

Missed Opportunities:

A review of the use of youth justice resources

JANUARY 2024



REPRESENTATIVE FOR
CHILDREN AND YOUTH

Jan. 25, 2024

The Honourable Raj Chouhan
Speaker of the Legislative Assembly
Suite 207, Parliament Buildings
Victoria, B.C., V8V 1X4

Dear Mr. Speaker,

I have the honour of submitting, *Missed Opportunities: A review of the use of youth justice resources*, to the Legislative Assembly of British Columbia.

This report is prepared in accordance with Section 6(b) of the *Representative for Children and Youth Act* which gives the Representative authority to monitor, review, audit and conduct research on the provision of a designated service by a public body or director for the purpose of making recommendations to improve the effectiveness and responsiveness of that service, and comment publicly on any of these functions.

Sincerely,



Dr. Jennifer Charlesworth
Representative for Children and Youth

pc: Ms. Kate Ryan-Lloyd
Clerk of the Legislative Assembly
Jinny Sims, MLA
Chair, Select Standing Committee on Children and Youth
Mike Bernier, MLA
Deputy Chair, Select Standing Committee on Children and Youth

Territorial Acknowledgment

The Representative and staff, who do their work throughout the province, would like to acknowledge that we are living and working with gratitude and respect on the traditional territories of the First Nations peoples of British Columbia. We specifically acknowledge and express our gratitude to the keepers of the lands on the traditional territories of the Lheidli T'enneh peoples (Prince George) and the Lək'wəḡən (place to smoke herring) people and the Songhees and Esquimalt Nations (Victoria), where our offices are located.

We would also like to acknowledge our Métis and Inuit partners and friends living in these beautiful territories.

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Introduction

Recently, there has been much public concern in British Columbia about criminal justice matters, particularly in relation to random street crime and prolific offenders, which prompted the provincial government to commission a report and recommendations by external experts.¹ In response, government announced a new Safer Communities Action Plan² and, together with other provinces and territories, successfully engaged the federal government to take additional action by introducing proposed legislative changes to the bail provisions of the Criminal Code.³

Interestingly, the expert report and subsequent actions by the provincial and federal governments related virtually entirely to serious crime committed by adults.⁴ What has been missing in this narrative is the much better news that, for the past several years, there have been remarkable decreases in the numbers and rates of youth⁵ involved in all aspects of the criminal justice system, including, in particular, a range of youth justice services which are administered by the Ministry of Children and Family Development (MCFD). Most notably, the number of youth in custody – including Indigenous youth – has dramatically decreased: last fiscal year,⁶ there were, on average, a total of only 15 youth in custody (remand and sentenced⁷) per day in the province’s two youth custody centres in Burnaby and Prince George. As this report will show, this deinstitutionalization has not, as some might expect, fueled a rise in youth crime but rather, has gone hand in hand with decreases in reported youth crime, including violent youth crime. To put this in context, these very substantial decreases in youth crime have not been limited to B.C. or even Canada, but are consistent with international trends in the United States, the United Kingdom and across other several other Western countries over the past two decades.

¹ Amanda Butler and Doug Lepard, *A Rapid Investigation into Repeat Offending and Random Stranger Violence in British Columbia* (Victoria, B.C.), September 2022. https://news.gov.bc.ca/files/Prolific_Offender_Report_BCFNJC_submission.pdf.

² See, *Premier Eby takes action to keep people, communities safe*, news release, <https://news.gov.bc.ca/releases/2022PREM0090-001743>.

³ See, *Minister’s statement on the introduction of federal Bill C-48*, <https://news.gov.bc.ca/releases/2023AG0039-000749>. The amendments came into force on January 4, 2024.

⁴ Police-reported crime rates in the expert report involve crimes allegedly committed by both youth and adults, however, the vast majority of reported crimes are committed by adults, and youth rates are not separately reported in that report. Otherwise, the only direct reference to youth in the report (at p. 115) was a statistical finding that two (five per cent) of the 40 suspected perpetrators of random street violence identified by Vancouver City Police were under 19-years-old. Those two “youth,” depending on whether they were 18 or younger than 18, may or may not be youth who fall under the jurisdiction of the youth justice system. Moreover, the proposed amendments to federal criminal law are limited to the Criminal Code, not the *Youth Criminal Justice Act (YCJ Act)*, while other recommended initiatives all relate to adults.

⁵ For the purposes of this report, “youth” refers to a young person who is under the age of 18 as that reflects the age jurisdiction (section 2) of the federal *Youth Criminal Justice (YCJ) Act*. The minimum age of criminal responsibility under that Act is 12 years.

⁶ Please note, in this report, years indicated by a slash (e.g., 2022/23) indicate fiscal years, which run from April 1 to March 31 of the following year.

⁷ Remand custody refers to court-ordered custody before trial or sentencing. A sentence to custody is one option available to the court following a guilty finding, and may be either secure or open custody.

Another aspect of these positive trends has not, however, been welcome. As this report will detail, the much smaller numbers of youth involved in youth justice services, especially in youth custody, has resulted in a gross under-utilization of scarce financial, human and facility resources for far too many years. This surfeit of youth justice resources stands in sharp contrast to other child and youth service streams which have been clearly and consistently identified as under-served. For example, as the Representative has noted in recent reports, there are other service areas where there are significant wait lists such as Child and Youth Mental Health Services⁸ or where there are woefully inadequate services for far too many, such as Children and Youth with Support Needs.⁹ Thus far there have been missed opportunities to re-purpose surplus youth justice resources to these areas or to better address the needs of youth and young adults, including those involved in the criminal justice system.¹⁰ That clearly vulnerable children and youth and their families should go wanting for services while resources are greatly underused in other service streams within the same ministry is simply unacceptable.

Although government had been aware of this significant under-utilization for several years, it was not until after a draft of this report was shared for administrative fairness review that an initial step was taken to address the issue with MCFD's announcement in November 2023 that the Prince George Youth Custody Services Centre would be closed by March 31, 2024, which is a matter that will be discussed in detail later. This decision, however, raises several unanswered questions and nonetheless represents only the beginning step in a needed comprehensive review and re-allocation of resources.

⁸ See, for example, *Toward Inclusion: The need to improve access to mental health services for children and youth with neurodevelopmental conditions* (Victoria, B.C.: Representative for Children and Youth), April 5, 2023.

⁹ See, for example, Representative for Children and Youth, *Excluded: Increasing Understanding, Support and Inclusion for Children with FASD and their Families* (Victoria, B.C.: Representative for Children and Youth), 2021.

¹⁰ As will be discussed later in this report, youth justice services are cost-shared by the federal government. While this cost-sharing agreement creates limitations around the re-deployment of "high priority" youth justice funding for programs such as community-based alternatives to custody and Forensic Psychiatric Services, the agreement does not limit the re-allocation of "low" and "medium" priority youth justice program funding to non-youth justice programs such as CYSN or CYMH services, or to young adult services. According to the 2022/23 cost-sharing claim provided by MCFD, 92 per cent of youth custody expenditures were not high priority services and therefore can be re-allocated to non-youth justice services.

A Brief Primer on the Youth Justice System and Services

Under Canada's constitution, the federal government is responsible for formulating the criminal law while the provinces and territories are responsible for the administration of that federal law, including youth justice services such as youth custody and community supervision of court orders by youth probation officers. The federal *Youth Criminal Justice Act (YCJ Act)*,¹¹ which came into force in 2003, is the law that governs Canada's youth justice system. It applies to youth who are at least 12- but under 18-years-old,¹² who are alleged to have committed criminal offences.¹³

The *YCJ Act* is complex legislation which, in recognition of the level of maturity and developmental needs of adolescents, incorporates core elements that are common across youth justice systems in developed countries:

- youth are to be dealt with separately and distinctly from adults
- youth have a lesser degree of responsibility and accountability than adults
- there is a greater emphasis on diversion from the formal justice system
- there is a greater emphasis on rehabilitation and reintegration of youth
- the use of custody should be avoided in favour of community-based measures, and
- youth are entitled to special protections of their rights.¹⁴

In the latter regard, certain rights are given special protection in the youth justice system in Canada, including the right to publicly funded legal representation,¹⁵ the right to privacy in respect of public identification and records,¹⁶ special safeguards when a youth is questioned by the police,¹⁷ and the right to make decisions independent of their parents or guardians.¹⁸

¹¹ *Youth Criminal Justice Act*, S.C. 2002, c. 1.

¹² Under B.C.'s *Age of Majority Act*, a young person does not become an adult until the age of 19, but under federal law it is age 18.

¹³ B.C.'s *Youth Justice Act* is complementary provincial legislation which facilitates the enforcement of (non-criminal) matters such as motor vehicle infractions, as well as enabling the establishment and operation of youth custody facilities and community youth justice services.

¹⁴ Unlike B.C provincial legislation respecting children and youth, the preamble to the federal government's *YCJ Act* references the *United Nations Convention on the Rights of the Child*.

¹⁵ Section 25 *YCJ Act* not only provides that a youth be informed by the court of the right to counsel but if the youth is unable to obtain counsel, the Attorney General shall appoint counsel or cause counsel to be appointed.

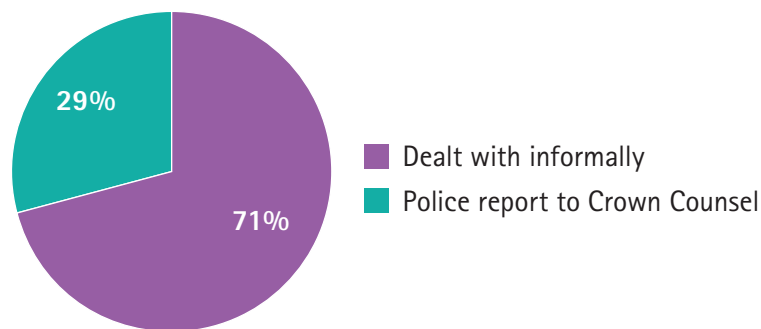
¹⁶ Part 6, *YCJ Act*.

¹⁷ Section 146, *YCJ Act*.

¹⁸ While parents are informed of proceedings, may participate in proceedings, and are encouraged to do so, young people have the right to make decisions independent of their parents at all stages, such as choosing to have and to instruct counsel, how to plea, to apply for reviews of decisions, to consent to treatment and so on.

Two of the most notable characteristics of the *YCJ Act* are the emphasis on diversion from the formal justice process and legal criteria limiting the use of both pretrial detention and sentenced custody. The *YCJ Act* makes it mandatory for the police to consider informal measures – known as “extrajudicial measures”¹⁹ – in every case. Consequently, the vast majority of youth dealt with by the police for criminal offences do not reach the formal justice system but rather are routinely dealt with informally by way of extrajudicial measures, which may involve a simple warning and return to parents or, with the consent of the young person, a referral to a voluntary community program (e.g., a Foundry) or a referral to a restorative justice program.²⁰ As described in Figure 1, 71 per cent of the youth in B.C. alleged to have committed Criminal Code offences in 2022 were not recommended for formal charges by the police.²¹ The remainder (29 per cent) of these police cases were referred to Crown Counsel whose practice is to first determine if there is sufficient evidence to support a substantial likelihood of conviction, and then to decide whether to divert the matter from court by way of a warning or formal diversion process, or to proceed to court.

Figure 1 – Police Disposition of Reported Criminal Offences by Youth, B.C., 2022



¹⁹ Section 6, *YCJ Act*.

²⁰ Restorative justice brings together offenders, victims and community where, through a facilitated process, they are provided an opportunity for reparation, input and healing, which are not typically afforded through traditional court processes. Restorative processes can include restorative conferences, victim-offender mediation, healing circles and sentencing circles.

