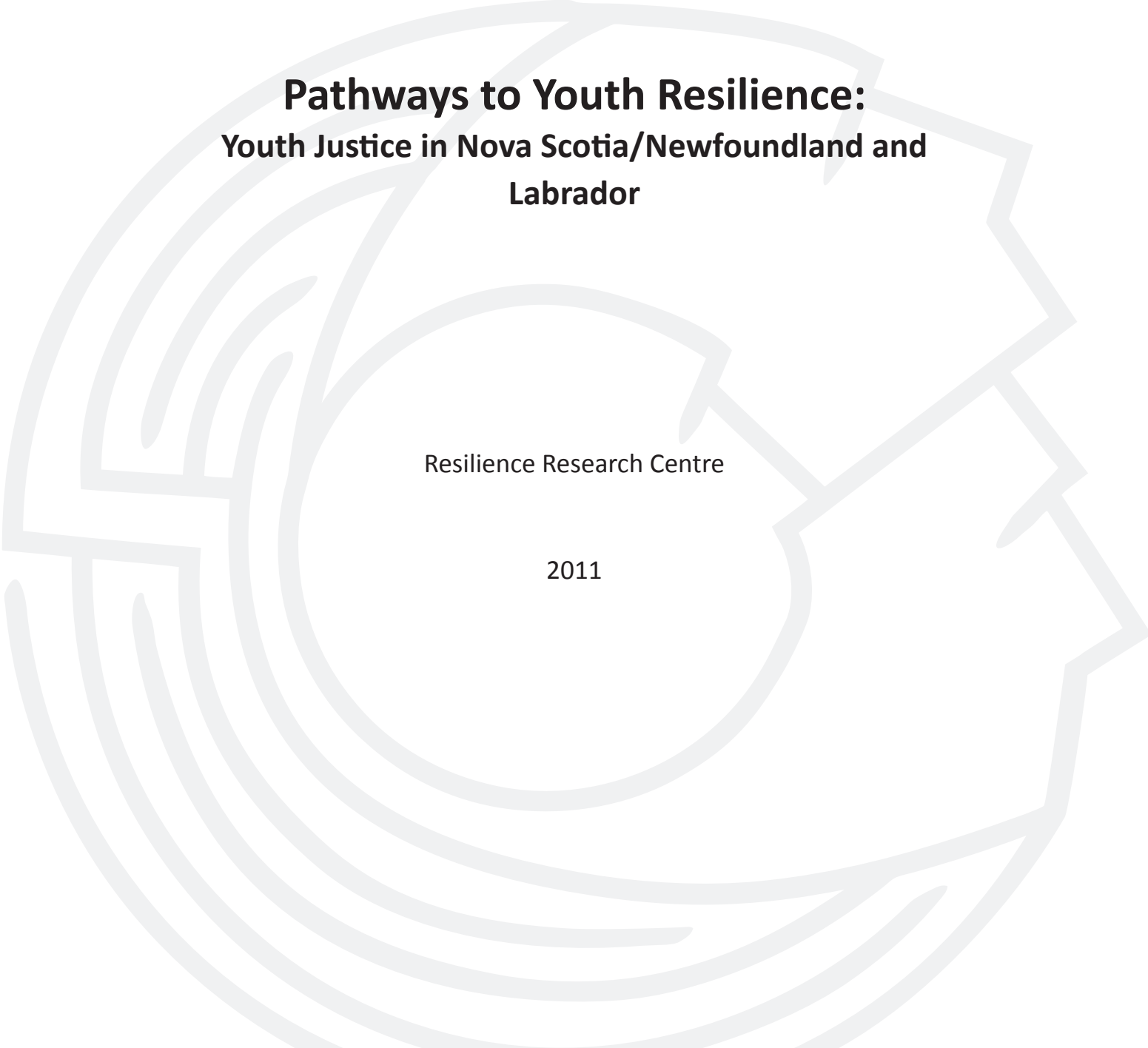




# The Pathways to Resilience Project



## Pathways to Youth Resilience: Youth Justice in Nova Scotia/Newfoundland and Labrador

Resilience Research Centre

2011

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## LEGAL FRAMEWORKS

### Youth Criminal Justice Act

Canada's Youth Justice System is governed by the Youth Criminal Justice Act (YCJA) 2003, which sets out principles and procedures that guide the functions of the youth court. Laws and regulations can be created by the federal government, the provincial government and the municipal government (by-laws).

The YCJA applies to youth who break federal laws and regulations. Each province has separate laws for dealing with youth who break provincial laws or municipal bylaws. The Youth Criminal Justice Act is administered primarily by local police and through the provincial courts and judicial system.

The YCJA maintains a welfare focus, specifically on rehabilitation and individual needs (Bell, 2003). However, it has also retained a justice focus on rights, responsibility, accountability and crime control (Bell, 2003). This bifurcated justice system aims to divert young people where possible, while at the same time holding them accountable and providing rehabilitation. "The youth justice philosophy is contained in a Preamble, a Declaration of Principle, and specific principles at key decisions in the youth justice process" (Barnhorst, 2004:3). The main principles of the YCJA can be summarized as follows:

- The youth justice system is intended to prevent crime, rehabilitate, reintegrate and provide meaningful consequences for a young person who has committed a crime in order to promote the long term protection of the public
- The criminal justice system for young person's must be separate from that of adults and emphasize rehabilitation, reintegration, fair and proportionate accountability and timely intervention that reinforces the link between offending and its consequences
- Within the limits of proportionate accountability the measures taken against a young person should reinforce respect for societal values, encourage repair of harm done to victims, be meaningful for the individual given their needs, respect gender, ethnic, cultural and linguistic differences and involve the family and community of the young person where possible
- Special considerations apply in respect of proceedings against young persons and in particular should acknowledge a young person's individual rights and freedoms, respect victims with courtesy and compassion while minimizing the degree of inconvenience, provide victims with the opportunity to participate and be heard and should inform parents about measures and proceedings involving their children

