The Ongoing Dilemma:

The Risky Business of Youth Legislation

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ABSTRACT

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The issues of youth crime and the social construction and characterization of the young offender are discussed with the use of a qualitative media analysis, a qualitative legislation analysis and a qualitative interview analysis. These three analyses are based and conducted in reference to governmentality and risk theories. Both theories are the foundation for the angle and perspective taken within this triangulated approach to youth crime and the young offender. All three analyses reveal that although viewed in different matters, a dualistic approach between 'get tough' and 'supportive' stands exists in all aspects of the research. The media, legislation and interview analyses expose that this dualistic approach formulates the basis and undertone of how youth crime and young offenders are socially perceived and understood. All other issues relating to youth crime and young offenders such as restorative measures, legislation changes and means of dealing with these youths rest on which side of this dualistic approach a person stands. The analyses are also conducted and formulated around and in connection to the new Youth Criminal Justice Act legislation implemented on April 1st of 2003. The legislation was initially the focal point of the research but through scrutinizing, the bigger issues mentioned above clearly became important and had to be explored further.

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CHAPTER 1: INTRODUCTION

The issues of youth crime, youth justice and young offenders[1] have been studied

extensively in sociology and other fields of social sciences. Youth and their control have

occupied a central position in state policies during the modern era. As Michel Foucault

states 'there is the government of children and the great problematic of pedagogy which

emerges and develops during the sixteenth century' (Foucault, 1991: 87). Clearly the

governance and maintenance of youth has played an important part in social development

but focus has always been maintained on youth justice and young offenders. This

population presents great concern and anguish for the state, as public and political

pressures demand solutions.

Debates have focused on a number of issues such as rehabilitation (Cullen, 1982;

Ross, 1994;), incarceration (Corrado, 2000; Goodstein, 1989; Sprott, 1998; Wright,

1989), the 'right way' of dealing with young offenders (Curtin, 1997; Doob, 1996; Doob,

1999; Junek, 1999; Marinos, 1998; Peterson-Badali, 2001; Sprott, 2000;Varma, 2002),

crime rates (Carrington, 1998; Gabor, 1999; Jung, 1999) to name a few. Since the federal

government proposed to replace the Young Offenders Act, in 1998, much debate has

risen on how harsh the new legislation should and ought to be. This debate reflects the

ongoing dilemma of how to best deal with youth crime and young offenders. This debate

is also quite present throughout the history of the youth justice system in Canada. For

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[1] I am aware that under the YCJA, youth that get involved with the justice system are called 'young persons', however, because of the literature terminology focused on for this thesis and the variety of terms used to define this population, which none seem to fit especially well for this research, the term 'young offender' is used throughout this thesis.

example, ever since the first legislation (Juvenile Delinquency Act) came into effect in 1908, the severity and harshness of the youth justice system in Canada has been challenged by critics. Many argued that it was not necessary to separate youth crime from adult crime, stating that those who broke society's laws and norms should all be treated the same, regardless of their age. Others claimed that youth who broke the law should be treated differently than adults because they (youth) were not developmentally mature enough to bare the responsibility for their actions. When the Young Offenders Act (YOA) came into effect in 1984 many were not impressed and this piece of legislation has been criticized and scrutinized ever since. Debates over harshness and leniency reached their peak during the 1993 federal elections where all parties, except for the Bloc Quebecois, had plans and platforms to reform and reformulate youth justice in Canada. In the end, even after numerous amendments, critics pressured the federal government to install a completely new legislation and the announcement of the Youth Criminal Justice Act (YCJA) came in 1999. This new legislation also brought much debate and opposition: some seeing it as too harsh and others as not harsh enough. The government of Canada declared that this new legislation was a balance between punitive and restorative justice and was created to unite the provinces in the administration of youth criminal justice. However, the government failed to appeal Quebec's decision to not use certain parts of it, stating that certain elements of the legislation were unconstitutional and a violation of the Canadian Charter of Rights and Freedoms, which also sent mixed messages to the provinces. Ontario's refusal to accept this appeal resulted in letters of protest to all other provincial justice ministers lobbying for harsher legislation. This

conflict impeded the release of the legislation, which was finally only implemented on April 1st of 2003.

Throughout the historical journey of Canadian youth justice, the underlining dualistic approach of either being harsher or softer on youth crime and young offenders has always been present and this has resulted in the ongoing dilemma of how best to deal with these issues. The implementation of the YCJA highlights a new step in the Canadian youth justice system and also demonstrates the importance this new development bears on the social characterization of youth crime and young offenders.

Initially, the YCJA was the focal and reference point of this research but as time and analysis advanced, it became obvious that other issues such as the social characterization and framing of the young offender were inter-related to the legislation and had to be explored and analysed. In today's society, the young offender is socially constructed and characterized as being harmful, dangerous and posing as a threat to the stability of society. Thus, the young offender is regarded as a serious risk to be managed and prevented. In doing this research I intended to investigate: How are young offenders portrayed as risk factors? How do different agents of the youth justice system evaluate and manage these 'risky' individuals? How is this perception reflected in the new legislation, the media and in the youth justice system? The analyses of these issues were formulated and founded in governmentality and risk theories. By utilizing a triangulated research approach, the issues of youth justice and young offenders were analysed in regards to media, legislation and interview qualitative analyses, which permitted a deeper and more elaborate examination of the issues at hand. I anticipated finding a great discrepancy in presentation and discussion of risk in regards to young offenders and the

youth justice system by the different agents included in my research simply because they assess these youth in different ways and for different reasons. However, scrutiny of the different elements evaluated revealed that a dualistic approach to youth crime and young offenders was present in all aspects of this research. The media coverage, the legislation analysis and the interviews all covered this dualistic interpretation and understanding but in very different means and measures.

Overview of the Thesis

In Chapter 2, the literature review chapter, I discuss the body of literature that has informed this research. This chapter gives a brief overview of the different sociocultural perspectives of risk theory such as cultural/symbolic and risk society highlighted by theorist Deborah Lupton but this thesis mainly focuses on governmentality theory. Therefore, the majority of the chapter describes the concepts and ideas found in governmentality theory such as prudentialism, governing at a distance, risk management, risk prevention and so forth. The ideas and concepts explored are taken from authors Nikolas Rose, Pat O'Malley, Alan Hunt, Dean Mitchell and Michel Foucault.

Chapter 3, the methodology chapter, explains the ways in which the above-mentioned theoretical ideas are applied to the triangulated research approach of this thesis. This thesis explores and analyses the social characterization of young offenders and youth crime and the YCJA by using three methods of research, referred to as triangulation. The three methods of research are a qualitative legislation analysis of the YCJA, a qualitative media analysis of newspaper articles and a qualitative interview analysis of staff members at a secure youth facility. This chapter explains the process of obtaining the legislation, the articles and of conducting the interviews. The chapter also

provides a brief explanation of the triangulation research method and the benefits it brings to this thesis.

Chapter 4 is the legislation analysis chapter, which covers an overview of the history of the Canadian youth justice system, the Juvenile Delinquency Act (JDA), the Young Offenders Act (YOA) and the Youth Criminal Justice Act (YCJA). The focus of this legislation analysis is on the significant and relevant changes brought by the YCJA such as the philosophy of the legislation, extrajudicial measures, sentencing and custody, adult status for young offenders and victims. These changes are discussed in comparison to the YOA, their social implications and in connection to the issues discussed in the other analyses within this thesis.

The subsequent chapter, chapter 5, covers the second research method used in this thesis, the qualitative media analysis. This analysis creates categories of classification specifically based on risk and governmentality theories' concepts and terms. Originally, the classification had 13 categories but after re-structuralization, the 13 categories demonstrated overlaps and connections and therefore, were transformed into five categories with some containing sub-categories. This analysis defines each category and incorporates extracts from newspaper articles that 'fit in' the category defined. In the final part of this qualitative media analysis, the categories are analytically compared and criticized.

In chapter 6, I report on the results of the qualitative interview analysis. This chapter explores the different topics discussed with staff members of a secure youth custody facility. The different topics discussed are in relations to the implementation of the YCJA and their (the staff members') perceptions of the young offender. This chapter

is presented in two different sections. The first section covers the staff members' views and perceptions of the young offenders and the second section covers the impact the YCJA has on the workers and their perceptions of this change. The areas covered in this analysis are discussed in relations to risk and governmentality theories.

The final chapter, chapter 7, in this thesis explores the relationship between the findings from the legislation, media and interview analyses. This chapter uses the risk and governmentality theory concepts and terms to demonstrate how each analysis is connected to the others. The chapter reviews and scrutinizes the points found in each analysis that fall under a specific idea; highlights how each analysis covers that idea and finally how that idea and the points found in each analysis are inner-connected. The chapter concludes with a discussion and outline of the major findings of the research.

The Process

At the start of the thesis process, the challenge was the narrowing down of the area and ideas I wanted to explore. It became clear that the original idea of comparing Ontario and Quebec's views on youth crime and young offenders was somewhat over-reaching for a master's thesis. With guidance and reflection, the scope of the thesis was pinpointed to specific elements, which also presented a huge challenge and effort as it still covered many areas and multiple means of research. My original fear of not covering enough ground in reference to youth crime quickly disappeared as the work process began.

A challenge that emerged within the process of the analyses was realising that the amount of data gathered, especially in the interview analysis, was enormous and deciding what points to include within the thesis would be difficult. The selection of the areas to

discuss within the legislation analysis was also quite challenging as it meant leaving out many areas of change that seemed relevant. This research could have easily focused on only one of the three methods of research but it was deemed important to cover all three. In other words, the selection process of the legislation chapter and the interview chapter were a hurdle that sometimes did not seem manageable to overcome.

It must be mentioned upfront that this entire research is not explanatory in nature but rather exploratory. The main goal was to shed light on the issues of the young offender and the new Youth Criminal Justice Act and to explore their characterization, formulation and framing within multiple means of analysis such media, legislation and the youth justice system.

The theoretical ideas and concepts are the tools and foundation for analysis and therefore I will begin with an examination of the key influential concepts in this thesis. Consequently, the following chapter provides a description of the risk and governmentality terms and ideas used in this entire thesis.

CHAPTER 2: THEORETICAL FRAMEWORK

In the following pages I use theories of risk and governmentality to develop an analytical framework for examining the emergence of the Youth Criminal Justice Act and the social and legal context in which young offenders are constructed and characterized as risky. The elements such as risk management, risk measurement, social control, knowledge and normalization of crime are present in the authors and theorists upon whose work I drew for my theoretical framework. Many ideas and concepts from the many authors I have read presented key elements in the way I intended to characterize, classify, analyse and in other words, dissect the legislation, the media's perspective on youth crime and young offenders and the inner workings on the youth justice system, more precisely a secure custody institution.

The History of Risk

The idea of risk is not a new trend but rather has been around for centuries. Before the actual term was coined, incidents were explained by natural causes, the will of God or destiny. However, modernity changed the meaning of risk into a purely technical term, which meant that probabilities and determinations around risks were calculable, predictable and measurable. Deborah Lupton (1999) highlighted the fact that risk became and still is a highly functional and highly used concept and especially today where the term tends to be loosely used and defines what is to be regarded, mostly in a negative way: danger, unwanted, threat, harm, hazard or undesired. The increased use of the idea of risk is based on the fact that today's society is regarded as highly flexible and constantly changing, thus demanding a certain control over unpredictable future

situations. In other words, attempting to make the future less scary and less ambivalent. However, because of the increased and loose use of the risk term and concept, intensity has increased over the focus and concern around risks, thus resulting in heightened fears and anxieties.

Sociocultural Perspectives on Risk

I have drawn on the work of Deborah Lupton (1999) to explore the historical rise and the multiple perspectives and stances of the risk concept. In her work, *Risk and Sociocultural Theory (1999),* Lupton focuses on three major sociocultural perspectives: 1) cultural/symbolic, 2) risk society and 3) governmentality. The first two approaches are discussed here briefly but the focus in this research is on the third perspective, governmentality.

1. Cultural/Symbolic Perspective

Lupton (1999) begins by exploring the cultural/ symbolic perspective, which is based on the idea that there is contamination between individuals, groups and communities of a given state and that risk is there to maintain social and cultural boundaries. Risk, in this sense, is when a group is perceived as being a 'risky' group, that it becomes necessary, based on cultural assumptions and shared expectations in which it becomes possible for them to violate the boundaries of the community, that risk becomes the focus of blame. Lupton states

> 'Risk as acting primarily as a locus of blame, in which 'risky' groups or institutions are singled out as dangerous. A 'risky' Other may pose a threat to the integrity of one's own physical body or to the symbolic body of the community or society to which one belongs.' (Lupton, 1999:3)

A response to this has been to make risk and risk groups measurable on a scale based on their conformity to the social norms. In regards to youth and youth crime, it is

the fact that these individuals create their own world, so to speak, and that they not follow

society's rules but their own, that they are seen as 'risky' and thus have to be managed.

2. Risk Society Perspective

The second perspective Lupton discusses (1999) in risk theorizing is the 'risk

society'. Ulrich Beck is considered the founder of this perspective. Risk society is

focused on the macro structural factors that are continuously expanding risks in the

modern society. Because risks are considered an expanding phenomenon in the modern

society, risks become a growing concern and risks are perceived as more difficult to

manage and calculate, thus control. Risks become a critique and reflection of the modern

state and blame is aimed at the government, industry and sciences as the causes of risk.

> 'The central institutions of late modernity- government, industry and science- are
> singled out as the main producers of risks. An emphasis on risk, Beck and
> Giddens assert, is thus an integral feature of a society which has come to reflect
> upon itself, to critique itself.' (Lupton, 1999: 4)

These two perspectives (cultural/symbolic and risk society) do offer interesting

ideas in regards to the legislation in that the public does look to government for

regulation of youth crime and young offenders and does put blame on government when

it (the public) believes the government is not performing or meeting their expectations. It

is when certain groups break the social and cultural boundaries that these groups are

regarded as risks or 'risky'.

3. Governmentality Perspective

The third sociocultural theory highlighted by Lupton is governmentality. It is

from this stance that most of the formulation and creation of ideas, concepts and analyses

were derived from in this research. The first step in using this theoretical perspective is to

define what governmentality means. Rose and Miller define governmentality as 'a certain

way of thinking and acting embodied in all those attempts to know and govern the wealth, health and happiness of population' (Rose and Miller, 1998:174). In this sense, government becomes the mode through which the shaping and conduct of the population in a specific and desired manner is made possible. Alan Hunt presents the focus of governance to 'concentrate attention on social action that controls, restrains, limits, directs, molds, facilitates and empowers' (Hunt, 1996: 458). The government attains this goal by using power in a cognitive, calculated, experimental and evaluated way, over those to be governed. Power, therefore, becomes an important and crucial element in governmentality as the population must be willing to accept the state's power and the state ensures this power by creating alliances with many different bodies and authorities such as welfare, economics and social conduct.

Prudentialism

Another way the state accomplishes the art of governing through its subjects is by getting the individuals, within a community, to take ownership of their personal well being and risk management and this is termed prudentialism. Since crime is normalized as being part of the every day, people are expected and encouraged to be self-reliant, self-managing and self- governing in regards to risks. When the individual fails to do so, guilt and a sense of failure prevails. In this sense, the state then is no longer regarded as the provider and source but rather as a partner and collaborator for risk-management and risk prevention. Prudentialism is 'a technology of governance that removes the key conception of regulating individuals by collectivist risk management and throws back upon the individual the responsibility for managing risk.' (O'Malley, 1996: 197) To look to or rely on the state for protection against crime and risks is to be discouraged and even

regarded as feckless and culpable. Each individual is expected to manage their own protection against young offenders, by taken means of defence such as locking doors, reporting altercations with these youth or avoiding areas frequented by this 'risky' population. Youth themselves are also expected to self-manage against such risks by avoiding contact with young offenders or simply saying 'no' or walking away when approached.

<u>Risk Technologies</u>

The individual is guided and even pushed in gaining means, such as insurance and policies, against perceived risks. This is achieved, as mentioned earlier, by the government aligning itself with other entities and agencies in providing policies and programmes in aiding the individuals in acquiring protection and management against risk. The failure and success of the programmes provided is part of the political character of the state. The government is expected to provide programmes that help the individual attain self- governance and if certain programmes seem to be failing or are not working, the government must then create new programmes. These programmes, in governmentality theory, can also be considered risk technologies and they can be ranked in terms of their efficiency (O'Malley, 1996). These risk technologies are created with specific purposes in mind; they are to provide security for the population in risk management which in turn lowers the resistance to social regulation (by the population) and are also there to intensify the effectiveness of power by the state. These risk technologies, also called actuarials, work better in terms of control for the state as they don't resort to coercion of the individual and are more tolerant of individual deviances, they can classify and characterize the individuals, by using statistics and categories

designed around risks. Individuals are expected to self-govern against risks by gaining knowledge and educating themselves on the possible risks they face or may encounter. The individual can accomplish this by making the 'right' risk investments with the help and guidance of experts. In this sense, the YCJA is considered a risk technology as the government implemented it when it was perceived that the YOA was no longer effective. The YCJA is also created as an aid or tool to help in the management and governance of this 'risky' youth population.

Experts

Knowledge is a key element in governmentality. As Hunt points out, 'Knowledge is transformed into a form capable of impacting social life through different configurations of regulation that rely on information, expertise and policies that come together as strategies' (Hunt, 1996: 461). The expertise or the experts, in this sense, are those who analyse risks for the individuals by providing statistics and numbers on places, situations and times when risks are more probable. These experts are the affiliates of the state such as doctors, lawyers and all those that the state enlists in seeking to act upon the conduct of those to be governed. These experts use their judgements, perceptions and impressions in assessing the potential of risks and riskiness of the individuals under evaluation. The experts are able to evaluate and assess the individuals by using databases provided by the state (with the help of other agencies and parties) that gather the individual's patterns and participation in certain cycles of consumption. These patterns and habits are developed and become calculable and measurable thus related back to the individual's riskiness. This then becomes the state's way of securitizing the identity of those to be governed and because this is done in conjunction with other agencies and

parties, it becomes somewhat dispersed, disorganised and un-unified which can be perceived as a downfall for the state. Control, in that case, is dispersed and not centralized thus demanding continuous monitoring. The state, however, manages this downfall by looking at the agencies and parties involved in terms of responsibility. In relation to young offenders and youth crime, the expertise is usually composed of ministers and members of parliament who determine who is to be considered 'at risk' and how to best deal with them. However, these experts do not face these issues on a daily basis but rather obtain their information from reports. This, then, means that these experts make 'informed' decisions based solely on bureaucratic paperwork and not reality.

<u>Governing at a Distance</u>

The state's enthusiastic utilisation of experts generates a type of situation that should be discussed. In using these experts and affiliates, the state removes itself from the actual analysis of risk and risk management by deferring unequivocally to their (the experts and affiliates) knowledge. Furthermore, because responsibility is shifted to the experts and affiliated parties, governing at a distance is created, as described by Nikolas Rose. The fact that the state enlists the help of other agencies and parties detaches it and removes it from the responsibility of providing security, prevention and management against risks. 'The state becomes a partner and animator rather than provider and manager.'(Rose, 2000: 327) The use of the technologies developed, the affiliation of the state to other agencies and parties and the fact that responsibility for risk management and risk prevention rests on the individuals to be governed, allows the state to remove itself from being looked at as the provider of social protection and social security. The political discourse used by the state amplifies the reasoning behind the fact of how

desirable total protection by the state would be, by highlighting the cost and limitations of the technologies used. The state maintains the appearance of communal and collective security but not individual security, thus furthering its power and control over those to be governed. In relation to young offenders, it is with the aid of the police, social workers and the legal system and all its affiliates that the government manages to maintain power and control over this 'risky' population. To be able to attain this goal of management and control, the government uses inclusion and exclusion.

Inclusion- Exclusion

The concept of inclusion is explained here from the governmentality perspective, however, the way in which inclusion was defined and analysed within each means of analysis defers and is slightly modified from this original perspective. Rose (2000) points out that the use of databases by the state and its affiliates creates what is called 'inclusion'. Inclusion is when the individuals are part of the measures and tools used to monitor and maintain control of those to be governed. Those who obtain the means and measures against risks, provided by the state and associated agencies are considered included and those who do not, in other words, help in their self-governance, are considered excluded. In addition, the individuals' participation in the databases also provides the state with information on types of crime, suspect profiles and particular zones where risks or risky individuals are bound to be. This inclusion is also maintained and furthered by the use of surveillance, which further guarantees the state power and control over those to be governed. Those who are considered excluded can either be reaffiliated into the included populace but those who are deemed impossible to reaffiliate are incarcerated or imprisoned thus neutralizing the danger they pose. Those who are

considered outside the included majority are considered marginal and even considered as a sub-population. Young offenders that are considered 'too risky' to remain in society are sent to secure custody facilities, thus excluded. However, if deemed capable of 'normal' social functions, thus rehabilitated, they can be reaffiliated back into society.

When discussing the 'excluded', Rose (2000) talks of a new penology technique that identifies, classifies and manages these groups (the 'risky') based on the dangerousness they present. This is related to what he calls 'risk classification' where the experts mentioned earlier can justify their decisions and stands of riskiness of those to be governed as either included or excluded by the use of assessment tools. The decision of an individual's riskiness rests on the use of certain assessment tools that measure the factors that make certain conducts undesirable and unwanted. This then determines the new duty of the experts as 'protection by identification of riskiness of individuals, forms, and territories.'(Rose, 2000: 199) The knowledge gained on the included and the excluded permits those involved to select those who are considered to be acceptable risk (included) and those who are not (excluded). In this sense, the task becomes managerial and not transformative which means to regulate levels of deviance but not intervene or respond. Rose (2000) points out, is that the actuarial classification of risk is based on the individual's riskiness or reformatory potential, which is in turn, based on ethical and cultural analyses of that riskiness. The problem here is that since this is all based on ethical and cultural means, the responsibility for reconstruction if founded on the professionals' codes of potential reconstruction for example, lack of self -respect or lack of self -worth, present in the individual which are fundamental based on subjective thinking. The fact that it is based on subjective thinking means that it is individualistic

and not standardized: based on the particular professional doing the subjective thinking or analysis. The burden then rests on the professionals that 'are to manage dangerous sites and dangerous persons on the territory of the community under the threat of being held accountable for any harm to the 'general public'- 'normal people'- which might result.' (Rose, 2000: 333) This removed responsibility, from the state to its affiliates, burdens them to make the 'right' decision on the riskiness of certain individuals to be considered included or excluded.

When an individual is considered to be excluded and not possibly helped, they are dealt with by secure containment and prolonged incapacitation thus neutralizing the risk they pose, by removing them completely from the population. The use of prison and penal reinforcement is crucial in the state's maintenance of power and control. However, the penal and justice systems are minor elements in control strategies as the state tries to de-centre crime and risk to broader rationalities and technologies. By broadening the scope of crime and risk from the justice system to the more general societal framing, the state upholds the image that crime and risk is greatly problematic and must be considered by everyone within the community. In other words, it becomes everyone's problem, concern and responsibility. In this regard, all parties be it the government, affiliated agencies or those to be governed, become intertwined in the 'fight' against risk.

