Programs Branch User Report

THE ATTITUDES OF CANADIAN JUVENILE JUSTICE PROFESSIONALS TOWARDS THE YOUNG OFFENDERS ACT

No. 1985-22

Ministry of the Solicitor General of Canada

Secretariat

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Administrative Abstract

This research describes the reactions of five professional groups in the juvenile justice system to the forthcoming Young Offenders Act. In 1982, the Key Actors Survey was undertaken by the Ministry of the Solicitor General in six provinces (Nova Scotia, Quebec, Ontario, Manitoba, Alberta, and British Columbia). Judges, crown prosecutors, defence counsel, probation officers and police were asked their opinions on the legislation and on a number of other features on the present functioning of the juvenile justice system in their community.

The attitudes of these key personnel to the new legislation varied by their role in the system and by province, with the former factor being considerably more influential in determining acceptance of the legislation. Defence counsel and probation officers in all jurisdictions were the most positive towards the Act, and crown prosecutors and police were much less in agreement with many components of the legislation. The analysis found few other correlates of opinion among respondents' background characteristics or their attitudes to the functioning of the system.

We expect that future training and orientation programs will be effective to the extent that they are directed to the general and, more importantly, the actor-specific and jurisdiction-specific concerns discussed in this report.

Acknowledgements

The Key Actors Survey, of which this report represents a preliminary analysis, was a colloborative research study designed and implemented by the principal investigators and their research teams involved throughout the National Study on the Functioning of the Juvenile Court, 1981-2: Ray Corrado, Simon Fraser University; Robert Silverman, University of Alberta; Rick Linden and Rod Kueneman, Unviersity of Manitoba; Sharon Moyer, The Research Group, Toronto; Marc LeBlanc, University of Montreal; and Tom Barrett, Human Factors, Halifax. Ray Corrado, Rick Linden and Rod Kueneman had the primary responsibility for the construction of the survey instruments. Overall project management was undertaken by Aaron Caplan, Solicitor General of Canada.

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Chapter 1: Introduction

I. The Key Actors Survey, 1982

One component of the National Study on the Functioning of the Juvenile Court was a survey of Key Actors working in the juvenile justice system in six jurisdictions. In the summer of 1982, surveys of judges, crown attorneys/crown agents, defence counsel, probation officers and police were undertaken by the Solicitor General of Canada. The surveys in Nova Scotia, Quebec, Ontario, Manitoba, Alberta and British Columbia are a valuable and unique source of attitudinal data on the opinions of juvenile justice system professionals on the Young Offenders Act and on the current administration, functioning and resources of the system.

By including a detailed list of 67 items drawn from the philosophy and substantive measures of the new legislation, the Survey was designed to provide policy makers with information on the reactions to the Y.O.A. of the professionals most integrally involved in the system.

The purpose of this report is to provide an overview of the professional and jurisdictional variations in the reactions to the legislation and, where possible, to describe the "correlates" of opinions on the Act -- including the background and demographic characteristics of respondents and their attitudes towards other aspects of the juvenile justice system. A secondary objective is to describe the respondents' perceptions of the degree to which the Act is internally consistent; that is, to explore the relationships between attitudes on one component of the legislation and opinions on its other features.

The methodology used in this research is described in detail in the Appendix to this report. The body of the report will concentrate on substantive findings and policy implications, thereby excluding most technical description of survey design, sampling, and method. A brief description of the survey sample follows in order to provide the reader with information on the generalizability of the results presented in Chapter 2.

TABLE 1

RESPONSE RATES TO THE KEY ACTORS SURVEY:

BY ACTOR CATEGORY AND JURISDICTION

Jurisdiction	% of Those Sampled Who Responded to the Survey Questionnaire						
	Judges	Crowns	Defence	Probation Officers	Police	Total Number	% Responding by Jurisdiction
Nova Scotia	83%(5)	82%(14)	58%(7)	100% (7)	79% (59)	92	79%
Quebec	56%(20)	72%(21)	43%(42)	92%(210)	78%(195)	488	76%
Ontario	70%(51)	44%(11)	49%(79)	88% (42)	62% (81)	264	60%
Manitoba	66%(21)	92%(12)	59%(52)	80%(106)	66% (88)	279	70%
Alberta	73%(11)	35%(40)	46%(32)	76% (45)	69%(116)	244	58%
British Columbia	52%(33)	63%(64)	38%(32)	79%(186)	80%(206)	521	70%
Total Number	141	162	244	596	745	1,888	68%
% Responding by Actor Category	62%	54%	48%	84%	73%		

Note: Number in brackets indicate the number who responded. Totals in subsequent tables may differ because of "no answers" to some questionnaire items.