The YCJA is focused around six themes including; restraint, accountability, proportionality, protection of the public, rehabilitation and structured discretion (Barnhorst, 2004). The YJCA states that the youth justice system's most serious interventions should be reserved for the most serious of offenders (Barnhorst, 2004). Furthermore, the Act states that there is an unnecessary overreliance

on custody for young offenders (Barnhorst, 2004). As noted in the principles, accountability is achieved through meaningful consequences for the young person that promotes rehabilitation and reintegration (Barnhorst, 2004). These consequences must be fair and proportionate to the offense committed (Barnhorst, 2004). By implementing proportionate measures that reinforce rehabilitation the justice system is able to provide long term protection for the general public (Barnhorst, 2004). Furthermore, the seriousness of the offense should dictate the rehabilitative intervention and the proportionality of the intervention should not exceed the needs of the individual (Barnhorst, 2004). Lastly, the YCJA acknowledges the need for more legislative direction along with guidelines for structured discretion (Barnhorst, 2004). The Act includes provisions and criteria for specific situations. Furthermore, the Act includes prohibitions such as the prohibition on the use of pre-trial detention for child welfare or mental health purposes (Barnhorst, 2004).

The YCJA applies to youth aged 12 to 17. Children younger than 12 who commit a crime are dealt with outside of the youth justice system. This may include the involvement of police, social workers, the school, the community, and parents or guardians. Children under 12 may be removed from their home and placed in care for their own safety or for the safety of their community. Youth between the ages of 12 and 18 who have been sentenced to custody will be placed in a youth custody facility and youth over the age of 18 at the time of sentencing will be placed in an adult facility although they may be dealt with in a youth court and charged under the YCJA.

### ***Extrajudicial Measures***

The enactment of the YCJA demonstrates the Youth Justice Systems attempts to rely less on custodial sentences especially for non-serious offenses. This brought on a significant change within the legislation, and the use of 'alternative measures' was omitted as a stated principle (Bell, 2003). The newly defined diversionary methods are known as *extrajudicial measures*, outlining the "appropriate responses, conditions, restrictions and the role of police, parents, and victims in the diversionary process" (Bell, 2003:62). "Extrajudicial measures are measures that can be used by the police and crown attorneys to deal with young person's without using the formal youth justice court" (Nova Scotia Department of Justice, 2003:16). Section 4(d) states that extrajudicial measures should be applied if they are adequate to hold the young offender accountable (Barnhorst, 2004). This requires that all practitioners and officials within the justice system must re-orient their approach to youth crime and assess whether an extrajudicial measure is appropriate for holding the youth accountable before charging them (Barnhorst, 2004). These measures are administered on an offense by offense basis and are not based on the youth's prior experience with the law.

### **Conferences**

Prior to handing down a sentence, the youth justice court must consider any conference recommendations, if one has been held. A conference is a group of people who may come together to give advice to someone who has been named a decision maker under the YCJA. A conference may be called by a youth justice court judge, the provincial director, a police officer, a justice of the peace, a prosecutor or a youth worker (Nova Scotia Department of Justice, 2003:98). Advice may be sought about extrajudicial measures, conditions for interim release, sentencing or reintegration (Nova Scotia Department of Justice, 2003:98). Various types of conference can be held such as a case planning conference or a restorative justice conference which would seek to hold the young person accountable and to help repair any harm done to the victim and the community.

### **Nova Scotia Youth Justice Act**

Although the Nova Scotia Youth Justice System abides by the laws and regulations set out in the Youth Criminal Justice Act (2003), it also upholds the Youth Justice Act (YJA) 2001, at the provincial and municipal level. The purpose of the Act is to provide procedures for persons under the age of 18 who break Provincial enactments, including municipal by-laws, and to recognize that special considerations apply with respect to proceedings against young people. The *Nova Scotia Youth Justice Act* was amended in 2001, from the *Young Persons Summary Proceedings Act*, to keep in accordance with the pending enactment of the YCJA. Most importantly, the YJA ensures that the police and the court must consider extrajudicial measures prior to taking other measures when confronted with a young person who has broken the law. More formal extrajudicial sanctions are to be implemented through the Nova Scotia Restorative Justice Program if lesser sanctions are not considered adequate. “Unless a young person has failed to comply with non-custodial sentences and has a record, or has committed an offense that has threatened the safety of another person or has caused them bodily harm, a court cannot order custody” (Nova Scotia Department of Justice, 2003:124). Police and the court must consider all alternatives to custody before implementing a custodial sentence. Similar to the YCJA, the YJA ensures that conferences are utilized as a resource for case planning and restorative justice practices.

### **Newfoundland and Labrador Young Persons Offences Act**

Similar to the province of Nova Scotia, Newfoundland and Labrador follow federal legislation, the Youth Criminal Justice Act. However, they also operate under the provincial guidance of the Young Persons Offences Act (YPOA), 2004. A youth will be charged under the YPOA if they are to break any provincial or municipal laws such as the *Highway Traffic Act* or the *Liquor Control Act* (Newfoundland and Labrador Provincial Court, 2006). The YPOA was originally enacted in 1984, however was amended in 2004 to reflect the principles of the Youth Criminal Justice Act.

## **United Nations Convention on the Rights of the Child**

UNCROC provides guidance regarding the rights of young people with two articles specifically focused on the response to youth justice:

- Article 37 – The right to not be punished in a cruel, degrading or hurtful way or deprivation of liberty unlawfully or arbitrarily, and that arrest, detention or imprisonment to be as a last resort and for the shortest appropriate period; the right, if deprived of liberty to be treated with humanity and respect for dignity.
- Article 40 – The right to a range of protections for children accused of breaking the law

## **POLICY**

The Youth Justice Fund provides grants and contributions to projects that encourage a more effective youth justice system, respond to emerging youth justice issues and enable greater citizen and community participation in the youth justice system. Projects must meet at least one of the following objectives:

- Establish special measures for violent young offenders;
- Improve the system's ability to rehabilitate and reintegrate young offenders;
- Increase the use of measures, outside the formal court process, that are often more effective in addressing some types of less serious offending;
- Establish a more targeted approach to the use of custody for young people; and
- Increase the use of community-based sentences for less serious offending.