> As far as individuals are concerned, ones sees a revitalization of the demand that each person should be obliged to be prudent, responsible for their own destinies, actively calculating about their futures and providing for their own security and that of their families with the assistance of the plurality of independent experts and profit-making businesses from private health insurance to private security firms. (Rose, 2000: 324)

In this sense, everyone is involved in the 'fight against youth crime' and everyone must take the appropriate means and measures to protect themselves and their environment against this 'risky' population. Those who refuse to take on their own means and measures of protection or those who follow inappropriate means of attaining what they want, are what Pat O'Malley calls the 'rational choice actor'.

<u>The Rational Choice Actor</u>

The rational choice actor is the individual involved in making choices in regards to risks. What that means is that the individual is expected to become skilled and knowledgeable about crime prevention and risks. The rational choice actor wishes to be responsible, take steps towards self-protection, which in turns means that the individual will take sensible risk-managing measures. Thus, those who fail to do so, 'the victims' are regarded as the responsible party in risk prevention and risk management. The rational choice actor is expected to weigh the costs and benefits involved in self-governance. The 'criminal violator' (as Nikolas Rose terms it) is the individual who chooses to follow the benefits of crime regardless of the consequences, as criminals are perceived as 'free and thus voluntary agents, free to act in a perfectly rational self-interested fashion.' (O'Malley, 1996: 198) In this sense, the criminal violates the bonds, obligations and trust of the community. The conduct of the criminal or the perpetrator of crime (the individual who fails to accept responsibilities as a subject of a moral community) is thus considered an infraction of freedom of all those within the state. It is this lack of responsibility by individuals that increases the punitiveness of the welfare and penal state. It is because young offenders take inappropriate measures to gain what they want that they are considered responsible and thus a threat to the social order. It is when

they take these inappropriate measures that they are considered 'criminal violators' and must therefore be punitively managed by the penal system.

Risk Management and Risk Prevention

What this infraction entails and brings forth is the notion of risk prevention and risk management. Because, as Mitchell Dean emphasises 'it (risks) can be minimized, localized and avoided but never dissipated.' (Dean, 1999: 146) In this regard, risk prevention and risk management become crucial. The idea here is that risks must be made measurable and calculable, thus turned into thinkable matter to be understood by all parties involved. It is only once risks are made calculable that the state, its affiliates and the individuals to be governed can begin to comprehend how risks affect the everyday. Risks, in this sense, are the way of ordering reality by making them calculable and it must remain clear that the significance of risks rests on what the risk is attached to, the value put on the risk, by the parties involved. It is with the language and tools used to assess risks, that certain populations and groups get classified and targeted as 'risky'. The technologies come to be used when these groups get labelled as vulnerable, alienated, separated and manifesting high- risk or are composed of high- risk individuals. Those are the characteristics used by the experts to define and determine, or in other words, calculate risks in particular groups and individuals. What follows is that these characteristics are what come to determine the individuals to be governed. Furthermore, the individuals involved come to even self- analyse themselves or their group in terms of those risk assessment characteristics and tools. In relations to youth crime and young offenders, it is when these youth get labelled as 'high risk' or 'risky' that they can be

managed and it is only once this occurs that the risk they present can be prevented by either having them excluded or reprimanded.

Case Management

A new tool in risk prevention and risk management that further aids the experts in measuring the riskiness of individuals is the case management approach. This tool is used to 'judge' 'at- risk' individuals and thus subject them to sovereign, disciplinary practices to eliminate the risk and danger they pose within the community (Dean, 1999 in *Risk, Calculable and Incalculable*). Nikolas Rose (2000) points out that in prevention, once an individual is profiled as 'high risk' to the social well-being, the next step is to try to install a sense of self-management by emphasizing and pushing moral and ethical reconstruction. If the moral and ethical reconstruction fails, the alliances with the punitive and disciplinary systems take over and the individual enters into the political programmes created to minimize the risk they pose. Pat O'Malley (1996) draws attention to the fact that the views and measures used within the system and in connection with prudentialism emphasis, has made shifts in governmental relations a common phenomenon. This capacity of analysis and identifying riskiness is regarded as a strength in the state but if this capacity is deemed problematic or lacking reformation then replacement of the programmes is mandatory. This also relates to the point that the changing and evolution of techniques and programmes involved in risks follow historical, political and social conditions, which make up the basis of governmentalization. Within the YCJA's new principles, each youth must be followed on a case per case basis. For example, when a youth enters a secure custody facility, his/ her case is assigned to a specific caseworker and this caseworker receives all previous information of the youth's interactions with the

justice system and follows the youth once returned to the community. This is deemed important for the management of the youth who come into contact with the youth justice system as it provides continuation and stability for both the youth and the people involved.

In chapter 2, 'Methodology/Methods', I will discuss the methods I used to examine these theoretical concepts. The chapter gives descriptions of the three methods of research used for this thesis: the legislation analysis, the media analysis and the interview analysis.

CHAPTER 2: METHODOLOGY /METHODS

The challenge of this thesis was narrowing down exactly what I wanted to accomplish and what I wanted to explore, in a feasible manner and pragmatic timeframe. After an initial struggle to pare down the research topic, it became clear that the focus would be on the implementation of the YCJA legislation. With many revisions, reorganizations and reformulations, I developed my research strategy that included a media analysis, interviews and an actual legislation assessment, which was deemed important in order to represent the accurate social implications the new legislation brought.

Triangulation Methodology

I chose a triangulated methodology for this research and analysis. The reason for this choice was based on the fact that the triangulation methodology increases or permits a greater scope of analysis of the same issue. Triangulation is a means used for the analysis of one subject via multiple, three to be exact, methods of research. This method of analysis presents different angles of one particular issue. In this case, it enabled me to get a better picture of where the issue of youth crime and young offenders lies. The theory behind triangulation proposes using multiple types of analysis for the same subject matter, which increases confidence in the findings. The validity of these findings is further increased because if results are similar from diverse methods of research, the reliability is greater than if only one method is used. (Babbie, 2001:113; Babbie, 2002:99; Neuman, 1997: 151-52) Because I wanted to go beyond numbers and statistics for this analysis and concentrate on the issues that resonated in the media, the legislation and a secure custody facility, I used qualitative methods of research. The use of qualitative

methods of research is also based on the fact that I wanted to be able to explore the content and conditions of this issue. As well, plans to investigate and interpret the meanings behind the written statements and spoken words of legislators, media and those working within the system, were better explored using a qualitative means of research.

Methods

Because I was interested in how the media, members of the youth justice system and legislators portrayed and made sense of young offenders and youth crime, I chose to use qualitative means of research as these goals were better met using this type of research as opposed to quantitative research. The decision to conduct an analysis of the Youth Criminal Justice Act seemed inevitable as the legislation forms the foundation of this research. Therefore, understanding and exploring the changes and aspects of this act was important. Studies (Doyle, 1998; Hartnagel, 1994; Onstad, 1997 and Sprott, 1996) have shown that the public relies greatly on the media for information and direction in relations to new legislations and, in its turn, the government relies partially on the public for cues on how certain topics should be handled. With this, it became clear that a media analysis was important since I felt that the media plays an important role in the social framing of many issues and I wanted to explore the media's portrayal of the YCJA, youth crime and young offenders. The interviews were conducted in order to gain an insider glimpse at how people within the youth justice system deal with the legislation change and how they portray young offenders and youth crime. Overall, once the three means of analysis were decided, the exploration of how young offenders are framed as 'risky' and risk factors was also included in the research and the idea of comparing how each of these means of analysis characterize and frame these issues was built-in.

Legislation Analysis

The first method of research used was a qualitative content analysis and comparison of the elements and changes between the 1984 Young Offenders Act (YOA) and the 2003 Youth Criminal Justice Act (YCJA). A historical overview of youth justice in Canada was also conducted, which included the 1908 Juvenile Delinquency Act (JDA). The particular type of content analysis, latent coding, which looks at underlining implicit meaning was used in regards to the legislations. The reason for this type of analysis was to gain insight on the government's perspective of youth crime and what changes have occurred in the history of Canadian youth justice. The elements utilised in this analysis were 1) The Canadian Government's Department of Justice Canada website, 2) reports and reviews of the Juvenile Delinquency Act (JDA), 3) the Young Offenders Act and 4) the Youth Criminal Justice Act legislations. The Canadian Government's Department of Justice Canada website described the decision and reasons for the implementation of the YCJA. It also was used as a guide in comparing the changes between the YOA and the YCJA. The 'YCJA explained' and the 'About the Legislation' were documents and WebPages consulted in the analysis of the legislations.

The actual YCJA legislation was ordered from the Canadian Publication Department, in Ottawa. Having the actual legislation was deemed important for analysis to get exactly how the legislation is presented and handled. Since the YOA was no longer in utility, it was not possible to order it from the government, thus research in the library was conducted and a copy was found for the analysis and research of this thesis. Analysis on the JDA was conducted through published papers from various sources such as

government affiliates, professors and criminologists. The actual legislation was not consulted directly.

Once all legislations were collected, assessments of which changes to focus on commenced. This assessment was conducted while keeping in mind governmentality and risk theories. The final choices were considered also in connection to the other elements in the whole research analysis such as the media analysis and the interviews. The specific elements of the legislation, such as the onus of responsibility on the youth and adult sentencing, that were included in the analysis focused on the aspects that presented controversy, created debates and delays in the implementation of the YCJA. The legislation was analysed in relation to the changes brought by the YCJA from the YOA, the government's statements about the reasons and motivations for the changes and also in regards to the debates and articles published on the YOA and its flaws, so to speak.

Media Analysis

After an initial review of the literature and thinking about research strategies, it became clear to me that the media has to be covered as the media is often targeted and labelled as the source of information the general public uses to gain knowledge on the issues of young offenders and youth crime. (Acland, 1995; Begin, 1993; Doyle, 1998, McManus and Dorfman, 2002; Onstad, 1997; Schissel, 1996; Sprott, 1996; Tulloch, 1999; and Young, 2003) Therefore, the way in which the media presents the issues of young offenders and youth crime. It is because the media plays such an important role in the way young offenders and youth crime are characterized, formulated and socially framed that it was deemed important to include and analyse in this research.

The media analysis was also a qualitative content analysis but focused on different aspects than the legislation content analysis. I limited my work on the media to newspaper coverage since it is the easiest and less time consuming method in comparison to television or radio coverage. The 'Globe and Mail' newspaper was chosen for this research as it is widely and nationally distributed across Canada. Conducting this content analysis permitted a closer view of what the media offers the public and where and what type of information the public is given on young offenders, the YCJA legislation and the youth justice system in Canada.

To enable the use of the Globe and Mail, using the Concordia Library databases, more precisely the CPI.Q database was employed as a search engine. CPI.Q stands for 'Canadian Periodical Index' and covers more than 400 English and French journals, magazines and newspapers. The first search was done under 'Globe and Mail' journal and was limited to November 1, 2002 to October 4, 2003 inclusively. These dates were selected to permit a six-month prior and a six-month post legislation time period as the new Youth Criminal Justice Act came into effect April 1, 2003. This search resulted in 38 articles under the use of keywords such as 'Youth Criminal Justice Act', 'youth court', 'youth crime', 'young offender', 'sentencing youth', 'youth gangs', 'youth trial', 'Young Offenders Act' and 'youth guilty'. Because the debate of the new legislation began in 1998 when Quebec objected to the use of certain parts of the proposed new legislation, a second search using the same database was conducted. This time, the search was limited to 'Youth Criminal Justice Act' as a keyword and was limited from January 1, 1998 to November 1, 2003. This search resulted in 7 articles, totalling my sample to 45 articles.

The media coverage on the YCJA legislation, youth crime and young offenders was measured using the following four criteria: frequency, direction, intensity and space. Frequency refers to the amount of something occurring or not and counting it. In this case, it was how often does the paper talk about youth crime or youth justice in regards to the governmentality and risk theory categorization created. Direction is noting on a continuum from positive to negative the message given in the article. For this research, it was how the youth and justice system are portrayed in the articles. Intensity refers to the strength or power of the message in a particular direction and finally, space refers to the placement and amount of space given to the article. In this case, it is measuring where the article is situated in the newspaper and how much room was it given.

Once all the articles were collected, categorization began by using governmentality and risk theory concepts. Based on these two theories, concepts were created and defined for this particular analysis. While I drew on risk language and concepts to develop the categories, the data shaped the ways in which these categories were ultimately created. After numerous reorganizations and reformulations; 13 categories were created for the analysis of the articles. Each article was read over multiple times and was dissected into passages and categorised into a specific category. Passages that fitted into more than one category, which were very few, were identified. Once all useful passages were classified, they were copied under their respectable category and further analysed as a separate entity. Each entity (concept and category) was then tabulated, permitting an overview of the use of each concept defined in the articles. After review of the categories was conducted, sub-categorization, overlaps and

connections were noticed and the final classification resulted in the 13 categories being reassigned in 5 categories with some containing subcategories.

Interview Analysis

The third qualitative method of analysis used was the interview. Interviews were conducted at an all male youth secure custody facility in Ontario. Ethics forms for the university and the Ontario Corrections Ministry were completed and once approved, contact with the specific youth facility was established and a bulletin asking for volunteers was sent to all staff members. The particular facility visited is what is called a 'phase 2' facility which holds youth that were aged 16 to 18 less a day at the time of their offence. At the time of the interviews the facility had 78 youth in its care but can hold over 100 youth. There are over 150 employees in the facility including full time correctional officers, part time officers, school related staff and administration staff members. The facility is divided in what are called 'house units' or 'living units' where the youth spend their time (when not in school or doing recreational activities) under the supervision of specific staff members. The initial attempt for interview volunteers only solicitated one reply. However, because of a personal contact I had within the institution, more staff members were approached directly (by another staff member) and asked if willing to participate in the research and this resulted in a snowball sample of 11 interviews. The eleven interviews were conducted with various staff members such as correctional officers, recreations officers, 'Admit and Discharge' officers, casual (part-time) officers, unit managers, case managers, social workers and upper-hand management. Interviews lasted from 30 minutes to 45 minutes and all interviews were tape-recorded and later transcribed. All interviewees were asked to sign a consent form

and given the researcher's contact information. The choice of interviews was to permit a closer look at how the YCJA is being implemented and how it is affecting the people that work with it on a daily basis. The interviews also permitted a closer look on how staff members of the Canadian youth justice system portray and characterize young offenders.

By conducting a content analysis of the legislation, the media and interviews, I was able to gain multiple perspectives on the social construction and characterization of the young offender and the impact of the YCJA.

To begin the research, the logical first step was analysing the YCJA itself, as it originally was considered the foundation of this thesis and is the beginning point from which my interest on youth crime and young offenders began. The ensuing chapter provides a historical overview of the Canadian youth justice system and an elaborate examination and discussion of five changes brought by the YCJA.

CHAPTER 4: LEGISLATION ANALYSIS

Changes in Legislation

History

Juvenile Delinquency Act

Prior to the Juvenile Delinquency Act (JDA) of 1908, children who violated the

law were treated in the same way as adults. These children were incarcerated and since

there was no specific legislation or rule on young offenders, delinquent youth were kept

for indeterminate periods until it was believed they were no longer a threat to society.

Those that were incarcerated were petty criminals, orphans and youth for whom no one

took responsibility. Social changes that arose in the beginning of the 20th century such as

new protection for child welfare and labour laws influenced the Canadian justice system.

These changes allowed for the creation of the JDA and a separate youth justice system in

Canada; exclusively dealing with the different requirements and needs that young

criminals demand. (Begin, 1993) Often referred to as the welfare model, this new system

focused on the youth's needs, therefore public protection and accountability was placed

second, if even really considered at all. Section 38 of the JDA states:

> This Act shall be liberally construed in order that its purpose may be
> carried out, namely, that the care and custody and discipline of a
> juvenile delinquent shall approximate as nearly as may be that which
> should be given by his parents, and that as far as practicable every
> juvenile delinquent shall be treated not as a criminal, but as a
> misdirected and misguided child, and one needing aid,
> encouragement, help and assistance. (Begin, 1993, in citing the JDA)

One of the major criticisms of the JDA was that there were few rules governing

the act so judges, with or without training, were given much leeway with sentences,

sanctions and imposing reprimand. Among provinces, jurisdictions and even judges or

representatives, there were large discrepancies on how youth were treated under this legislation. Another important fact of the JDA, is that youth were not held responsible for their actions; blame and responsibility was often put on the family or other factors but never on the youth since putting blame on the youth would jeopardize his/her chances of full, normal function in society. Deviant children, under the JDA, were considered as 'misguided and misdirected and in need of aid, encouragement, help and assistance'. (Begin, 1993 in citing the JDA) Under this legislation, since it was created as welfare for the child, there was great misuse of the youth justice system as the courts were used to 'fix' non- criminal issues such as family, educational or psychological problems. Judges were often faced with youth who were not criminally liable but could not be dealt with elsewhere.

The Young Offenders Act

The JDA legislation remained virtually untouched for 75 years until the Young Offenders Act (YOA), proclaimed in 1984, changed the youth justice system by including youth accountability, imposing stricter rules for judges, police and all people involved but also maintaining the youth's protection and rights. In this new legislation, more emphasis was placed on public protection and crime prevention. The YOA rejected the use of the criminal courts for child protection objectives. However, because this new legislation had more than one underlining philosophy, as opposed to the JDA, which focused on the youth, it did not offer real effective guidance for its application and therefore resulted in its misuse. This meant that judges and members of the Canadian youth justice system were left with the decision of which philosophy to follow and implement. Since its creation, the YOA has received much criticism from 'get tough'

advocates claiming that the legislation was too vague, too lenient and non-deterrent while rehabilitative advocates, health professionals and scholars argued that the legislation paid little or no attention to the most important factor in youth justice: rehabilitation. Both sides demanded changes in the legislation and the youth justice system as a whole. Another point of criticism in regards to the YOA was the fact that the legislation tried to balance between society's protection and the youth's needs without any real clear guidance or with too many conflicting principles. This adversarial relationship resulted in an emphasis on judicial discretion and since the YOA had so many guiding principles, judges were repeatedly asked to make the distinction to which principle was the most important; the interest of society or the youth's needs. This led to a great deal of public debate over the legislation, which ultimately played on its reliability and validity.

Never had the debate on juvenile justice been more apparent than in the 1993 federal elections. Pressure was on government to make changes and all governmental parties, except the Bloc Quebecois, had plans to 'toughen up' the YOA. Because of this public and governmental pressure, many amendments have been made to the YOA such as Bill C-106 in 1986, Bill C- 12 in 1992 and Bill C-19, passed in June 1995. This last amendment, Bill C-19, was probably the most severe one to change the YOA as it focused on crime control, adult transfers, custody use and disclosing of a youth's information. Although Bill C-19 brought change to the YOA, a great deal of criticism and pressure was still placed on the government to issue new legislation to completely replace the YOA. The multiple underlining principles, the dualistic nature of the purpose of the act and the unclear and vague statements within the legislation all led to the creation of

the Youth Criminal Justice Act. (Bala 1994, Beaulieu 1994, Begin, 1993, Corrado 1994, McGuire 1997, Winterdyk, 1996)

The Youth Criminal Justice Act

In 1999, the Canadian government proposed the Youth Criminal Justice Act (YCJA). In March of that year, the first version of the act was introduced, as Bill C-68. The act went through many readings and re-evaluations and with over 160 amendments; Bill C-7 was introduced as the Youth Criminal Justice Act in February 2001. A delay in the enactment of the legislation was due to Quebec opposing certain changes proposed in the act, declaring them unconstitutional towards young offenders, such as the onus left to the youth to request a youth sentence when an adult sentence is presumed. The new legislation, also known as Bill C-7, came into effect on April 1, 2003. This new legislation promotes accountability, responsibility and meaningful consequences in regards to youth crime. Public protection becomes the main objective of the act by emphasising prevention and rehabilitation. This is key, according to the government, to regaining public confidence in the youth justice system and as Michel Foucault claims 'the finality of government resides in the things it manages and in the pursuit of the perfection and intensification of the processes which it directs' (Foucault, 1991: 95) On its website, as an opening statement on the new YCJA legislation, the Canadian government claims:

> The Government of Canada is working to establish a
> renewed youth justice system - one that commands
> respect, fosters values such as accountability and
> responsibility and makes it clear that criminal
> behaviour will lead to meaningful consequences. A
> renewed youth justice system must also make a
> distinction between violent and non-violent crime
> and ensure that youth face consequences that

reflect the seriousness of their offence. Finally,
it must make every effort possible to prevent
youth crime and to support youth, if they do
become involved in crime, to turn their lives
around. Establishing a youth justice system that
promotes accountability and is more effective and
reflective of current social values is key to
regaining public confidence. The strategy focuses
on three key areas that work together to protect
the public: preventing youth crime; ensuring there
are meaningful consequences that encourage
accountability for offences committed by youth;
and improving rehabilitation and reintegration for
youth who will return to the community. The system
does not give sufficient recognition to the
concerns and interests of victims.
(www.canada.justice.gc.ca)

Changes discussed

Although the new YCJA brings many changes in regards to youth justice, I have

chosen to focus on five issues, which can be linked to other parts of the thesis. The

chapter covers 1) the philosophy of the legislation, 2) extra-judicial measures, 3)

sentences, 4) considering youth as adults and 5) victims.

1. Philosophy of the legislation

The philosophy of the YOA as compared to the YCJA is quite different. The

YOA had been scrutinized for barring too many conflicting, vague and ambiguous

principles therefore; the YCJA makes more precise specifications in regards to its

underlining principles, goals and philosophy. On its website the government states that

the YOA's main problem was lack of clarity, conflicting ideologies and a lack of ranking

within its guiding principles, therefore users were unsure to which principle was to be

given more importance when there were conflicts amongst them. The YCJA, on the other

hand, according to the federal government, recognises such ranking and if this is true and

one refers to the act itself, it would seem that public interest is given priority:

```
3. (1) The following principles are in this Act:
(a) the youth criminal justice system is intended
to
(i) prevent crime by addressing the circumstances
underlying a young person's offending behaviour,

(ii) rehabilitate young persons who commit
offences and reintegrate them into society, and
(iii) ensure that a young person is subject to
meaningful consequences for his or her offence

In order to promote the long-term protection of
the public
```

Within the declaration of principles, there are four major areas each containing

sub-sectional claims making this declaration 16 principles long. The main areas are the

intentions of the act, the rights of the youth, the 'how to' deal and the process of actually

dealing with the youth. In addition to this, the preamble that introduces the act, while not

legally enforceable, also covers many points and areas within youth justice. This

preamble covers five areas, from societal responsibility to the youth's responsibility and

accountability. The terms and phrasing of these sections may give them more clarity but

the magnitude of coverage certainly makes them overwhelming. This 'all encompassing'

legislation aims to cover and consider so many different elements in youth justice, thus

ultimately making it unrealistically capable of covering all its intended goals. Such high

and unrealistic standards make the legislation vulnerable to criticism and failure. Clarity

may have been achieved by the terminology and language used, however, clarity in terms

of purpose and goals may fall short to the burden the legislation has set for itself.