II. The Key Actors in the Sample

The rate of response to the mailed questionnaire was adequate, if not overwhelmingly high (Table 1). With no information available on the non-respondents, the generalizability of the findings to the total actor population in the city or province concerned is problematic. Indeed, we initially* expressed the fear that a low response rate would under-represent opposition or resistance to the Act: that supporters of the legislation would respond disproportionately to their numbers in the population. This may be so, but it is clear that considerable opposition has emerged despite the rates of response. While the strength of the opposition may be somewhat higher than what is described in Chapter 2 (i.e., as a result of non-response), it is doubtful that the direction of the opposition would be much altered by a higher response rate. The analysis repeatedly discovered a consistency of response by actor category, and to a lesser extent by jurisdiction.

A. The Judiciary

A province-wide census of judges who sit on juvenile matters was undertaken in the six provinces involved in the National Study. From one-half to three-quarters of the judges contacted in each jurisdiction responded to the mailed questionnaire, for an overall response rate of 62%.

B. Crown Prosecutors and Crown Agents

Both legally trained crown prosecutors and crown agents (usually police officers) working in juvenile courts were sampled. However, about 90% of the

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*In the proposal for this research.

respondents worked full-time as crowns and/or were lawyers -- suggesting that, for several jurisdictions, non-legally trained crown agents were severely underrepresented. In Nova Scotia, Ontario and Alberta, most juvenile court cases are prosecuted by members of the local police department. In Manitoba, at least until recently, probation staff assume two roles and act for the prosecution in guilty pleas and other hearings.

The nature of the samples differed slightly by jurisdiction; in all provinces but Ontario, the crown sample was provincial in scope.

In Toronto, the sample was limited to crowns who had been observed acting as prosecutors in the Jarvis Street Juvenile Court during the National Study in 1981-2. Partially as a consequence of the reluctance of the Attorney General of Ontario to participate in the Survey, the crowns appearing most frequently in court did not respond to the questionnaire. The Toronto sample (i.e., "Ontario" sample in the tables and figures that follow) is therefore totally unrepresentative; it is composed of federal prosecutors and other crowns who infrequently acted in juvenile matters. The Toronto sample of prosecutors has not been excluded from the analysis (in part because their responses are not dissimilar from those of crowns elsewhere), but no generalizations can be made either to Toronto and, most especially, not to Ontario as a whole.

The crown response rate varied among jurisdictions from one-third to over 90%.

C. Defence Counsel

With the exception of Quebec, where a more wide-ranging sample of public defenders and other lawyers was attempted, the defence sample was made up of urban lawyers, who had appeared as retained representatives or as duty counsel in the juvenile courts observed by the research teams of the National Study: Halifax-Dartmouth, Toronto, Winnipeg, Edmonton, Vancouver and Kelowna.

The response rate of defence was the lowest of all actor categories, at just less than one-half. Considering that many of those initially contacted may have had only very limited involvement in juvenile matters, and that no payment was provided for questionnaire completion (it took an hour or more to complete), the response rate was satisfactory. No data are available by which we can assess the representativeness of the responding defence counsel.

D. Probation Officers

In Nova Scotia and Ontario, the probation officers sampled were confined to Halifax-Dartmouth and Toronto, respectively. In the other four provinces, the samples were provincial. In Metropolitan Toronto, all juvenile probation officers were sent a questionnaire. Probation officers in Manitoba often supervise adults as well as juveniles; some sampled there may have only limited contact with juvenile probationers. The Quebec "probation officer" sample was actually a sample of more multi-purpose "youth workers" in that province.

Over four-fifths of probation officers sampled responded to the Key Actors questionnaire.

