a residential setting where youth are restricted from leaving

Treatment dosage: The number of hours spent in direct treatment

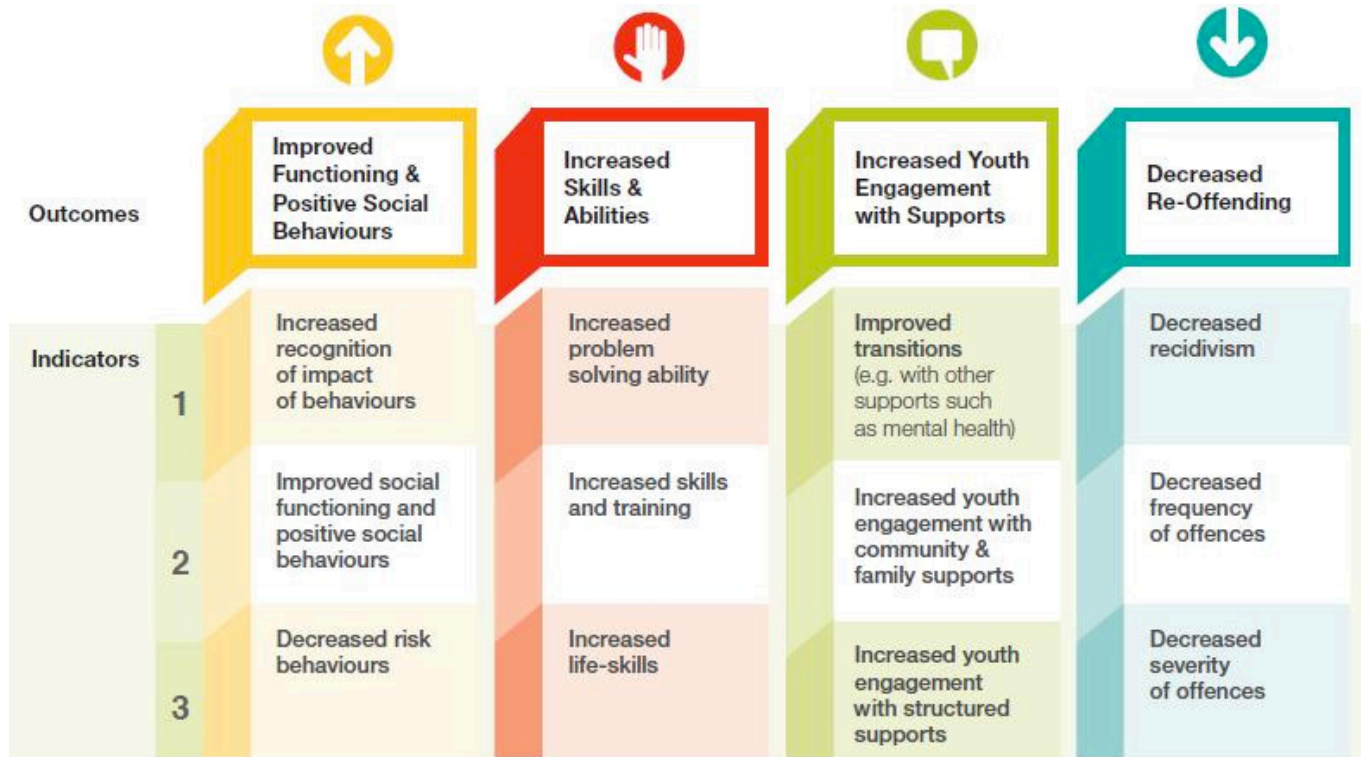
Young Offenders Act ; The Young Offenders Act (YOA) was an act of the Parliament of Canada, granted Royal Assent in 1982, that regulated the criminal prosecution of Canadian youths. The act was repealed in 2003 with the passing of the Youth Criminal Justice Act.

Youth Criminal Justice Act (YCJA): The Youth Criminal Justice Act (2003) is the law that governs Canada's youth justice system. It applies to youth who are at least 12 but under 18 years old, who are alleged to have committed criminal offences.