²¹ Statistics Canada, *Incident-based crime statistics, by detailed violations, Canada, provinces, territories, Census Metropolitan Areas and Canadian Forces Military Police*, [https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=.](https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=)

Overview of How the Criminal Justice System Works for Youth²²

The following generally describes what may happen when a crime is reported to or detected by the police:

- A crime is reported to or detected by police.
- Police investigate the crime.
- Police decide whether to deal with the matter informally or recommend to Crown Counsel (the prosecutor) that charges be laid. Police may decide to deal with the case informally without going to Crown Counsel or the court by using "extrajudicial measures," such as a warning or referral to a community program or restorative justice program.
- Subject to statutory criteria promoting release, police may arrest and keep the youth in custody or release the youth on their own or to a parent or other adult.
- Crown Counsel reviews the police report and may charge the accused if there is enough evidence to prove the youth is guilty and the public interest requires a prosecution. Crown Counsel may send a caution letter (a warning), deal with the case without going to court by referring it for extrajudicial sanctions (a formal diversion process) or begin court proceedings.
- If Crown Counsel begins court proceedings, the youth is required to go to court.
- The youth justice court decides if the youth is guilty or not guilty of committing a crime.
- If the youth is found guilty, the youth justice court sentences the accused.
- A youth found guilty of committing a crime may be required to serve their sentence in the community, in youth custody (open or secure) or a combination of both.

²² Adapted. For more detail, see <https://www2.gov.bc.ca/gov/content/justice/criminal-justice/bcs-criminal-justice-system/youth-justice>.

The use of both pretrial and sentenced custody is constrained under the *YCJ Act* by virtue of statutory criteria that limit the imposition of custody to serious and repeat offenders for whom alternative community-based programs are not suitable.²³ Moreover, both pretrial detention (for those awaiting trial or sentencing) and custody sentences must not be used as a substitute for appropriate child protection, mental health or other social measures (e.g., homelessness).²⁴

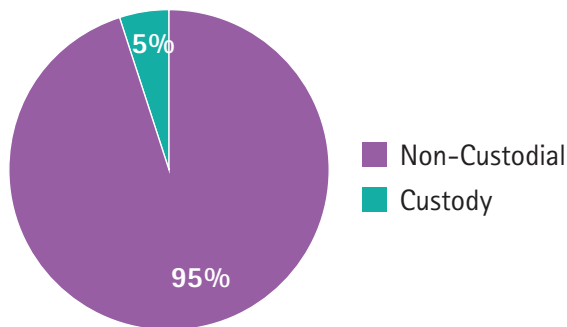
Once in court, as described in Figure 2, very few youth are sentenced to custody. In 2021/22, only five per cent of the 531 cases sentenced in B.C. youth justice courts resulted in a custodial sentence, with the remainder (95 per cent) receiving a non-custodial sentence such as probation supervision.²⁵

²³ See sections 29(2) and 39(1) *YCJ Act*.

²⁴ See sections 28.1 and 39(5) *YCJ Act*.

²⁵ 2020/21 is the most recent year reported. See, Statistics Canada, *Youth courts, guilty cases by type of sentence*, <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=35100041011>.

Figure 2 – Youth Justice Court Sentencing, B.C., 2021/22



Youth justice services administered by MCFD are comprised of three components: community youth justice services, Youth Forensic Psychiatric Services (YFPS) and youth custody services.

Community youth justice services are staffed by MCFD youth probation officers, who prepare a variety of different types of case reports for the courts and Crown Counsel, administer formal diversion agreements, supervise and case manage court-ordered bail and sentenced community supervision orders, and make referrals to a number of different types of contracted community-based and rehabilitative services such as: intensive support and supervision programs (ISSP);²⁶ day attendance programs which offer life/social skills, counselling and educational programming; restorative justice programs;²⁷ community service work; and full-time attendance programs. The latter are contracted community-based residential services – typically in family-based care placements – that are often combined with therapeutic programs which, for example, provide treatment for substance use or sexual offences.

Youth probation officers also make referrals to YFPS, which is a specialized service that provides mental health assessment and treatment services to youth involved with the criminal justice system, specifically:

- in-patient and out-patient court-ordered assessments
- non-court-ordered assessments and consultations in response to referrals from youth probation officers or youth custody centres
- specialized treatment programs for youth who have committed sexual and/or violent offences, and those diagnosed as having a significant mental health disorder
- assessment and treatment services to youth in youth custody centres, and
- case management and treatment services to youth found unfit to stand trial or not criminally responsible on account of mental disorder who have received a conditional discharge.²⁸

²⁶ ISSP programs are either delivered by way of contract with agencies or – in the Lower Mainland, Capital Region and Prince George – by custody-based employees.

²⁷ *Supra*, note 20.

²⁸ Youth who are unfit or not criminally responsible and ordered to be in custody are placed at the Maples Adolescent Treatment Centre.

YFPS directly operates several out-patient clinics as well as contracted assessment and treatment services in major communities throughout B.C. and provides travelling clinics in outlying areas. YFPS also directly operates the four-bed, two seclusion room Inpatient Assessment Unit (IAU) located adjacent to the Burnaby Youth Custody Centre. The IAU provides assessment and treatment services for youth when a court orders an in-custody assessment.

Turning to the third component of MCFD youth justice services, there are currently two youth custody centres in B.C., located in Burnaby and Prince George, which provide pretrial detention for youth awaiting trial or sentencing, sentenced secure custody, and sentenced open custody. The Burnaby Youth Custody Services Centre (BYCS) has a maximum physical capacity of 142 beds but is currently staffed to house up to 84 male and female youth. In 2012, BYCS became the central custody location for all female and gender-diverse youth in custody. The Prince George Youth Custody Services Centre (PGYCS) has a maximum physical capacity of 60 beds and has been staffed to house up to 24 male youth,²⁹ principally originating from the northern areas of the province. As will be discussed later, after a draft of this report was shared for administrative fairness review, government announced that this facility will be closed by the end of the current fiscal year.

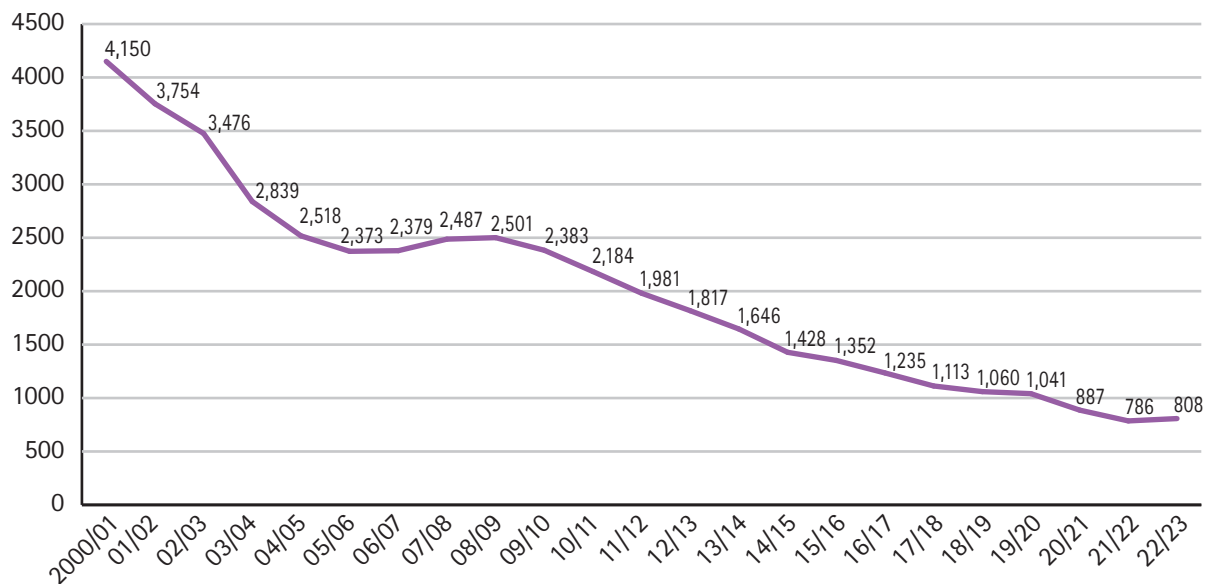
²⁹ Until September 2014, the ministry operated a third youth custody centre in Victoria. This facility originally had a maximum capacity of 48 beds but was closed and re-purposed to an adult addictions treatment program. A small area (four beds) of the centre continues to be available as an interim holding unit that is a satellite facility of BYCS. It functions as a short-term, temporary, overnight housing unit for youth on Vancouver Island who are awaiting transfer to or from court or to BYCS.

The Decreasing Demand for MCFD Youth Justice Services

While the decline in demand for MCFD’s youth justice services reached its nadir in recent years, there have in fact been continuing reductions for the past 20 years or more.

Figure 3 describes the average daily community youth justice caseload – cases supervised by youth probation officers³⁰ – from 2000/01³¹ to 2022/23, which demonstrates a more-or-less continuous decline over those years. The 2022/23 average community caseload of 808 was less than half (44 per cent) of what it was 10 years earlier and less than a quarter (23 per cent) of what it was 20 years earlier.

Figure 3 – Average Youth Community Justice Caseload, B.C. 2008/01 to 2022/23



A similar and even more pronounced longitudinal trend of decreasing demand is evident with the average daily number of youth in custody.

³⁰ These are principally bail orders or sentenced community orders such as probation or intensive support and supervision, but also include recognizances (“peace bonds”) and extrajudicial sanctions (formal diversion) agreements.

³¹ Custody data is reported from 1997/98 onwards. Comparable community youth justice caseload is not available before 2000/01 due to changes in data collection and reporting methodology which eliminated duplicate counts of some sentenced and bail cases.

Figure 4 – Average Daily Number of Youth in Custody, B.C., 1997/98 to 2022/23



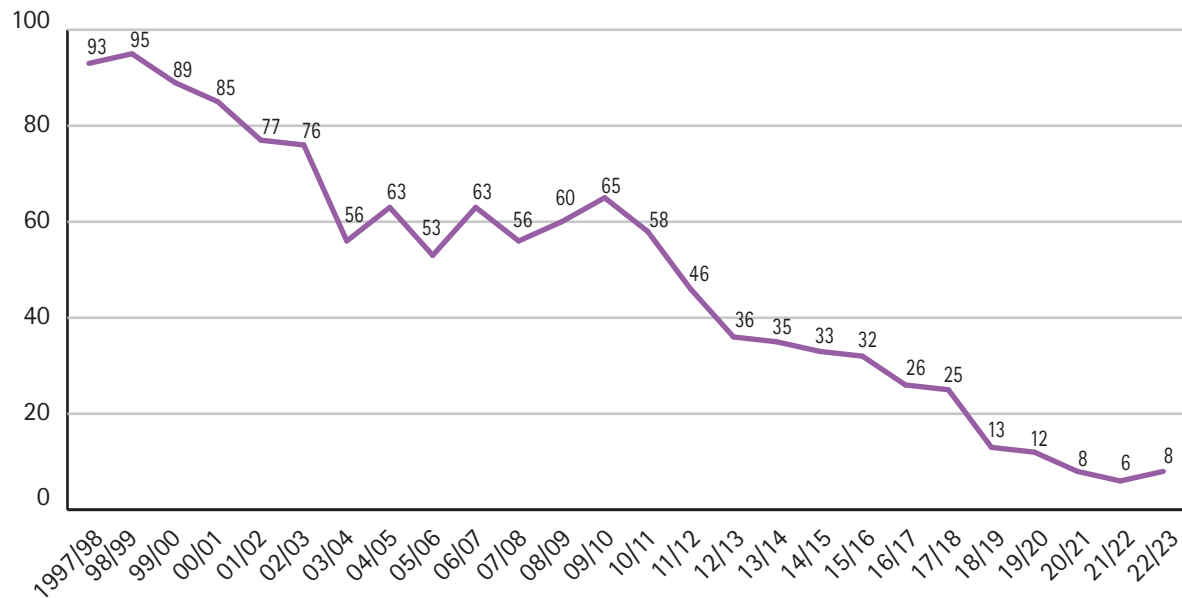
Figure 4 indicates that the average daily population of 15 youth in custody in the province in 2022/23 is less than one-fifth (17 per cent) of what it was 10 years earlier and less than one-tenth (7 per cent) of what it was 20 years earlier.³² The average number of youth in custody on any given day during the course of a year is different from the number of unique individuals admitted to custody during the year: MCFD reports there were 110 unique individual youth admitted³³ to custody during 2022/23, a figure that was about one-quarter (27 per cent) of the total (414) ten years earlier. The length of stay of youth in custody (pretrial and sentenced) is quite short: MCFD reports an average of 29.2 days in 2022/23, an average that has been relatively consistent over the past 10 years.