The Fund supports the development, implementation, and evaluation of pilot projects that provide programming and services for youth in conflict with the law. It supports professional development activities, such as training and conferences, for justice professionals and youth service providers. Additionally, it funds research on the youth justice system and related issues (Department of Justice, 2011). Various groups can apply for the funding, including; non-profit community organizations, First Nations groups, Canadian institutions, Provincial, territorial and municipal governments, private sectors and individuals (Department of Justice, 2011). Groups can apply for funding within three categories which include the main Youth Justice fund, the Youth Justice Drug Treatment fund and the Guns, Gangs and Drugs fund.

## **YOUTH JUSTICE PROCESS**

As discussed above, once a youth is alleged to have committed an offense, the police and/or crown are obligated to refer to the extrajudicial measures made available through the YCJA or the YJA.

Extrajudicial measures may include:

- Take no further action
- Warning the young person
- Administering a police caution
- Administering a crown caution
- Referral to a community program or agency that may specialize in a young person's particular needs, such as addictions programming or counselling

If a young person cannot be adequately dealt with through extrajudicial measures, they may be referred to an *extrajudicial sanctions* program. Extrajudicial sanctions are an important part of the Nova Scotia Restorative Justice program which is delivered by 8 community justice agencies throughout the province. The Restorative Justice Forum creates a space for a young person to repair harm done to victims and the community. Extrajudicial sanctions can only be used if the young person cannot be appropriately dealt with through a warning, caution or referral because of the seriousness of the offense, the nature or number of previous offenses and/or any aggravating circumstances (Nova Scotia Department of Justice, 2003:13).

If a young person is subsequently arrested by police they are not to be detained and should be released to a responsible person if the court is satisfied that:

- The young person would have been detained otherwise
- The person is willing and able to take care of the young person
- The young person is willing to be placed in the care of the responsible person

The YCJA expressly states that a young person should not be detained in custody before sentencing as a substitute for appropriate child protection, mental health or other social measures (Nova Scotia Department of Justice, 2003:15).

As discussed in previous sections, the purpose of sentencing a young person is to hold them accountable for an offense by imposing just sanctions that have meaningful consequences, that promote rehabilitation and reintegration into society and that promote the long term protection of society (Nova Scotia Department of Justice, 2003:19). The court also considers various factors when sentencing which include; the degree of participation by the young person in the offense, the harm done to the victims, any reparation made to the victim or community, any time already spent in custody, a finding of guilt and any other mitigating or aggravating circumstances (Nova Scotia Department of Justice, 2003:21).

Custodial sentences are only to be considered when one of the following conditions is met:

- The young person has been found guilty of a violent offense
- The young person has failed to comply with a custodial sentence

- The young person is guilty of an indictable offense for which an adult can be sentenced to prison for more than two years AND has a history of findings of guilt
- In EXCEPTIONAL cases, the court MAY impose a custodial sentence if the *offense* is indictable and the aggravating circumstances would make a non-custodial sentence inconsistent with the purpose and principles of youth sentencing

The court must also consider alternatives to custody that are available and the likelihood that the young person will comply with a non-custodial sentence (Nova Scotia Department of Justice, 2003:23).

There are many potential sentencing options for young person's who have been found guilty of an offense. Possible youth sentences which can be found in Sec 42(2) of the YCJA include:

- *Reprimand*: A stern lecture or warning from the judge in minor cases
- *Intensive support and supervision order*: This provides closer monitoring and more support than a probation order to assist the young person in changing his or her behaviour
- *Attendance order*: This order requires the young person to attend a program at specified times and on conditions set by the judge
- *Deferred custody and supervision order*: This allows a young person who would otherwise be sentenced to custody to serve the sentence in the community under conditions
- *Intensive rehabilitative custody and supervision order*: This order is a special sentence for serious violent offenders. The court can make this order if:
  1. the young person has been found guilty of murder, attempted murder, manslaughter, aggravated sexual assault or has a pattern of repeated, serious violent offenses;
  2. the young person is suffering from a mental or psychological disorder or an emotional disturbance;
  3. an individualized treatment plan has been developed for the young person;
  4. An appropriate program is available and the young person is suitable for admission.

Under the YCJA, every period of custody is to be followed by a period of supervision in the community, as part of the sentence. This includes custody and supervision orders, intensive rehabilitative and supervision orders and youth sentences for murder. The judge, at the time of imposing one of these custody sentences, must clearly state in open court the portion of the sentence to be served in custody and the portion to be served in the community.



When a young person goes into custody, the YCJA requires that a youth worker assist the young person with planning his or her reintegration into the community. The reintegration plan sets out the most effective programs for the young person in order to maximize his or her chances for successful reintegration.

### **Youth Secure Custody**

**Nova Scotia** - The Nova Scotia Department of Justice operates the Nova Scotia Youth Facility (located in Waterville, NS) for sentenced and remanded young persons and the Cape Breton Youth Detention Facility (Sydney, NS). The latter is annexed to the Cape Breton Correctional Facility and serves as an overnight detention unit. The Nova Scotia Youth Facility also operates two community-based attendance centres, Halifax Youth Attendance Centre and Centre 24-7, in both Halifax and Waterville respectively for youth serving community sentences or reintegration leaves.

**Newfoundland and Labrador** – The Newfoundland and Labrador Department of Justice Secure Custody Division operates four secure custody facilities for young offenders. The Youth Secure Custody facility, the St. John's Youth Detention Centre and the Pre-trial services program are all found within the provincial capital, St. John's, Newfoundland. The third facility is the Newfoundland and Labrador Youth Centre which is found in Whitbourne, Newfoundland approximately 90 kilometres from St. John's. The centre aims to provide secure containment and treatment programs to youth sentenced to secure custody by the Youth Justice Court (Newfoundland and Labrador Department of Justice, 2011). Some of the programs and services available include: vocational programs, social work services, academic programs (K to 12), nursing services, medical clinics, psychiatric services, psychological services, recreation programs and pastoral care services. All of the Youth Secure Custody facilities are responsible for operating effective secure custody and remand services, the delivery of various offender programs assisting in rehabilitation and reintegration as well as delivering the Pre-Trial Services Program (Newfoundland and Labrador Department of Justice, 2011).