2. Extrajudicial measures

Another interesting change that the YCJA has fostered in the justice system is the 'creation of presumption' using extrajudicial measures (referred to as alternative measures under the YOA) when dealing with young offenders. In the YOA, alternative measures were there to be used for what could be considered sufficient in dealing with the youth outside the formal justice system, however, there were no clear guidelines to when they ought to be used and for what offences. The YCJA dictates the specific measures that can be taken outside the formal justice system and lobbies for their use. One of the underlining philosophies in using these measures is the belief that they are sufficient to hold the youth accountable for his or her actions. Under the YCJA, police officers are given more options (see table 1 in appendix A for listing of available options) and expected to use them, such as taken no further action, referring the youth to community programs or making formal cautions in dealing with the youth. The act does give officers more leeway and options but it also makes their daily work more cumbersome by asking them to do more work and to take on more initiatives in regards to young offenders and youth crime.

A striking downfall to the use of the extrajudicial measures to be used, such as community programs, is the fact that the youth must take responsibility for the offence committed; therefore admitting guilt and this, as Beaulieu (1994) and McGuire (1997) point out, can be problematic. Youth may admit guilt in fear of being prosecuted in a formal setting, fear of a harsher sentence or admit guilt in lack of maturity or decision making skills. As in the YOA, extrajudicial measures are available in the YCJA. The main difference however, is that the YCJA has clearer guidelines for their use and more

alternatives available. The use of these measures can be considered as beneficial to youth as the lack of identification as a 'young offenders' avoids the social stigma associated with the title. This stigma may result in a restriction of participation in school or community involvement or in having to deal with the constant scrutiny of law enforcement and community members. The alienation created by this stigma and participating in the formal justice system is thus eliminated.

3. Sentences- Custody

Under the YOA, there was clear indication that custody was overly used. For example, 1) the youth incarceration rate was the highest among any other western country, including the United States, 2) youth were incarcerated at a higher number than adults sentenced for the same offences, 3) about 80% of custodial sentences were for non-violent offences, 4) many first time offenders found guilty were sent to custody (12%) and 5) about half of youth accused of failing to comply with a disposition received a custodial sentence (Youth Court Statistics 2002-03, Juristat). Obviously, the YOA did not provide clear guidelines to when custody was to be used, which led to its misuse. The YCJA, on the other hand, defines clear guidelines for the use of custody as being reserved for violent offences and serious repeat offenders.

Custody and Supervision Order

Under the YCJA, all custody sanctions are to be followed by a period of supervision in the community once the youth has been released, since the new legislation emphasises reintegration and rehabilitation. This supervision period is usually, unless specified by the judge or the provincial director, to be a third of length of the sentence. The youth spends two thirds of his or her sentence in custody and one third under

community supervision. This new order makes it mandatory to have a supervision period and this supervision time is when the youth is closely monitored once returned into society (could be thought of as adult parole). It insures the youth makes a successful reintegration into the community. During the custody portion of the sentence, the youth undergoes assessments of progress and special measures are considered and taken for when the youth is to return into the community. For example, if a trade was learnt while in custody, job search and placement is undertaken to help the youth reintegrate into society.

Intensive Rehabilitative Custody and Supervision Order

A new disposition created under the YCJA is what is referred to as the *Intensive Rehabilitative Custody and Supervision Order*. This new option is reserved for youth who are charged with serious violent offences but who also suffer from mental illness or psychological problems. The government states that the: (government website)

> The intensive rehabilitative custody and supervision order is a new special youth sentence intended to provide treatment for serious violent offenders. The order may be made if the court determines that the following criteria are met:
>
> - The young person has been found guilty of murder, attempted murder, manslaughter, aggravated sexual assault, or a third serious violent offence
> - The young person is suffering from a mental or psychological disorder
> - An individualized treatment plan for the young person has been developed and
> - The provincial director has determined that an intensive rehabilitative custody and supervision program is available and the young person's participation is appropriate

This new order offers more to the youth in form of treatment, personalized attention and rehabilitation and ultimately, a chance to turn their lives around. This new option also prevents youth who would have been sentenced to custody where often they cannot be dealt with appropriately or efficiently due to lack of funding or available psychiatric support, to be dealt with in adequate means and measures. This special treatment sentence offers a significant new option in the youth justice system for serious violent young offenders who otherwise might receive an adult sentence. The new order has limitations such as 1) restricted to violent offences; 2) youth aged 14 to 17 and 3) not available to youth who receive an adult sentence. Nevertheless, it is beneficial for both the youth and society as the youth must undergo a period of supervision once returned into the community and his or her psychiatric needs are met or at least considered. The 'custody and supervision order' and the 'intensive rehabilitative supervision order' both could satisfy the public's concerns of leniency in sentencing since the length of the sentence is prolonged and offers a part of supervision in the community (see table 2 in appendix for specifics). The new order is also quite beneficial for the youth since 1) it avoids the adult system; 2) it focuses on the youth's specific needs and 3) offers a period of adjustment back into the community. One could speculate that this new order could possibly lower the rate of recidivism among young offenders in the future.

Implications

Goodstein (1989) found that incarceration brings what he terms *the pains of imprisonment*, which is the loss of social acceptance, material possessions, personal security, heterosexual relations and personal autonomy. These losses bring the youth to develop a normative system that opposes authority exercised in the facility, which in turn,

creates an 'inmate counterculture'. Goodstein (1989) also found that incarceration builds up a sense of institutional dependency, which prohibits the youth from functioning outside of the institution, once released since it limits time with outsiders, and adds to the loss of self-esteem and loss of control. Similar to Goodstein's findings, Wright (1989) found that incarceration is not in the best interest for anyone as he points out that during custody, the youth learns to become a better criminal since he/she is exposed to other criminals. This exposure teaches the youth new skills and trades and other criminal activities, which increases their likelihood of re-offending. The fact that the youth are incarcerated can also heighten their sense of rebellion since they are labelled and treated as delinquents. Incarceration can also increase the stigma the youth face once returned to society, for the simple fact that they were incarcerated. Redding (1999) found that incarceration increases risks 1) of suicide, 2) physical and sexual abuse from other inmates and staff, 3) high disciplinary reports due to having to prove toughness and need to fit in and 4) exposure to criminal behaviour, thus socialization into a 'true criminal'.

These findings demonstrate that custody should not be used or used to a minimum since it presents many disadvantages. If the government intends to limit the use of custody to violent and repeat offenders, thus decreasing the number of youth sent to custody, the positive outcomes would be increased. If the plan is to take out the cases of first time offenders and breach of sanction offenders, limiting custody use to violent offences and repeat serious offenders, as the government states this legislation is intended to do, outcomes will be beneficial in reducing the possible negative impacts custody has on youth. The fact that the government states that all custody sanctions must be followed by a supervision period is also a step in the right direction since it increases the possible

success of reintegration for the youth and also permits the monitoring of the youth's

activities, thus lowering chances of re-offending. The creation of the 'intensive

rehabilitative custody and supervision order' is also quite beneficial for the youth as it

separates those with mental problems and psychological problems from the average

young offender and takes into consideration their special needs.

4.Youth as Adults

One major area of debate in youth justice is the criteria for considering an adult

sentence for a young offender. In its publication, the government states that the new

legislation will:

> -Allow an adult sentence for any youth 14 years
> old or more who is convicted of an offence
> punishable by more than two years in jail
> (www.canada.justice.gc.ca)

Under the YOA, only 16 and 17 year olds, accused of murder, attempted murder,

manslaughter and aggravated sexual assault were *presumed* to be subject to adult

sentences. These youth were also subject to adult sentencing because these are charges

that resulted in a minimum sentence of 2 years in custody. The problems with the YOA

were that provinces varied tremendously in the number of cases that were transferred to

adult court and that the YOA did not provide specific guidelines pertaining to when and

for what charges adult sentences were to be imposed. Because the YOA lacked clear

guidelines, the majority of cases transferred to adult court were not the cases cited as

being able to be subjected to transference. Table 3 in appendix A clearly demonstrates

that offences other than the ones specified by the government were being transferred,

such as property crimes and YOA violations. In 2002-2003, 30 cases were transferred to

the adult system and only 17% were crimes against the person, the charges *presumed* to be subject to transference. (Youth Court Statistics, Juristat, 2002-03)

Scope of offences permitted

Under the YCJA, stricter limits and guidelines are given to the criteria relating to the imposing of an adult sentence. The categories of offences that can result in an adult sentence are limited to presumptive 'A' offences (murder, attempted murder, manslaughter and aggravated sexual assault), presumptive 'B' offences (repeat serious violent offence) and non-presumptive offences (offences where an adult would receive a minimum 2 year sentence). In the case of a presumptive 'A' offence, when it is presumed that an adult sentence would be imposed, the youth must demand to be sentenced under youth sentences. In regards to presumptive 'B' offences- repeat serious violent offences- the crown must first establish the youth as a serious violent repeat offender by establishing 2 prior serious criminal convictions. Once the establishment has been made, the onus is on the youth to demand for youth sentencing. This is a new category of sentencing within the YCJA and it was created to give the courts more flexibility in sentencing for the offenders who are deemed dangerous. Also, since the new legislation is focused on public safety and youth accountability, this new option offers more meaningful consequences for the youth. The third type of offence for which an adult sentence can be attached to is the non-presumptive offences, which are those offences that an adult would receive a minimum of 2 years. In this case, there is no presumption of imposing an adult sentence and responsibility rests on the crown attorney to demand an adult sentence if it deems it necessary. In the case of presumptive 'A' offences and presumptive 'B' offences, putting the onus on the youth, even if backed by council and

under advisement, seems harsh and unjust as the youth may lack the maturity to make such decisions and may not take into full consideration the options and consequences of making such important decisions.

Age

One of the reasons for the delay in the enactment of the YCJA was that Quebec opposed the establishment of the lowered age (14) for adult sentencing, stating that it was unconstitutional and violated youth protection laws. Hence, in response to this, the federal government stated that provinces have the right to self-determine the age that an adult sentence can be presumed and imposed:

> `Under section 61, jurisdictions may leave the age at which this presumption arises at 16 or may set it at 14 or 15 years of age.' (www.canada.justice.gc.ca, YCJA explained).

This constitutes a contradiction in the intent proposed by the government to 'establish fairness and equality amongst provinces' (www.canada.justice.gc.ca) since a 14 year old in Ontario accused of murder may receive an adult sentence but not if he/she is in Quebec.

Procedures of Transfer

Another important change with the YCJA, in regards to adult sentences and transference, is the actual process of transference. Under the new legislation, there is no longer a transfer process; the youth court must first establish if the youth is guilty of the offence and only once the youth is found guilty can an adult sentence be imposed, thus eliminating altogether the transfer to adult court. In addition, the crown has the power to renounce the presumption of an adult sentence and the judge must then impose a youth sentence. The judge must decide on whether an adult sentence is required by evaluating if

a youth sentence will be enough to hold the youth accountable for the crime, since as mentioned earlier, the aim of the new legislation is youth accountability. Under the YOA, the court had to decide if the hearing was to be held in youth or adult court and if adult court was selected, the court had to apply for a transfer process and this was done at the beginning of the process, therefore before the youth was actually found guilty. The process of the transfer hearing was lengthy and could not guarantee the same protection to the youth since the hearing was held in adult court. The YCJA reduces the length of time the youth spends in court and also lessens the burden on the victims and families and the accused youth involved.

Analysis

To begin, it is important to explore the capacities youth have in dealing with the justice system. Steinberg (1996) determined that there are many factors that must be considered when dealing with youth in the justice system and especially when considering an adult sentence. He found that "scientific basis within the psychological literature on adolescent development for distinguishing under the law between individuals who have, versus those who have not, reached the age of 17."(p.268) He bases his finding on many factors that define adolescence: 1) a low level of autonomy and independence, 2) low identity formation capacities making them highly acceptance seeking, 3) high sensation seeking, 4) have low impulse control, 5) high mood swings, 6) are highly affected by their emotions and 7) low social perspective taking (taking the perspective of others to evaluate one's own actions). Based on these findings, Steinberg does not support the idea that youth should be tried in adult court since they do not have

the fully formed capacities to be considered an adult, thus treating them as adults is unjust, unfair and unmerited.

Similar to Steinberg's findings, Sprott (2000) found that aggressive children were more likely than other children to be unhappy and feel rejected. She conducted a survey with children to try and figure out what makes children aggressive and eventually delinquent. Her findings were quite similar to Steinberg's in regards to impulse control, self-esteem or self-perception and high affectability of emotions. She determined that highly anti-social and aggressive children were those who received feedback from others that contradicted their own favourable views of themselves and the only way they knew how to deal with it was to become violent and aggressive.

A sociological point of view was considered from Beaulieu (1994) in regards to the eventuality that a youth would have to be tried in adult court. He stated that since the courts have to take into consideration many factors, there might be benefits to a youth being tried in adult court. He listed the fact that 1) seriousness of the offence and circumstances, 2) age, maturity, character, background and previous delinquency, 3) availability of treatment and correctional resources, 4) other factors such as insanity, involvement of co-accused and 5) interest of society (protection of the public and rehabilitation of the youth) are all things the courts must take into consideration when making a decision for transfer. Based on this, Beaulieu stated that much effort and consideration is put in the decision of transference and if the court still deems it necessary to transfer, it would mean the youth had the capacities to handle it.

Contrary to Beaulieu's findings, Redding (1999) found that there were no benefits to trial transfers to adult court and actually listed many disadvantages:

1) A trial in adult court would increase level of recidivism since it limits reintegration by limiting employment options once released (based on the idea that youth's information can be revealed),

2) The youth would lose rights and protection guaranteed in the youth system,

3) Judges use records to prosecute youth, often without sufficient evidence to establish guilt beyond a reasonable doubt,

4) Guilty verdicts are more severe in adult court,

5) Information needed by the judge to make informed sentencing decision is missing and is held by other agencies such as the police, school and hospitals and because of *information territoriality* agencies don't like or are unable to share information.

6) Violent offenders are given harsher and longer (5 times longer) sentences in adult court than in youth court.

7) Youth court offers individualized and non-punitive sanctions, which are designed for youth in trying to help them not punish them and

8) Punishment in adult court often makes the youth feel they were treated unfairly by the system.

All these findings clearly demonstrate that transfer to adult court is not in the best interest of the youth. Therefore, if the government intends to limit the scope of cases considered for adult sentences to only violent offenders and repeat offenders and makes sure that other offences such as property or drug offences are not included; the new legislation does benefit the youth since it would consider their needs. It is also more beneficial since it reduces the time the youth spends in court, thus eliminating the stigma

attached to the process. It also eliminates the trauma of the adult court process if the sanction is only given after the youth is found guilty and it is done in youth court. The youth is protected and so is society.

5. Victims

An important change stemming from the YOA to the YCJA is the victim's impact and involvement. The YCJA makes it clear that the victims of youth crime are to be given more importance in the youth justice system than under the YOA. First of all, there is mention of victims in the principles of the YCJA, which was not present in the YOA:

> 3(d) special considerations apply in respect of
> proceedings against young persons and, in
> particular,
> ii) victims should be treated with courtesy,
> compassion and respect for their dignity and
> privacy and should suffer the minimum degree of
> inconvenience as a result of their involvement
> with the youth criminal justice system,
>
> (iii) victims should be provided with information
> about the proceedings and given an opportunity to
> participate and be heard (www.canada.justice.gc.ca,
> 'YCJA explained')

Another way in which victims are recognised and their concerns acknowledged is by having more input throughout the case and court proceedings. Victims can contribute, by making statements or by participating in the advisory group conferences, in the decisions of extrajudicial measures or by joining the youth justice committees. Victims can now take part at different stages of the proceedings. A third way in which victims are recognised in the youth justice system is when an extrajudicial sanction is imposed, the victim has a right to obtain information such as the actual sentence delivered, which was

not permitted under the YOA. Victims are furthermore encouraged to take part in the formal and informal community based measures of dealing with the youth. They also now have access to courts records and other records, if deemed appropriate. All these new implementations within the YCJA are created in response to criticism that the youth justice system, under the YOA, did not acknowledge victims enough:

> The youth justice system has been criticized for
> not adequately recognizing the interests and needs
> of victims. Under the YCJA, the interests and
> needs of victims are clearly recognized and the
> role of victims at different stages of the youth
> justice process is specified. (www.canada.justice.gc.ca)

The increased consideration of and involvement of victims within the youth justice system presents a sense of satisfaction and safety for the victims and all citizens as Schissel (1997) points out that people fear the general possibility or vulnerability of becoming a victim of youth crime.

Conclusion

In conclusion, although focus on the changes in legislation only considered a limited number of changes (those that related to other sections of the thesis) the changes mentioned are significant in their implications for the youth, the courts, the victims, society and all involved or affected by the youth justice system and youth crime. However, it must be acknowledged that the legislation is only one part of the whole picture and for it to be effective, other areas dealing with youth crime must also make changes. The government states that:

> These objectives cannot be achieved by legislation
> alone. As noted earlier, the Youth Criminal
> Justice Act is an important part, but only a part,
> of the Government of Canada's broader approach to
> addressing youth crime and improving the youth

```
justice    system.   The   combination   of   the   new
legislation and important non-legislative elements
—— such as increased federal funding for programs,
crime     prevention,    public    and    professional
education,  partnerships  with  other  sectors,  and
appropriate    implementation    by    provinces    and
territories   ——  can  achieve  the  objectives  and
thereby  create  a  fairer  and  more  effective  youth
justice system. (www.canada.justice.gc.ca)
```

If the government follows through with its proposed changes, the new legislation

will become a better tool for dealing with young offenders since it proposes to:

1) Reduce the number of cases sent to adult court;

2) Reduce the number of youth sent to custody;

3) Favour extrajudicial measures for youth if deemed appropriate, therefore

   avoiding the stigma of the formal justice system;

4) Orders a period of community supervision for serious offences, thus

   increasing the chances of reintegration and;

5) Makes clear guidelines to how the legislation is to be used.

Now that the legislation itself has been analysed, the question becomes: how is

the legislation, the concepts of young offenders and youth crime presented and portrayed

in the media? The next chapter provides a qualitative content analysis on newspaper

articles depicting the YCJA, young offenders and youth crime.

CHAPTER 5: MEDIA CHAPTER

I decided to do the media analysis because of the fact that many researches demonstrate that 'Canadians perceive violent crime to be pervasive and their victimization by an adolescent to be imminent.' (Begin, 1993: 3) This perception is fuelled by the mass media over-covering stories of violent offences committed by youth. (McManus and Dorfman, 2002; Sprott, 1996; Tulloch, 1999) Because the media is a major source of information for the general public, analysis on how this information is delivered was conducted. This analysis aimed at exploring the perceptions, angles and statements made in regards to young offenders, youth crime and the YCJA. The goal was to dissect each article in pieces revelling how the media presented these issues to the general public. This was also conducted in relations to the idea that these issues, the young offenders and youth crime, are viewed as 'risks' to be managed or as 'risky'.

Categorization

It is important to stress that theories of risk and governmentality have inspired the analyses in the following chapter. Of course, as the data emerged concepts were refined to reflect this particular research focus. It must also be noted that with exploration and analysis it became apparent that the 13 separate categories demonstrated overlapping characteristics, revealing connections and subcategories. Modifications resulted in 5 final categories that were created, some containing subcategories. I made sense of the links between the categories in the following manner: 1) *governing at a distance* uses *risk technologies* and *experts*. *Inclusion* is a type of risk technology and *prudentialism* is a method of governing at a distance. Next, to assess and determine which individuals are going to be problematic for the state to govern, establishes the need to determine those

who are 2) *targeted at risk*, which is often done by *labelling*. Once this is accomplished, it becomes necessary to establish 3) *risk management* and *risk prevention*, which includes determining those who must be *excluded* from civil society. Those individuals who do not follow the state's norms are considered 4) *criminal violators* and must be considered separately and not as a whole, thus creating *individualization of risk*. The end result of this chain is 5) *victimization*, which demands and demonstrates the need for governance against risks, youth crime and young offenders.

1. Governing at a Distance

Governing at a distance is defined as *the government using methods/ agencies to control its population from a distance*. The necessity to consider this category first and foremost is in light of the fact that all categories follow from this initial starting point and that much of what is considered in this category is explained and expanded in the sub-categories within governing at a distance. Within this category, all passages that refer to elements in the government, i.e. ministry, chair, authorities, crown attorney, system or courts, are considered. The underlining tone in this category is that *the system* is faceless, impersonal, large, and abstract and has no direct representation. For example,

> `Someone, yet to be appointed, from the outside the ministry would head the inquiry.' (article 2)

The people involved within the government are removed from this entity. This entity becomes capable of conscious thought and change and therefore, criticism is aimed at this entity and not the people involved, illustrated by these quotes:

> `The system made no changes to itself to prevent peer-on-peer violence. The system -- or its commanders -- were arguably complicit in the resulting peer-on-peer violence.' (article 16)

> `The system therefore places a premium on
> fear.' (article 17)

> `The child advocate was in there just recently and
> we haven't heard anything. If there was a real
> problem, she would have let us know immediately.
> That's her responsibility.' (article 21)

Because there seems to be no direct responsible party, responsibility is thrown to other

parts of government and gives the impression that there is no one specifically to blame.

This image empowers the government as it is represented as a huge faceless mass with a

life of its own.

<u>Risk technologies</u>

A particular way in which the government maintains its power and governs at a

distance is by enlisting the use of what is defined in this research as risk technologies: *the*

tactics/ institutions/ procedures/ legislation that the government uses to control its

population. The passages that are considered for this category are those that mention the

ways in which the government or its agencies are trying to manage people with specific

measures and methods. Again, the undercurrent in this category is that of a faceless

power hovering over its population. This faceless power uses surveillance technologies to

keep its people in place. Cameras are of focus in many of the passages and are presented

as a great solution for government but are also considered as a violation of privacy:

> `The Toronto Police service is considering
> installing surveillance cameras inside its
> vans to stop a spate of vigilante-style
> beatings of youth being transported to court
> hearings.' (article 1)

> `The park has a very sophisticated security
> system that includes surveillance cameras and
> staff both in uniform and undercover.' (article
> 19)

> `They have put in surveillance cameras at our request.' (article 21)

> `Closed-circuit cameras on some streets, particularly in the downtown entertainment district, are a priority for the chief.' (article 27)

These passages demonstrate how the government is trying to control and manage its population from afar. The growing use of these technologies replaces people with machinery and gives the illusion that it will fix the problem. This category gives the sense of punishment for those who committed an offence and a sense of constant watch for those who might be thinking about it. The other methods used, besides surveillance and technology, such as legislation, constitution and tactical measures are presented as bureaucratic solutions. For example:

> `These are fundamental points of our law, and they're linked. One is the presumption of innocence and the other is the right of an accused person to a fair trial.' (article 22)

> `Under immigration law, anyone not a citizen who is convicted of a crime that carries a penalty on the books of at least 10 years in jail -- as the break-in offences do - faces deportation.' (article 23)

> `The conditions at TYAC violate both the Young Offenders Act and United Nations conventions.' (article 16)

> `The Youth Criminal Justice Act will be harsher on repeat violent offenders but more flexible for those accused of minor crimes.' (article 39)

These statements give the impression that legislations and laws can 'control or handle' the issues of young offenders and youth crime. They are given as a defence strategy from the government, stating that the government has implemented strategies to deal with young offenders and youth crime and the situations mentioned go against these strategies.