08 // APPENDICES

Appendix 1

Ontario Ministry of Children and Youth Services Youth Justice Outcomes Framework (2016)



SOURCE

<http://www.children.gov.on.ca/htdocs/English/youthandthelaw/outcomes-framework/index.aspx>

Appendix 2

Twenty-four Principles working with Indigenous youth involved with the law (Trotter, Baidawi, & Evans, 2015)

Communication

- (1) When working with Indigenous young people it is important to avoid the use of jargon, technical terms, and complex theoretical terms.
- (2) Where ideas have to be explained, use simple language and concrete examples.
- (3) Visual aids as opposed to explanations can be very helpful.
- (4) It is good practice to seek feedback from clients in relation to difficult or complex ideas by asking questions about how they (the clients) understand the ideas.
- (5) It is important to avoid disrespectful or patronising forms of address, e.g. “you people”, “darl”. This can destroy trust and impede the building of positive relationships.
- (6) The use of short, simple, casual language, with some humour, is likely to generate more conversation flow and rapport with some younger Indigenous offenders.
- (7) Adopting a nonjudgmental approach about Indigenous norms and customs is critical to establishing a positive working relationship, for example, accepting hospitality, not judging overcrowding within the home by conventional standards.
- (8) Many Indigenous people are more comfortable in “side-by-side” body language, where they look out in a common direction or at a similar object while they talk, rather than engaging in prolonged eye-to-eye contact.
- (9) An awareness that certain language and words may have slightly different meanings or connotations for Indigenous clients is important.

Cultural Recognition

- (10) It is good practice for non-Indigenous workers to consult and seek advice and information from Aboriginal workers when uncertain about particular situations.
- (11) Non-Indigenous workers should be aware of community resources and make good use of these services for advice and local information.

Environmental Awareness

- (12) It is important for workers to develop an ability to stay focused in unsettled environments and with distracted clients.
- (13) The ability to read and interpret an Indigenous person’s social behaviour accurately leads to better risk assessment and the avoidance of over-reaction.

Working with Families

- (14) Rapport and trust may be built with Indigenous clients and their families by finding some common connection or tie to a significant person in their extended family or kinfolk.
- (15) Taking a family-focused approach to a client is an important strategy to influence the behaviour of the client.
- (16) Establishing clear understandings about the nature and purpose of supervision (and hopefully a positive alliance) with a younger offender’s family or carer is also critical for effective work with the client.