## **SERVICE DELIVERY**

Delivery of youth justice services involves the contribution and support of a range of agencies (both government and community) and individuals.

### **Nova Scotia**

#### **Restorative Justice Programs and Services**

“Our goal is to have a justice process that holds offenders accountable in a more meaningful way, repairs the harm caused by the offense, reintegrates the offender, and achieves a sense of healing for the victim and the community” (Nova Scotia Department of Justice, 2011).

The program hopes to help in the following four tangible ways:

- reduce recidivism (repeated relapses into crime)
- increase victim satisfaction
- strengthen communities
- increase public confidence in the criminal justice system.

The program is currently available for youth aged 12-17 inclusive. It integrates referrals to restorative justice at four stages of the criminal justice process. Only certain types of offenses can be referred at each stage. Youth who meet the eligibility criteria can be referred at the following four entry points:

- Police Entry Point - referral by a police officer before a charge is laid (pre-charge)
- Crown Entry Point - referral by Crown attorney after a charge is laid (post-charge)
- Court Entry Point - referral by a judge after a conviction and before a sentence is imposed (post-conviction/pre-sentence)
- Corrections Entry Point - referral by staff of Correctional Services or Victim Services after a sentence has been imposed (post-sentence)

#### ***Centre 24-7***

*Centre 24-7* is a unique youth program that operates on a semester basis similar to that of the local school system, providing academic course work, career development, anger management, experiential learning and life skills development to young offenders. The centre is a community-based program located in Coldbrook for at-risk youth, including individuals from the community who have been identified as being at risk by the local school system or are on probation; as well as young person's incarcerated at the Nova Scotia Youth Facility. The underlying philosophy of the program is to take a holistic approach to dealing with at-risk youth by targeting educational and behavioural issues where remediation/rehabilitation is needed.

#### ***HYAC***

The Halifax Youth Attendance Centre (HYAC) provides high risk youth who are under court orders with a variety of structured group and individual program and services, including a day school program. This program is administered by the Nova Scotia Department of Justice, Correctional Services Division and partners with the Departments of Health, Education and Community Services.

#### **Community Justice**

The Department of Justice has entered into service agreements with a network of eight community justice agencies and one tribal organization which offer services specifically for Aboriginal youth. The community justice agencies deliver the Restorative Justice Program and Community Service Order Program services, grounding the Program in the community and bringing the voice of the wider community into the process.

These agencies operate throughout Nova Scotia, working with youth, victims, and communities from 12 separate community based locations. The *Nova Scotia Restorative Justice Program* is administered by the Correctional Services Division, Department of Justice. Across Nova Scotia, the *Restorative Justice Program* is delivered by a network of community based justice agencies, each with responsibility for a defined region.

### ***Youth Forensic Mental Health Services***

This department provides mental health services to youth found either Not Criminally Responsible (NCR) or “Unfit” by the Youth Justice court. It also provides inpatient services at the IWK (the women and children’s hospital in Halifax) and dual remand services with the IWK. There are also clinical services at Waterville Youth Centre where a multi-disciplinary treatment team consisting of psychiatry, psychology and social work on site and is managed under the IWK Mental Health Program (Nova Scotia Department of Justice, 2011).

As discussed above restorative justice programming is central to the Nova Scotia Youth Justice initiatives which are in line with reparation, rehabilitation and reintegration. Many of the programs are run through community organizations who partner with the Nova Scotia Department of Justice.

### ***John Howard Society***

The Nova Scotia John Howard Society (JHS) is a provincial organization in affiliation with the national JHS, which specifically engages in advocacy, research, communication and community education for people who have come into conflict with the law. In Nova Scotia, the JHS operates out of three regions including the Central Region, the Halifax Region and the Northeastern Region. The JHS Restorative Justice Program offers offenders from the ages of 12 to 17 a meaningful way to become accountable for their actions while repairing harm done to victims and the community. The JHS also offers other various types of programming for youth involved with the law including a community workplace program, anger management, educational workshops and employment programs.

### ***Mi’kmaq Legal Support Network***

The Mi’kmaq Legal Support Network (MLSN) exists as a justice support system for Aboriginal people who are involved in the criminal justice system in Nova Scotia. The MLSN also provides province wide support and services to Aboriginal youth who have come into contact with the law. Through the past number of years MLSN has provided core services through the Mi’kmaq Court Worker and Mi’kmaq Customary Law Programs. Both programs are administered through a centralized umbrella organization hosted at The Confederacy of Mainland Mi’kmaq. This umbrella or core provides additional support services for Aboriginal people in Nova Scotia by identifying and addressing gaps in the provision of mainstream justice programs and services. Mi’kmaq Family and

Children's Services in Nova Scotia provides culturally- competent services with community healing a major focus. Services include: family violence prevention; 24-hour crises telephone service; housing; child protection; family conferencing circles (conflict resolution); youth mentor program; SOS help for parents; nurturing programs; anger and stress management; wilderness programs.

### ***Regional Community Restorative Justice Partners***

Aside from the above community partners, the NS Justice Department also partners with several other community organizations based around the province of Nova Scotia. These include; The Community Justice Society, the South Shore Community Justice Society, the Cumberland Community Alternatives Society, the Island Community Justice Society, the Tri- County Restorative Justice Society and Valley Restorative Justice. Each of these community restorative justice partners offers a variety of programming and resources for youth in conflict with the law. Some of these programs include; Stoplift, PARTY (Prevention of Alcohol and Risk Related Trauma in Youth), Graffiti Education Program, Anger Management, Rites of Passage Program, ROYC Program (Restorative Operations for Youth in Care Program, Community Conferencing Pilot Project, Lighthouses Project, iMOVE (educational programming), Sentencing or Healing Circles, Victim-Offender Mediation, Accountability Conferences, Family Group Conferences, CATCH (Children and the Critical Hour) and Educational workshops (victim empathy, shoplifting education, anger awareness and management, alcohol and drug abuse awareness and decision making).