Importantly, this trend of declining use of youth custody includes Indigenous youth. While the proportion of youth in custody in 2022/23 who are Indigenous remains unacceptably high (53 per cent), that is a proportion of a very small number of youth. As Figure 5 indicates, the actual average number of Indigenous youth in custody in 2022/23 was only eight, which is less than one-quarter (22 per cent) of what it was 10 years earlier and about one-tenth of what it was 20 years earlier, a dramatic change that should be celebrated. Similarly, MCFD reports the 53 unique individual Indigenous youth admitted to custody during 2022/23 was less than one-quarter (23 per cent) of the number (231) admitted 10 years earlier.

³² The changes are greater if one looks back even further: B.C.'s youth custody population peaked at 405 in 1994/95.

³³ These represent unique individuals: a youth may be admitted to custody more than once during the course of a year.

Figure 5 – Average Daily Number of Indigenous Youth in Custody in B.C., 1997/98 to 2022/23



YFPS has also experienced sharp declines in demand for services. As Figure 1A (appended) indicates, there was a 50 per cent decrease in the number of assessment cases and a 39 per cent decrease in the number of treatment cases in the 10-year period between 2013/14 and 2022/23.

Factors Contributing to Decreasing Demand

What brought about these dramatic changes? Corrado and his colleagues³⁴ have argued that the reasons for the substantial declines in the years preceding and the first decade following the *YCJ Act* were due to a complex interaction of legal, policy, program and organizational variables, including:

- marked decreases in the youth crime rate which preceded the advent of the *YCJ Act* in 2003 and continued thereafter
- substantial increases in the use of police diversion before the advent of the *YCJ Act*, which was then reinforced and accelerated to some degree by the *YCJ Act*
- a consequent marked decrease in the number of cases brought before the youth courts
- the administrative integration of community youth justice and youth custody services within MCFD, which facilitated greater coordination of service planning and “ownership” of multi-problem youth cases
- an infusion of new federal funding in the early 2000s, which was used to enhance community-based alternatives to custody and rehabilitative services, and
- the enactment of statutory decision-making criteria limiting the use of pretrial detention and sentenced custody brought about by the *YCJ Act* in 2003.

The analysis by Corrado et al. only accounts for the significant changes in the youth justice system in B.C. up to 2013/14. However, as the data presented earlier indicates, there were continuous and substantive decreases in the community youth justice caseload and the youth custody population after that time. MCFD has publicly claimed that the decreases in youth custody are associated with amendments to the *YCJ Act*³⁵ and to investments in community-based services.³⁶ Neither assertion is supported by evidence. Amendments to the *YCJ Act*, which were implemented in December 2019, related to a number of restrictions intended to limit the use of custody for administration of justice offences (breaches of conditions of orders).³⁷ As Table 1A (appended) details, even before these amendments, in 2018/19, youth custody occupancy was only 30 per cent of staffed operational capacity. Further, data provided by MCFD indicate that in that same year administration of justice offences comprised less than two per cent of admissions to custody while the subsequent decrease in admissions to custody for administration of justice offences accounted for less than two per cent of the overall decrease in admissions between 2018/19 and 2022/23, with decreases in admissions for offences against property

³⁴ Raymond R. Corrado, Alan Markwart, Karla Gronsdahl and Anne Kimmitt, “The YCJA in British Columbia,” in Marc Alain, Raymond R. Corrado and Susan Reid (Eds.), *Implementing and Working with the Youth Criminal Justice Act Across Canada* (Toronto, ON: University of Toronto Press, 2016), pp. 64–65.

³⁵ Through the administrative fairness review process, MCFD also asserted that the 2019 amendments to the *YCJ Act* have had a significant impact, without providing evidence.

³⁶ See, *Uncertain future for youth jail*, Prince George Citizen. Nov. 23, 2023, p. A01 as well as <https://www.cbc.ca/news/canada/british-columbia/prince-george-custody-centre-closure-1.7030301>.

³⁷ See, https://blog.clicklaw.bc.ca/wp-content/uploads/2020/08/Two-pager_YCJA-recent-amendments_Final_Eng.pdf.

and violent offences overwhelmingly accounting for the decline. Moreover, with respect to investments in community-based services, as we will detail later, there have, in fact, been substantial decreases (a nearly 50 per cent reduction) in the number of community-based alternatives to custody such as Full-Time Attendance Programs (FTAPs) in recent years and a significant under-utilization of the remaining FTAP resources (37 per cent occupancy) due to lessening demand.

That lessening demand for all forms of youth justice services can only be attributed to one key factor³⁸ which has been continuous throughout the time period: dramatic decreases in reported youth crime rates, including violent youth crime, that have been continuous since the 1990s through to the present day.

As Butler and Lepard note, crime rates do not provide information on the overall seriousness of crimes reported by police because increases in crime rates may be driven by minor offences or, conversely, increases in very serious violent crimes that occur in small numbers may be obscured by an overall crime rate that is going down due to reductions in high-volume property crimes such as theft.³⁹ To account for this, Statistics Canada’s “Crime Severity Index” (CSI) measures changes in the severity of police-reported crime by accounting for both the amount of crime reported by police in a jurisdiction and the relative seriousness of these crimes.⁴⁰ Statistics Canada produces an overall youth crime severity index that includes all crimes and a violent youth crime severity index limited to only violent youth crime, both of which include the cases described earlier that are informally diverted by the police.

Figure 6 describes the overall youth CSI for B.C. and Canada for the 25-year period from 1998⁴¹ to 2022, which shows a trend of consistent and very substantial decreases in both B.C. and Canada: the index for B.C. in 2022 is about half (53 per cent) of what it was 10 years earlier and only about one-quarter (28 per cent) of what it was 20 years earlier.⁴²

³⁸ Only one key factor – reductions in the youth crime rate – can account for these declines in community caseload and youth custody population because that is the only factor that has continued. The role of the other factors identified by Corrado et al. were historical, not continuing. For example, the proportion of cases diverted by the police has remained more or less constant for nearly two decades; the effects of the integration of MCFD services had already been realized; the effects of the new 2003 *YCJ Act* statutory decision-making criteria restricting the use of custody had also been realized; and there was no further infusion of youth justice program funding for community-based and rehabilitative alternatives in recent years (in fact, there were reductions in the same, as discussed later).

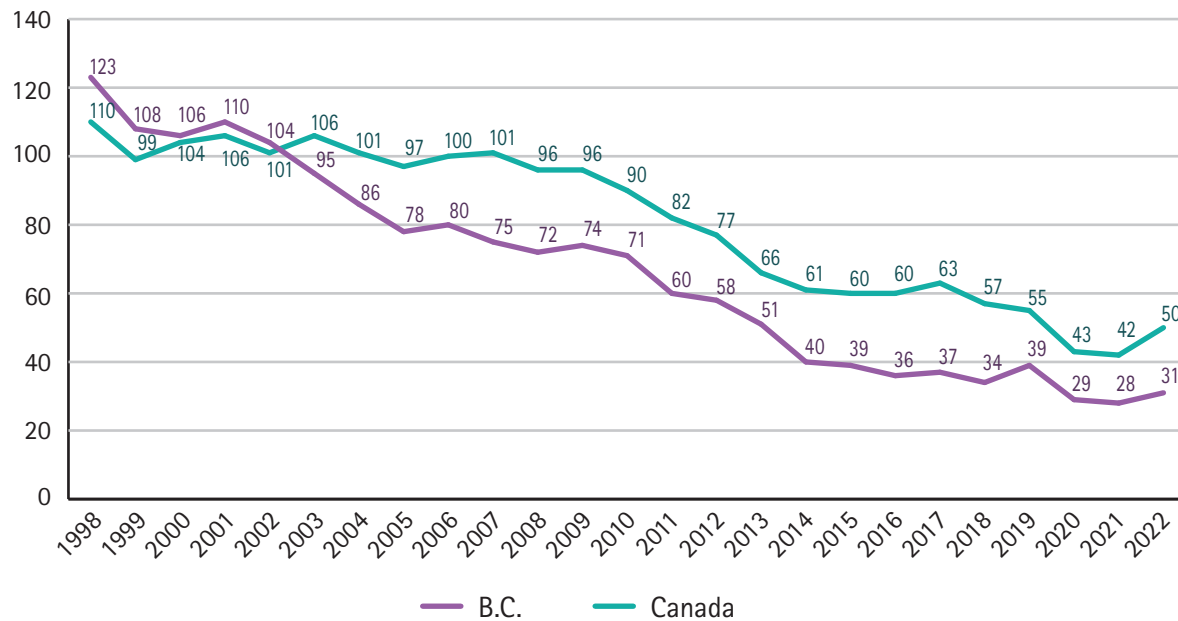
³⁹ *Supra*, note 1, p. 48.

⁴⁰ Statistics Canada, *Crime severity index and weighted clearance rates, Canada, provinces, territories and Census Metropolitan Areas*, <https://www150.statcan.gc.ca/t1/tbl1/en/cv.action?pid=3510002601>.

⁴¹ 1998 was the first year the CSI was reported by Statistics Canada.

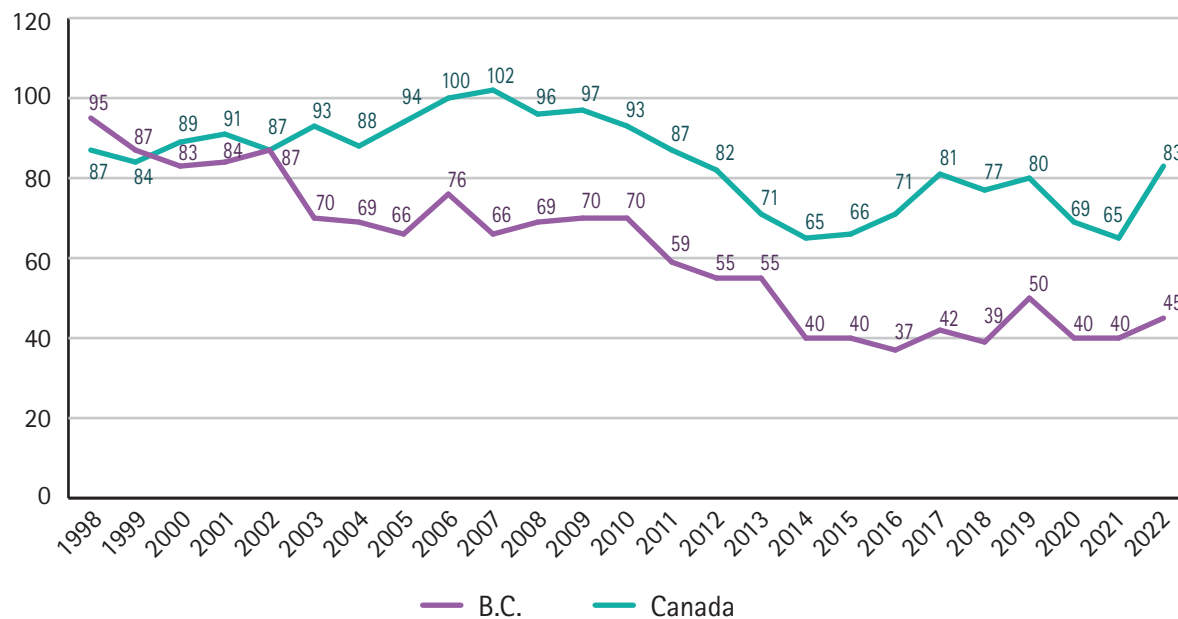
⁴² It is reasonable to expect that the pandemic suppressed crime rates in 2020 and 2021. Even so, the 2019 pre-pandemic index indicates similar, very substantial decreases.