Task-centred Practice and Role Clarification

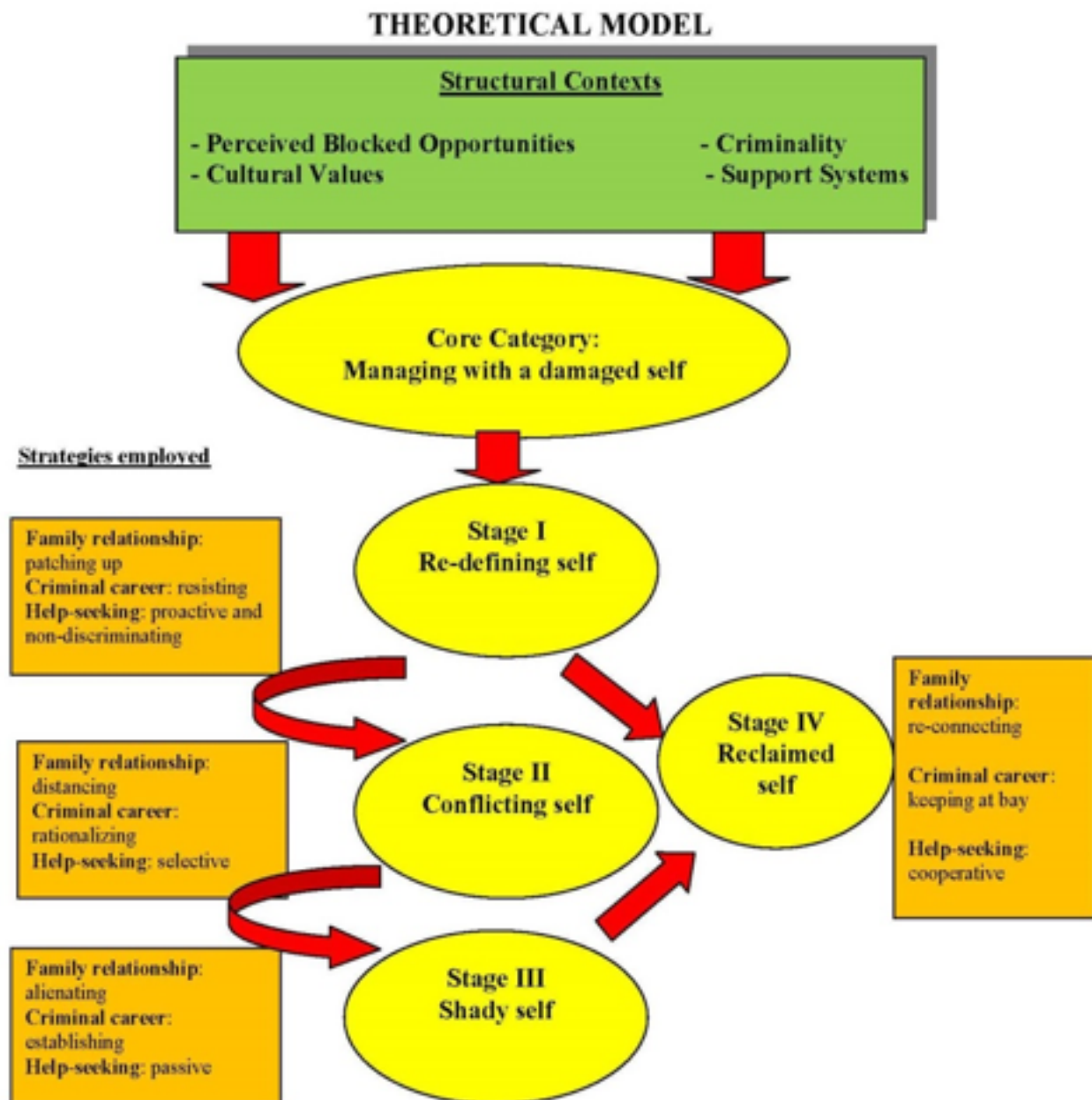
- (17) The building of relationships can be facilitated through the provision of practical, assistance, for example, helping to get new shoes for a client.
- (18) Engaging Indigenous young people in activities outside the office for supervision may be less threatening, and opens up the opportunity for better communication and dialogue between the worker and young person.
- (19) Good referral practice is essential for Indigenous clients, to allow them to engage with and get benefit from the service to which they are referred. Referral must occur with a specific purpose and a plan, and be understood and accepted by all parties. Clients may need to be personally introduced by the youth justice worker to the personnel at the “referred to” agency.
- (20) Initial clarification regarding the nature of the court order, its ramifications for the Aboriginal client, and initial clarification of the worker’s mandatory role are essential to good practice.

Casework Processes

- (20) Assurance of confidentiality is important, especially on sensitive matters in small, closely connected communities.
- (21) Use of appointment cards to keep contact with Indigenous young people is likely to be of limited value.
- (22) Use of a mobile phone to keep contact and send reminders is a valuable tool.
- (23) Praising a client’s positive achievements, for example, the obtaining of a job, is of critical importance.