### ***Other Programs***

*ASIST (Adolescent Support Interagency Service Team)* is a cooperative effort of Cumberland Mental Health Service, the Chignecto-Central Regional School Board, Family and Children's Services of Cumberland County, the Department of Justice and local police and RCMP. The initiative provides coordinated programming for young people between the ages of 12 and 19 who are facing difficulties – from education and legal to housing and mental health.

*Schools Associated with Police and Probation Services (SAPPS)*: The program is a joint effort between Chignecto-Central Regional School Board, Celtic Family of Schools, Northumberland Family of Schools, Community Corrections (New Glasgow Office) and various policing agencies in Pictou County. It was developed to address the needs of students on probation to succeed in school rather than in the criminal justice system.

*Knowledge is Power* is a partnership between the Halifax Regional Police, the community (District Nine Citizens Association) and the public schools in North Dartmouth. Funded by the National Crime Prevention Strategy, the initiative provides crime prevention strategies aimed at the root of crime to effect community change collectively, and it provides strategies on life skills development, anti- bullying and tenants rights.

## **Newfoundland and Labrador**

### ***Pre-Trial Services Program***

The Pre-Trial Services Program operates under the Secure Custody Division and serves the St. John's Youth Court. It operates as an alternative to the pre-trial detention of youth who have come into contact with the law and serves to mitigate the number of youth who may be detained prior to their trial. The primary goal of the Pre-Trial Services Program is to reduce the amount of time a youth may spend detained pending trial. This is done through a combination of communication with the Youth Justice Court during the bail hearing, community supervision and programming while under the jurisdiction of the interim release order (Newfoundland and Labrador Department of Justice, 2011). The program operates in conjunction with the youth, their family, the community and courts, the crown/defense counsel, police and secure custody as well as health services. The youth can be referred through either defense counsel or the crown prosecutor. The program operates seven days a week from 9 a.m. to 12 midnight.

According to the Newfoundland and Labrador Department of Justice, the program has three functions. These functions include:

- Verification – determines the eligibility of the youth through collateral contacts
- Supervision – is provided upon release conditional to the Pre-Trial Services program, ensures compliance with conditions, programming and community safeguards. As well as the monitoring of the supervision being provided
- Review – should a youth be denied bail, assist and facilitate a judicial review should the youth's detention circumstances change or judicial review dates are met

According to the Newfoundland and Labrador Department of Justice annual report, a total of 61 youth participated in the Pre-Trial Services Program in 2009/2010 as an alternative to being remanded into custody.

### ***Extrajudicial Sanctions***

Extrajudicial Sanctions (also known as Alternative Measures) are formalized programs providing a direct alternative to formal judicial proceedings for young people (between their 12th and 18th birthday) who are alleged to have committed an eligible offence. These programs are community-based and operated by volunteer Youth Justice Committees in partnership with Regional Health Authorities, the Department of Health and Community Services, Crown Attorneys and Police.

### ***Open Custody***

Open custody is an order of the Youth Justice Court. When a young person is sentenced to open custody, the young person will normally spend the first two thirds of the term in an open custody facility, and the final one third in the

community under supervision. During this period of supervision, the young person may be returned to custody by the court for any serious breach of the conditions of supervision (Newfoundland and Labrador Department of Justice, 2011).

In Newfoundland and Labrador, all places of open custody are community based and non-institutional. There are nine group homes across the province that serves as designated places of open custody. As well, private homes can be approved as open custody placements, called Community Custody Homes. Whether in group-based or private homes, young persons in open custody live in residential areas, and have routine access to community services and activities under strictly controlled conditions (Newfoundland and Labrador Department of Justice, 2011).

The Open Custody Group Homes are operated by community groups or non-governmental agencies, through service agreements with the Regional Health Authorities. These Group Homes are:

- John Howard Society Home for Youth – St. John’s
- Pegasus Open Custody Residential Treatment Center – Topsail
- T.J. McDonald Achievement Center – Burin Bay Arm
- Pine Heights Group Home – Grand Falls-Windsor
- Bay St. George Youth Assessment Center – Stephenville
- Loretta Bartlett Home (John Howard Society) – Corner Brook
- Labrador Group Home – Happy Valley – Goose Bay
- Shushepishpan Group Home – Sheshatshiu
- Martin - Martin Group Home – Nain

*John Howard Society Home for Youth* – Referrals to the group home are put forth by the Department of Health and Community Services. This co-ed home sustains a total of 5 youth and is open to those who have been sentenced to a period of Open Custody by the Youth Justice Court. While emphasising responsibility, life skills and independence, the program includes recreation, study time and access to community resources such as educational, medical and psychological services. Notably, the group home also maintains close connections with various community partners who have the same commitment to youth, crime prevention and education. Some of these partnerships include: Health and Community Services, Department of Justice, Choices for Youth, Pre-trial Services, Good Life Fitness, Community Youth Network, Service Canada, Eastern School District, the John Howard Society’s Skills Link, Youth Services, and C-STEP Programs (John Howard Society of Newfoundland and Labrador, 2011).

*Community Support Program* – From funding that was provided in 2004 through the federal government’s Youth Justice Renewal Fund, the provincial government’s Department of Health and Community Services and Eastern Health began operating the Community Support Program. This program runs directly from the *Home for Youth* and expands on the current level of supervision and

support being offered to youth returning from custody to the community (John Howard Society of Newfoundland and Labrador, 2011). Referrals are made through Eastern Health on a prioritized basis:

1. Youth on Community Supervision
2. Youth on deferred custody orders
3. Youth on supervised probation
4. Youth identified as being at risk of entering the custody system or identified as requiring supportive intervention

The program operates exclusively after 4:00 P.M to enhance the ‘after hours’ supervision and support to youth and their families. This program also provides supportive counselling to improve youth’s educational and vocational opportunities as well as supportive involvement in pro-social extracurricular activities (John Howard Society of Newfoundland and Labrador, 2011).