E. Police

Like defence, the police surveyed were drawn from urban areas: Vancouver, Kelowna, Edmonton, Winnipeg, Toronto, Montreal, Halifax and Dartmouth. The labelling of tables and figures in this report is therefore misleading -- the police are not provincial, but city-based samples. Everywhere but in the two British Columbia sites, where no juvenile divisions exist, youth squad police were either sampled (as in Montreal) or a census was attempted (e.g., Winnipeg and Toronto). In five of the six sites, the participating police department arranged for a non-youth squad sample to be surveyed. In Toronto, the names of arresting officers obtained via the court observation component of the National Study were used as the small sample of non-youth squad police personnel.

Presumably as a result of differing procedures for survey administation, as well as different size of youth squads, the proportion of youth squad respondents varies tremendously. Sixty percent of Montreal and three-quarters of Toronto police in the survey sample had an organizational affiliation to the juvenile division. These proportions are in sharp contrast to the remaining police samples; only 3% of Halifax-Dartmouth, 29% of Winnipeg, 13% of Edmonton, and no officers in Vancouver or Kelowna were in the youth squad. These large differences in the proportions of delinquency specialists should be kept in mind as police responses by jurisdiction are examined.

Possibly as a result of organizational encouragement to complete the Key Actors Survey questionnaire, the police response rate was the second highest of all groups (73%).

III. The Organization of this Report

Chapter 2, "major findings", describes the reactions of the professionals sampled to the main provisions of the Young Offenders Act. For each area of the legislation, we describe: the opinions by actor type and jurisdiction; the correlates of those opinions (background data and other attitudes to juvenile justice that were identified by the Survey instrument); and what we have termed the "within-legislation" correlates that is, how responses to each topic relate to responses regarding other aspects of the legislation.

A. The Components of the Legislation

The response categories to the large majority of the questions on the legislation were on a six point scale, from "strongly approve" (1.0) to "strongly disapprove" (6.0). Because of the large number of items, many on similar topics, summary measures were created for the major procedural elements of the legislation, and the average responses calculated by actor category and jurisdiction.* The criteria for selecting individual items for discussion were twofold: their substantive importance and, secondly, the degree of opposition to the provision. With regard to the latter point, generally those items were included that elicited an average response (by at least one actor category/jurisdiction) of greater than 3.6 on the 6 point scale (i.e., an average response in the "mildly approve" to "strongly disapprove" range of the six point scale).**

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*As is explained in Appendix D, the selection of items included in the summary measures was done after factor analysis on the total sample and by actor category. Dependent variable summary measures were created for: the philosophy of the legislation (i.e., Declaration of Principle), alternative measures, notice to appear, counsel, dispositions, and reviews of dispositions.

**In a few instances, items meeting the "controversy" criterion were not included because of content similar to items that were discussed.

B. The Correlates of Opinions on the Legislation

The correlates of opinion that were selected for analysis included:

- the length and type of involvement of the actor in the juvenile justice system:
  - years of experience in the position; years of experience working with youth in the criminal justice/social service systems;
  - the proportion of time spent on delinquency matters (excluding probation officers and police);
  - for police, whether the officer was a member of the youth squad or had appeared in juvenile court in the last four weeks.
- the size of the community in which the respondent works: for all actors except defence and police (most of whom were employed in large urban areas);
- the degree of familiarity with the Y.O.A.: measured by whether the respondent had read documents on the legislation, or attended briefing sessions, or both;
- the respondents' attitudes to the statement "The Juvenile Delinquents Act is adequate for dealing with juvenile offenders";
- responses to the following attitudinal items:
  - the extent to which personality and family factors and "stigmatization as a result of contact with the juvenile justice system" contribute to delinquency;
  - "The juvenile court should assume the role of a parent (parens patriae) emphasizing the needs of the juvenile";
  - "Dispositions which would remove juvenile offenders from their community should be used as infrequently as possible";
  - "A juvenile's interests are best served when due process of law is strictly adhered to in the court";

- the respondents' assessment of the number of poor or non-existent youth services in their community, and their overall assessment of service quality; and,
- their views on what the objectives of the juvenile court "should be" -- e.g., "to see that juvenile offenders are appropriately punished"; "to deter the juvenile offender from committing future offences"; "to protect the community from dangerous youth".