Figure 6 – Youth Crime Severity Rates, B.C. and Canada, 1998 to 2022



There is a similar, though somewhat more moderate, pattern of decreases in the youth violent crime CSI index for B.C. and Canada, as described in Figure 7: the youth violent crime index in 2022 for B.C. was about 19 per cent less than 10 years earlier and about half (52 per cent) of what it was 20 years earlier.

Figure 7 – Violent Youth Crime Severity Rates, B.C. and Canada, 1998 to 2022



The same patterns of substantive decline are evident with (unweighted) overall per capita youth crime rates and violent youth crime rates, described in Figures 2A and 3A, appended. As well, as described in Figure 4A, appended, there have been very substantial decreases in the average number and per capita rates of youth charged with homicide over the past four decades in B.C., with the most recent decade showing rates that are less than one-half of the previous decade and less than one third of the 1990s.⁴³

The consequence of these dramatic reductions in youth crime rates is far fewer youth appearing in court, as described in Figure 5A, appended: the number of youth justice court cases in 2021/22 was less than one-third (30 per cent) of the number 10 years earlier and only 12 per cent of the number 10 years before that.⁴⁴

B.C.'s per capita rate of youth in custody is the lowest in the country, a rate that is far less (about one-sixth) of the Canadian average.⁴⁵ Nonetheless, similar dramatic decreases in the use of youth custody have been experienced across the country.⁴⁶ Dramatic reductions in the use of youth custody are not, however, just a Canadian phenomenon but rather an international trend which, like B.C. and Canada, coincide with similar trends in dramatic reductions in reported youth crime. In the U.S., for example, the number of residents in juvenile facilities decreased by 65 per cent between 2001 and 2019.⁴⁷ In England and Wales, the number of youth in pretrial detention (remand) in 2020 was 58 per cent less than 10 years earlier while the number in sentenced custody was 73 per cent less.⁴⁸

Like B.C. and Canada, these dramatic changes coincided with equally dramatic declines in youth crime rates:

- in England and Wales, the youth crime rate decreased by 78 per cent between 2011 and 2021.⁴⁹
- in the U.S., by 2020, the number of violent crime arrests involving youth reached a new low, 78 per cent below the previous peak, and half the number of 10 years earlier,⁵⁰ while the youth property crime rate dropped by 67 per cent between 2010 and 2019.⁵¹

⁴³ The number of youth charged with homicide each year is small and can vary widely, ranging from zero in some years (e.g., 2020) to as many as 19 (1995). To smooth these data out, the number and per capita rates for every year of each decade are averaged for the decade. Statistics Canada recently reported a very substantial increase in the number of youth in Canada accused of homicide in 2022; see, <https://www150.statcan.gc.ca/n1/pub/71-607-x/71-607-x2023033-eng.htm>. While obviously very concerning, this was a single year increase, not a trend, and notably did not occur in B.C.; in fact, there were no youth accused of homicide in B.C. in 2022.

⁴⁴ See, Statistics Canada, *Youth courts, number of cases and charges by type of decision*, <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=3510003801>.

⁴⁵ See, Statistics Canada, *Average counts of young persons in provincial and territorial correctional services*, <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=3510000301>. 2021/22 is the most recent available national data.

⁴⁶ See, for example, Anthony Doob, Jane Sprott and Cheryl Webster, *Learning from our success in reducing youth imprisonment*. Policy Options, Montreal, Quebec, May 10, 2018. <https://policyoptions.irpp.org/magazines/may-2018/learning-from-our-success-in-reducing-youth-imprisonment/>.

⁴⁷ See, Office of Juvenile Justice and Delinquency Prevention, *Easy Access to the Census of Juveniles in Residential Placement: 1997-2019*, <https://www.ojjdp.gov/ojstatbb/ezacjrp/#:-:text=EZACJRP%20was%20developed%20to%20facilitate,stay%2C%20and%20most%20serious%20offense..>

⁴⁸ Youth Justice Board, Ministry of Justice, *Youth Justice Statistics: England and Wales*, Jan. 27, 2022, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1054236/Youth_Justice_Statistics_2020-21.pdf.

⁴⁹ *Ibid.*

⁵⁰ Charles Puzzanchera, *Trends in Youth Arrests for Violent Crimes*. National Institute of Justice, Washington D.C., May 2021, <https://nij.ojp.gov/library/publications/trends-youth-arrests-violent-crimes>.

⁵¹ Charles Puzzanchera, *Juvenile arrests, 2019*. National Institute of Justice, Washington D.C., May 2021, <https://nij.ojp.gov/library/publications/juvenile-arrests-2019>.

Factors Contributing to Decreasing Demand

- in Australia, the rate of recorded crimes allegedly committed by youth (ages 10 to 17) declined by 47 per cent between 2009/10 and 2020/21.⁵²
- in New Zealand, the overall offending rates for children (ages 10 to 13) and young people (ages 14 to 17) decreased by 63 per cent and 64 per cent, respectively, between 2011/12 and 2021/22,⁵³ and
- a 2021 research review found that, “*there is enough evidence to conclude that the decline in youth crime is a common experience in Western developed countries*” – these countries including the U.S., England, Wales, Scotland, Spain, Denmark, the Netherlands, Sweden, Finland and Germany.⁵⁴

It is important to note that the very substantial decreases in the incarceration of youth in B.C. and Canada and across other developed countries have not resulted in increased youth crime rates but rather, those rates have declined in parallel.

Various theories have been advanced about the reasons why there have been such dramatic changes in youth crime rates across Western countries.⁵⁵ It is beyond the scope of this report to delve into those theories but, regardless of the causes, these changes are obviously heartening. In welcoming these changes, however, the Representative recognizes that even though there may be fewer victims, decreasing youth crime rates are nonetheless cold comfort to current victims, especially those who have experienced violence. As well, it is well established that the pandemic has had widespread social impacts, including on the mental health and well-being of children, youth and young adults.⁵⁶ It is noted that the youth crime rates described earlier increased modestly in the first year (2022) emerging from the pandemic, albeit still substantially below pre-pandemic rates. How the impacts of the pandemic may longitudinally affect youth involvement in crime and violence should therefore be monitored.

⁵² Australian Bureau of Statistics, *Recorded Crimes-Offenders*, released 10/02/2022, <https://www.abs.gov.au/>.

⁵³ Ministry of Justice, 2023, *Youth Justice Indicators Summary Report*, April 2023, Wellington: Ministry of Justice. <https://www.justice.govt.nz/justice-sector-policy/research-data/justicestatistics/youth-justice-indicators/>.

⁵⁴ Robert Svensson and Dietrich Oberwittler, *Changing routine activities and the decline of youth crime: A repeated cross-sectional analysis of self-reported delinquency in Sweden*, *Criminology* (59)(2) May 2021, p. 351-386.

⁵⁵ Svensson and Oberwittler (n.d.) have briefly described these theories as including: changes in daily routines, in particular, increases in time spent online and a corresponding decrease in offline activities; changes in parental monitoring; changes in young peoples' future orientation and attitudes toward school; more negative attitudes toward crime; improved security technologies, including the spread of more effective technologies preventing car thefts and burglaries which have reduced opportunities for adolescents for initial crimes and to embark on criminal pathways; socioeconomic development; and reductions in lead poisoning. Their own research found that parental monitoring, school bonds, attitudes toward crime, and changes in routine activities accounted for the largest portion of the decline of delinquency over two decades and eight waves of survey data.

⁵⁶ See, for example, Schwartz C., Barican J., Yung D., & Waddell C. (2023). *COVID-19 and children's mental health: Implications for pandemic recovery*. Vancouver, B.C.: Children's Health Policy Centre, Faculty of Health Sciences, Simon Fraser University, April 27, 2023, <https://childhealthpolicy.ca/publications/> and *Impacts of the COVID-19 Pandemic on the Health and Well-Being of Young Adults in British Columbia, A Report by the British Columbia Centre for Disease Control COVID-19 Young Adult Task Force*, July 2021 http://www.bccdc.ca/Health-Professionals-Site/Documents/COVID-Impacts/BCCDC_COVID-19_Young_Adult_Health_Well-being_Report.pdf.

Effects on the Use of Youth Justice Services

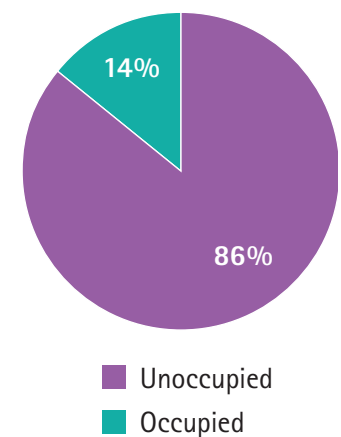
Obviously, such significant decreases in youth involvement in the criminal justice system necessitated changes in youth justice services provided by MCFD. Given the continuously declining youth custody population over the course of many years, four youth custody centres were closed between 2002 and 2004⁵⁷ and custody services for girls were centralized to Burnaby in 2012, with associated reductions in the staffed operating capacities of the Prince George and Victoria youth custody centres. These changes were followed by the full closure of the Victoria facility⁵⁸ in 2014,⁵⁹ leaving the Burnaby and Prince George facilities, with staffed operating capacities of 84 and 24 respectively, as the only two remaining centres.

Until the recent announcement about the pending closure of the Prince George facility – a decision which followed sharing a draft of this report – the last major change in youth custody services was in 2014. As Figure 4 indicates, the youth custody population has continued to decline – and very substantially so – since that time, from a daily average of 66 youth in 2014/15 to only 15 youth in 2022/23.⁶⁰ This has resulted in an extraordinary amount of unused capacity and consequent wasted resources. The total current staffed operating capacity of 108 at the two centres, together with an average daily population of 15 youth in custody in 2022/23, translates into an occupancy of only 14 per cent or, otherwise put, 86 per cent unused staffed capacity. This is not an aberration nor related to the pandemic: in the previous four years the unused staffed capacities were, respectively, 91, 87, 75 and 70 per cent. In this regard, detailed tables summarizing occupancy, staffing and budget for the past five fiscal years are appended for reference in Tables 1A and 1B. It is noted that even with the pending closure of the Prince George facility next fiscal year and accounting for a modest increase in the number of youth in custody to about 20, the Burnaby facility would only be operating at about one-quarter (or less) of its staffed operational capacity of 84.

Youth custody staffing is comprised of five components:

- excluded managers and included supervisors of line operational staff
- line operational (i.e., non-supervisory) staff
- teachers, who are employees of school districts and funded by way of agreement between MCFD and the Ministry of Education and Child Care
- contracted staff such as building maintenance and food services staff as well as some professional staff such as physicians, addictions counsellors, and Indigenous cultural liaison workers, and
- attributed portions of executive management, provincial policy and program support staff, and ministry and government corporate support services such as human resources, finance and information technology.

Figure 8 – Youth Custody Occupancy 2022/23



⁵⁷ The four were all rural-based camp/ranch facilities: Boulder Bay in Maple Ridge, Centre Creek in Chilliwack, Lakeview in Campbell River and High Valley in Logan Lake.