However, they are broad statements that do not address the actual immediate problem, situations or incidents of youth crime and young offenders.

Experts

Another method the government uses to govern at a distance is by using so called experts and in this particular research, experts are defined as *people that are considered informed and wise: those to whom lay individuals look to for guidance and knowledge.* What seems to stand out in this category is that the expertise that is referred to stems from the experts that are in fact representatives of the government who are removed from the situations they are talking about. It presents a sense of distance and detachment from the actual situation. In other words, a removed reality becomes based in bureaucracy. The experts utilised are ministers, directors or senior administrators, people who do not deal with young offenders or the criminal justice system on a daily basis but are still regarded as holding the ultimate knowledge and wisdom in these matters. For example:

> `Julia Noonan, spokeswoman for the Ontario Ministry of Public Safety and Security, stressed that if a young person in one of the ministry's institutions is assaulted police are notified immediately.' (article 1)

> `Children's service minister Iris Evans said a special care review would begin immediately.' (article 2)

> `Toronto Chief Fantino announced a crackdown on youth crime, which he warned was -out of control.' (article 12)

> `Security Minister Bob Runciman ordered an investigation into what is happening at the centre.' (article 21)

They look at reality on paper and in theory and not in practice but are still given much attention and importance in society. The passages also present an undertone of political

reasoning as the so-called experts are pushing for re-election or to insure future votes, therefore not speaking out to help or bring solutions but for personal reasons.

<u>Inclusion</u>

Another method used by the government to control at a distance is the creation of what is referred to as inclusion: *include 'risky' individuals into the system (database) and be able to use in risk management (identity)*. Surprisingly enough, there is only one passage that fits in this category. Surprising because debate has come up in recent years over the use of databases in regards to the law and it is only mentioned once in the 45 articles examined. This could be explained by the fact that both the analysis and these articles focus on young offenders and that they are protected under the law, which prevents the creation and use of a database for this particular population. Also, in this particular instance, it is a lack of information that is mentioned:

> `We don't have any prior knowledge through school
> records or other records of any incident involving
> these girls at all.' (article 6)

This could therefore present a need for a database in regards to young offenders. The statement highlights the fact that there was no information available on the youth involved in the incident and that perhaps a young offenders' database would be necessary in aiding and providing guidance in determining 'who' is a risk or is 'risky' and thus, has to be managed.

<u>Prudentialism</u>

Within governmentality theory it becomes clear that the individual is personally responsible for his or her own protection against risks and this is called prudentialism. In this analysis it is defined as *the individual is expected to take on own responsibility for risk management.* In the articles, passages fitting this category are identified when focus

is drawn to the actions, or lack of action, individuals are defined as doing for self-protection against risk. The resonating theme within this category is the individualization within the law and society as opposed to social responsibility. The sense of '*you are on your own, even if the law is there*' is present. Self-reliance, self-discipline and self-help are elements found in the passages that illustrate how individuals become responsible for their own well-being. For example, in regards to the public:

> `The only sane reaction, at least among those living nearby, seems to be locking the doors, drawing the curtains, posting guards at the schools. People should rush out into the streets.'(article 10)

> `The risk drives these people to carry and use guns for what they see as self-protection.'(article 13)

> `Latisha's mother, Marcia Shakespear, urged witnesses to come forward.'(article 31)

However, in regards to young offenders, the sense is that these youth are responsible for their own protection and have to bear the consequences of this. For example:

> `Non-violent youth being detained on property offences are among those who typically find themselves obliged to fight or join a jail gang simply to survive.'(article 16)

> `If the young offender who has been beaten up and humiliated wants to do anything about it, he has that right. Forms can be filled out, fingers pointed, complaints filed' (article 17)

> `Offenders as young as 14 would have to explain why they shouldn't get adult sentences once convicted of crimes such as murder or manslaughter, as those aged 16 and 17 now do.'(article 41)

When these elements are not present, for example, taking unnecessary risks or not taking measures to prevent risks, the individuals are presented in an unflattering and negative manner:

> `Inevitably, some -- among them college and high-school students -- are lured by the idea of making big money as drug couriers.'(article 11)

> `They were taunting the police, saying `what are you doing here? Leave us alone' Police got no assistance whatsoever -- they were trying to impede the investigation.'(article 12)

> `Both homicide victims and offenders averaged nearly 10 prior arrests each. Members of these groups hurt each other a lot.'(article 13)

In this sense, it appears that individuals must take matters into their own hands for protection against risks and are criticized when not doing so. Those who refuse or are unable to take prudentialistic measures against risks must then be identified to enable the state the ability to manage and control these individuals. These individuals are thus referred to, by the state, as the 'targeted at risk' population.

2. Targeted at risk

The methods and tactics (risk technologies and experts mentioned earlier) that are used by the government to control enable it to determine the individuals that are to be considered at risk. In this sense these individuals are 'targeted at risk' and described as *groups, individuals deemed to be at risk by their behaviour, conduct and actions. Those who are unable or unwilling to manage their own risk: incapable of exercising responsible self-governance.* In the overall media analysis, this is the category with the

most entries with 77 passages compared to an average of 34. Passages that fit this category reflect negative descriptions, labels, stereotypes and prejudice such as:

> `The Ontario Court of Appeal noted in saying black offenders may deserve special consideration. Because they are growing up black in a largely white society, they should be given a more lenient sentence than a white youth in similar circumstances.'(article 3)

> `The judges agreed that young black people, like aboriginals, suffer disproportionately from social problems and incarceration.'(article 18)

A constant theme within this category is an over-dramatization of the individuals and situations described. The characterization and classification of the individuals involved clearly paint a portrait of a demonised young offender. To illustrate:

> `Everybody in that world knows somebody who had been killed; most have been hurt themselves, often repeatedly.'(article 13)

> `It was the fact that he is a homeless youth at this point in his life that led to 10 days of pretrial detention in a hellish system.' (article 16)

> `The young man was swarmed by a street gang known as the Crips, infuriated by the colour of his jacket. Mr. Hiscock and his gang of thugs had been "wreaking havoc" on Esquimalt streets for too long.'(article 9)

> `Young people often become aggressive after constant exposure to trauma and violence, especially when loved ones die.'(article 11)

> `The recent shootings, the youth of those involved, their brazenness and apparent senselessness, the increase in the use of firearms, the apparent inadequacy of traditional responses, the role of "gangs," the toxic racial and ethnic overtones.'(article 13)

The terminology, imagery and justification of these descriptions clearly identify the 'at risk' population: the non-Caucasian, socio-economically challenged, and mentally ill youth (bluntly translated from: the poor, black, crazy gang banger). The passages demonstrate a constant need to connect these circumstances to the individuals involved or the situations presented. A more direct way of putting it is by saying that it is because little Billy never knew his father and grew up on welfare that he had all these anger problems which made him stab Joey. There is a need to correlate and justify or in essence, 'make better' the reasons for these young offenders' actions and behaviours. Here are some examples from the articles that demonstrate this trend:

> `He never knew his father. His home was chaotic. His mother was mentally ill, and at one point abandoned her children. From time to time he was in the care of children's aid. By 15, he was an alcoholic. All this would damage anyone, regardless of race.' (article 3)

> `Young people wish to belong to something, but when family and community seem to have abandoned them they will find something else. They tend to join gangs, says the WHO report, when there is a decline in law enforcement, interrupted schooling and low pay for unskilled jobs, a lack of supervision and guidance from parents and harsh physical punishment at home.' (article 10)

> `It is those seeds of hurt, made worse by constant exposure to traumatic and violent experiences, that blossom into full-blown anger.' (article 11)

> `The girl, who cannot be identified under young-offender laws, was suffering from premenstrual dysphoric syndrome when she stabbed principal Heather de Graaf at D.A. Morrison Junior High School, her lawyer said.' (article 15)

> `The province had guardianship over him not because of his FAS, but because his own family was unable or unwilling to look after him," said Mr. Frey, adding that such children in care usually

> *have been physically, sexually or emotionally abused.' (article 38)*

> *`It is unclear how judges will rule when a 14-year-old accused killer with a horrid childhood comes before them.' (article 44)*

These passages demonstrate the dualistic nature of perceptions towards young offenders as criminals but also as victims of social circumstances. This demonstrates the need to identify those who are deemed 'at risk' but also the need to explain and almost eradicate their responsibility because they are viewed as victims. The last passage, taken from article 44, highlights the dilemma of having to face a young offender, charged with a serious offence and how to best deal with the situation, if the offender experienced traumatic social circumstances.

<u>Labelling</u>

Within 'targeting at risk', the use of labelling, defined as *individuals are described and identified as risky, thus demonstrating the importance of dealing with them,* enhances and heightens the urgency of dealing with these individuals. The passages in this category reflect a negative, unforgiving, aggressive, almost demonizing, image of the young offender by the use of extremely harsh terminology such as 'appalling', 'unsavoury', 'stupid' and 'idiot'. Examples of this are:

> *`And here we've got three young ladies that have done something stupid, I guess, Mr. Lambertson said.' (article 6)*

> *`The effects of these gangsters on young people are incalculable.' (article 24)*

> *`Several other witnesses whom the judge dubbed "unsavoury" because of their lies under oath and their delinquent pasts.' (article 25)*

> `A deep cultural malaise exemplified by violent
> rap music, where rappers sometimes carry guns in
> their videos. For years, I have been very worried
> about these hateful lyrics that these boasting
> macho idiot rappers come out with.' (article 31)`

The use of these terms and characteristics empower the labels and emphasises the need to control these young offenders. This derogatory language also highlights how these youth are constructed as deviant and a threat and therefore not deserving respect and courtesy.

3. Risk Management

The category called *risk management* is defined as *trying to control risk by making it calculable and measurable (associating with numbers and specifications)*. This category considers any passage that reflects a specific offence and associates it with a specific timeline or sentence. The picture given within this category is that of standardization:

> `Det. Downer stressed that any boys caught beating
> up another will be charged with assault.' (article
> 1)`

> `The offenders are placed under conditions for the
> rest of their life, and will be returned to jail
> if they break those conditions.' (article 4)`

> `If the judge decides that youth penalties apply,
> teenagers face six years in jail for first-degree
> murder, followed by four years under community
> supervision.' (article 4)`

> `Under the Youth Criminal Justice Act, the high-
> school student faces the possibility of a life
> sentence with no parole for 25 years if convicted
> of first-degree murder.' (article 5)`

> `The girls, two aged 14 and the other 15, are
> charged with attempted murder and with five counts
> of administering a noxious substance, copper (II)
> sulfate.' (article 6)`

`Under immigration law, anyone not a citizen who is convicted of a crime that carries a penalty on the books of at least 10 years in jail -- as the break-in offences do - faces deportation.' (article 23)`

`Firearms have been a factor in 12 of the 31 homicides recorded this year.' (article 27)`

`They face 67 charges, including careless use and possession of firearms, mischief involving property and mischief endangering life.' (article 30)`

The descriptions give the impression that the judge or the members of the justice system are bystanders and can simply make sure the offence receives the proper sentence. There is no consideration of the circumstances of the case or the youth involved. Passages are very factual and present stories as filler. This way of presenting the facts and the incidents takes away from the justice system and reduces it to very minute examples. The passages also give the impression that the system is simply 'black and white': one commits this offence therefore one receives this specific sentence. It does not reflect the judge's or the court's proceedings and means of getting to the end result.

Risk Prevention

Continuing with risk management comes the urge or need of risk prevention: *making risk calculable and measurable, thus predictable so the government can prevent it from happening.* The feel in this category can be classified as 'band-aid solutions'. There are no clear details of the ways in which risk is prevented but simple abstract statements. It gives the image of trying to fix what is noticeable and what will satisfy the public for the moment, while the issue is under the spotlight. For example, when a shootout in a neighbourhood drew attention,

> `Police set up a substation in the housing
> project's parking lot, and 20 officers were on
> site every night for at least a month.'(article
> 24)

Or when youth gangs became a discussed phenomenon, statements such as these were

made:

> `Authorities met directly and repeatedly with
> groups and told them face-to-face that if one of
> their members hurt somebody, the whole group would
> pay.'(article 13)

> `Community workers and police have been working
> overtime to keep young people in school, while
> targeting gangs and gunplay.'(article 18)

> `The courts need to demonstrate that "senseless,
> gratuitous, acts of youthful violence" will not be
> tolerated.'(article 35)

Another underlining tone in the article passages is the hoped result is that those who see

and hear about the measures taken in preventing crime will be deterred or think twice

before offending. To illustrate:

> `Only the shooter would get prosecuted for the
> shooting, but the rest would get special attention
> for drug crimes, weapons offences, outstanding
> warrants, probation and parole conditions, unpaid
> fines, unregistered cars, immigration violations,
> and anything else available.'(article 13)

> `They (cameras) have shown their value in other
> cities by helping to apprehend criminals and deter
> crime.'(article 27)

Exclusion

Another method of risk management (ultimately if risk prevention fails) is called

exclusion, which is defined as *assess and determine 'risky' individuals and subject them*

to strategies of control thus neutralizing the danger they pose. The passages included in

this category involve any form of confinement or measure taken to control the young

offenders such as custody or jail.

> `Sentences in serious crimes such as the pistol-whipping, had received 7 years 9 months.' (article 3)

> `He was jailed for only six months and given many conditional releases. For his crimes, Mr. Borde was sentenced to five years and two months on top of the time he spent in custody.' (article 18)

> `The landlord needs to fast-track safety improvements, and to work hard to evict those who sell drugs or harbour drug dealers.' (article 24)

> `The plan, he said, is to "eliminate criminals and their weaponry from our city." (article 27)

> `Moments after 20-year-old gang leader Harry Hiscock was sentenced to eight years behind bars for his role in a ruthless mob beating of a young man simply because he was wearing a red jacket.' (article 35)

The undertone in this category is that these individuals are dealt with in the only way

possible: by removing them from society. This also demonstrates a lack of available

methods for dealing with these youth. The image given from the passages is that by

taking these youth out of society it will neutralize the danger they pose to the rest of

society. In other words, the government is trying to rid society of its evils.

4. Criminal Violator

Those within society that refuse to help in their self-governance and protect

themselves against risks, ultimately going against the government's and society's norms

to be classified as a criminal violator: one who *knows the norms of society but still*

decides to go against them. The passages in this category present a sense of a separate

society or world where youth control their surroundings. The criminal violators are presented as senseless, criminal masterminds and invincible. For example:

> `We found one of the boys had threatened to kill a court officer or a boy in his cell if he didn't get bail. When we searched him, we found a shank.' (article 1)

> `Despite his young age, Mr. Hiscock has shown himself to be someone who has refused to live by society's rules.' (article 9)

> `The recent shootings, the youth of those involved, their brazenness and apparent senselessness, the increase in the use of firearms.' (article 13)

> `One of the conditions in effect exiled him from Regent Park. But he frequently came back, and shortly after he turned 18 became one of several gang members who passed around a .45-calibre handgun that police have linked forensically to four or five separate shooting incidents.' (article 18)

> `He broke into the houses in broad daylight, choosing the ones with letters still stuffed into the mailbox and footprints in the snow outside the door that suggested no one was home.' (article 23)

> `The chief put the blame squarely on a segment of young people who "do not appear to be accountable to anyone, and are engaging in antisocial activity and displaying that by using firearms.' (article 27)

The passages in this category also demonstrate that these youth cannot be helped as a string of circumstances have brought them to where they are today and that these circumstances are beyond their control. They do not follow the norms or laws of society because they have created their own society with their own laws regarding gang colours, drugs and violence. Examples of this are:

> `When officers tried to re-establish control,
> he said, he heard gang leaders yelling to inmates,
> "Fill your cups up with shit and throw them at the
> guards!" We'll have one or two officers in a unit
> and the gangs will go over top of you and slug a
> kid. They have no fear.'(article 20)

> `The shootouts on Yonge Street and at Jamestown
> show that the gangsters are beginning to feel
> immune.'(article 24)

> `It is about a ruthless gang culture imported at
> least in part from Jamaica. This is a problem of
> gangsters who sit like overlords atop small
> communities such as Jamestown Crescent. They feed
> off and destroy the young people around
> them.'(article 24)

By doing this, these youth exclude themselves and are presented as a loss to society

where nothing can be done to help or prevent this type of behaviour. The undertone of

despair and hopelessness are highlighted in the way these situations and these youth are

presented by either the terminology or the descriptions used. The idea of 'why care, if we

can't do anything?' resonates in the passages of this category. Individual characteristics

of those involved in youth crime must be considered and this therefore brings in the idea

of 'individualisation of risk'.

Individualization of Risk

A category that echoes Foucault's idea of the 'case study' in 'Discipline and

Punish' is called *individualization of risk* and it is defined as *risk and risk prevention*

rests on individuals separately and not in groups or populations. The resonating theme in

this category is that the specifics in regards to an offence and a young offender have to be

considered but the justice system and legislation may not permit it. There is great

importance in looking at offenders as individuals and only in doing so can we understand

the specific context of each case. It is only when one is aware of the facts that have

shaped the offender individually that one can understand the risks present in that

offender. Examples from the articles that illustrate this are:

> `Judges should also look closely at all relevant
> factors that shaped the individual
> offender.'(article 3)

> `When you have no flexibility other than applying
> a sentence because it's in the law, you cannot
> adapt to the child's interest, to the specific
> context of the case.'(article 40)

These passages demonstrate that the original idea of youth justice in Canada

under the JDA might have presented a better case for dealing with young

offenders and youth crime as it was considered the welfare model that

focused on the youth' needs.

Another theme present in this category is the sense of reactionary action. It is only once

an incident has occurred that demands and actions become vocalised:

> `The landlord needs to fast-track safety
> improvements, and to work hard to evict those who
> sell drugs or harbour drug dealers.'(article 24)

This does not present a communal or societal stand but an individual one. In this category

it becomes clear that risk and crime rests on individuals or very small clusters and not

entire communities or ethnic groups.

5. Victimization

At the receiving end of the criminal violator and the targeted at risk is

victimization: *risk is presented as important and a threat by descriptions and information*

given from the victims, thus demonstrating that risk must be managed and controlled by

the government. This is the second largest category in the analysis with 72 passages. The

passages in this category create an image of *the innocent victim,* portraying those

subjected to the effects of young offenders as blameless and guiltless bystanders. The

descriptions are given to get the reader to empathise with the victim, to bring out

emotional reactions and feel for the victim. The innocence of the victim is emphasised by

the statements, perceptions and details given. For example:

> `On the night of Oct.20, 2001, Nicholas Chow
> Johnson was a strong, active, happy-go-lucky young
> man, carrying flowers to his girlfriend. Today he
> lies in a permanent vegetative state in a Toronto
> hospital, wearing diapers, unable to move or make
> a sound, except for a high-pitched giggle when
> someone makes a funny face.' (article 9)

> `This shooting could have easily turned into a
> multiple homicide of innocent young children. The
> father of the child having the birthday party was
> wounded, residents said, adding they had heard he
> underwent surgery on one of his legs.' (article 12)

> `Ms. de Graaf was taken to hospital minutes after
> the April 17 attack with the letter opener still
> protruding from her back. She has suffered
> "devastating" consequences to her career and
> personal life.' (article 15)

> `Matti was beaten after talking back to youth who
> tried to rob him. He was pushed down and kicked
> repeatedly in the head, suffering a ruptured
> artery in his neck after one blow caused his head
> to twist sideways and backward.' (article 25)

> `For nearly two years, residents of the Victoria
> suburb of Esquimalt were terrorized by gangs of
> youth prepared to attack and intimidate innocent
> citizens just out for a stroll. Citizens are
> entitled to walk the streets in safety" without
> being harassed and attacked "at the whim of roving
> street gangs.' (article 35)

On the other side of this, the descriptions involving young offenders are given in clinical,

factual terms without any emotion:

> `One of the victims was shot in the head and was
> in hospital in critical condition. A second man

> `was shot in the elbow, while a third was struck in the leg.' (article 8)`
>
> ``The beatings a 17-year-old suffered at the Toronto Youth Assessment Centre entitled him to an absolute discharge on several counts of mischief and theft from cars.' (article 16)`
>
> ``Now, one of them is dead and the other two are charged with causing his death.' (article 19)`
>
> ``In recent days, three teenagers and a young man have been fatally shot or beaten. Nine boys and men, ages 16 to 23, have been shot dead in the past few years.' (article 24)`

These young offenders are not portrayed in humanistic ways but more like wild, dangerous predators. Just as experts have much influence in a community, so do the victim's statements and because there is so much emphasis on the victims in the articles, the public gets the impression that young offenders are a big threat and that they (the public) are at risk. Another aspect that stands out within these passages is the presence of blame and responsibility towards the system for not handling the young offenders before they committed their offences:

> ``Ms. Collier's family is demanding improvements to children's services. "We hope the system changes so it never happens to another girl," said her father Greg. "I just feel like the system had failed. The system totally failed," Kris Isleifson said.' (article 2)`
>
> ``Matti's mother, Olga Baranovski, found the decision upsetting; suggesting the jail time was too short. "It's not justice.' (article 25)`
>
> ``The delay in debating the new youth justice act in the House of Commons compromises public safety by forcing Canadians to endure the problems inherent in the current system.' (article 39)`

It is interesting to note the ways in which young offenders are socially constructed as bad or evil, while victims are presented as good and innocent. This polarization is one way in which the media contributes to the notion that young offenders are risky, present a threat to society and must be dealt with.

Discussion

The media presentations of youth and the ways in which risk is constructed reveal a number of interesting findings. First of all, there seems to be conflicting ideologies between the targeted at risk and individualisation of risk categories as one labels groups as a whole (targeted at risk) and the other (individualization of risk) tries to consider the individual factors of each case and situation. This presents a conflicting imagery for the reader as some articles describe youth crime and young offenders as being part of gangs and an alternative system but other articles describe the individualistic characteristics of these youth as unique and exclusive. This becomes problematic for the reader, as there is not a specific stand in regards to young offenders or youth crime as a whole.

Furthermore, when analysis was completed and tabulated; the categories containing the most passages are targeted at risk (77) and victimization (72). It is interesting to notice, as mentioned earlier, that the descriptions of the youth involved hold such importance in the articles, as does the impact of the victims and the victims' accounts and ordeals. In other words, these overly represented categories demonstrate a highly focal oppositional relationship between the demonised and savaged youth and the holistic, innocent victim. The reader is thus presented with a narrow account of the situation and because there is so little information given to the circumstances surrounding the situation such as background information or the court proceedings that the reader

cannot come to any other conclusion than the one presented in these articles which is of the troubled youth praying on the innocent victim. These depictions contribute to the ever continuing belief and perception that youth and young offenders are risky, troubled and must be locked up for society's own protection. This is in contrast with the once held belief that youth were vulnerable, needing protection and were considered innocent which was the underlining philosophy when the youth criminal justice system was first created in 1908 under the Juvenile Delinquency Act.