*Loretta Bartlett Home (John Howard Society)* – A referrals to the group home is put forth by the Western Health Youth Corrections Division. Youth who are eligible have received an open custody sentence by the Youth Justice Court or have been placed by the Director of Youth Corrections. The Loretta Bartlett home is a co-ed, six bed facility that operates under the values of a supportive and non-institutional environment (John Howard Society of Newfoundland and Labrador, 2011). Youth have access to various resources such as educational programs and psychological and medical services. As well, youth are encouraged to become independent and positive role models within their community. Youth are encouraged to participate in volunteer work, job skills programs and life and social skills training. Similar to the John Howard Society Home for Youth, the Loretta Bartlett Home maintains close partnerships with: Western Health, Department of Justice, YMCA (Youth Services, Fitness Centre, Helping Youth Prepare for Employment Program), Community Youth Network, Western School District, Employment Preparation Program, Human Resources Labour and Employment, Salvation Army Thrift Store, Mount Patricia Cemetery Association and the Community Mental Health Initiative and the Royal Newfoundland Constabulary (John Howard Society of Newfoundland and Labrador, 2011).

### ***Community Corrections Services***

Community Corrections services are provided by four Regional Health Authorities (Central Health, Eastern Health, Western Health and the Labrador-Grenfell Regional Health Authority) that cover the province of Newfoundland and Labrador. The services are offered to young persons in conflict with the law, or at risk of conflict with the law. Youth Corrections Social Workers and other staff perform duties such as: provide supervision to youth serving a variety of court-ordered sentences; prepare reports to assist in the decisions of the Youth Justice Court; engage in professional social work assessments, service planning, and individual, family and group counselling; and assist in program development and community mobilization. Social workers may provide supervision or support to

youth who have received any of the following sentences: supervised probation, community service order, personal service order (work for a victim), custody and supervision order or a deferred custody and supervision order (Newfoundland and Labrador Department of Justice, 2011). Furthermore, social workers may provide support to young persons who are at risk of conflict with the law or those wanting after-care services upon completion of a youth sentence (Newfoundland and Labrador Department of Justice, 2011).

The *Youth Corrections Program* maintains several objectives, all of which adhere to the principles and understandings of the Youth Criminal Justice Act and the Young Persons Offences Act. In summary, the program ensures that the needs of the young person are met throughout the justice process by including collaboration if possible from the youth's family, the community, the department of justice, custodial facilities and any non- governmental agencies involved. The youth should ultimately benefit from outcomes that include positive behaviour, accountability, responsibility and community awareness.

### **Other Programs**

*Youth Services Program*: Run by the John Howard Society of Newfoundland and Labrador and operating out of St. John's, the *Youth Services Program* provides supportive counselling and assistance to at-risk youth (offenders and ex-offenders). Youth who are between the ages of eighteen and twenty-five, and need assistance with their career plans including educational, training and employment opportunities are eligible. Referral sources include the Newfoundland and Labrador Youth Center, Community Youth Corrections, Her Majesty's Penitentiary, Correctional Services of Canada, Corrections and Community Services, Eastern Health, John Howard Society programs, various community agencies and self-referrals (John Howard Society of Newfoundland and Labrador, 2011).

*Community Youth Network (CYN)*: Operating out of St. John's, the CYN assists youth primarily ages 12-18 in accessing and enhancing their experience with other youth serving agencies. Programming for youth varies from educational supports, training opportunities, youth employment and community support.

CYN also maintains a *Support Services Committee* which aims to assist in the identification of challenges that organizations face when delivering services to youth. The committee also helps to identify solutions to these challenges and works in partnership with each organization. Some of these organizations include: Choices for Youth, Waypoints, St. John's Native Friendship Centre, NL Housing Corporation and NL Sexual Assault Crisis and Prevention Centre.

*Velocity Adventure Connexion*: Operating in collaboration with the *Community Youth Network*, the Velocity Adventure Connexion is a 3 year project focusing on adventure based counselling and outdoor education for youth (13-18 yrs. old)



who are at risk of or already involved with the law. The program will run 9 camps in total with 12 participants in each camp. A youth can apply or be referred. Once accepted the youth will be given camp preparation, relationship and team building exercises, participate in a 7 day camp and receive 8 months of follow up support. The 8 month follow up support will provide individualized support and access to community programs.

St. Francis Foundation: Located in St. John's, the St. Francis Foundation provides residential and support services to young people (12-18) and their families who have become involved with Child Youth and Family Services or Youth Corrections. Correctional & Justice Services - The Salvation Army NL East Division: Located in St. John's, the program offers support and practical assistance to anyone (all ages) who has come into contact with the law. Programs and services that are offered include: pastoral care, community service placements, professional programs and community referrals for needs such as clothing, food, housing, lawyers and volunteer programs.

## STATISTICS

"Most youth commit crime, the majority of which is relatively minor and most have never been apprehended by the police" (Purcell, 2006). There is a common misconception that youth crime is inherently on the rise, and the types of crime that youth are committing are becoming more violent. Furthermore, it is evident that the response to youth violence is disproportionate to the amount of youth crime that actually involves violence (Bell, 2011). Recent statistics reveal that the majority of the youth population has never been apprehended by the police, and if a youth does commit an offense, it is likely to be a one-time incident. According to various statistics, youth crime in Canada has remained relatively stable since 1992 and has been on the decline since 2004 (Bell, 2011). According to the Nova Scotia Department of Justice (2006), those youth who are subject to violent offenses and recidivism have been found to have co-occurring problems such as poverty, substance abuse, truancy, dropping out of school, gang membership and experiences of previous victimization.

Interestingly, statistics regarding police arrests and charges for young offenders were not made publicly available until after the implementation of the YCJA (Bell, 2011). As discussed above the YJCA mandates the use of extrajudicial measures where appropriate. Therefore, to gain a complete picture it is necessary to look at both those youth who have been charged, and those who have been cleared otherwise.