Correlation coefficients and cross-tabulations were used to determine if these hypothesized correlates of opinion had any relationship to the strength or direction of the attitudes on the legislation. The discussion in Chapter 2 deals wi all relationships which delineate the sample in a meaningful (if not necessarily consistent) manner.*

Despite the many correlations and tables examined in the course of the analysis, few correlates of either statistical or substantive significance were found. Either as a consequence of the way in which the questionnaire was constructed or, more likely, as a result of other factors (such as the overwhelming influences of both professional ties and provincial policies and perspectives) rarely were consistent correlates of attitudes ascertainable. An attempt was made to present correlates of opinion that held across-jurisdictions for the same actor group. For some components of the legislation this was not possible. An unwieldy discussion is, on occasion, the result.

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*A statistically significant association was excluded when percentage differences were small, unless the finding was part of a trend (e.g., across-actor groups).

Chapter 3 concludes the report with the policy and other implications of the research, including the possible reasons for variations in approval patterns by actor category and jurisdiction.

A separate Appendix contains the detailed description of the sample, the methodology used in the creation of this report, and supporting tables.

Chapter 2: Major Findings

I. The Philosophy of the Young Offenders Act

The Declaration of Principle, s.3 of the Y.O.A., states the philosophical position that underlies the substantive and procedural measures introduced by the legislation. Bala and Lilles (1982)* noted:

> Rather than simply having a Preamble, as some pieces of legislation have to assist in explaining their purpose, a policy section is included in the body of the Y.O.A.; such a section is an integral part of the Act, while a Preamble is not.

The Declaration of Principle takes a three pronged approach: it emphasizes the rights of young persons; their special needs as a result of their youth and degree of maturity: but, as well, it incorporates principles of youth accountability, responsibility and the protection of society. No longer is the young person who contravenes criminal legislation to be treated as a "misdirected and misguided child" (Juvenile Delinquents Act, s.38). To a large extent this parens patriae approach is discarded by the Y.O.A., in favour of a greater orientation to "due process".

The attitudes of the key actors in the juvenile court to the major elements of the Declaration of Principle have been combined into one "summary measure" which describes the extent of agreement to the philosophical underpinnings of the legislation (Figure 1).** The views of each actor group fall in the following

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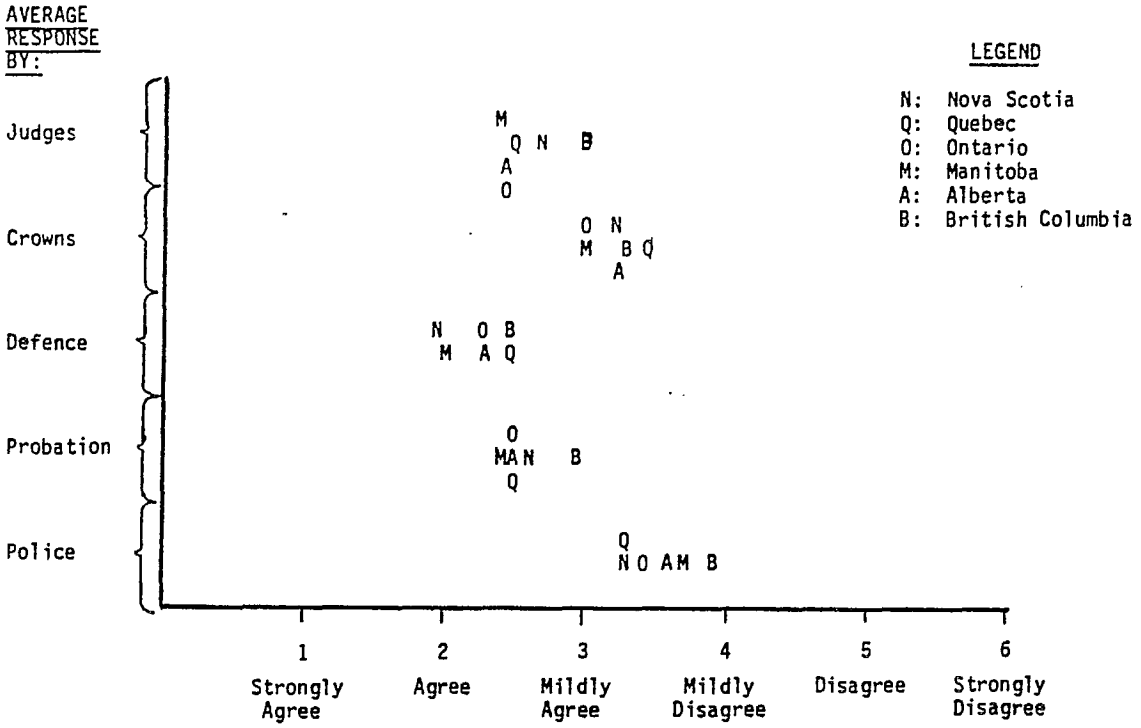
*N. Bala and H. Lilles, The Young Offenders Act Annotated, Policy Branch, Solicitor General of Canada, 1982.