A related finding in regards to perception is the constant need by the media to explain and justify the elements relating to young offenders and ultimately meaning that they can be dismissed because of their awful circumstances. The focus on race, socio-economic class, mental stability or lack there of, is an effort to explain or make acceptable the young offenders' actions and behaviours. These elements are not something the youth can control or change. By justifying their actions as beyond their control or grasp, they seem more vulnerable and less threatening. It is somewhat society's way of nullifying the harshness of youth crime. However, this perception is restricted to the young offenders that seem to be simply offending to survive or trying to make it in their unbearable situations. The young offenders who are seen as thugs, gangsters or misfits are described and perceived in a very different light. These are the youth responsible for the senseless crimes, the offences against innocent bystanders and presenting a significant risk to society. The contrast between these two perceptions presents a conflicting picture of the young offender. In one instance, the young offender is seen as a victim and in another instance seen as a ruthless threat. The public is offered

a dualistic perception of the young offender and again is left with little information to make a more accurate assessment of the issues of youth crime and young offenders.

In regards to the government in this analysis, there is a sense of distance present where the government dictates from afar without ever really being aware of or familiar with the actual people or situations they are trying to dictate about or control. The government tries to bring forth solutions with big promises of protecting the people but do it with very abstract ideas and concepts. The use of new technologies presents the reader with solutions on paper but when it comes to the actual practice of these technologies, the answers and methods are not as clear. Grand and glorious statements are made to better the situation for the moment but no real long term solutions are given. These ideas are presented as 'band aid', 'quick fix' solutions to calm and comfort the public and give a sense of false security. These grandiose gestures the government proposes to make empowers it to maintain its control by offering reassuring methods of security and dealing against the *risky* youth and young offenders.

However, the government does not acknowledge responsibility as it throws blame, by using experts for authentication, towards the young offenders. Even within itself, the government throws responsibility and blame elsewhere: to other departments and representatives. The public, on the other hand, aim responsibility at the government for lacking in taking care of the youth crime situation. Uncontrollable circumstances are blamed for the young offenders' actions and behaviours. Therefore, blame and responsibility are attributed everywhere however, never at a specific or tangible target. If blame and responsibility are not acknowledged by anyone, the issue of youth crime continues to appear as an overwhelming burden for all. The use of such words as

'system', 'government', 'authorities' and 'ministry' offer the reader a very abstract, faceless and massive entity that is responsible for its protection and safety but at the same time, removes any clear stand on accountability. It is this system that is presented as responsible and not the people within the government, therefore making it hard to pin point reproach and reprimand.

Another theme to emerge from this content analysis is the undertone of individuality versus social solidarity present except in the case of youth gangs. Youth gangs are targeted by the experts, the victims and the government, which leaves the impression that they are responsible for all youth crime. Also, the emphasis given to youth gangs (15 out of the 45 articles make reference to youth gangs) provides an overwhelming image of a scary, increasing problem thus furthering the public's fear and sense of vulnerability. The phenomenon of the 'youth gang' can be compared to Acland's (1995) subcultural style where the youth are trying to differ and distance themselves from parents and other social control agencies and also try to form unity amongst themselves. Rachel Pain (2003) found that youth tend to form gangs for self-protection. The youth form gangs, as they are scared on their own of either being attacked or victimised by other youth or even adults. However, the creation of these particular youth gangs creates fear and suspicion amongst other youth, adults and society as a whole. Because these gangs create their own world with their own clothing, style, demeanour and even language, they create panic, fright, misunderstanding and distrust from the outside world.

Additionally, an interesting discovery in these articles is the choice and method used to describe the incidents of youth crime: police blotters. A police blotter is what is created from the police with news conferences or documentation and is what becomes

public knowledge on the particular crime incidents. They are short, lacking detail and focus mostly on the direct facts such as the type of crime or the age of the assailant and do not mention the circumstances or the causes involved in the crime. The media chooses this type of information source because the police blotters are relatively inexpensive and easily attainable. In my analysis, I found that 9 articles on youth crime and young offenders were police blotters. The somewhat longer articles, excluding the editorials, simply added the victims' statements and impact and still mainly focused on the police aspect of the crime rather than the courts or sentencing. What this creates is what McManus and Dorfman (2002) call 'episodic reporting' which is sporadic reporting with very little information such as cause and circumstances of the incidents and this contributes to what they call the 'framing effect'. The framing effect occurs when people register new information in ways they can relate to and understand by relating it to already stored information and knowledge. What this does is simply add to already pre-existing ideas and beliefs held of what youth crime and young offenders are and reinforces them.

Summary

The 13 categories present a road map in how the articles were classified, dissected, analysed and understood. The division of these 13 categories into 5 major categories follows a rational path that explains how the media's depictions of young offenders, youth crime and the YCJA fall under risk and governmentality terminology. The idea that 'governing at a distance' was the starting point in this analysis was based on the fact that in order to understand and explain the elements found within the classification such as exclusion or prudentialism, one must first understand where they

come from and from what they originated. Once the starting point was determined, the tools used to govern at a distance, such as risk technologies, experts, inclusion and prudentialism, were identified. These tools are what the government uses to manage and control young offenders and youth crime from afar. However, because the government uses experts and risk technologies such as the YCJA and expects people to self-govern against risks, may have resulted in a complete removal on their part from the social administration of this 'risky' population. The government, in the articles, is presented as being abstract and a faceless mass hovering over its population, therefore, not really governing.

The need to determine who is 'risky' or presents a threat to the social order is crucial in the government's plan of attack against young offenders and youth crime. However, as the article passages demonstrate, it is not always clear who is determined to be 'risky' as young offenders are presented in a dualistic manner as either 'thugs' or 'victims of circumstances'. It then becomes difficult to manage and prevent youth crime and ultimately, complete exclusion becomes the 'best' or appropriate way to handle these 'risky youth'. The depictions of young offenders as 'criminal violators' and identifying them separately as such, is a way in which the government can identify the riskiness of these youth and give society a sense of security that it (the government) is dealing with the problem. It also presents the victims and society with a sense of closure and power over the problem of youth crime.

Conclusion

In conclusion, the presentation and angle the articles take in reporting youth crime and portraying young offenders only adds to and maintains the perception of them as

being risky, dangerous and a widespread problem taking over our country. The normalization of youth crime and young offenders, the public's lack of information, the media's skewed portrayal, the political stakes involved, the limited focus on the crime, the lack of cause and circumstance descriptions surrounding the crimes and the young offenders, the spotlight on the victims and the lack of clear responsibility and accountability are all factors that contribute to the social construction of the young offender and youth crime as risky and a threat that must be managed and controlled.

Given that the media's portrayal and depiction of young offenders and youth crime has been analysed and it was determined that the media portrays young offenders as demonised lost causes, the question is: 'how do people who deal and work with young offenders on a daily basis view these issues?' To answer this question, the next chapter presents a qualitative analysis of interviews conducted with staff members working in a secure custody youth facility.

CHAPTER 6: INTERVIEWS

The goal of the interviews was of gaining a more concrete insider look at how the YCJA legislation has been implemented and how it affects the people that work with it on a daily basis. Also, the interviews were conducted in order to understand how staff members view and portray young offenders. Since the final sample group was eleven interviewees, this research does not claim or attempt to be representative of all workers within the youth justice system but rather attempts to provide another aspect of how young offenders are constructed by the people that work with them on a daily. The sample does, however, represent a variety of different types of workers such as correctional officers, recreations officers, social workers, caseworkers and upper-administration staff.

Identifying information or characteristics of the specific facility visited or staff members interviewed has been altered to insure confidentiality.

Layout of Chapter

This chapter begins with a case study example to give the reader a reference point when it comes to the issues discussed within this analysis. This case study is mentioned in discussions throughout the chapter to add or clarify the issues of the social characterization of youth crime, young offenders and the YCJA. The remainder of the chapter is divided into two sections. Section A deals with the classification and characterization of the young offenders. The section is divided into the 'get tough-authoritative' perspective and its supportive points followed by an 'implications of this perspective' discussion. The second part of section A presents the 'rehabilitative-

supportive' perspective and its supportive points and is also followed by an 'implications of this perspective 'discussion. This section concludes with a discussion of 'the balancing act' of these two perspectives. Section B in this analysis focuses on the issues surrounding the YCJA. It covers the issues of 'daily work change', changes deemed 'for the better', changes deemed 'for the worst' and changes hinting at a 'return to the welfare model'. The section continues with a discussion of the three major changes observed by the staff members: 1) numbers decrease and its effects, 2) the increase of serious crimes and its effects, and finally 3) the increase in remand youth entering the facility. There is a brief look at the increase of 'others' involvement and finally a discussion of the issues presented in this section.

A Case Study

By the time Joey was 8, his father had left, his alcoholic mother was unemployed and he was having problems in school. He spent most of his time 'hanging around' with other boys and getting into trouble. After a string of petty crimes, at age 16, he was found guilty of attempted murder for stabbing Billy and was sentenced to 2 years in secure custody and one-year community supervision.

As Joey enters the facility, he is greeted by an A.N.D. (admit and discharge) correctional officer who will provide him with the proper attire and anything he needs. He is then escorted to the unit, also referred to as the living house where he will be for the duration of his stay in the facility.

As Joey settles into his new living unit, he is informed that since he is a sentenced youth, he may' try out' for the educational program offered at the facility where he is able to earn school credits and learn a new trade. He is also informed that his case will be assigned to a specific correctional officer, who will follow him throughout his stay in the facility.

During his stay in the facility, Joey will interact with many staff members, from correctional officers, recreational officers, unit managers, to social workers and

schoolteachers. His interactions with the staff members will vary depending on their perspectives. Joey's background, his criminal charge, his age and many other characteristics will affect his stay in the facility, the way he is regarded by the staff members and his interactions with them.

This hypothetical case will be the basis of discussion in the interview analysis as it presents the reader with a concrete point of reference to the issues that will be discussed. It also permits an inside look at the variety of perceptions, view points and positions taken by the workers within a secure youth custody facility in regards to young offenders, actually now referred to as 'young persons' under the YCJA.

Section A

Dualistic Approach: Faculty Perspectives on Young offenders

Even before the interview analysis commenced, it was clear that two positions or perspectives were taken from the staff in regards to the youth and the legislation concerning these youth. Once a youth has entered the facility, regardless of if they are 'sentenced youth' or 'remand youth' (youth awaiting trial) they enter into either an authoritative or a supportive relationship with the staff. The relational dynamic is either one of authority where the correctional officer is there to control the youth or one of support where the correctional officer is there to provide guidance and help for the youth. These two perspectives are the foundations that dictate how a youth is perceived, regarded and dealt with. Within the analysis, it became clear that the ideas and opinions expressed by the staff members interviewed rested and were dependent on these initial views.

1. 'Get Tough'- Authoritative Stand

The first relational dynamic to be considered is the tougher, authoritative position where the staff regards the youth in a manner that can be described in the following phrase: 'I'm in control and you follow'. The dynamic rests on the idea of power, where the staff represents the government and insures the state's power through control and management. The idea is that the staff is there to manage and not to transform the youth. This perspective focuses on very specific elements in the justice system, in regards to the YCJA legislation and the youth. For example, in regards to the change in legislation, the staff maintains the idea that the new YCJA falls short of the government's intent; to be tougher and more punitive towards the young offenders.

> *"The courts are not following through with the ideology of the act, the stricter, structured, tougher penalties"* (Interviewee A)

> *"It still doesn't deal with the fact that these young men have committed some horrendous crimes and are not being dealt with appropriately; youth justice act won't let us deal with them appropriately*
> Interviewer: what do you consider appropriate?
> *What do I consider not appropriate? Well they're almost too right wing, meaning too lenient, too soft, right and these are kids who are committing adult crimes and who are some of them severe crimes, right"* (Interviewee C)

> *"I think it made it easier for kids to get away with stuff, its 3 strikes so they do something bad, they get a slap on the hand, they go back out and do it again, get a slap on the hand and go back out and I just think it's a joke, I just don't think it does anything for them, they don't learn from it"* (Interviewee D)

This perspective relies on control and severe punishment. Many of the staff that falls under this position maintains that this is not present or not utilised enough in the Canadian Youth Justice System and the new YCJA.

The Youth as a 'Lost Cause'

With this particular perspective or stand, is usually attached the perception of the young offender or the young person, to be politically correct. When asked to define and describe the youth, the staff portrays the youth as horrible, calculating, savvy little predators that cannot be saved, a lost cause, if you will. Each staff member, under this perspective, portrayed the youth in very negative terms. The staff often described the youth's attitudes in regards either to their stay at the facility, other youth or the crimes they have committed.

> "Ah well their attitudes are very, very poor, they feel we owe them as opposed to them earning their rights sorta thing, everything should be given to them" (Interviewee C)

> "My young people have not developed a conscience, I think that that is key, they don't have the conscience, breaking into someone's home, well their answer is always, well that its insured, the property is insured so what's the big deal, they have no idea of invading people's privacy, doesn't add a thing to it, there is no conscience and that is just one example but there is many" (Interviewee E)

> "Over the 16 years, it's just an increase in the lack of respect that the kids have (pause) a few years ago, they didn't need, they didn't necessarily need to, they might not of liked you but they still showed you respect and accept your direction, a lot more, a lot easier to work back then than it is now so, they didn't challenge you as much then" (Interviewee G)

Another way the youth are described in negative terms and 'hopeless cases' is by focusing on their (the staff') beliefs that coming to the facility is just part of the youth's transitions. They view the youth as career criminals and that this is just one step on their way to adult or federal custody.

"*They don't care, I would basically say they don't have a chance in hell; they don't have a chance to succeed at all, the majority of the kids that come here, come and put their time in and they end up going to adult and then federal and we are getting kids that have done murders and things like that and they don't have consciences and they just don't care, they don't care about anybody so they are a lot more to handle in here than the average local kids that we were getting*" (Interviewee D)

"*The other 90 percent know that this is just a stepping stone to bigger and better things as far as a career criminal hum, that's the way I see it*" (Interviewee F)

"*Coming to this place is not really, for the majority of them, is not going to change anything and for the ones that it will change, they wouldn't have re-offended anyways*" (Interviewee H)

The fact that these staff members regard the youth' stay at the facility as a stepping stone in their careers as criminals and see these youth as 'lost causes' prevents them from seeing any value in helping them learn new skills or reintegrate into the community. This reflects the idea of the criminal violator where the individuals participating in illegal activities are perceived as responsible for their own actions. It also echoes the idea of prudentialism where an individual is 'looked down upon' when not taking the proper means of self-protection against risks and engaging in risky behaviour. The fact that the youth are regarded as 'lost causes' and that their stay at the facility is regarded as just a stepping stone to adult or federal incarceration enforces the idea that these youth must be excluded from society as they represent a threat to society's *normal* functioning.

Committing Crimes

When asked to describe the young persons that come to the facility, the staff members who fall under the 'get tough' and authoritative perspective often mention the crimes and offences these youth have committed to support their claims or stand. The

focus is on their records, which can be regarded as a type of inclusion since the youth are now part of the 'Canadian Youth Justice System' database. Even if their records are sealed and eventually expunged, they are still part of the formal database of young offenders. This is an important element for the staff members that hold the 'get tough' or authoritative stand as it supports their perspective that the youth should be dealt with more severely.

> *"Murder, rape. See back when I started, crimes used to be break and enter and there be very, very few, the odd time you'd get robbery and then a murder but today its all the norm= robbery and murder"* (Interviewee A)

> *"(Ahhhh) dangerous. Their records prove to be; they are getting more dangerous, anyways"* (Interviewee C)

In the case example of Joey at the beginning of the chapter, the staff focuses on the fact that he was sentenced for attempted murder and also focus on the other petty crimes he was charged with prior to coming to the facility.

Because the youth' criminal records only report the charges, the offences and sentences the youth receive, the staff members do not nor cannot consider the circumstances surrounding the situation that led to the youth' incarceration. As did the perception of the youth as 'lost causes', this notion of focusing on the youth' records enforces the idea that these youth do not take the appropriate measures for self-governance against risks thus partaking in risky behaviour and eventually meaning that they must be excluded from society and included in the formal youth justice system. In order words, these 'risky' youth get labelled as criminal violators that must be dealt with punitively.

Adult Sentencing

When asked on how to deal with the youth that enter the facility, the majority of

the interviewees mentioned or referred to adult sentencing as a possible solution or better

way of dealing with them. The idea can be related to the fact that adult sentencing is

definite incarceration and can be considered as permanent exclusion. It can be

interpreted as a means of managing these 'high risk' cases by excluding them completely.

Because these youth are seen in such negative ways and "have no chance in hell", to

quote one interviewee, the only possible solution becomes complete exclusion from

society. Adult sentencing and adult status become the means and the tool of choice in

managing the riskiness of the youth that the staff encounters. This method was observed

with the staff members that held the 'get tough' approach and who focused on the

offences the youth had committed. In Joey's case, the staff would see that he is sentenced

for attempted murder, which is a serious violent offence and according to the staff that

would merit an adult sentence and adult time.

> "*Most of these youth remain in the youth system when they should be in adult for the crimes that they commit. The fact that violent crimes still end up in youth centers and remain there, very few get bumped to adult so we should treat our young offenders today like adults*" (Interviewee A)

> "*All these other ones that been in the system many times: send them right to adult. Regardless, they've been to us 2 or 3 times, which we get a lot of repeat offenders, if they come back to us a third, fourth time= right to adult cause obviously they didn't achieve anything while they were here*" (Interviewee C)

Those who held the 'get tough' approach and mentioned adult sentencing and

adult-like status presented a responsibility claim to their position or ideas. It was

maintained that since youth were able to commit such 'adult- like' crimes they were responsible enough to do adult time.

> "*Hum, (pause) I'm thinking adult sentences for serious crimes, the kids know what they are doing and they should have equal, you know, 15 year olds commit murder, they know what they done and away they go= serve life= done, lock' em up and see you later cause they are never going to turn around from that, hum, I don't think 3 strikes, I think they do something wrong, they need to be tougher with it, they don't need to be more lax*" (Interviewee D)

> "*Any youth that is over 16 that is charged with a capital crime; murder or attempted murder or rape, give me the time and I might think of one or two more others, should be sentenced as an adult*" (Interviewee H)

> "*Oh, ah, I would done steeper penalties, more time, hum, publish their names, bump, I think anybody who commits murder or a serious charge as murder, should do adult time regardless of their age. I think if they're adult enough to take somebody's life, hum, then they should do the time*" (Interviewee J)

The idea of adult sentencing reflects the idea of prudentialism that states that each individual is responsible for their own protection against risks and self- governance.

Implications

The fact that some of the staff regards the youth in an authoritative manner highlights the power they hold over them, in management and control. The idea of power is crucial in this relationship as it maintains the staff's hierarchical position and exhibits their risk management abilities. This hieratical power relationship found in the interviewees' statements is in clear contradiction to governmentality theory where power is based on a relational connection.

The observation that the staff focuses on the offences committed can be linked to the idea of the rational choice actor discussed in governmentality theory. Because the youth are seen as voluntarily committing these crimes, thus voluntarily breaking society's norms, demonstrates a lack of responsibility and self-governance. The youth reveal that they cannot self-govern, therefore fail to act in a prudentialistic manner. This can be regarded as the idea that the youth are not demonstrating or are failing to take a prudentialistic approach to their lives and their actions.

The remark that these youth take such questionable means of achieving what they want proves that they must be excluded and managed through extreme measures such as secure custody or adult sentencing. This, then, means they are deemed responsible for their actions and in this sense are regarded as liable and susceptible to adult like status.

The focus on the offences committed and the criminal records of the youth can be considered a form of inclusion and a means of measuring the riskiness of the youth. Because most of the staff that holds the authoritative stand tends to focus on the record of the youth, in other words, a database of the young offenders, limits their perceptions of the youth they deal with as it only presents a slice of the whole picture.

2. Rehabilitative, Supportive Stand

The other type of relationship that can exist between the staff and the youth is one of support and guidance. The hope for rehabilitation and second chances is the foundation of this perspective. The staff sees themselves more as counsellors than guards. There is a clear presence of rehabilitation, of possible change, or of taking these excluded youth and including (or reaffiliating) them back into society as productive members. For example:

"*I think, here away at the youth centre, we are more like teachers than we are like guards anyways, for me what works is to act more like a teacher, trying to get the best out of them than to act like a guard and make sure they stay in their room*" (Interviewee F)

The way the staff believes it possible to be supportive and facilitators to the youth is by offering them the tools necessary to make a difference for these youth and having enough time to make that change and offer that support.

"*I do believe that when they do sentence a young offender to a secure custody setting like this, there should be a minimal sentencing of (pause) we cannot effect any change in a young offender if you don't give us time, give us time to work with these guys*" (Interviewee H)

"*Service and delivery that was the thread of the new legislation, taking them back from secure to the community and this plan will follow the individual so we identify his needs, work with him while he is in secure and take those needs and those goals he is doing and put them back into the community so he has something to continue*"(Interviewee I)

"*Hum, I think, trying to get them through school, most of them come to us with little or no education and hum, and, getting them some help with drug and alcohol addictions, and hum, trying to teach them some life skills, as I said, most of them come from middle to lower class families with very dysfunctional backgrounds and so a lot of the kids don't know, they don't have any manners, they don't know proper etiquette, they have no work ethic so we try to, we try to make them productive members of society, at least give them the tools so they can go back on the street and hum, want to find a job instead of robbing people or selling dope for a living*" (Interviewee J)

The points highlighted in the interviewees statements is that in order for them to be able to help these youth, they must be provided with the time and tools to do so. The staff members that hold the 'supportive stand' do not see these youth as criminal violators but as victims of social circumstances such as dysfunctional family situations or poor socio-

economic status. These staff members do not believe that exclusion from society is the

proper way of dealing with these 'risky' youth but rather focus on the ways in which they

(the staff) can help these youth reintegrate into society.

<u>Youth in Need of Help and Guidance</u>

The staff members that hold the rehabilitative and supportive stand tend to view

the youth as in need of guidance, help and as victims of circumstances and social

factors/inequalities. The focus on these elements of the youth demonstrates that the staff

members deem the youth capable of change, if given the right tools to do so. As opposed

to the 'get tough' stand; the staff does not see complete exclusion as a means of dealing

with these youth. The staff may express empathy for the youth because of their

backgrounds and social situations since it was an important element for the staff that held

the supportive perspective.

> "They come from broken families, very poor, poor families, instability and (pause) I would say that many of the youth now have very low levels of respect for anybody, I mean including themselves, their peers and authority and it just doesn't seem to matter, hum there is, (pause) very anti-social, lacking in pro- social motivation" (Interviewee G)

> "And they always say I'll never come back and that's a story we always hear, I'm never coming back sir, and I'm never coming back and luckily, most of them the easier one to deal with, it does happen. There are few that are steady customers, for those individuals it's usually environment and family life" (Interviewee I)

> "I would say that most of them come from poor backgrounds who have fathers or uncles or who ever who have been in the system hum, families are dysfunctional and the majority of them are in and out, they started with phase one at age 12 and have been in the system and then they graduate to us, we see them a lot of them, at least twice, some are in and out, you know, 4, 5, 6 times before they are 18 and then they go into adult. That's the majority, you know, we have a few

> *that are one- timers and we have a few that come from*
> *extremely wealthy backgrounds but the most part, mostly they*
> *are middle to lower class and dysfunctional homes"* (Interviewee
> J)

In Joey's case, the fact that his father left and that his mother is unemployed and an

alcoholic would be important factors in how Joey is regarded by the staff that hold the

supportive perspective.