⁵⁸ *Supra*, note 29.

⁵⁹ Ministry of Children and Family Development, *Youth Custody Services Strategic Plan: 2014/15 – 2016/17*, Victoria B.C., September 2014.

⁶⁰ The lowest average population was 11 in 2021/22, and was likely lower due to the pandemic.

Staffing information, which involves the actual number of full-time equivalent (FTE)⁶¹ staff utilized, is only available for the first three components, which comprise the vast majority of staffing.⁶² Staffing for the first three components described above is pictured in Figure 9⁶³ for 2022/23 for the two centres combined which – while recognizing that these are operations that are staffed 24 hours per day, 7 days a week – indicates:

- the number of managers and supervisors⁶⁴ in the two youth custody centres (32.2) was more than double the average number of youth (14.6) in residence
- the number of teacher FTEs (12.3) funded and allocated to the youth custody centres was nearly equal to the average number of youth (14.6)⁶⁵
- there was a ratio of nearly 11 (10.7) staff for every youth in custody, which is an under-estimate as the staffing number excludes contracted staff as well as attributed portions of executive management, policy and program support and corporate support services staff.⁶⁶

⁶¹ Otherwise known as FTE “burn”.

⁶² A review of contracts would not provide the full information required. For example, food services and building maintenance contracts do not typically specify staffing levels but rather services to be delivered.

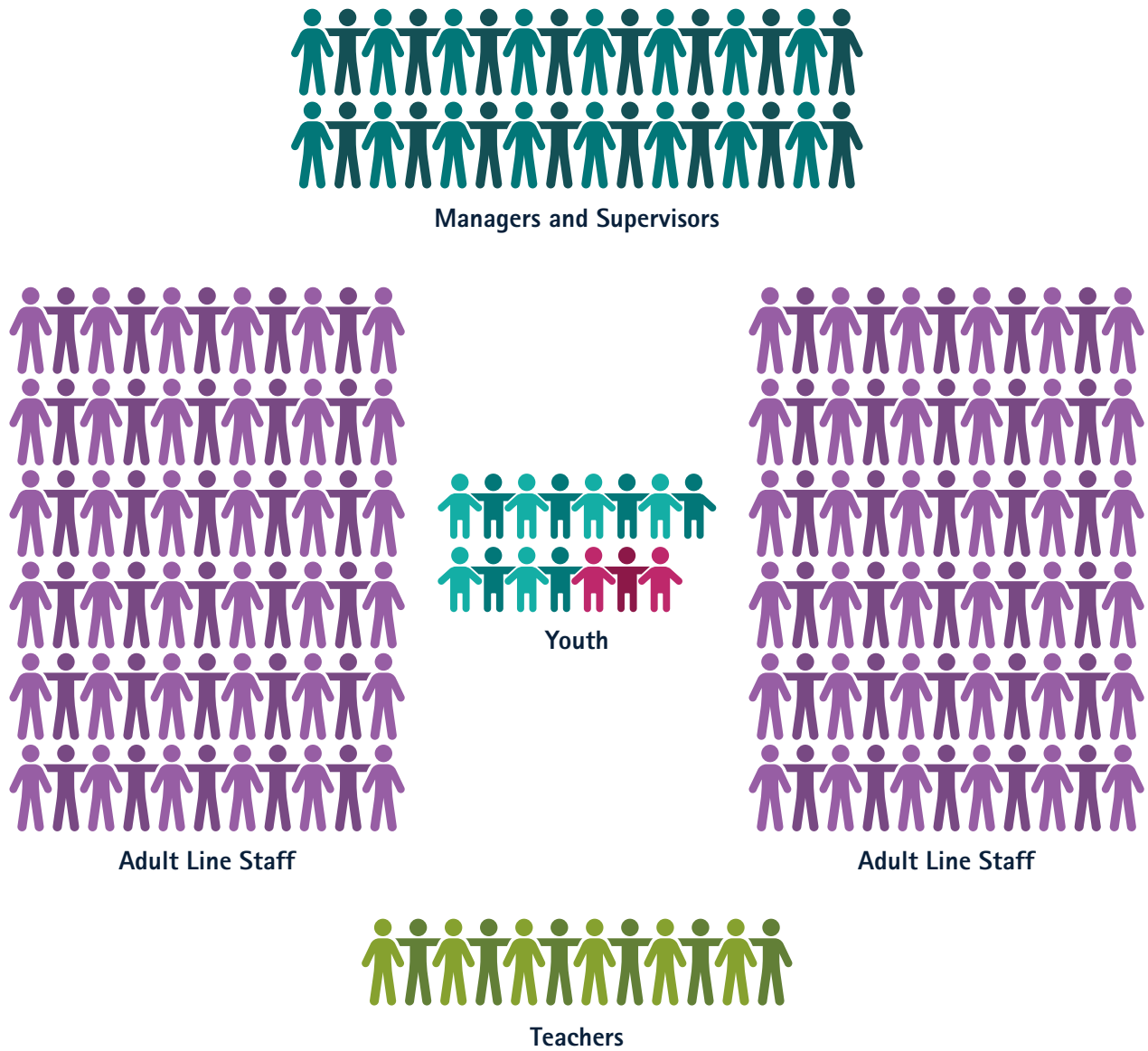
⁶³ Figure 9 indicates a breakdown of male and female youth; MCFD does not track the number of transgendered youth involved in youth justice services.

⁶⁴ The number of supervisors and managers is the number as of March 31, 2023. The supervisor for the Victoria ISSP program is excluded as that position is not assigned to in-custody duties nor directly assigned to the Burnaby centre.

⁶⁵ Teacher staffing information is provided by the Ministry of Education and Child Care and reflects the FTE and budget allocation to the responsible school districts. The formula for teacher FTE allocation is based on staffed capacity rather than actual or expected occupancy. MCFD reports a somewhat smaller number of 9.2 teachers; the differences are immaterial

⁶⁶ The ratio is based on a total MCFD youth custody staffing FTE burn of 144.1 plus 12.3 teacher FTEs in 2022/23. FTEs assigned to the custody-based ISSP program are excluded because they are not assigned to in-custody duties. The total MCFD FTE burn of 144.1 is calculated by deducting the number of FTEs assigned to the ISSP program (12) from the total FTE burn (including ISSP) of 156.1.

Figure 9 – Youth Custody Staffing in B.C. 2022/23



The above-noted information refers to the two youth custody centres combined. Turning to the Prince George centre specifically, Table 2A, appended, describes the particularly acute and consistent nature of the under-use and over-staffing at that centre for the past five fiscal years, which underscores the imperative for government to recently take (belated) action by announcing its pending closure. In 2022/23:

- the average daily population was 2.3 youth, or less than 10 per cent occupancy
- there were six days when there were no youth in custody and a further 66 days when there was only one youth in custody (In the previous pandemic year, there were 109 days with either no youth or only one youth in custody.)
- there were nearly five times as many managers and supervisors (11) as there were youth on average in residence
- there was one teacher for each youth on average in residence
- there was a total staffing ratio of 20.7 staff for each youth (which, again, is an under-estimate), and
- there were a total of 19 youth (16 Indigenous) admitted during the course of the fiscal year,⁶⁷ only seven of whom originated from the northern areas of the province – four from the North Central, one from the Peace River and two from the North West areas.⁶⁸

How does this translate into costs? There are four components to the costs of operating youth custody centres:

- building occupancy charges for the facilities, which are carried by the Ministry of Citizens' Services
- the costs for salaries and benefits of teachers funded by the Ministry of Education and Child Care
- MCFD's direct operational costs, which include both staffing and contracted services costs, and
- the costs of attributed portions of MCFD's executive management, provincial policy and program support staff, and ministry and government corporate support services such as human resources, finance and information technology.⁶⁹

Expenditure data is available for the first three components described above, which represents the vast majority of expenditures, and is described in detail in Table 1A, appended, for the past five fiscal years. Table 1A indicates that the average cost for each occupied custody bed in 2022/23 was \$3,790 per day, or \$1.38 million per year.

⁶⁷ The 19 (16 Indigenous) youth admitted to the Prince George facility in 2022/23 is only about one-fifth (21 per cent) of the number (92; 62 Indigenous) admitted 10 years earlier.

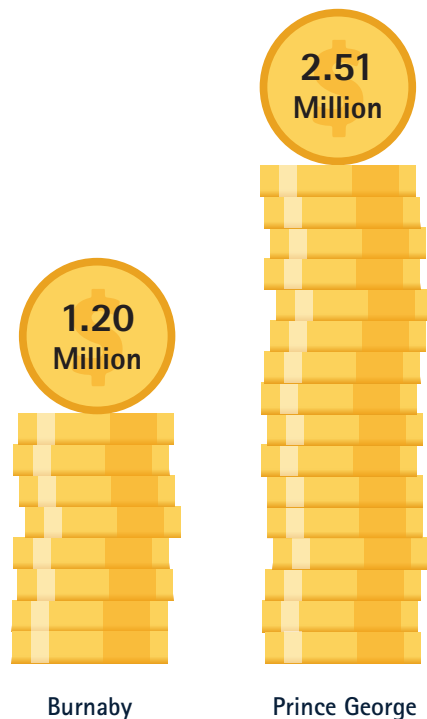
⁶⁸ This suggests repeated admissions of the same individuals.

⁶⁹ MCFD's submission to the federal Department of Justice for 2022/23 acknowledges that due to the wide array of ministry services and integrated management and administration of the same, there is no reliable way to determine what proportion of management/administrative time is devoted to youth justice services.

As per Figure 10, the 2022/23 costs at the Prince George centre specifically were \$6,861 per day for each occupied bed, or \$2.51 million per year. The Burnaby Centre is more “efficient” because it has a larger number of youth, albeit annual costs per youth of \$1.2 million are still extraordinarily high.

It should be noted that even with closure of the Prince George facility next fiscal year and centralization of custody services to Burnaby, that facility will only be operating at about one-quarter (or less) of staffed operational capacity (84) and at an estimated annual cost of nearly three-quarters of a million dollars for each occupied bed.

Figure 10 – Youth Custody Annual Costs Per Occupied Youth Custody Bed 2022/23



Turning to community youth justice services, the similar pattern of declining demand has led to a corresponding surfeit of resources. While there is not a standard *per se* that specifies optimal caseload size, it is generally accepted that a caseload of 20 to 25 youth under supervision is a reasonable and manageable caseload for a youth probation officer (YPO). MCFD reports that in 2022/23 there were 80.6 YPO FTEs utilized,⁷⁰ carrying a total average provincial caseload of 808. While this, on the face of it, suggests an average caseload of only 10 youth per probation officer, the actual average is somewhat higher because there are several YPO positions that would be expected to carry a smaller or no caseload.⁷¹ Excluding these, a review of caseloads on March 31, 2023, indicated that there were only three YPOs in B.C. with a caseload of 20 or more, while there were 24 YPOs with caseloads of 10 or less. Moreover, data provided by MCFD indicates that, in the five-year period between 2018/19 and 2022/23, the average provincial caseload declined by 24 per cent, while the FTE utilization declined by 10 per cent.

⁷⁰ MCFD’s claim for cost-sharing recovers from the federal Department of Justice for 2022/23 reports 95.5 funded YPO FTEs, including 15 dedicated YPO team leaders.

⁷¹ The positions that would be expected to carry a small or no caseload include: dedicated youth justice team leader, restorative justice conferencing specialists, police car specialists (Yankee Cars 10 and 30), those carrying dual (child welfare) portfolios, and part-time positions.