**Excluded from this summary measure were questionnaire items paraphrasing s.3(1)(h), part of s.3(1)(a), and a somewhat inaccurate re-wording of s.3(1)(b) from the Declaration of Principle. See Appendix B for the precise wording of items discussed in this report and for the tables supporting the figures presented in the body of this report.

FIGURE 1

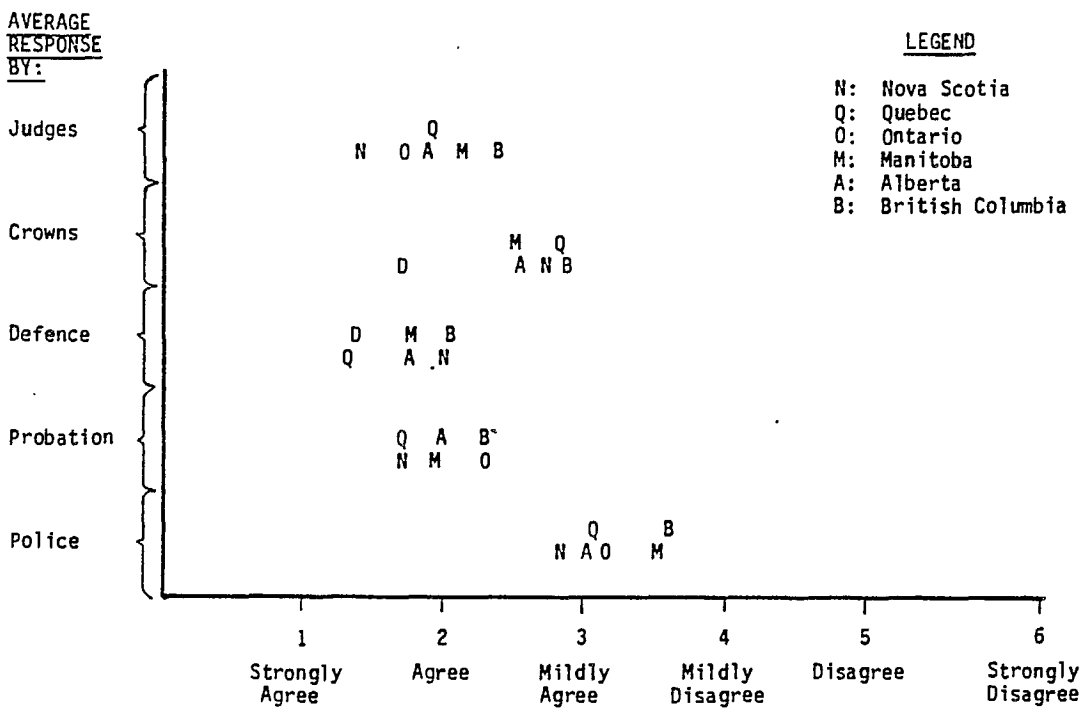
ATTITUDES TOWARDS THE DECLARATION OF PRINCIPLE IN THE Y.O.A.: BY ACTOR CATEGORY AND JURISDICTION



Declaration of Principle items: accountability, responsibility, special needs, right to participate, special guarantees, and least possible interference.