The focus on the youth' social circumstances can also be regarded as relieving or

eradicating the youth of responsibility for their actions, as they were not able to control

the social circumstances they were in.

<u>Intervention Age</u>

Those who support the rehabilitative position, although not limited to these

interviewees, tend to agree that early intervention is more effective in dealing with the

youth that come to the facility. Early intervention can be regarded as risk prevention as

the interviewees deemed it a better way of dealing with or actually avoiding that these

youth ever enter the justice system. It is a means that would prevent them from ever

getting involved with the facility and preventing them from interacting and associating

with other young offenders.

> "*By the time most of these youth get here, have been*
> *involved in crime probably, 4, 5, 6 years, hundred of*
> *charges they never got caught for, hundred of crimes, I*
> *should say, they never got caught for, and a lot of charges.*
> *Well that's no good for somebody that's been in and out of*
> *youth centers from the time they were 12 or 13. It's just a*
> *joke to them"* (Interviewee A)

> "*We need earlier intervention and in early intervention they*
> *always talk about the years 0 to 6 but I would like to add*
> *the minus 9 months, from the day of conception. I'm talking*
> *about the young people cause that's where it's at= the*

little ones, we are, as far as cash and dash, we are spitting in the wind at this age" (Interviewee E)

"What they should be doing, in my opinion, is taking money, well taking a bunch of money and tying it into the front of the system, which is the young kids, I would made sure a lot of the resources went to hum, designating the people that are at risk at a young, young age, and trying to help them there then waiting for them to come here, I much rather be proactive with this then reactive" (Interviewee H)

Under this early intervention idea and in regards to the case example 'Joey',

means intervening when he first got charged or caught committing the petty crimes and

not waiting for him to enter into the facility.

Clearly risk prevention is the idea or concept behind the 'early intervention'

proposal. It demonstrates that these staff members would rather help youth, in the early

stages of their interactions with the justice system rather than at the level they currently

deal with them now.

Their Needs

When questioned about the most important considerations when assessing the

needs of the young persons, the answers from the staff members varied tremendously.

Each staff member had his/her own idea of what the youth' needs were, from basic needs

such as clothes and food to more elaborate assessments of family support and

psychological problems. What stood out, even if each interviewee presented a different

need for the youth, is that the undertone of risk management, risk prevention and risk

assessment was present:

"Their needs, well I don't know what you mean, like the need to be fed, the need to be clothed, the need, well that are all rights that they have under the charter of rights and freedom, but as far as what they need, they need an

education, they need these tools to try to turn their life around" (Interviewee A)

Interviewee A presents the tools needed for risk prevention such as education. Further risk prevention is possible because these tools can alter the risk levels of youth once out in the community. Education in this case, can prevent them from going back to their old ways by providing the opportunity to obtain a degree, which may lead to a trade or employment elevating them out of life circumstances that were troublesome to begin with. Such risk prevention lowers future risks of recidivism helping them become productive members of society. Other staff members also focused on risk prevention when discussing the needs of the youth by focusing on the support systems that are available once released.

> *"Family, (pause) education, (pause) a lot of them here there are substance abuse issues and things like that but certainly having to assess their support system in the community is a big thing to see if we can address their needs within the institution but one of the drives in the new case management is re-integration goals and being able to assess that support system, to see if they are going to be able to make it, figuring out their needs and addressing them out in the community"* (Interviewee G)

> *"It's what supports they have when they get out of here"* (interviewee K)

The idea of assessing their support system in the community, mentioned by interviewees G and K, can also be viewed as a risk assessment tool or a risk technology. It is a risk assessment tool in the sense that by establishing the easiness of the transitional stage (from custody to community) by the supports the youth has is assessing the risks he will present once integrated back. In other words, the more support and easier transition the youth has, the less risk he presents to the community by decreasing his return to 'his

old ways' that got him sent to custody in the first place. Assessing the youth's support

system once released is another way the state is ensuring its power and control simply by

having its affiliates (the staff) measure the risk level each youth presents once returned to

the community.

Another interesting element that came out of the interviews is the idea of risk

assessment in relation to their needs. The mention of psychological evaluations and how

they deal with their emotions and the chance of them re-offending when released are all

elements that hold a sense of risk assessment.

> "The most important considerations when assessing their
> needs? Would be psychological probably, psychological, hum,
> (pause) I think that would be the main one" (Interviewee D)

> "What would I say, whatever or whatever not they will re-
> offend if they are let out and how they deal with their
> negative emotions. We have to do a better job of trying to
> figure out what's motivating the young offender to do the
> crimes they are doing and trying to change their
> motivations, showing these kids, somehow, that violence
> isn't the answer to their problems and the other thing we
> really have to figure out is how, once we let them out, what
> is the best avenue so they don't re-offend" (Interviewee H)

Interviewees H also presented a sense of risk management when discussing the

motivations and dealing with the youth' negative emotions since it is implying that by

figuring out these issues, the staff can manage the youth better and give them a chance to

deal with the issues. Interviewee H also highlights risk assessment when mentioning re-

offending as it measures the level of riskiness present when entering the facility and when

leaving the facility, these youth hold. All these elements are, in one way or another, the

ways of measuring the risks and riskiness the youth in the facility and once released,

present to the staff and the community as a whole.

> *"It has to be to continue to work away on having them look into the mirror, and I do call it my mirror therapy, to have them realise that the situation that they are complaining about on a day to day basis, the food is no good, the clothe don't fit, all of these things happened because of their actions, actions that they have taken so they need to self realization, that the actions come within"* (Interviewee E)

The idea here of 'self realisation' as interviewee E puts it, can be related to the idea of prudentialism in governmentality theory, where the individual and in this case the youth, must take ownership and responsibility that what is happening is due to their lack of self-governance. The youth are asked and hopefully will come to the conclusion that it is this lack of self- governance, self- management against risks that has put them in the situation that they face at the facility and this then brings in the idea of changing and being able to function as a prudentialistic individual once returned to the community.

The idea of risk prevention is also quite clear when the interviewees talk about the tools, such as education, life skills, motivation to change and family involvement that are required and dealt with to insure a safe and productive return to society. The interviewees mention that in order for a youth to successfully reintegrate into society, changes must be made and by offering them the means of attaining those changes and reducing the chances of re-offending, clearly highlights the importance of risk prevention.

Implications

In the analysis of the supportive stand staff members comments it becomes clear that the focus is on helping the youth by any means possible such as educational opportunities and therapeutic aid. By offering the youth possibilities and tools to change and become responsible citizens is a clear indicator of risk management and risk prevention. Maintaining that the youth are victims of circumstances and situations that

are beyond their control and that they are capable of change highlights the idea that the youth were not able to take a prudentialistic approach to their lives but are able to develop a sense of responsibility with help and guidance from the staff members. It is by focusing and maintaining these ideas and ideals that the staff members establish a sympathetic and 'helping' relationship with the youth.

The Balancing Act

The balance between the two approaches is not 'clear cut' as some staff present a supportive role for some issues but also present an authoritative role for others. However, the two perspectives do seem to oppose and conflict with each other since they are present within the same facility, which ultimately means the youth, depending on whom he interacts with, will be dealt with in different manners. One interviewee clearly demonstrated the problem and conflict in the two approaches, by stating (when asked) 'what would be the best way of dealing with these youth?'

> "*Not necessarily lock them up and throw away the key but it's hard, its, how would you say, a never ending battle, what is the appropriate way to deal with them, you know, cause yes they are just young offenders and yes they are young children we'll say, but the crimes they are committing, well a lot of them, well at least the ones we are getting around here are very serious crimes*" (Interviewee C)

It is interesting to notice that risk prevention, risk management and risk assessment are all present in the views presented from the staff interviewed but not present in the same manner and same angle. Those that hold the authoritative stand view risk prevention and risk management as a means of exclusion and lack of self-governance. Those that hold the supportive stand view risk prevention and risk management as re-inclusion, so to speak. Through changing the youth, by re-affiliating

them into the community, by providing them with the tools to do so, the staff under the supportive stand believes it will reduce the risks and riskiness these youth present.

Those under the authoritative stand value the idea of exclusion and self-governance as they deem the youth charged of violent crimes to be dealt with under harsher and more definite means of control, such as adult sentencing and adult incarceration.

Those under the supportive stand value risk prevention by earlier intervention and trying to avoid the stigma the formal justice system and a secure custody facility bring to the youth involved.

Section B

Legislation Changes

When questioned on the legislation change, with the implementation of the YCJA, and how that change impacted their daily work at the facility, the answers given varied with every interviewee. In this analysis, the legislation is taken as a risk technology the government uses in order to maintain control at a distance or govern at a distance. The mere fact that the YCJA legislation was implemented highlights the fact that the government, to maintain control and power, must change and abolish risk technologies that are deemed not working or failing such as the YOA. When questioned on the impact the new legislation had on their daily work, the majority mentioned that they had not noticed any changes to their daily work:

Daily work Change

One of the first questions posed to the staff members was if they had noticed any changes in their daily work since the new YCJA came into effect. The majority of the

staff mentioned that the legislation did not affect their daily work at all and even expressed that whatever legislation was in place did not actually dictate how the staff members interact and deal with the young offenders.

> "*Just cause we do our thing and that's just the way it is, what legislation is and how it pertains to us is 2 different things, once they are with us, they are our care and control and we do our usual thing around here, of care and control*" (Interviewee C)

> "*Cause the legislation doesn't dictate what I do from day to day in the institution and I've always treated them in one particular manner regardless of what the legislation dictated*" (Interviewee G)

> "*I think most of it for us it is just smoke and mirrors, there hasn't been any real change in how we operate day to day, hum, I don't see any real change in how we operate day to day*" (Interviewee H)

> "*A youth comes through the doors under the YOA or youth comes in under the YCJA, really we do business pretty much the same*" (Interviewee K)

Because the staff interviewed did not see any noticeable changes to their daily work and expressed that it did not matter what legislation was implemented could be interpreted as a failure in governance at a distance from the state. The state wants to control at a distance but has so far removed itself from the immediate governance and control that it would seem its risk technology tool is no longer effective or affecting the populace it is affiliated with or the population it is trying to control.

However, when probed further, staff members expressed that some more general changes were noticed and highlighted. The changes and impact the YCJA had on the staff were perceived in very different ways: some saw positive outcomes, some focused on the

negative and others simply expressed factual changes and descriptions without really expressing any feelings towards the changes.

<u>For the Better</u>

For those who focused on the positive changes the YCJA brought, it was the personalized, rehabilitative and reintegration aspects of the legislation that were deemed important.

> *"The act is more tuned, seems to me, to the individual as opposed to warehousing"* (Interviewee B)

> *"It seem like it would make for an easier (pause) hum, transition as far as staff is concerned for these kids to get back on the streets"* (Interviewee F)

> *"I think it's a very good thing, hum, we are, working towards the restorative, we have a restorative justice model which is again part of the philosophy, if you like, of the YCJA"* (interviewee K)

Those that brought up positive elements were mostly those that fell under the supportive perspective discussed earlier. It may be a trend to view the aspects such as young offenders and the legislation in positive ways to brighten up the job these staff members do.

<u>For the Worst</u>

The staff members that highlighted the negative aspects of the YCJA implementation focused mostly on the benefits the youth were gaining, which are not considered beneficial to the staff nor the community.

> *"They do less time, they don't come in right away, they get chances and of course, thinking in their minds, that's great for them"* (Interviewee D)

"As far as their offending, they been sentenced and now they know that one third of that sentence automatically comes off anyway, so that is beneficial to them, now that isn't necessarily beneficial to us, as staff because before we had to initiate the work to get them that third off and it was up to our discretion and their behaviour to decide and that was kind of the care we held and now that's out of our hands, they get it automatic, Yeah, I don't think it is beneficial" (Interviewee F)

One interviewee highlighted the fact that the act had not gone far enough or fell short of providing the youth the tools necessary not to re-offend once released. In other words, the legislation was lacking in terms of risk prevention in terms of reintegration of the youth into the community.

"We don't do anything that allows them to say oh, I have a reason not to re-offend anymore, see what I'm saying? We don't get them a job, we don't get them an apartment, we don't get them a new attitude, and we don't do anything for that. And once again, this act fails to do anything around that and that's for us, well for me personally, that's a huge problem" (Interviewee H)

It is interesting to notice that this interviewee does not feel the legislation provides any tools that help in reintegration or changing the youth' views but that staff members under the supportive stance believed the legislation provides the tools necessary to do so. This presents a conflicting understanding or perspective of the legislation.

Return to the Welfare Model

When discussing the changes in legislation, interviewees who have been in corrections for over 20 years mentioned that the YCJA was somewhat of a return to the JDA; a return to the welfare model. Those who highlighted this change viewed it in a positive way. It was seen as more restorative, more focused on the youth and no longer

under the 'lock 'em up' mentality. Needless to say that those who mentioned this change were interviewees that held the supportive perspective.

> "*I think we are heading into the right direction; I got very frustrated when we went from kinda where we are heading back to now, where we went from being that to like lock them up, lock down, see we use to take them out on group passes, we used to do all sorts of things with them, mind you, the crimes are more serious now but there was more satisfaction, felt like you were helping them more, there was more interaction and we kinda went away from that for a long, long time and now we are kinda heading back so I'm feeling much better about it*" (Interviewee B)

> "*Because we've seen this kind of thing come and go before, especially since I've been here quite a number of years, what they are trying to do now is what they were trying to do under the old JDA so its almost a complete reverse face now kind of thing*" (Interviewee C)

These statements highlight the fact that there must be a balance between the youth' needs and youth accountability for a legislation to be successful in dealing with youth crime and young offenders. Since the YCJA returns to some of the JDA's philosophy could highlight the fact that the YOA was too focused on dealing with young offenders and youth crime in a punitively manner.

3 Major Changes in regards to the Legislation Implementation

In discussions on the change in legislation, interviewees noted three major elements. The first major change mentioned by the staff is that the new legislation had influenced the number of youth entering the facility. The second change mentioned was a noticed increase in the seriousness of the offences and offenders entering the facility and finally, the third change mentioned was the increase of remand youth (youth awaiting trial) entering the facility. In the following pages, these three changes are discussed in

relation to the effects each change had brought to their (the staff's) work, their

interactions with the youth and the functioning of the facility.

1. Numbers Down and the Effects

When questioned on the implementation of the YCJA and the changes and effects

it brought, many staff members referred to the number of youth sentenced to the facility.

At the time of the interviews, there were 78 youth in the facility and the maximum

capacity it can hold is 106. There was actually a completely closed unit or living house at

the time of the interviews. When discussing this issue, many commented that the lower

numbers had many impacts on their work, some seeing it as a good thing (decrease of

risk to their safety and the safety of the youth) and others as a bad thing (decrease in job

security, smaller number of youth to work with).

> "*I know our numbers are down because judges seem to be a little, I don't want to say afraid, hum, insecure in their sentencing, I mean, insecure in the reading of what the YCJA as far as sentencing goes, doesn't seem we are getting the numbers we should be*
> Interviewer: is that a good thing?
> *It makes it easier because the numbers are lower and it is easier to control a group of 10 than it is to control a group of 18 and it's just common sense and other than the fact that it might be harder to get group activities to go as well with smaller numbers, basically everything runs the same, hum, if anything, it's a safer, more secure place to work with the numbers low*" (interviewee F)

As interviewee F highlights the fact that there are fewer youth to deal with has

negative implications such as team activities, however, the focus on personal safety is

also quite clear. Personal safety can be regarded in terms of risk assessment, as the staff

perceives that lower numbers of youth to work with also means lower personal risks to

their own safety. They are therefore assessing and associating this change in

consideration of the riskiness the youth bring to their (the staff's) work environment and

considering the fact that since the numbers of youth is decreasing, the level of risk is also

decreasing.

> "*I think it's a very good thing, hum, there's a number of kids in the past, under the YOA, who may have been minor offences, that were housed with youth who were probably deeper entrenched in criminal thinking and that's never a good thing, hum, it's a difficult question to answer because there are some kids who, you know, could benefit by incarceration because of programming that we have*" (interviewee K)

Interviewee K draws attention to the point that the decrease in youth entering the

facility can be a positive thing as it decreases the risks of 'mixing' different level young

offenders ('low risk' youth such as drug possession with 'high risk' youth such as

murder. In this sense, this avoidance presented with the YCJA change can be considered

a means of risk prevention. It is preventing 'low risk' youth of coming into contact with

'high risk' youth. Youth are not exposed to new criminal possibilities therefore reducing

future offending, thus resulting in further risk prevention and this can also be considered

as risk management.

2. Increase in Serious Crimes and the Effects

In light of the first noticed change, the second change mentioned is that the

number of youth entering the facility may be down but the youth that are coming are

more serious violent offenders. This trend was mentioned by most of the interviewees

and the effects of this change were perceived in tremendously different ways, mostly

because the staff focused on very different elements of this situation.

> "*Its more dangerous, we have more guys in here than we ever have before for that are accused of murdering and gang related things is becoming more prevalent, of course we are the last stop here and you know that when you end up here,*

you've done something serious especially the way the new act is set up now so you've done something pretty serious so I would say yeah and in even in the earlier days it was more break and enter were a lot of the boys who came here and now its more serous crimes" (interviewee B)

"*And because of other circumstances with the other facility, we're getting a lot of murders because a lot of kids are coming from that area so a lot of murders, a lot of rapes, a lot more serious offences and because we are getting a lot of kids from the city, our risk factor rises*" (interviewee D)

As interview B mentions 'it's more dangerous' and interview D states 'our risk factor rises' presents this phenomenon in terms of personal safety and personal risk assessment. It is perceived that the more serious violent offenders, thus the higher riskiness present in the facility, the higher personal risks are felt.

"*What seems that the only young offenders we are getting in right now are really, really violent young offenders and so it makes it, hum, well, it's because they are violent, its almost like they all feed off each other, like there is no mix here anymore and it's difficult to have some sort of alternative to show them when there is no alternative here to show them*" (interviewee J)

The sentiments expressed by interviewee J highlight the lack of risk prevention methods available to the staff. Because they have no alternatives to present to the youth and because it is felt that the youth who enter the facility are more violent offenders also plays on the idea of risk management since it removes the alternatives that used to be offered to other youth. The idea that 'they all feed off each other' and that they are violent offenders, thus 'high risk' implies that they are a more difficult population to manage and control. The contact these 'high risk' youth have with each other therefore increases the risks they present to each other, to the staff and eventually to the community they will re-enter.

"*Well because punishment was, fit the crime, really, would it be advantageous to bring those kids here, for example or into secure custody with other youth who are maybe into more serious types of crimes like drugs offences or that sort of thing, and to expose those kids to that kind of world, if you like, I'd say no. I think if it's a serious offence and it's multiple and that's what the new legislation talks about then they need to be incarcerated. Certainly dealing with the more entrenched youth certainly going to create challenges for us but I look at all that as opportunities to make a better program*" (interviewee K)

The optimism present in interviewee K's statement illustrates how the situation can be regarded as a way of creating better programs or in other words: better risk technologies. The idea of creating better programs and since this analysis regards programs as risk technologies employed by the government and that in order to maintain power and control, risk technologies must be created and constantly modified implies or highlights exactly what the government is trying to achieve. Through affiliates such as this secure custody facility, the government maintains its governance, power and control by creating new means (programs) that monitor, thus manage and control risky populations such as these young offenders.

The idea of limiting the types of youth that enter the facility is also a way of insuring risk prevention since lower risk youth are not exposed to higher risk youth. Having only 'high risk' youth or serious violent offences enter the facility avoids, thus prevents, other youth' exposure to such risks and riskiness.

3. Increase in 'Remand' Youth and the Effects

A third change that was mentioned in the interviews is an increase in remand youth (youth that are awaiting trial or are awaiting court appearances). Remand youth are youth who have not been sentenced but that the justice system deemed to be 'at risk' or 'risky' if left in society during judicial proceedings. Remand can be regarded as a means

of risk management since it controls and makes noticeable the youth who are considered a threat to the community. Because remand youth are deemed too risky to be left in society and are therefore incarcerated is managing the risks they present to others, themselves and the community as a whole.

It can also be regarded as a means of exclusion. Judges decide and consider who can be left in society and if a youth is deemed too much of a risk, remand is then considered as a means of control and complete exclusion. The youth deemed too risky for society are removed, thus completely excluded to prevent further risk they present or may inflict. Remand then is seen as a means of controlling these high-risk youth by excluding them completely.

Remand can also be considered as a means of risk prevention since the youth that are deemed risky are incarcerated, thus limiting the further risks and offences they can commit. Because these youth are completely excluded, thus managed, also prevents them from expending their riskiness any further by removing the possibilities of future offences and 'bad decision-making'.

Having these youth remanded may attain complete exclusion but how effective is remand in attaining these goals of risk management and risk prevention? Not very, according to the interviewees, since remand youth are awaiting trial or are awaiting court appearances, therefore it is not clear how long they will stay in the facility, they cannot be included in the programs and the staff does not have enough time to work with the youth.

> "Well what is so far for us, we are getting a lot of remands in, and they are being remanded and remanded and remanded, so they are staying here quite often but we can't do any real work with them because they go to court every week and we never know if they are going to get out or not so it's very difficult to start any program like whatever it's a social work program or one of our 7 steps program or taking

them to school, when we don't know if they are going to be here from one moment to the next so how do you, cause we only have minimal resources, how do you decide which slots to put them into when they could be gone tomorrow so what we do mainly is use those slots for the kids that are in custody, that have been sentenced they get first priority cause we know how long for, right, so because they are being remanded and then being let out without being sentenced, they are getting no help here, we are just warehousing them" (interviewee H)

Others' Involvement

When conversing about the changes the legislation brought to the staff members, to their work and the functioning of the justice system, many commented that the new act increased the involvement of other parties and people outside the facility, more precisely, that the act had increased the involvement of the community. This increase of others can be viewed as governing at a distance since the government is keeping control, power and management from afar, without actually getting involved. The 'others' can be considered as affiliates of the government, therefore, as enforcers of control and management for the government.

"A lot of things that were happening in the system at this level aren't happening here anymore, they are happening in the streets with the police and probation officers and more related to the victims and they can work things out and come up with a game plan for these guys and they don't end up coming here and being locked up here" (interviewee B)

"In the process there is more than just me working here now it's community and parents are more involved. If there is something the individual is working on here and when he left here, it stopped at here, it was basically little or no involvement outside from the community agencies, there was no follow through and now this legislation is going to follow them once they get back into the community" (interviewee I)

The fact that the community is considered in most of the interviewees' comments highlights the sense of self-governance as a means of achieving risk prevention. Members of the community, the police, probation officers, the families and even the victims are now involved in helping to reduce the risks the youth present once returned to the community. Also, with the increase of police involvement, the formal justice system is avoided and thus limits the alienation or stigma it brings to the youth.

Discussion

The initial outlook that the staff members take, either that of authority and control or that of rehabilitation and support, dictate how they perceive the youth and the changes brought by the YCJA. These two perspectives are what issues and ideas are founded on. All discussed topics and ideas brought forth in the interviews rested on either the perception that youth had to be managed and controlled or that youth had to be supported and helped.