One area of community youth justice services where there have been appreciable reductions in service levels and costs in response to decreasing demand is contracted community-based residential placement beds (FTAPs): from a reported 132 beds in 2013,⁷² to 77 in 2017/18 and, most recently, to 40 beds in 2022/23, at a total cost of \$9.29 million in that year.⁷³ Notwithstanding these reductions in capacity, MCFD reports an average occupancy of only 37 per cent in 2022/23,⁷⁴ which results in an average cost of \$1,744 per day (or \$52,320 per month) for each youth in residence.⁷⁵

YFPS operates the six-bed Inpatient Assessment Unit (IAU) in Burnaby, which provides assessment and treatment services when the court orders an in-custody assessment. In 2022/23, the reported operating costs of the IAU were \$2.44 million⁷⁶ with an FTE utilization of 15.6, which excludes contracted staff and attributed management and corporate support services staffing. YFPS does not report average daily population at the IAU but reports that there were 123 days during 2022/23 when there were no youth in custody at the IAU and a further 134 days when there was only one youth in custody, which reflects a pattern of underuse that is consistent with the preceding four years.⁷⁷ Otherwise, Figure 1A indicates that the number of YFPS assessments declined by 35 per cent between 2018/19 and 2022/23 while the number of treatment cases declined by seven per cent, yet MCFD reports that YFPS budget expenditures increased by one per cent and FTE utilization increased by 19 per cent during that same time period.

⁷² Paul Barnett and Stephen Howell, *Advancing Best Practice: A Review of Full-Time Attendance Programs for Youth in British Columbia*, Ministry of Children and Family Development, Victoria, B.C., January 2014.

⁷³ This total includes MCFD contract expenditures of \$8,719,917 and Ministry of Education and Child Care costs of \$572,944 for teacher FTEs.

⁷⁴ Based on an MCFD reported average of 14.6 youth per day.

⁷⁵ There are a significant number of additional community youth justice contracts – such as for intensive support and supervision workers and community service work – which have not been reviewed and, in the Representative's view, need not be reviewed since every indicator confirms widespread under-utilization across every reported aspect of youth justice services.

⁷⁶ Specifically, \$2,444,839, which is the total of \$2,180,745 operating costs reported by MCFD and \$268,094 for building occupancy charges (Ministry of Citizens' Services).

⁷⁷ In the five-year period between 2018/19 and 2022/23, the total number of days during the year when there were no youth or only one youth in custody at the IAU were, respectively: 55, 115, 215, 298 and 257.

Discussion

In April 2022, the Ontario Ombudsman released a report entitled *Lost Opportunities* about the simultaneous closure of 25 youth custody and detention centres on March 1, 2021 by the Ontario Ministry of Children, Community and Social Services.⁷⁸ That report was not critical of government's policy decision to close the youth custody centres, the under-use of which had previously been highlighted by the Ontario Auditor General, but rather, the poor manner in which the closures were implemented by the ministry. Opportunities had been lost in Ontario because the Ombudsman's investigation report was initiated after the closures. In this province, opportunities may have been missed to date, but they are still available and need not be lost, as long as carefully planned steps are taken.

The extraordinary degree of under-utilization of youth justice resources, especially in youth custody, has been ongoing for several years and must be addressed. This under-utilization was apparent long before the pandemic and, while it may have been aggravated somewhat by the pandemic, has continued since. Even with a modest increase in youth crime rates and the closure of the Prince George facility, it is unlikely that resources at the Burnaby Centre would be anywhere near fully utilized. As noted, even with closure of the Prince George facility, it is likely that the Burnaby facility will be operating at only about one-quarter of staffed operational capacity, at extraordinary cost next fiscal year.⁷⁹

It may seem paradoxical for the Representative to seem to be suggesting a reduction in services. That is not the case. What is necessary is not a cut in funding and services, but rather a redeployment of unused or surplus capacity so that available resources are used more effectively and efficiently to better serve the contemporary and urgent needs of children and youth. If changes are to be made to youth justice services administered by MCFD, the Representative expects every penny to be reinvested in other needed services for children and youth, or young adults.

It would not be appropriate for the Representative to make specific recommendations regarding the reduction and redeployment of youth justice resources, as this obviously will require detailed review and consultation with affected parties, including communities, Indigenous rights and title holders and agencies, youth, the First Nations Justice Council and other justice and ministry partners, as well as staff and their representatives. There are, however, some principles, general directions and options that should be considered in the course of planning.

Like the child protection system, the youth justice system employs the most intrusive powers of the state to regulate the lives of young people and their families. And, while the actual numbers may be fairly small, the youth justice system – like the child protection system – disproportionately affects Indigenous youth.

⁷⁸ *Lost Opportunities: Investigation into the Ministry of Children, Community and Social Services, implementation of the decision to close custody and detention programs at Creighton Youth Centre and J.J. Kelso Youth Centre*. Ombudsman Ontario, April 2022. <https://www.ombudsman.on.ca/resources/reports,-cases-and-submissions/reports-on-investigations/2022/lost-opportunities>.

⁷⁹ Data from the first five months of 2023/24 indicates there has been a modest increase in the average number of youth in custody from 14.6 to 18.8, the latter of which represents only 17 per cent occupancy of staffed operational capacity. The number of youth under community youth justice supervision also increased from 808 in 2022/23 to 953 in August 2023, however, data provided by MCFD indicates that a substantial portion of this increase in community caseload is related to bail orders which requires minimal case management services (because the youth are still accused/not found guilty) and nonetheless this increase would still leave YPO caseloads at very low levels.

In 2022/23, 53 per cent of the youth in custody and 41 per cent of those under community youth justice supervision in B.C. were Indigenous. At the Prince George youth custody facility, the proportion was even greater – 82 per cent. Given this, in the Representative’s view, these proportions should be used as guidelines for the re-allocation of youth justice resources to services for Indigenous youth and communities, preferably delivered by Indigenous agencies, i.e., when the Prince George facility is closed, then 82 per cent of the redeployed resources should be dedicated to services to Indigenous youth, including Indigenous girls, preferably administered by or in partnership with Indigenous agencies. Consultations with the First Nations Justice Council,⁸⁰ local First Nations and the Métis Nation would obviously be necessary.

The announcement of the pending closure of the Prince George facility has not been a good start. Although government had been aware for many years of the unacceptably low utilization and extraordinary costs of continued operations at a staffed operational capacity of 24 in Prince George – and had ignored previous public advocacy from a former director of the facility, a local Member of the Legislature and local advocacy groups to re-purpose the facility to a better use⁸¹ – it missed the opportunity to gradually reduce staffed operational capacity over time through staff attrition and to consult with relevant community partners. Instead, a precipitous decision was made to close the facility in a short time frame, significantly disrupting the lives of more than 50 direct staff and contractors all at once. Moreover, the announcement was made without prior consultation with the First Nations Justice Council,⁸² the B.C. General Employees’ Union,⁸³ the Representative’s Office and others, and has been taken without a plan for re-allocation of resources. The Representative expects a more thoughtful and respectful approach will be taken with the still-required review of the full gamut of youth justice services, and, in particular, with any reductions in the staffed operating capacity of the Burnaby centre, the negative effects of which could be mitigated by attrition of and managed transfers of staff over time.

An important consideration is the need to take steps to mitigate the potential negative impacts of the closure of the Prince George facility on youth and their families given that, if ordered to custody, youth from the northern areas of the province would have to – like their counterparts on Vancouver Island and interior regions of the province – be placed far away from their communities. It is noted that the actual number of individual youth from the Northern regions is very small – in 2022/23, there were only seven unique individuals admitted to the Prince George facility who originated from the Northern service delivery areas, with four of those originating from the North Central area. Nonetheless, there will undoubtedly be some negative impacts which can be mitigated and which need to be weighed against the significant benefits that can be realized through a more effective redeployment of resources.

The Representative is informed that MCFD is planning to mirror a mitigation measure to avoid the use of local police cells that was put in place when the Victoria Youth Custody Centre was closed in 2014 by retaining an “interim holding unit” in Prince George, with skeleton staffing for local youth pending escort to the Burnaby facility. Given the very small number of youth originating from the North, it is very likely that this proposed holding unit will be infrequently utilized. While worthwhile, if this step is to be

⁸⁰ See, <https://bcfnjc.com/who-we-are/>. The BC First Nations Justice Council was created in 2016 by the BC Assembly of First Nations, the First Nations Summit and the Union of BC Indian Chiefs. There are five directors of the BC First Nations Justice Council. The First Nations Summit, BC Assembly of First Nations and the Union of BC Indian Chiefs each appoint one director, and they collectively appoint two further directors.

⁸¹ Letter to the editor: “There is a better use for local youth jail, says former director,” *Prince George Citizen*, Sept. 12, 2022.

⁸² “Prince George youth jail closure upsets Indigenous group,” *Prince George Citizen*, Sept. 12, 2022.

⁸³ See, https://www.bcgeu.ca/union_disappointed_in_surprising_news_to_close_prince_george_youth_custody.

taken, the Representative encourages consideration be given to going a step further by retaining a small multi-purpose six-bed temporary detention/open custody unit in Prince George that could serve as a holding unit, short-term temporary detention (remand) and for short open custody sentences, including for transitional community reintegration purposes. In this regard, it is noted that there is a separate, unused building on the Prince George facility grounds (Bowron House) that was formerly used for open custody purposes and could be used for this new purpose, and which would still permit the 48-bed main building to be re-purposed.

As well, when youth custody services for girls were centralized to Burnaby in 2012, the ministry allocated additional resources to expedite the escort of youth to Burnaby who had been committed to custody to avoid youth having to linger in local police cells awaiting escort by sheriffs. Further, the ministry established a supported family visitation program which included subsidized travel costs for family members. The Representative is encouraged that a review and refreshment of these types of mitigation measures are being considered by MCFD.

Another means of mitigating impacts could be to enhance services so that the need to resort to custody for youth from Northern areas is avoided in the first place. While establishing ongoing programs for such a small number of youth from diverse locations would likely be infeasible, a potential model of enhanced service delivery can currently be found in other youth justice services. For many years, a special federal cost-sharing agreement has provided up to \$100,000 per year in individualized funding for the purchase of services, over and above routine services, tailored for youth who have committed serious violent offences.⁸⁴ The intent of this funding is to better ensure the availability of more intensive rehabilitative services to meet the needs of some of the highest risk individual youth and therefore better protect the public. A similar approach could, for example, be taken by setting aside a (reallocated) fund that would be available to purchase intensive, individually tailored community services for youth from the Northern areas who otherwise would likely be committed to custody, and thereby keep them within or near their home communities.⁸⁵

As to the Prince George facility itself, it is noted that the disposition of the facility is the responsibility of the Ministry of Citizens' Services, not MCFD. There is a history of former youth custody centres being re-purposed into residential addictions services, including most recently the former Victoria Youth Custody Centre, which is now the New Roads Therapeutic Recovery Community.

⁸⁴ Intensive Rehabilitative Custody and Supervision (IRCS) is a sentence available under section 42(2)(r) of the *YCJ Act*. The IRCS order was created, in part, as an alternative to imposing an adult sentence on youth found guilty of the most serious violent offences. More broadly, the term IRCS represents funding agreements between Justice Canada and each province and territory to provide enhanced treatment and other rehabilitative services for a youth sentenced to IRCS. While the primary purpose of the IRCS agreements is to fund assessment and rehabilitative services for youth serving an IRCS order, the agreements also support rehabilitative interventions with other youth who have committed offences involving significant violence and who have mental health issues – this is known in B.C. as Special Federal Funding or SFF. (Extracted from MCFD Intranet)

⁸⁵ MCFD's Therapeutic Rehabilitative and Individualized Program (TRIP) is a new individualized funding program (as of September 2023) for youth who do not meet the criteria for Intensive Rehabilitative Custody and Supervision (IRCS) support funding from Justice Canada. TRIP is envisioned to fill the gap for youth with a medium- to high-risk assessment who do not meet the criteria for the federal IRCS funding and who require more services than are usually funded through Toolbox or Healthy Connections to Culture (two other individualized funding programs). These are examples of individualized funding programs that could be reviewed and enhanced to promote alternatives to custody in the North.