### ***Rate of Youth Charged***

In 2006, almost 180, 000 youth were implicated in a violation of the *Criminal Code* in Canada (Taylor-Butts & Bressan, 2006). However, 6 in 10 of these youth did not face charges as their case was handled outside of the formal justice system (Taylor-Butts & Bressan, 2006). With the enactment of the YCJA the use of charges against youth seemed to have declined markedly.

### **Types of Crimes**

Young people aged 15 to 24 represent the group with the highest age-specific rates of offending (Nova Scotia Department of Justice, 2006). In 2008/2009, Nova Scotia young offenders committed mostly property crimes at 38 %, which included theft, break and enter and mischief. Crimes against the person including assault, robbery and uttering threats (28%) and other federal statutes including drug possession and trafficking (19%) represented the next largest groups. In Newfoundland and Labrador almost half (44%) of youth crimes committed were property offenses. Similar to Nova Scotia, crimes against the person in Newfoundland and Labrador represented 31% and ‘other’ offenses represented about 12%. These provincial trends are consistent with the national data which is indicated in the table below.

**2008/2009 Percentage of Youth Court Cases by Offense**

Type of Offense	NS	NFL	Canada
Property	38	44	39
Crimes Against the Person	28	31	26
Other	19	12	17

Source: Statistics Canada 2011 (<http://www40.statcan.ca/l01/cst01/legal24d-eng.htm>)

### **Custody and Remand**

In Canada, the rate of youth admitted to sentenced custody in 2008/09 was down 3% from the previous year. In total, about 168 of every 10 000 youth were incarcerated. Canadian averages show us that in 2008/2009 of the 40,300 youth admissions to correctional services, 41% of youth were admitted to probation, 39% to remand (meaning custody while awaiting trial or sentencing), 9% to sentenced custody, 6% to a community portion of a custody and supervision order, 4% to deferred custody and only 1% to an intensive support and supervision program (Calverley et al., 2010).

Nova Scotia had the largest decline in the use of custody at 16%. However, Nova Scotian youth who were sentenced to custody spent on average longer periods of time incarcerated than their Canadian counterparts. 18% of youth in Nova Scotia served 6 months or more in custody in 2008/2009 (Calverley, Cotter & Halla, 2010). This same year, 274 youth were remanded in Nova Scotia, a rate of 39 for every 10 000 youth in the province. The majority of youth (68 per 10 000) spent between one and six months in either secure or open custody.

In 2008/2009 Newfoundland and Labrador saw the rate of youth admitted to remand decline a total of 29%, the largest decrease in the country. In the same year, the median number of days a youth would spend in remand decreased to approximately 3 days compared to 22 days in the Northwest Territories (Calverley et al., 2010).

### **Community Supervision**

A report published by the Nova Scotia Department of Justice in 2006 revealed that since the implementation of the YJCA in 2003 there has been a significant increase in the percentage of youth being “cleared” or diverted and dealt with outside of the formal justice system. For example, between 1999 and 2004, the rate of youth cleared in Nova Scotia had increased 246% for violent offenses. Similarly, an increasing number of youth are being diverted for level 1 and level 2 assault (up 238% and 413% respectively). Lastly, the percentage of youth being diverted for a property offense is up 198%.

In 2008/2009, the rate of youth entering community supervision programs declined 2% from the previous year. Calverley et al. (2010) attribute this to the decline in youth being admitted to probation and the community portion of a custody and supervision order.

### **Gender**

“Female youth in the justice system are a minority” (Calverley et al., 2010). According to Calverley et al., (2010) on any given day in 2008/2009, there were 15 male youth incarcerated for every 10,000 male youth in the general population. This is 7 times higher than the incarceration of female youth (2 for every 10,000). On average in Canada, females represent 21% of all youth admitted to remand, 17% admitted to sentenced custody and 24% admitted to supervised probation in 2008/2009 (Calverley et al., 2010).

### **Ethnicity**

In terms of ethnicity, the province of Nova Scotia has some of the lowest recorded numbers of ethnic youth being admitted to correctional services. In 2008/2009, 7 out of every 10 000 youth sentenced to custody and 8 out of every 10 000 youth admitted to remand were Aboriginal. These numbers are significantly less when compared to the national average. The Canadian average for Aboriginal youth sentenced to custody is 36 for every 10 000 youth, which is still substantially less than the province of Manitoba Aboriginal youth custody rates which fall around 87 for every 10 000 youth. Unfortunately, there is little information available for other minorities such as African American youth.

## **COSTS**

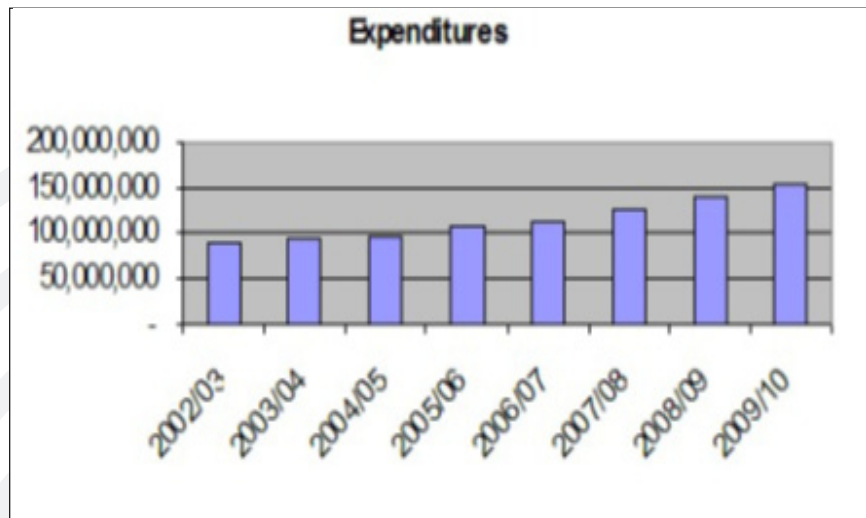
### **Custody and Community**

In terms of custody, on average, it costs approximately \$80 000 a year to keep a young person incarcerated (Bell, 2011). Provincial costs vary and depend on the level of security in each facility. Figures in Atlantic Canada indicate that the range of average costs of low to high security facilities is from \$55 000 and \$70 000 to \$120 000 respectively (Bell, 2011). Supervising a young person in the community is considerably less, approximately \$600 to \$700 per youth (Bell, 2011).