Those who took the authoritative perspective believed that the youth were not dealt with punitively or severely enough and suggested harsher sanctions such as adult sentencing and more responsibility taking from these youth. Staff members relied on the youth' records, thus the databases available on young offenders, for reference and to establish their credibility. For the staff that held this approach, risk prevention and risk management came in the form of complete exclusion from society by means of adult sentencing and secure custody. Risk assessment was based on the youth's records and was then linked to their (the staff's) personal safety. It is in reference to those records and the offences they committed and because the youth failed or lacked self-governance and prudentialism that the staff members deem it necessary to maintain power and control

over the youth. It is because the youth are seen as voluntarily breaking the rules of society that they merit complete and permanent exclusion from society.

On the other hand, the staff members that held the rehabilitative and supportive stand believed that their job was not to control and exercise power over the youth but to serve as teachers and provide the youth the tools necessary to eventually become productive members of society. Staff relied on the circumstances such as family, socio-economic status and the likes, to 'explain away' or 'right' the actions that brought the youth to the facility in the first place. Risk prevention is clearly an important element in this perspective. The staff focused on the reintegration of the youth in society by means of available tools. The tools such as education, evaluation of their support system and changing their attitudes are what the staff rely on to achieve reintegration, thus risk prevention. Another form of risk prevention expressed is by establishing earlier intervention with these youth. Assessing the risks these youth present at an earlier stage or earlier age (before they get to this secure custody facility) and trying to change or help them, thus preventing further risks.

The issues that followed the initial inquest into the impact of the YCJA revealed that the legislation itself was not the key factor in how youth and staff interacted with each other or how the staff viewed or perceived the youth. The analysis of the interviews revealed that the legislation actually had little impact on the daily functioning of the facility, which can reflect the state's attempt to govern at a distance. The state uses the legislation as a tool with the help of its affiliates (the staff) to manage and control this risky population. However, the fact that the affiliates did not express any immediate change highlights the fact that the state has succeeded, maybe too well, in removing itself

or in other words, at governing at a distance as its risk technology (the legislation) is not affecting its subordinates.

The two initial perspectives expressed towards the young offenders follows through in regards to the YCJA. Those that held the authoritative stand perceived the change in legislation in negative ways as the youth benefiting from the more relaxed, more rehabilitative approach. This aspect of the YCJA is also what the staff members that held the supportive stand focused on but viewed it as a positive outcome. It is interesting to notice that the same element of the legislation was deemed important but was perceived in completely different ways based on the position the staff members held.

The 3 major changes highlighted in the interviews: 1) the decrease in the number of youth coming to the facility, 2) the increase of serious violent offenders coming to the facility and 3) the increase of remand youth coming to the facility were all elements discussed but again, how they were viewed rested on the initial perspective taken by the staff. However, it is clear that the decrease in numbers also meant a decrease in personal risks, thus demonstrating risk assessment and was expressed by staff from both camps. On the other side of this, personal risk assessment was deemed to be decreasing by the fact that the youth coming to the facility were more violent and more dangerous, thus more risky. This was regarded by some as a possibility to create better programs, or in other words, better risk technologies but also regarded as a decrease in risk prevention as it removed the possible alternatives available to the youth to see (alternatives being lesser criminally entrenched youth). The increase in remand youth revealed the tones of risk management, risk assessment and risk prevention as remand youth were deemed 'too risky' to remain in society. By having these youth remanded clearly demonstrates the

state's intent of ensuring society's safety by having these high-risk youth removed or excluded completely. These youth are assessed as too risky which ultimately means they must be managed and controlled to further prevent or eradicate the risks they present.

The final change discussed in this analysis is the increase of community involvement expressed by the interviewees. This change can be regarded as governing at a distance since it demonstrates how the government maintains its power and control by having its affiliates and subordinates take on their own risk management and risk prevention, thus resulting in an increase of prudentialism. The community as a whole is therefore taking responsibility for lowering the further or future risks these youth present.

Conclusion

In conclusion, it must be made clear that the two initial perspectives taken by the staff are what form and dictate how they view, interact and deal with the youth and the change in legislation. Risk management, risk assessment, risk technologies, risk prevention and other governmentality ideas are all presented and highlighted in the interviews, although not in those terms. The angle and position taken in regards to these issues varied based once again on the initial perspective taken by the staff. What initially started as focus on the legislation and its impact on the staff quickly turned into an examination of the two different perspectives presented from the staff and their influence on the issues of young offenders and the legislation. In this sense, the legislation became an element in the analysis and was no longer viewed as the focal point.

Drawing from the findings of the three research methods, the following chapter offers some insights into how they are connected with the use of the risk and governmentality concepts and this concluding chapter also provides an analysis of each concept and idea.

CHAPTER 7:CONCLUSION

What began as focus on the YCJA and its implications resulted into a more intricate look at the social construction of the young offender and the perceptions and framing the media, the legislation and workers within the youth justice system hold towards this particular population. The use of a media analysis, a legislation analysis and conducting interviews allowed a deeper insight into the shaping and characterization of the young offender and the implementation of the YCJA.

Although not reflected in the same manner, the fundamental elements of governmentality and risk theory such as risk prevention, risk assessment and risk management were all found within the three types of analysis conducted. All chapters were constructed around the ideas and concepts of governmentality and risk theory. Some chapters, such as the media analysis and this chapter were based on the concepts and ideas while in others (legislation and interview) the theories were added to the concepts defined by the legislation and interviewees.

The Connection

In the remaining pages I would like to draw links and connections between all three types of analysis using the governmentality and risk ideas and concepts. It must be mentioned upfront that this entire research is not explanatory in nature but rather exploratory. The main goal was to shed light on the issues of the young offender and the new Youth Criminal Justice Act and to explore their characterization, formulation and framing within multiple means of analysis such as media, legislation and the youth justice system.

Areas of Discussion

There were many areas that could have been covered in this last concluding chapter but focus is limited on a few, more prevalent and more important ideas and topics that could be linked to all three chapters and were believed to be the foundation in this analysis. Each area discussed covers a brief summary of the main points found in each of the *legislation*, *media* and *interview* chapters and finally provides an overall *analysis* of the connections and links found. In other words, there are eleven areas of risk and governmentality ideology covered, each depicting the main points found in the legislation, media and interview chapters and providing a concluding analysis, which highlights the connections found amongst the three means of research.

The first topic that is analysed is 1) *risk assessment* as it forms the basis that allows 2) *risk management* and 3) *risk prevention* to take place and eventually brings 4) *governance at a distance* for the state. Governance at a distance is also attained with the use of 5) *risk technologies* such as the YCJA legislation and 6) *experts*. Because of all these elements, the characterization and perception of the 7) *young offender* is formulated and this is achieved in relations to 8) *prudentialism* and *responsibilization*. Once this characterization has been formed, decisions on whether 9) *exclusion* or 10) *inclusion* would be best for these youth, the state and society as a whole must be made. 11) *Victims* are also considered when these decisions are made.

1. Risk Assessment

Legislation:

Within the legislation, risk assessment was found with the creation of the 'intensive rehabilitative custody and community supervision order' sanction which determines the youth that are 'risky' based on the offence committed and psychiatric or emotional problems that might be present. This new option found in the act is created to assess the psychiatric and emotional problems youth may suffer from and determine the risks they pose once released back into the community. Risk assessment is also found in the legislation with the addition that all custody dispositions must be followed by a community supervision period, parole for youth if you will. This highlights that the youth who are sent to custody pose a greater risk to the community they re-enter and therefore must be supervised. Another element that reflected risk assessment within the legislation analysis is in regards to adult sentencing. The government states that the legislation is better equipped in determining when adult sentencing is to be used by specifically defining which offences (serious violent offences) and for whom (repeat offenders) and for what reasons (youth accountability) this type of sentencing is appropriate.

Media:

Risk assessment in the media analysis covers the targeted at risk category since this category is based on the determination of who is 'at risk' by the behaviours and actions exhibited by these individuals. Those identified as being 'at risk' or those unwilling or unable to manage their own risks, thus assessed as 'risky' were portrayed in very negative ways; reflecting prejudice, stereotypes and labels. The use of labels and stereotypes to demonstrate or highlight those that have been assessed as 'risky' was very

common in the articles. Also, the use of very harsh terminology such as 'unsavoury' and 'stupid' was used to define the individuals deemed or assessed as 'risky'.

Interviews:

In regards to the interview chapter, risk assessment was utilised by the staff that focused their attention on the records of the youth they deal with. The staff members used the youth' records as a risk assessment tool to measure the riskiness the youth present to the other youth, the staff and themselves. The idea was that the more severe the offence the more risks the youth presents. The suggestion of intervention age being lowered to younger youth also reflected a sense of risk assessment as it deemed, in advance or tried to determine which youth are 'at risk' before they end up in secure custody. Trying to assess the youth' support system and re-offending possibilities are also ways risk assessment was expressed in the interviews. It is by seeing how well the youth will re-enter and adjust back into the community by the support offered that will establish, thus assess, the risk level that youth poses to the community. Another way risk assessment was found in the interviews is by the fact mentioned by the staff members that the lower number of youth entering the facility lowers their personal risk level. This implying that the staff members assess their personal risks in relations to the youth. Also mentioned in terms of personal risks is the observation that since it seems that only serious violent offenders were entering the facility, staff members' personal safety would be threatened. In these two situations, personal risk assessment was drawn in connections to the type and number of youth entering the facility.

Analysis:

Risk assessment turned out to be a tremendously important element in all three chapters. It became clear that great importance and focus was given to assessing the 'who, how and why' associated with risks. Risk assessment is the first step leading to governing at a distance, followed by risk management and risk prevention. The state must first determine who is at risk before being able to determine the best ways in managing and eventually preventing the risks these individuals pose to society. Risk assessment highlighted the possible risks present to other youth, to the community, to the members of the justice system and also in regards to personal risks. This all demonstrated how prevalent risks are and how important it is to take self- protecting measures against risk, thus relating to personal victimization.

2. Risk Management

Legislation:

Risk management was found in all three types of analysis and often overlapped with risk prevention. In the legislation chapter, risk management was highlighted with the claim that all custody sentences are to be followed by a community supervision period, also mentioned above in risk prevention. The aim is to better manage the risks the youth present once returned to the community by having them report back to a caseworker. Another way risk management is illustrated within the legislation is when the government states that the YCJA more clearly defines when extrajudicial measures, adult sentencing and custody sanctions are to be used, thus making risk management more determined and effective. This reflects better risk management techniques found within the legislation.

<u>Media:</u>

In the media chapter, the specific numbers associated between an offence and a sentence, which reflected a sense of standardization, identified risk management. This narrow definition of risk management presented the justice system and its members as simple bystanders and gave the impression that the system is simply black and white: 'you commit this offence, then you receive this sentence' was the ideology found. It reduced the entire cases to offence and punishment and removed all circumstances surrounding the incident, thus minimising the role of the judge and the other members of the justice system.

<u>Interviews:</u>

Risk management was also a big element found within the interview chapter. The idea of adult sentencing, under the 'get tough' ideology presented managing 'high risk' youth by having them completely excluded from society. The lack of risk management was made clear when these staff members stated that the legislation was too soft and too 'lax' of the youth. It was believed that the YCJA and thus the government was neither severe nor punitive enough, implying a lack in risk management skills, with this new piece of legislation. On the other side of the coin, risk management was seen as a means of successful re-inclusion and reintegration into the community by the youth. This was believed to be achievable by changing the youth' motivations or at least better understanding the youth and trying to evoke change within them. The lower numbers of youth that come to the facility highlighted risk management in similar ways as risk prevention. Having fewer youth to work with at the same time makes it easier to manage the individual and collective risks these youth present. The increase in remand youth also

is a clear indication of risk management as these are the youth deemed 'too risky' to remain in society, therefore, sending them to secure custody manages the risks they impose.

Analysis:

Once risk prevention and risk management were analysed as separate entities it became apparent that they actually form a package. Ultimately, by achieving one, the other is achieved as well. What manages risk also prevents future or further risks and what prevents risks ultimately manages future and further risks. In this light, these two ideas are almost interchangeable. The legislation was very specific in defining the means of achieving and insuring risk management. The media analysis revealed that the research's classification of risk management- focused on offence and numbers- might have minimised the scope of the category and thus overlooking other means and ways the articles depicted risk management. Risk management, in the interviews was highlighted by the 'get tough' approach focusing on adult sentencing and this is similar to the classification of 'offence and sentence' in the media as both view risk management as complete exclusion from society.

3. Risk Prevention

Legislation:

The idea of risk prevention was present in all three types of analysis but under very different terms and means. In the legislation chapter, risk prevention was also apparent but in a much more defined and evident manner than the other chapters. In the legislation, risk prevention was apparent from the onset in the 'aim of the legislation' (philosophy of the legislation) proposed by the government. Based in the philosophy of

the legislation is the idea of improving rehabilitation and reintegration back into the community for the youth that do come into contact with the justice system, thus, hopefully lowering and even eliminating their future criminal careers. Another way in which risk prevention is present in the legislation is by the new custody formulation. Now, in the YCJA, every custody sentence must be followed by a period of community supervision, which is usually a third of the actual sentence. This addition to the justice system ensures the state and the public that measures are taken to prevent the youth of returning to their 'old habits' and ways of living. Because custody is now to be used as a last resort, the mixing of different level youth (low risk vs. high risk) is thus limited. 'Low risk' youth are now supposed to be dealt with extrajudicial measures, thus limiting their exposure to 'high risk' youth found in custody facilities, ultimately preventing future risks they could present.

Media:

In the media chapter, risk prevention was defined with very abstract statements; the actual means of achieving risk prevention were not clearly defined or explained. These statements reflected, as termed in the chapter, as 'band-aid' solutions. Claims and statements were made to appease the public while the issues, in this case youth violence and youth crime, were in the spotlight. However, one way that risk prevention was explicitly cited is with the use of cameras. Cameras were illustrated as means of deterrence and surveillance, thus aiming to prevent any further crime to occur from criminals and the general public.

Interviews:

Risk prevention was most clearly defined and most extensively used in the interview chapter. Many different elements in the interviews reflected the idea of risk prevention such as 1) the continuation of goals a youth was working on in the facility, once returned to the community. By having a continuum and clearly defined goals presents the youth with stability and alternatives to what was known and familiar before. 2) Early intervention (minus 9 months and phase one kids mentioned) for youth that are starting their criminal careers, thus preventing them from graduating to more serious offences, and also avoiding future offences. 3) Offering the youth tools such as education, substance and alcohol abuse programs and even psychiatric assistance to lower their chances of recidivism once returned to the community. Offering these youth effective means of changing their lives and attitudes will lower the risk they present to society. 4) Assessing their support system in the community. The more support the youth has once released, the less chance of recidivism. 5) Having fewer youth and mostly serious violent offenders come to the facility limits the mixing of 'low risk' and 'high risk' youth together. However, having mostly or only serious violent offenders also minimises the alternatives available for the other youth to see. 6) The increase in remand youth also involves the idea of risk prevention, as remand youth are youth the justice system deemed too 'risky' to remain in society while awaiting trial or court appearances. Remanding a youth makes apparent the risk the youth poses to others and further limits that riskiness from spreading (by limiting future offences). All these ideas highlight the concept of risk prevention.

<u>Analysis:</u>

Risk prevention turned out to be a very important element in all three separate

analyses, even if defined very differently in each analysis. Risk prevention was most

clearly defined in the interviews with lucid examples of measures and means that

promoted it such as tools and remand to more abstract, illusive statements made in the

media. In regards to this continuum, the legislation could be regarded as the middle

ground as risk prevention was defined but simply not in those specific terms. Risk

prevention was utilised and idealized in all elements, thus demonstrating its importance.

4. Governing at a Distance

<u>Legislation:</u>

Governing at a distance was achieved and viewed very differently in each chapter.

In the case of the legislation analysis, the government designed and constructed the

legislation to be able to govern at a distance. The legislation is the tool or the risk

technology used by the government to manage and control its deviant population. The

government made a very bold attempt at covering all aspects of youth crime, which is

apparent in the principles of the act itself. However, this abstract statement of intent

appears all encompassing with too many principles, thus trying to cover too much.

<u>Media:</u>

In the media analysis, the government was portrayed as a big, abstract, impersonal

mass or as referred to in the articles as 'system' with no direct representation. This entity

was the target of blame for youth crime but not at one particular element or representative

since it was not clear whom or what the elements that encompassed this 'system' were.

Anger and resentment was aimed at this huge mass that supposedly was representing the

government. The government managed to govern at a distance, in this sense, by avoiding

direct blame and responsibility.

Interviews:

For this analysis, the interviewees were considered the affiliates of the state used

to govern at a distance, therefore the state achieved this goal by having the staff members

use the legislation as a way of maintaining the state's control. However, because the staff

members did not express any real change or impact on their daily work could highlight

the fact that the state has so far removed itself that it is no longer affecting and that the

risk technology tool used is no longer effective in controlling and managing its affiliates

or the targeted population. This illustrates how the state (or government) can be

considered management from afar without truly getting involved. The increased

involvement mentioned by some staff members of 'others' is testimony of the state's

attempt at gaining more affiliates or increasing affiliates' involvement, thus maintaining

and expending its power to govern at a distance.

Analysis:

Because governing at a distance was characterized very differently in each

analysis (legislation is the tool designed by the state; media viewed the state as a 'big

system or mass' and the interviewees were considered the affiliates of the state used)

comparing them together is somewhat difficult or impossible. Although very different

ways of interpreting governing at a distance, all three methods tried to accomplish the

same goal of maintaining power from afar. The media and interview chapters suggest that

the government may have too far removed itself as it has no direct representation in the

media and no influence (from the YCJA) in the interviewees. This brings up the idea that

the state has 'too well' achieved its goal of governing at a distance. This can be considered problematic for the state, as it no longer has direct and meaningful influence and control on its population.

5. Risk Technologies: The YCJA

Legislation:

The government achieves governance at a distance by the use of risk technologies. Since the legislation itself is considered a risk technology and because it tries to cover so many areas and elements of youth crime, almost making it unrealistically capable of covering all its intended goals, diminishes the state's power of governance. The legislation is presented as a solution to youth crime and the 'ill-equipped' youth justice system. Because of all the criticism and attacks on the YOA, the state is presenting the YCJA as a balanced resolution, between punishment and support, for youth crime. However, it must be stated, as does the government on its website, that the legislation is simply one part of the whole picture, therefore, cannot be expected to fix or heal society of its evils (in this case being youth crime) all on its own. The government states that it has made improvements to the youth justice system by implementing the YCJA. It (the government) claims the YCJA is better equipped to deal with youth crime by having clearly defined principles, sanctioning options and appropriate timing for use of extrajudicial measures, custody and adult sentencing. However, the government also demands the assistance and support of the population in dealing or 'fight' against youth crime.

Media:

In the media chapter, risk technologies were measures used to control and manage the population, almost giving the impression of a 'mass' constantly hovering over its subordinates. The YCJA legislation was presented as a bureaucratic solution to youth crime. The legislation was given much attention and ultimately elaborates command and power over the 'fight against youth crime'. The YCJA was the focus of blame and responsibility for being ill designed in dealing with youth crime when incidents or events occurred. Most articles used the YCJA to support statements when mentioning cases of specific or possible sentences. In this sense, the YCJA was used in reference and for explanatory purposes. Citations or links to the YCJA were also made as story fillers when justification was needed or criticism was made that highlighted flaws in the youth justice system and therefore the government as well. Cameras were a focal point in the media analysis as far as risk technologies go. The articles also referred to cameras as a controlling agent for those who wanted to commit offences and deterrence for those thinking of committing an offence.

Interviews:

Because much of the questioning in the interviews revolved around the YCJA, many details and elements were presented or discussed. However, only the underlining and relevant ones will be highlighted in this concluding chapter. In the interviews it was mentioned that the legislation did not or does not affect the daily work of the staff interviewed. This could be exposing a flaw within the legislation itself or highlighting the fact that the state has so successfully managed to remove itself to govern at a distance that its tools are no longer effective. With further probing, the interviewees did however

mention certain changes. Some changes were presented in a positive way such as the perceived notion that the legislation was more personalized and was more focused on rehabilitation and reintegration. The YCJA was presented as somewhat of a return to the JDA- welfare model-, which was more focused on the youth and not so much on the 'lock em up' mentality. Some changes were presented in more negative terms by the perceived notion that the legislation was not severe or punitive enough and was beneficial to the youth that get involved with the youth justice system. This was rationalized by the impression that the YCJA did not provide the youth with the tools necessary to effect any change in their attitudes and behaviours or provide enough youth accountability that adult sentencing would provide. This dualistic approach, exhibited in the interview analysis must be mentioned, as it constituted the basis or platform that all other ideas or views rested on and also relates back to the on-going debate and battle that has existed within the Canadian youth justice system since its creation in 1908 between the 'get tough' advocates and the 'supportive' advocates.

Analysis:

Because the legislation tries to cover so many (all) aspects of youth crime, it almost becomes overburdened from the demands it inflicts on itself. In this sense, the legislation becomes all encompassing and this is a crucial point of criticism found in the articles analysed and the interviews. Both the media and the interviews reveal the weak points in the government's risk technology, which highlights the idea in governmentality theory that risk technologies constantly have to be improved and replaced in order to remain effective. All three chapters present the legislation as 'great on paper and theory but not so much in reality'. The government defends its new risk tool by stating that it is

better equipped in dealing with youth crime but the media and the 'get tough' advocates state that it is ill equipped. The YCJA can be viewed as the government's reply or response to criticism of the YOA but critics still comes, which means the public is still not satisfied. However, this also relates back to the ongoing debate between 'gets tough' and rehabilitative advocates where a middle ground stand may never come into existence.

6. Experts

Legislation:

In the legislation chapter, it is with the increasing use of extrajudicial measures that the idea of experts is expressed. Because extrajudicial measures are used mostly by the police and this ultimately gives them more power and proficiency to determine which sanction a youth should receive, they inevitably become experts in the use of extrajudicial measures. Other than this, experts were not clearly expressed within the elements analysed in the legislation chapter.

Media:

The idea of experts was most prevalent in the media chapter as most articles referred to or used representatives to support their arguments. However, it must be stated that the experts or representatives used are representatives of the state and are more often than not removed from the situation they are commenting on. This presents the experts in a detached reality or removed reality based on paper work and theory revolving around bureaucracy. The irony in this is that despite this, these experts are regarded as holding the ultimate knowledge and wisdom on the situation at hand (either youth crime or young offenders).

Interviews:

The actual staff members interviewed are regarded as experts in this analysis when it comes to youth crime, young offenders and the implementation of the YCJA as they experience all these issues first hand, on a daily basis. It must be mentioned that when questioned on the legislation itself, many staff members admitted not knowing much about it (YCJA) and also mentioned that the only information received on the legislation was from a two day training and reading about it in newspapers and on television. Despite this, the staff members did express concerns, impressions and observations in regards to the youth and the YCJA legislation and because they deal with these issues first hand on a daily basis would give them more status as experts than the media's use of experts. However, it must be stated that the 'experts' concept was not greatly covered in any of the three means of analysis.