The Representative is aware that there have been several proposals from different individuals and groups for re-purposing the facility, including, for example, as a treatment centre for Indigenous youth⁸⁶ and as a women's detox/treatment centre.⁸⁷ The Representative is confident that, with appropriate community consultation, the facility will be re-purposed to a good use.

It is also noted that there is a previous example of the Burnaby facility being successfully used for multiple populations. That centre was originally an adult women's correctional centre but operated for several years with separate units occupied by male youth. Given this history, it may be feasible to reduce the operating capacity of the Burnaby facility for youth and consider use of the remainder of the facility for services to other populations.

The Representative understands that considerable care needs to be taken in the potential review and realignment of community youth justice and YFPS services. One confounding and important consideration is the potential impact on cost sharing recoveries to the ministry. Youth justice services are cost shared by the federal government by way of a complex main agreement which requires the province to maintain specified funding levels for "high priority" youth justice services such as community-based alternatives to custody and rehabilitation services such as mental health and addictions and intensive supervision services. That agreement does not permit redeployment of federal funding for these "high priority" services to non-youth justice services. The impact of the re-deployment of youth custody expenditures for non-youth justice services is essentially moot because MCFD reports that 92 per cent of youth custody expenditures in 2022/23 were not high priority services, i.e., the vast majority of youth custody expenditures can be redeployed without any effect on federal cost sharing recoveries. It is, however, essentially the inverse situation with community youth justice and YFPS services, where the vast majority of expenditures are high priority services within the meaning of the cost sharing agreement. While there are apparently some surplus high priority expenditures that could be re-deployed,⁸⁸ the implication is that the federal Department of Justice may have to be engaged before more substantive changes in community youth justice and YFPS services can be made and/or those substantive changes may have to await negotiation of the next five-year agreement.

There are additional reasons to exercise care in consideration of the redeployment of community youth justice and YFPS resources. As noted, youth probation officers have very low caseloads. However, in carrying out her functions of reviews of critical injuries and deaths, and in individual advocacy cases, the Representative often sees examples of very good case management by ministry staff, especially by youth probation officers, no doubt because they have the time available to dedicate to good case work. This may be an illustration of – and instructive to the ministry – how smaller caseloads across all service streams

⁸⁶ "Carrier Sekani Family Services hopes youth jail becomes Indigenous youth treatment centre," *Prince George Citizen*, Nov. 21, 2023. It is noted that on Jan. 16, 2024 Premier Eby announced \$675,000 in funding to support a consultation and engagement process, led by the Lheidli T'enneh First Nation, for the development of a mental health and addictions program for northern Indigenous youth, although the nature and site location of that program is to be determined. See, <https://news.gov.bc.ca/releases/2024PREM0001-000043>.

⁸⁷ "Convert Prince George youth jail to women's detox/addictions treatment centre, advocate says," *Prince George Citizen*, Nov. 18, 2023.

⁸⁸ MCFD's cost sharing claim for 2022/23 indicates that there is a projected surplus of about \$2M in high priority expenditures in 2023/24, which would leave room for immediate redeployment of that amount of funding to non-youth justice expenditures. It is noted that MCFD's cost sharing claims have not included high priority special education program expenditures for youth custody centres and FTAPs funded by the Ministry of Education and Child Care, which totalled \$2.1 million in 2022/23.

can lead to better services for children and youth. Keeping this in mind, the finding that many youth probation officers have extraordinarily low caseloads nonetheless demands a review.

The same is the case with youth justice community-based contracted residential services (FTAPs). Full occupancy of these residential programs should not be expected and in fact under-occupancy can be helpful because the availability of these spaces facilitates program-matching to individual needs and expedites timely placement, without waiting lists. Moreover, in a small program such as a five-bed resource, having one space available for expedited placement translates into an occupancy of 80 per cent, not full occupancy. That said, the finding of overall occupancy of only 37 per cent of capacity in 2022/23 at a daily cost of \$1,744 per bed demands review and realignment, which should be done in collaboration with the Provincial Association of Residential and Community Agencies (PARCA), an affiliation of agencies providing community-based justice services to youth and adults. One option may be to leave the resources in place and simply expand the population eligible for the programs to include, for example, youth who are not currently involved in the youth justice system or young adults involved in the adult correctional system. In the latter regard, in recent years PARCA has been collaborating with MCFD, the Ministry of Public Safety and Solicitor General and Justice Canada in developing options for enhanced services to young adults involved in the (provincial and federal) adult corrections systems as alternatives to custody. There may be opportunities in this regard to look at the redeployment of surplus youth justice staff – who would obviously have the requisite skills and experience – and funding to provide enhanced services to young adults involved in the justice system. These services could, for example, be targeted to Indigenous young adults who were formerly in care, which, together with MCFD's recently enhanced services for young adults,⁸⁹ could provide a fulsome suite of community-based rehabilitative services as an alternative to incarceration.

The fact that there were either no youth or only one youth in residence at the YFPS Inpatient Assessment Unit for more than two-thirds of the time during 2022/23 at an annual cost of \$2.44 million suggests that continuation of this service in its present configuration cannot be justified, albeit a reconfigured service must be established given that these services arise from a court order. Otherwise, should a detailed review of YFPS community-based services indicate opportunities for redeployment of services, one option could be to leave present YFPS services in place and expand the range of clients served. This could, for example, include enhanced mental health services for youth in care, which has been identified as a pressing need and recommended by the Representative in the 2020 report *A Parent's Duty*,⁹⁰ and/or providing continuing specialized mental health services to young adults who have moved from the youth justice system to the adult criminal justice system.

⁸⁹ B.C. Budget 2022 enables emergency measures introduced during the pandemic – including Temporary Housing Agreements, Temporary Support Agreements and increased flexibility of the Agreements with Young Adults (AYA) program – to be made permanent. Beginning in 2022/23, there will be a new \$600 a month rent supplement for youth leaving care. Youth Transitions navigators will be available to support youth as young as 14 to access services in their transition to adulthood. The following year will see the expansion of the AYA program to include counselling, medical benefits, increased life skills training and the introduction of an earning exemption. In 2024/25, young adults will receive a guaranteed income benefit from age 19 to 20 and a further 84 months of financial support if they are participating in approved programs. (Source: MCFD Intranet)

⁹⁰ See Representative for Children and Youth, *A Parent's Duty: Government's Obligation to Youth Transitioning into Adulthood* (Victoria, B.C.: Representative for Children and Youth), 2020.

Recommendation

The Representative recommends:

The Ministry of Children and Family Development – in consultation with justice, community and ministry partners, young people, the First Nations Justice Council and the Métis Nation Justice Council – conduct a comprehensive review of the under-utilization of youth custody, community youth justice and Youth Forensic Psychiatric Services resources, with a view to developing and implementing a plan for the more efficient and effective redeployment of resources so that the needs of young people are better served. The plan is to include a full reallocation of all savings to new services, including allocation to services for Indigenous young people that are delivered by or in partnership with Indigenous peoples in the same proportion as the representation of Indigenous youth in youth justice services.

Engagement and consultation to be completed by Oct. 31, 2024.

Detailed reallocation plan to be completed by March 31, 2025.

Implementation of the reallocation plan to begin by April 1, 2025 or earlier and to be completed by March 31, 2026.

Appendix

Figure 1A – Youth Forensic Psychiatric Services Assessment and Treatment Cases 2013/14 to 2022/23