## Nova Scotia

According to the Nova Scotia Department of Justice over the past eight years, the provincial cost of providing justice has been increasing (Table 1). Approximately \$155 million was spent on justice in Nova Scotia in 2009-2010 representing a 9.27% increase from the year before.

Table 1



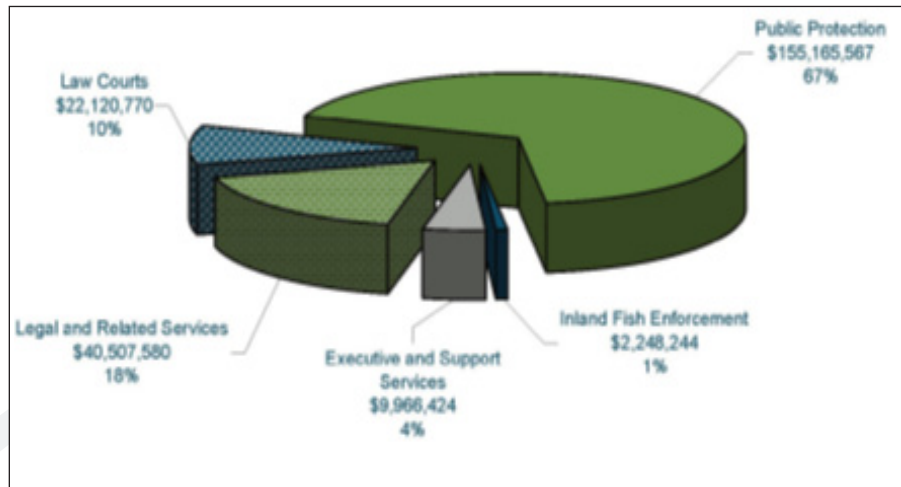
Source: Nova Scotia Department of Justice, 2010b

In 2009-2010, the Nova Scotia Department of Justice received \$12,582,998 in federal funds for justice initiatives, a 6% increase over the 2004-2005 base year (\$11,829,716). For both youth criminal justice and Legal Aid, federal funding does not include any incremental increases over the life of the federal-provincial agreements. While provincial expenditures continue to increase, the federal percentage of our youth criminal justice and Legal Aid budgets will therefore decrease.

## Newfoundland and Labrador

According to the Estimates of the Program Expenditure and Revenue of the Consolidated Revenue Fund 2009-10, the Department of Justice budget is \$222,846,100 (Newfoundland and Labrador Department of Justice Annual Report, 2010). Financial reports found within the Department of Justice 2009-10 Annual Report showed that over \$7 million dollars was spent on youth secure custody alone.

Table 2 - Department of Justice Actual Expenditures at a Glance Year Ended 31 March 2010



Source: Newfoundland and Labrador Department of Justice Annual Report, 2010

## CHALLENGES

The purpose of this report was to collect all relevant information regarding youth justice services within Nova Scotia and Newfoundland and Labrador. This was done by means of gathering publicly available data and information provided on governmental and non-governmental websites, as well as within academic databases. A major challenge to collecting data by this method is access. It is difficult to provide all of the relevant information needed for a complete report by simply using the internet as a resource. It would have been helpful to have funds to access statistical information from Statistics Canada. As well, having a contact within the justice department may have provided more information regarding the programming process as well as funding and policy initiatives. Beyond the methodological challenges of this report, it was clear that there are several potential barriers to youth receiving adequate justice services within this province. Keeping in mind that each of these challenges is simply speculation, they are still useful for reflection.

The youth justice legislation expressly states that extrajudicial measures and sanctions should be utilized by police and judiciary officials in almost every incidence of youth offending. Exceptional circumstances and a previous history of offending contribute to youth potentially being sentenced to custody. It would seem then that most of the youth who are in fact receiving custodial sentences should in theory be continually recidivating. It is clear that the restorative and community justice processes are indeed very important in restraining from the over-reliance on custodial sentences. However, what is not clear is why there is such a large proportion of youth who are eligible for custodial sentences? What is being done within the justice facilities to ensure that youth are not committing more crime once released from jail? Are there programs which specifically address the needs of this vulnerable group of youth?

The dilemma of youth recidivists lends to another question of whether or not youth justice services are really in dialogue with other governmental and nongovernmental services that a high risk youth may utilize. Youth custodial sentences are not lengthy in relation to adult sentences. Therefore, a youth is often released into community supervision or the care of another program. This begs the question of whether or not these different services are aware of the youth's offending and social history. What are these programs doing in order to prevent youth from being funnelled back into the justice system?

Another concern arose from capturing different justice services available to youth within Newfoundland and Labrador. Geographically, Newfoundland and Labrador is a much larger province than Nova Scotia making it difficult to reach particular isolated communities. Referring to *Appendix One* (a map of justice services in Newfoundland and Labrador) it is easy to see that Labrador is lacking in relation to justice services in its smaller communities. The majority of justice service providers as well as the youth custodial facilities are all located within the St. John's region. Local access to youth justice services for both the young person and their family is critical. If a youth from Labrador does receive a custodial sentence as is relocated to one of the youth facilities in Newfoundland, the isolation from their family and the community is tangible.

Lastly, in review of the above justice programs and initiatives and also relevant offending and custodial statistics, there seem to be a large group of individuals that are not accounted for. African American youth contribute to a significant proportion of the general population in Nova Scotia. Rightfully so, the federal government is extremely cognizant of the Aboriginal youth population in their analysis of youth offending. When looking at provincially specific data and programming however, African American youth seem to be missing. Culturally and contextually relevant programming and services is necessary in addressing the unique needs of the young offender population. It is unclear as to whether Nova Scotia adequately provides this for African American youth.

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## ACKNOWLEDGMENTS



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