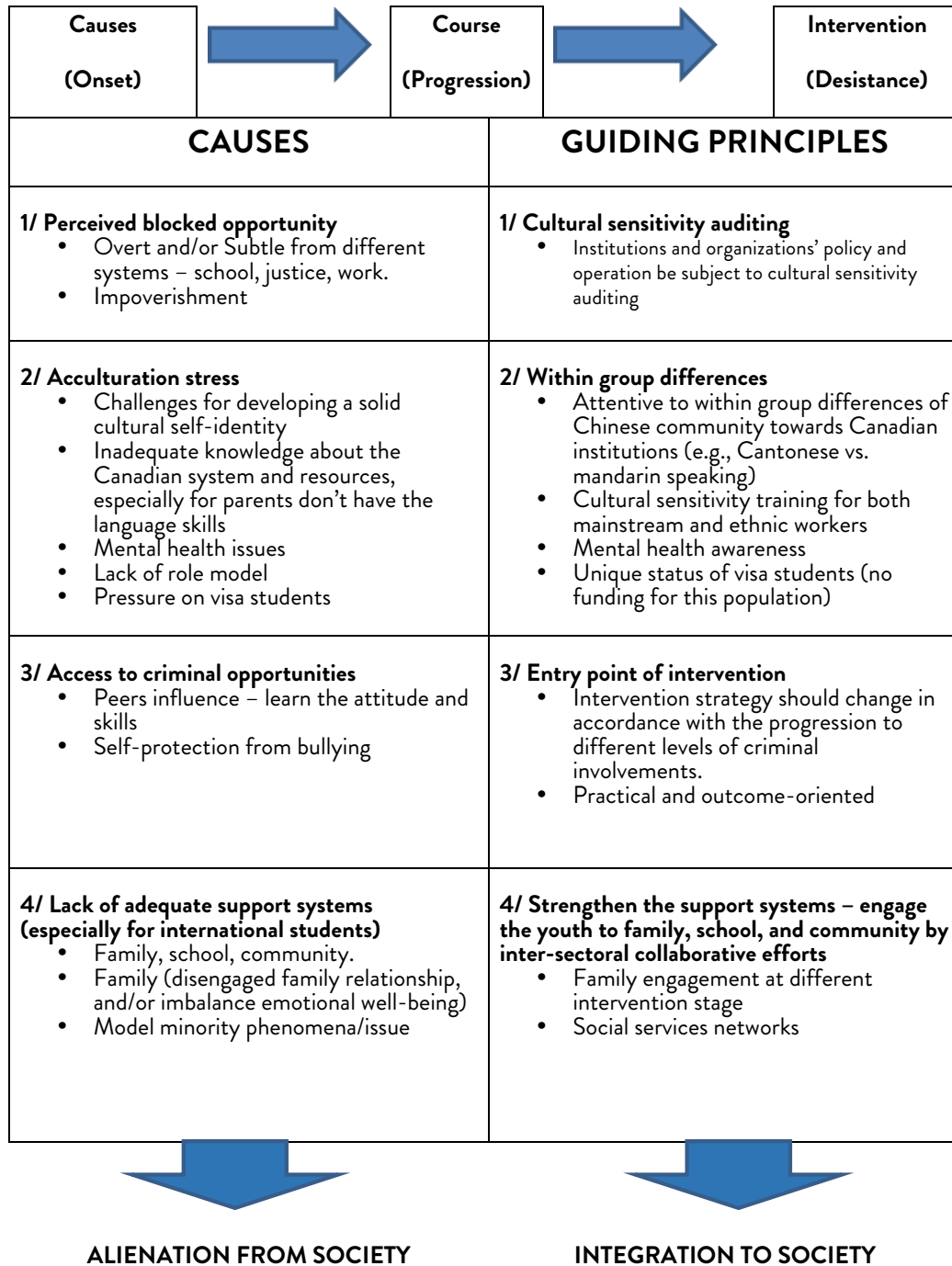
Appendix 3

Theoretical Model for Asian Youth in Conflict with the Law (Kwok, 2009; Kwok & Tam, 2010)



Appendix 4

Guiding Principles for Promising Practice with Chinese Youth in Conflict with the Law (Kwok, S.M., Lee, B., & McMulkin, M., 2016)





YOUTHREX
Research &
Evaluation eXchange

**This research was conducted by the
Youth Research and Evaluation eXchange.**

YouthREX is primarily funded by the Ontario Ministry of Children and Youth Services with extensive contributions from York University and the four partner universities: Carleton University; King's College University at Western University; Laurentian University and Lakehead University.

YouthREX

School of Social Work
York University
4700 Keele Street
Toronto, Ontario M3J 1P3
youthrex@yorku.ca
www.youthrex.com
www.exchange.youthrex.com