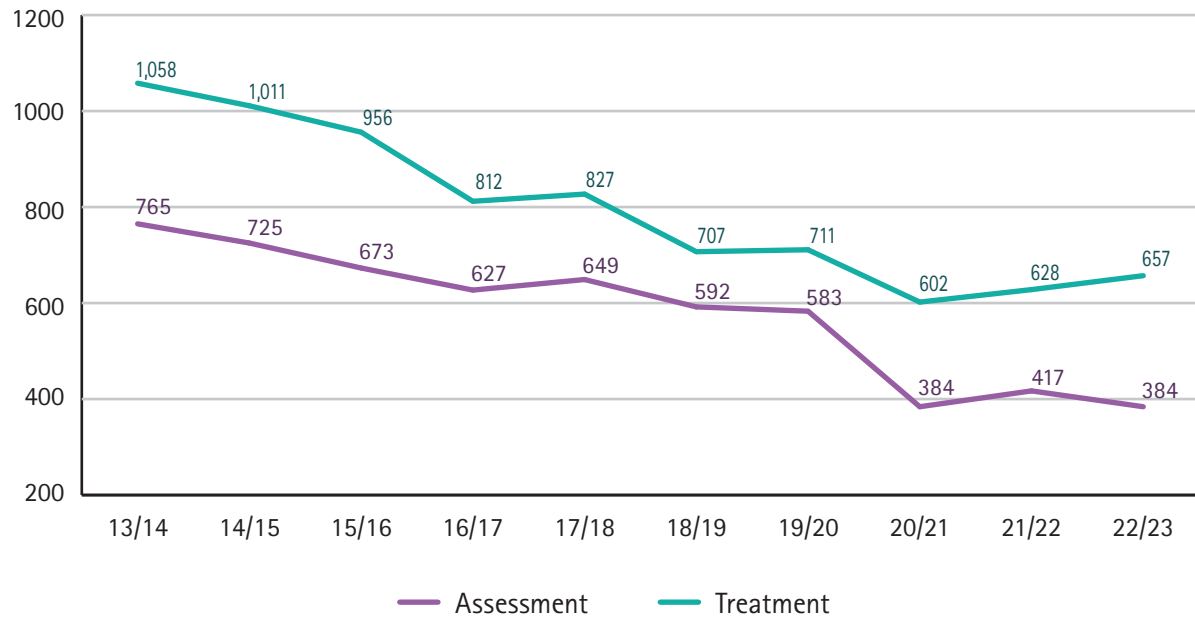


Figure 2A – Per Capita Youth Crime Rates, B.C. and Canada, 1998 to 2022

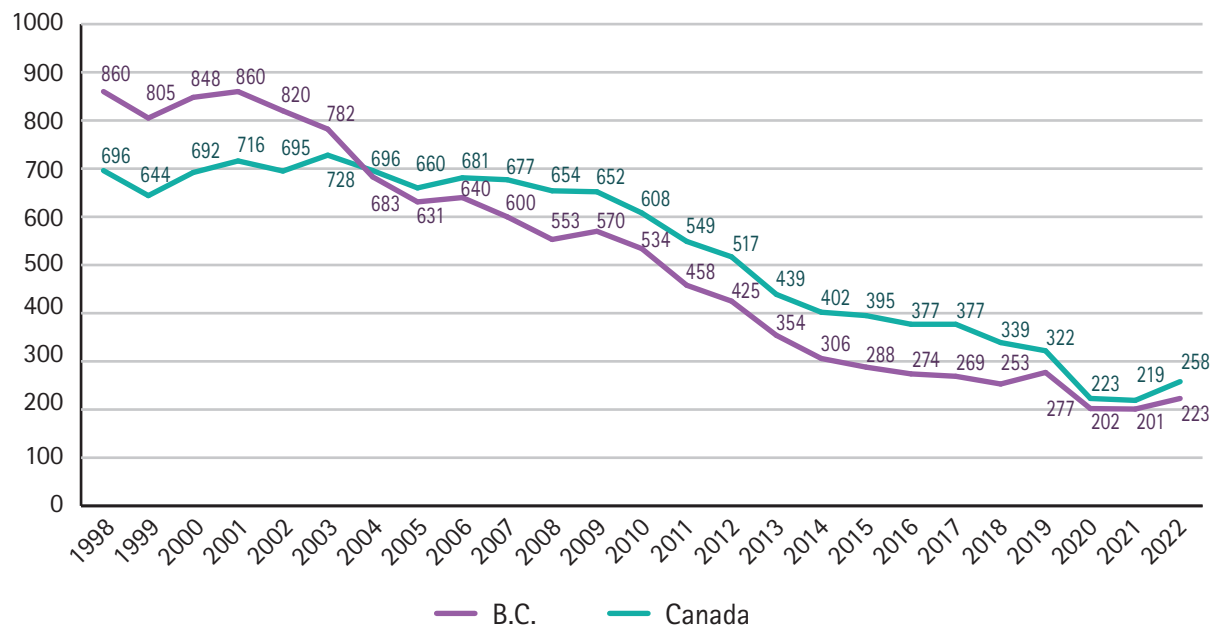


Figure 3A – Per Capita Youth Violent Crime Rates, B.C. and Canada, 1998 to 2022

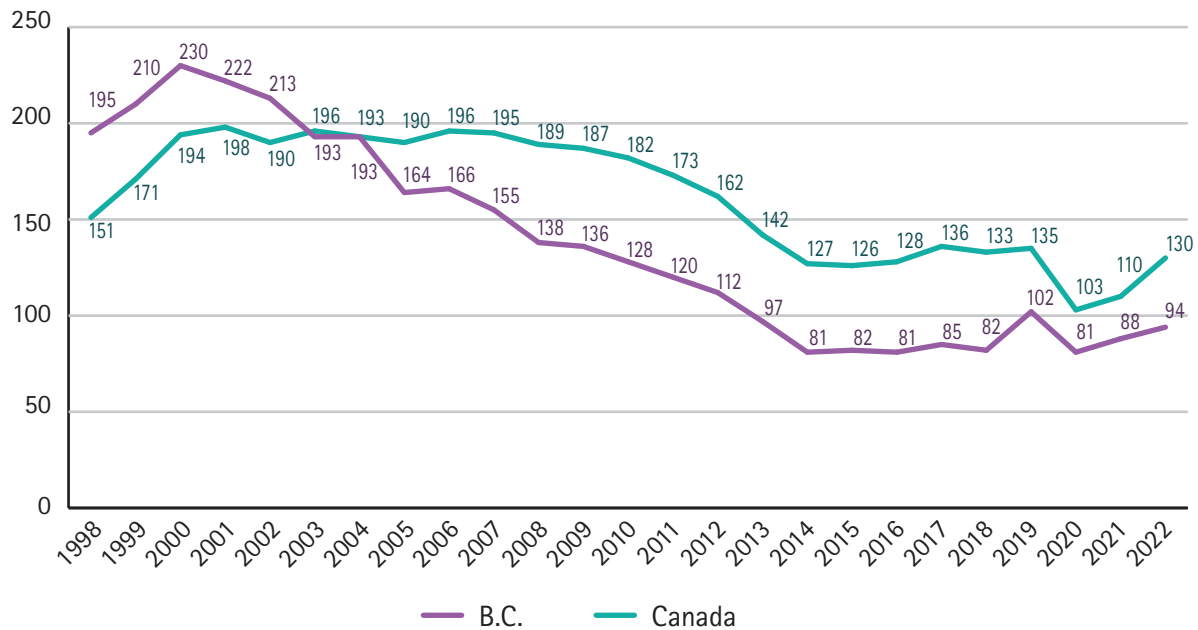


Figure 4A – Youth in B.C. Charged with Homicide by Decade, 1980 to 2019

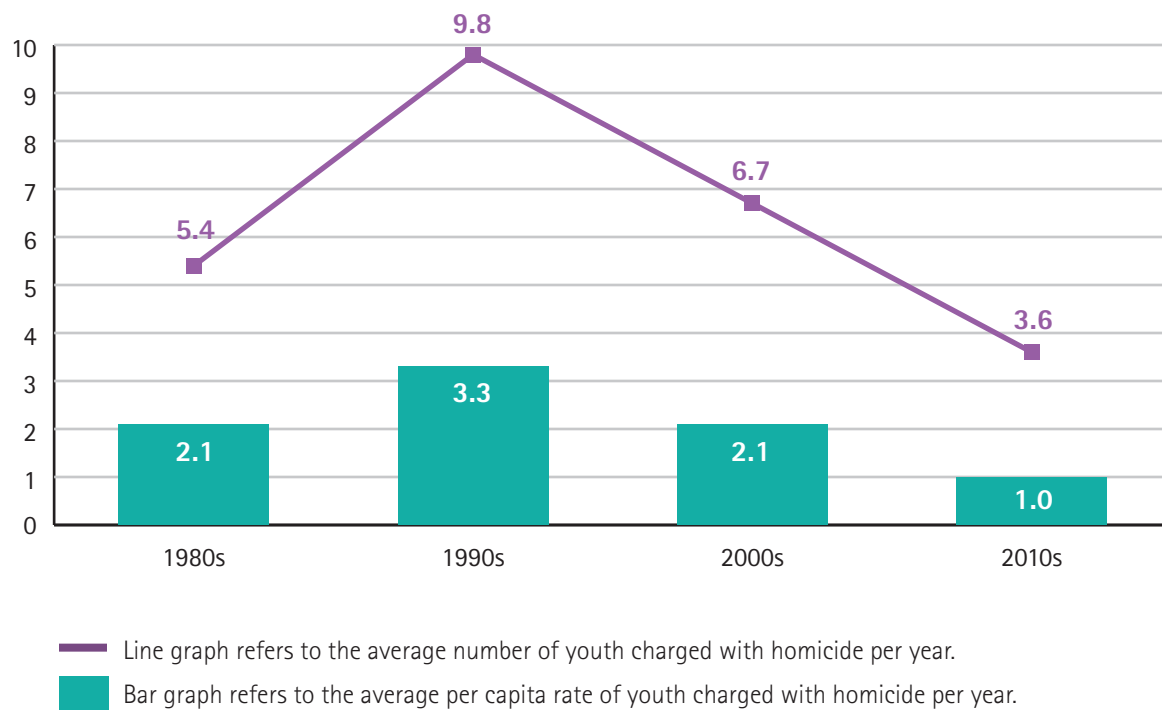


Figure 5A – B.C. Youth Court Cases, 2000/01 to 2020/21

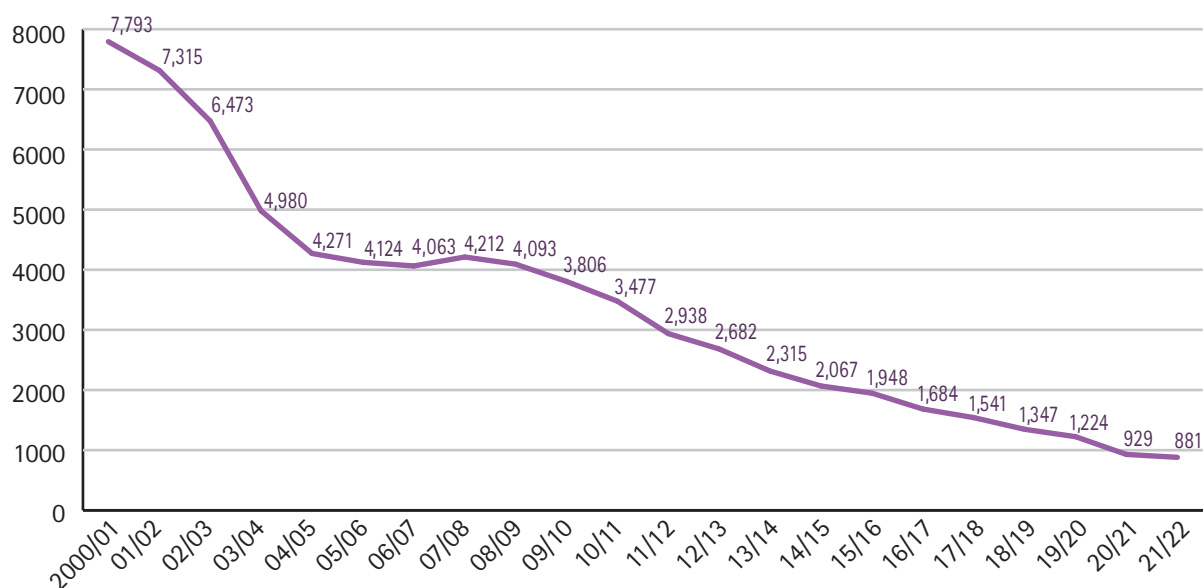


Table 1A – Total (Burnaby and PG) Youth Custody Occupancy, Staffing and Expenditures

	2018/19	2019/20	2020/21	2021/22	2022/23
Occupancy					
Average # of Youth per day	31.9	26.8	14.2	11.4	14.6
% Occupancy	30%	25%	13%	11%	14%
Staffing					
MCFD FTEs Utilized ⁽¹⁾	184.6	165.4	145	141.5	144.1
Teacher FTEs ⁽²⁾	14.7	13.7	14	12.8	12.3
Total FTEs	199.3	179.1	159	154.3	156.4
Staff ratio/youth	6.2	6.7	11.2	13.5	10.7
Managers/Supervisors ⁽³⁾	33	34	34	32	32
Expenditures					
MCFD ⁽⁵⁾	16,013,316	15,537,119	14,290,383	14,256,835	14,335,840
Education	1,709,585	1,592,586	1,602,428	1,548,615	1,568,884
CITZ ⁽⁴⁾	4,448,652	3,778,326	3,999,325	5,200,025	4,291,622
Total	\$22,171,553	\$20,908,031	\$19,892,136	\$21,005,475	\$20,196,346
Youth per diem	\$1,904	\$2,137	\$3,838	\$5,048	\$3,790

1. MCFD FTEs utilized is calculated by subtracting the number of FTEs allocated to the ISSP program (which is non-custodial) from the reported total FTE burn.
2. Teacher FTEs and costs are based on reported FTE and budget allocation to the responsible school districts.
3. Managers and supervisors are as of March 31 for each year.
4. CITZ refers to the Ministry of Citizens' Services, which provides for building/facility costs.
5. MCFD expenditures exclude costs related to the ISSP Program.

Table 2A – Prince George Youth Custody Occupancy, Staffing and Expenditures

	2018/19	2019/20	2020/21	2021/22	2022/23
Occupancy					
Average # of Youth per day	7.2	6.7	4.1	1.9	2.3
% Occupancy	30%	28%	17%	8%	10%
Staffing					
MCFD FTEs Utilized ⁽¹⁾	55.1	53	50.4	48.1	45.2
Teacher FTEs ⁽²⁾	3.4	2.4	2.4	2.2	2.2
Total FTEs	58.5	55.4	52.8	50.3	47.4
Staff ratio/youth	8.1	8.3	12.9	26.5	20.6
Managers/Supervisors ⁽³⁾	12	12	11	11	11
Expenditures					
MCFD ⁽⁵⁾	4,873,011	4,852,371	4,709,216	4,524,273	4,422,604
Education	423,605	287,186	265,332	259,059	281,842
CITZ ⁽⁴⁾	1,347,502	1,088,445	908,162	936,569	1,055,385
Total	\$6,644,118	6,228,002	\$5,882,710	\$5,719,901	\$5,759,831
Youth per diem	\$2,528	\$2,547	\$3,930	\$8,248	\$6,861

1. MCFD FTEs utilized is calculated by subtracting the number of FTEs allocated to the ISSP program (which is non-custodial) from the reported total FTE burn.
2. Teacher FTEs and costs are based on reported FTE and budget allocation to the responsible school districts.
3. Managers and supervisors are as of March 31 for each year.
4. CITZ refers to the Ministry of Citizens' Services, which provides for building/facility costs.
5. MCFD expenditures exclude costs attributed to the ISSP Program.

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