Analysis:

The idea of experts was not greatly present in any of the analyses but this could be explained by the fact that each chapter defined 'experts' differently. In the legislation, the police was considered experts in regards to extrajudicial measures. In the media, the experts were the persons used in quotations or references, persons used to 'back-up' statements with authority and in the last chapter, the actual interviewees were considered the experts in the daily implementation of the YCJA and regards to young offenders. Based on these definitions and characterizations, relating the three chapters is quite difficult but it could be viewed as three different classes of governmental representatives as all experts used are working for the state. This, then, is a reflection of how the state manages to govern at a distance with the help of affiliates.

7. The Young offender

Legislation:

The historical shift from 'non-responsible' to 'accountable' reflects the views on the young offender by the government, in terms of legislation. The idea that the youth must be held accountable for their actions but at the same time must be offered the chance and tools to turn their lives around demonstrates a dualistic approach to the characterization of the young offender. In this sense, the young offender is viewed both as accountable, thus responsible and in need of assistance. The increase in extrajudicial measures to be used highlights the idea that the youth must be given chances before being completely excluded from society, which would be indicative that the young offender is deemed saveable.

Media:

In regards to the media analysis, the targeted at risk category would be best suited in describing the young offender. In this analysis, the young offender is presented as a 'demonised predator', which is emphasised by the over-dramatized depictions of the situations and individuals involved. The young offender is portrayed as a criminal violator who refuses to follow society's ways of life, thus refusing to self-govern and self- protect against risks. When social circumstances such as socio economic status and family dysfunctions are revealed as troublesome or mediating factors for the young offender, rationalization and correlation to these issues is made in order to alleviate or 'make better' the actions taken by the individuals involved.

Interviews:

The young offender, in the interviews, was presented in two different ways- based on the approach taken by the particular staff members interviewed. The 'get tough' followers viewed the young offender as a lost cause, horrible, calculating predator that cannot be helped. In addition, these staff members emphasised that idea that coming to the facility was simply a stepping-stone in their criminal careers as most of the youth would be heading to adult or federal institutions afterwards. On the order hand, the supportive stand followers viewed the young offender as in need of guidance and help. They believed that if given the proper tools such as an education or counselling, these youth would be able to turn their lives around.

Analysis:

Once all three means of analysis were compared, a conflicting ideology emerged between youth accountability and rehabilitation. The legislation preached on given youth chances and using custody as a last resort and this was in direct opposition to the 'get tough' staff members wanting to send the youth straight to adult prisons. In one instance, exclusion is to be used as last resort and in the other, complete exclusion should be the option of choice from the onset. The media and supportive stand staff members alleviated the youth responsibility by focusing on the social situations that brought the youth to the facility. On the other hand, the media and the 'get tough' advocates saw youth as predator and lost causes. This dualistic representation of youth in the media (demonised versus victim of social factors) is reflexive of the dualistic stand in the interviews ('get tough' versus supportive approach) and the legislation's take on accountability versus rehabilitation.

8. Prudentialism & Responsibilization

Legislation:

Prudentialism or responsibilization was clear in the legislation chapter when looking at the historical progress of youth justice in Canada. From the JDA where youth were not considered responsible for their actions to the YCJA where focus or aim is set on youth accountability, clearly establishes prudentialism or as I like to call it, responsibilization. Another way youth accountability is established in the legislation is by focusing on what the government calls meaningful consequences for offences committed by the youth. Youth are asked to take on responsibility for what they have done and bare the consequences of their decisions. This is also seen in regards to adult sentencing, where the onus of asking for a youth sentence is left to the youth, in the case of presumptive A and B offences. The actual idea of adult sentencing also reflects responsibilization, as the youth must take ownership of their actions. An additional way youth must take on responsibilization is in regards to reintegration. The youth are responsible for successfully reintegrating into their community and if they cannot achieve this goal, they can be returned to custody or given another sentence.

Media:

In the media analysis, prudentialism was defined as the actions or lack of actions individuals took to protect themselves against risks. This rested on self-help and self-reliance, thus personal responsibility. When measures or means of self- protection or in governmentality terms: self- governance were not taken, the individuals were portrayed as 'reckless' or 'asking for it'. However, this was not present in regards to young offenders, as they were portrayed, regardless of if measures were taken for self-

governance or not, as responsible for their actions and having to bare the consequences.

A dualistic approach to the youth involved emerged within the analysis. First, it was seen as the youth were following a string of circumstances, beyond their control, that brought them to where they are such as family life. Second, youth were seen as having created their own society based on gang colours and 'saving face', which meant they did not have to follow the norms and rules imposed by 'normal society'.

Interviews:

In the interviews, the focus on adult sentencing by the 'get tough' advocates clearly underlines the idea of responsibilization as youth are seen as responsible enough to commit serious crimes, therefore, responsible enough to do serious time. Since these staff members viewed the youth as 'lost causes', lacking a conscience, meaning lacking in responsibility taking skills, more severe and permanent punishment was sought. In this sense, the youth are seen as voluntarily breaking the norms and rules of society, thus demonstrating their lack of self-governance and responsibilization. As one interview mentioned trying to change these youth by using 'mirror therapy' is the way to make them understand and bare responsibility for their actions. The supportive stand followers somewhat removed responsibility from the youth by focusing on the social situations, such as socio-economic status, family structure and environment to justify the actions and attitudes of the youth. These elements eradicated self- governance in regards to the youth as circumstances were deemed as beyond their control and they too were seen as victims.

Analysis:

The shift from non-responsible to accountable may have reached an extreme when placing the onus on youth in adult sentencing when the youth might not be mature

enough to do so. Youth are asked to take on much responsibility even if they may not have the maturity or capacities of doing so. This is considered unconstitutional according to Quebec and has evoked much debate and even delayed the release of the YCJA. This relates back to Steinberg's (1996) claim that youth do not have the fully formed capacities such as maturity and reasoning skills to take such responsibility and he even claims that such demands are unjust and unfair to the youth. All three chapters focused on responsibilization, which exhibits its importance in regards to youth being held accountable for their actions. This also stresses the fact that everyone is self- responsible (prudentialistic) and must self- protect against risks. The elements of prudentialism were apparent in all three chapters but under different forms: self-protection against 'risky' youth in the media analysis; focus on support systems and reintegration where all are responsible for the youth's successful transition back to society, in the interviews and in the legislation.

9. Exclusion

Legislation:

In the legislation chapter, it is the issue of custody- when and for what reasons to use- that exclusion is highlighted. Exclusion is presented as the last resort and reserved for serious violent offenders and repeat offenders. The government claims that the YCJA legislation clearly determines when to exclude the youth from society by establishing specific guidelines to when exclusion, in this case custody, is to be used. A reduction in exclusion is by the increase in the use of extrajudicial measures that insures the youth avoid the formal justice system and remain included in society.

Media:

In regards to exclusion in the media chapter, since it was defined as the methods used to neutralize the risks individuals pose by establishing confinement, illustrated these measures as the only effective means of dealing with these 'risky' youth. It presented secure and absolute confinement such as custody or jail as the ultimate and only means of protecting society. In this sense, it illustrates that the exclusion of these 'risky' youth is regarded as 'ridding society of its evils'.

Interviews:

In the interview chapter, exclusion was clearly defined with the 'get tough' staff members when they mentioned adult sentencing. This was seen as the proper way of dealing with the youth, as they were deemed adult enough to commit the offences they did so should be adult enough to do the time for it. This was seen as a more permanent and definite form of punishment for the youth and a better way of reaching (attaining) accountability. Another way exclusion was highlighted in the interviews is by the increase in remand youth entering the facility. This illustrated that these youth were deemed 'too risky' to remain in society even before being sentenced, thus have to be completely excluded.

Analysis:

When analysis on all three chapters was completed, an oppositional approach between the media and 'get tough' advocates' position that exclusion is the only means of effectively dealing with these youth and the legislation's stand that exclusion should be used as a last resort option, emerged. The noticed decrease in the number of youth entering the facility could be illustrating that the legislation's philosophy is being

implemented in the youth justice system. The increase in remand youth, however, would seem to go against this philosophy of custody as last resort or could be highlighting a bigger social problem: family unit breakdown. Wright's (1989) idea that incarceration enables the youth to learn new criminal skills is comparable to the interviewees' comments that the youth "all feed off of each other" and "its mixing less entrenched kids with more entrenched kids" (interviewees J and K). In this sense, the legislation's claim that exclusion should be the last resort holds merit.

10. Inclusion

Legislation:

In regards to the legislation chapter, an attempt to avoid inclusion was found with the increased use of extrajudicial measures, thus eliminating and avoiding the formal youth justice system. Another way inclusion was avoided or minimised was by the clarification of when custody was to be used- limited to serious violent offenders and repeat offenders. These elements are ways the government is trying to minimise inclusion in terms of including the youth in a formal and permit database such as the youth justice system.

Media:

Since there was only one passage in the media chapter that dealt with inclusion as a form of database, defining inclusion in such a narrow scope might have to be revised. It could, however, highlight the fact that the population targeted for this analysis- youth- are a protected population and that a formal database is not available or possible. If the analysis had considered the youth whom had formal contact with the youth justice system, entailing a criminal record, thus inclusion in the formal youth justice system,

would have increased the number of passages fitting into inclusion. In a broader sense, the youth justice system is a database for young offenders and if considered in the analysis as such would result in a much wider category and much different outcome.

Interviews:

Inclusion in the interview chapter was regarded in completely different ways, depending on the position- 'get tough' or supportive- the staff members took in regards to the youth. For the 'get tough' followers, it was the use or focus on the youth' criminal records that highlighted inclusion as the records reflected inclusion in the youth justice system. The youth's records were of great concern for these staff members even if eventually the records would be expunged, thus, meaning the youth be removed from the formal database. Inclusion for the staff members that held the supportive stand was seen in terms of re-inclusion or reintegration of the youth in the community. Reintegration was a way the staff members believed the youth could be included back into the community or back to the 'normal way of life: normal society' so to speak.

Analysis:

Inclusion was viewed and defined very differently in each chapter but comparison between each type of analysis can still be achieved. The legislation tried to eliminate the youth' inclusion in the formal justice system by increasing extrajudicial measures use and decreasing the use of incarceration. The media, where inclusion may have been too narrowly categorised, however, relates to the records (database) that the 'get tough' followers focused on when evaluating the youth they encounter at the facility. The legislation and the supportive interviewees viewed inclusion or re-inclusion in terms of rehabilitation and reintegration into the community and society as a whole. This creates

an oppositional definition of inclusion where in the first stance, inclusion is regarded as insertion in the formal youth justice system's database and in the second stance, inclusion is regarded as the return of the youth to the community and society.

11. Victims

Legislation:

Within the legislation, it is clearly stated by the government, that the victims of youth crime are to be given more importance and input than before. The government states that with the new YCJA, victims play a bigger role and have more importance in all stages of the youth justice system. This is achieved by giving victims access to information on the specific extrajudicial measure taken or the ruling in the case pertaining to them. This then implies that victims are more involved and thus, get a sense of closure and acknowledgement in relation to the offence committed against them.

Media:

In the case of the media analysis, it is apparent that the descriptions of the situations and people involved are drawn in such a way to get the reader to empathise and evoke emotional reactions towards the victims. The articles illustrate the situations by emphasising the victims' innocence and traumatic outcomes resulting from encounters with young offenders. On the other hand, when young offenders are reported as victims, the depictions are given in very cold, clinical and factual ways. It is also depicted that victims blame the system for not dealing or handling youth crime in more proper and effective measures.

Interviews:

In the interview analysis, it is with the mentioned increased involvement of 'others' such as victims that their (the victims) importance is highlighted. The victims are characterized as helping reduce the risks the youth present when returned to the community by conference participation or victim statements that hopefully make the youth realise the impact their actions have had on others.

Analysis:

The concept of victims in all three chapters highlights the fact that public and media pressure the government so the government creates new legislation that tries to appease the public and media's concerns. Victims play such an important role in the media which is reflected in the changes brought by the YCJA and the staff members' mention or notice of increased participation of 'others' such as victims in the youth justice process.

Conclusion

Major Findings

Once analyses and comparisons of the three types of research were concluded, two major elements were found to be important. Firstly, the dualistic approach (the 'get tough' versus 'supportive') found in all three chapters highlights the ever-lasting question on 'how to best deal with youth and youth crime?' Interviewee C in the interview chapter clearly illustrates this dilemma and its importance when stating:

> "Not necessarily lock them up and throw away the key but it's hard, it's, how would you say, a never ending battle, what is the appropriate way to deal with them, you know, cause yes they are just young offenders and yes they are

young children we'll say, but the crimes they are committing, well a lot of them, well at least the ones we are getting around here are very serious crimes"

This demonstrates the ongoing battle and debate around youth crime and youth justice or the problematic of government in general as Michel Foucault states 'the problem comes to pose itself with this peculiar intensity, of how to be ruled, how strictly, by whom, to what end, by what methods' (Foucault, 1991:88) Foucault's statement and this research's findings demonstrate how puzzling and mystifying this balancing act can be.

Secondly, this dualistic stand is the building block upon which all other elements (change) rest: perceptions of the legislation, perceptions of the youth, best ways of dealing with the youth and all other issues relating to youth crime, young offenders and the YCJA legislation, rest. All these elements and the way they are characterized, perceived and understood are all based or initiated from the way the original issues are viewed from either of the two stands. In other words, the way the issues of youth crime, young offenders and the YCJA legislation are perceived as either 'too soft' or 'too severe' or the 'right' or 'wrong' way of dealing with these issues relies on the initial stand one takes. It is the particular stand taken that determines how one views, understands and portrays the ongoing debate of youth crime and all other issues surrounding and once a stand has been taken, it becomes extremely difficult to accept or tolerate the other.

Another point found of importance in the research is that governmentality and risk theory concepts follow a logical progression from first assessing risks through managing and preventing them to governing at a distance with the aid of risk technologies and affiliates such as experts and victims that lead to the decision making dilemma of either

including or excluding youthful criminals from society. Once this pattern was determined and understood, the progression of the government to attain its ultimate goal of governing risks from a distance was much clearer and easier to analyse. Theorists may not have created or discussed these issues in this form or manner but for this research, this pattern created was deemed a logical means of observing and analysing the previously stated issues.

Relevance and Importance of Research

As mentioned before, the initial purpose of this research was to gain an insight on the issues surrounding the YCJA legislation but as time and analysis advanced, it became clear that there was more to be examined such as the characterization and formulation of the young offender and youth crime as a whole. These issues became blatantly important and had to be scrutinized further since the issues concerning the YCJA rest on how young offenders and youth crime are portrayed and understood. The research analysis established the fact that to be able to understand the issues surrounding the legislation, one has to first understand the issues surrounding the young offender and youth crime.

At the start of this research, the analysis of the YCJA had not yet been adequately approached from a sociological perspective and my wish was to make a contribution to that gap. It must be mentioned that the issues of the young offender and youth crime are not new issues; however, the way this research analysed and formulated these issues is new and highlights its relevance. The triangulated means of analysing these issues also presented a more complete and elaborate look into these issues and the way these issues are formulated and created by the media, the government and the people that deal and work with youth on a daily basis. Because the research used governmentality and risk

theories as a basis, brought a new and different mean of exploring, analysing and characterizing these theories and the issues discussed above.

Future possible research

Due to time constraints, the research was limited to only one facility visited, only one newspaper covered and only a few dimensions considered in regards to the legislation change. Future and further research including more media sources, more facilities and staff consulted and more dimensions in the legislation change discussed would shed more light on the issues and would be a plausible avenue considered for a doctorate degree or future career research. Society, through popular culture, literature and media has often shown a fascination and enthusiasm for crime related material. In recent years, a growing amount of material has placed its focus on criminal motivation and the fears associated with victimisation. The area of research of youth crime and its surrounding areas of development such as criminality and modifications to legislation and the penal system is a new and exciting avenue of social research that generates a lot of interest in the public and other academic arenas. It is in this light that this area of research will always hold great importance in society as it highlights people's fascination with crime, the desire of trying to figure why certain individuals commit criminal acts and it also reflects the personal fear of becoming a victim and the longing for justice.

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Appendix A

Table 1   **Types of Extrajudicial Measures:**

- Taking no further action
- Warning the young person
- Police caution
- Referrals to community programs
- Crown cautions
- Extrajudicial sanctions
- Notice to parents
- Informing victims

Table 2   **Summary Table of Differences Between YCJA and YOA**

Topic	YCJA	YOA
Philosophy of Legislation	Clearly ranked and stated principles	Conflicting, ambiguous and lack of ranking amongst principles
Extrajudicial Measures	1.Increased focus and push on use of extrajudicial measures. 2.Creation of new options.	Allows use of extrajudicial measures but no push or focus.
Sentences- Custody	1.Custody use reserved for serious violent and repeat offenders. 2.All custody sanctions to be followed by a supervision period. (1/3 of sentence.) 3.Creation of the *Intensive Rehabilitative Custody and Supervision Order* to deal with emotional and psychiatric problems of young offenders.	1.Overuse of custody. 2.No mandatory supervision period following custody. 3.No sanctions available for reprimand or support.
Youth as Adults	1.Limit to serious offences and repeat serious offenders) 2.No transfer process= youth court judge determines adult sanction. 3.Age limit lowered to 14 and discretion given to provinces for imposition. 4.Onus on youth to demand youth sentence	1.No clear guidelines for when and for what sanctions adult transfer was to be imposed. 2.Lengthy transfer process. 3.Age limit of 16 and 17 for possible adult sanctions.
Victims	1.Recognised in the principle of the act. 2.Victims have rights to information pertaining to court records and extrajudicial measure taken. 3.Victims are encouraged to participate in process.	1.Victims' involvement limited to victim's impact statement. 2.No or restricted access to information regarding process and sanctions used.

Table 3 **Types of cases that are transferred (Canada: 1996-97 to 1998-99)**

Source: Statistics Canada (1997 through 2000). Youth Court Statistics. Ottawa: Canadian Centre for Justice Statistics.

Violence	22,284	54	23,711	41	21,737	52
Property	45,336	27	49,602	19	51,687	27
Other CC/YOA	34,290	9	33,021	13	31,399	11
Drugs	4,755	1	4,549	6	5,242	2
Total cases	**106,665**	**91**	**110,883**	**79**	**110,065**	**92**

Table 4 **YCJA Sentence Calculation Rules- Custodial Sentences**

Sentence	Available under YOA?	Features	Maximum length of an individual sentence
Custody and supervision order	No	2/3 in custody and 1/3 under supervision in the community subject to conditions	2 years or if life sentence offence, then 3 years
Custody and supervision order for conviction of attempted murder, manslaughter, or aggravated sexual assault	No	Period in custody and under supervision in the community determined by the court on a case by case basis	3 years
First degree murder	Yes	Up to 6 years custody followed by conditional supervision in the community	10 years
Second degree murder	Yes	Up to 4 years custody followed by conditional supervision in the community	7 years
Intensive rehabilitative custody and supervision order	No	A period of intensive rehabilitative custody followed by a conditional supervision in the community. Available only in a limited number of cases where the young person has been found guilty of a specified serious offence; suffers from a mental illness, a psychological or an emotional disturbance, a plan has been developed that might reduce the risk of the young person repeating the offence or committing a serious violent offence	2, 3, 7, or 10 years depending on the offence committed

Appendix B
Articles from the Globe and Mail

1.Prisoners deliver rough justice in spate of vigilante beatings: Toronto's toughest court might be the one run by tough teens in back of police vans en route to hearings. (Oct.17'02)

2.Slain child-care worker mourned. (Nov.19'02)

3.Don't temper justice on the basis of race. (Feb.17'03)

4.The right penalties for teenage offenders. (May 5'03)

5.New law would affect case of slain teen. (Apr.4'03)

6.Tens girls in Alberta town charged over toxic slushie. (Apr.23'03)

7.As juveniles line up on death row. (Nov.4'02)

8.Three shot on 401 after leaving funeral home, police say. (Nov.5'02)

9.Lock up man who helped beat teen, court urged. (Dec.14'02)

10.When young people kill to belong. (Oct.9'02)

11.Save Jamaica's sons: if we want to stop young black men from killing each other, let's offer them a more hopeful world to grow up in. (Nov.18'02)

12.Fantino outraged by 'out of control' shootouts. (Aug.11'03)

13.We need not yield to them: some U.S. cities have made great strides in dealing with violent kids. But for starters, adults must act, says Harvard's David Kennedy. (Aug.18'03)

14.Canada in brief: pair charged in slaying to be tried as adults. (Nov.23'02)

15.Girl, 14, pleads guilty to three assaults at school. (Nov.23'02)

16.Young offenders centre called hellish: staff ignore regular peer-on-peer assaults at squalid Toronto facility, judge says. (Nov.27'02)

17.Brutal assessment. (Nov.28'02)

18.Landmark case hollow victory for jailed man: systemic-racism defence failed to reduce sentence, but ruling opens the doors for others. (Feb.18'03)

19.Days of dispute, then gunfire. (May 13'03)

20.Gangs rule centre by fear, force, guards say. (Nov.29'03)

21.Teen's suicide at centre for youth made public: detention facility for young offenders already under attack for slack supervision. (Nov.28'02)

22.New trial granted in Virk case: judges find questioning improper. (Feb.5'03)

23.A one-way ticket out of only nation he knows. (Jul.15'03)

24.Toronto's wake-up call to confront youth gangs. (Aug.14'03)

25.Two guilty, in Matti's slaying: Marini, Cochrane convicted by jury of manslaughter, but Weiz acquitted. (Jul.24'03)

26.Proposals alarm principal: troubled students get help from specialists who may lose their jobs. (Nov.21'02)

27.Police promise new strike at crime: shootings spark redeployments to target rampant youth violence. (Aug.6'03)

28.Canada in brief: Halifax girl pleads guilty to bullying classmate. (Jan.3'03)

29.Teens carrying fake machine gun trigger standoff in B.C. cemetery. (Jan.6'03)

30.Canada in brief: four Alberta teens face mischief, gun charges. (Mar.4'03)

31.Britain reacts with rage to fatal shootings: hateful rap lyrics censured as killings of teens spur plan to increase penalty for gun possession. (Jan.7'03)

32.Ontatio teens critical after various beating blocks from home. (Feb.21'03)

33.Canada in brief: B.C. Attorney-General finds sentence light. (Feb.5'03)

34.Canada in brief: mould forces Ontario to shut youth boot camp. (Feb.7'03)

35.Gang leader gets 8 years in beating of B.C. man. (Dec.19'02)

36.Tenaged hockey player faces assault charge. (Feb.18'03)

37.New Edmonton bylaw aims to fight bullying: picking on those under 18 could cost 250$. (Mar.12'03)

38.Group home resident described as ordinary: Alberta legislators probe circumstances of counsellor's violent death in city park. (Nov.20'02)

39.Youth crime plan tougher, gentler: more options for young offenders. (May 13'98)

40.Police urged to back youth-crime bill. (Jun.18'01)

41.Quebec to challenge young offender bill. (Jun.22'01)

42.Youth law's recipe for patchwork justice. (Jun.25'01)

43.Young offenders bill challenged. (Sep.8'01)

44.New rules for young offenders: maybe. (Feb.6'02)

45.Two trials, no justice. (Sep.12'02)