FIGURE 2

ATTITUDES TOWARDS "YOUNG PERSONS ALLEGED TO HAVE COMMITTED AN OFFENCE SHOULD HAVE THE RIGHT TO PARTICIPATE IN THE PROCESSES THAT LEAD TO DECISIONS THAT AFFECT THEM": BY ACTOR CATEGORY AND JURISDICTION



Young persons alleged to have committed an offence should have the right to participate in the processes that lead to decisions that affect them.

order, from most to least approval of the principles of the Act: defence, judges and probation officers, crowns and police. There are no large variations in response by jurisdiction, although B.C. respondents in all categories are among the least supportive of the legislation's philosophy, and -- aside from the police -- Manitoba justice system personnel are on the "agree" end of the continuum for each actor category.

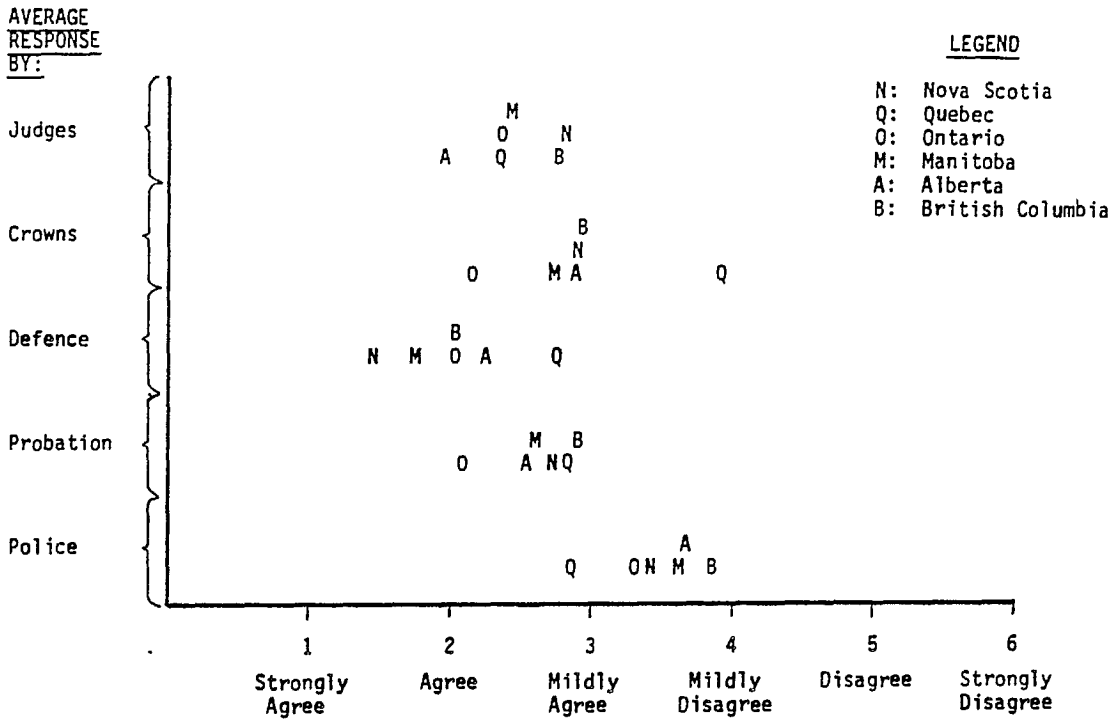
In addition to the summary measure, attitudes towards several individual principles were explored.

Reaction to the young persons' right to participate in "the processes that lead to decisions that affect them" was more favourable than that to many aspects of the Declaration of Principle. Again, however, B.C. personnel were less positive than those in most other jurisdictions. Excluding police and crown prosecutors, the right to participate is seen as a more than acceptable principle for the youth court. (Figure 2)

The degree of accountability required of the young person accused of illegal behaviour is different from (i.e., less than) that expected of adults (s.3(1)(a)). While most actors sampled were in moderate (or greater) agreement with this statement of principle, the responses varied by province (Figure 3). The principle of diminished accountability was much less acceptable to Quebec crowns and defence than to their associates elsewhere; the present age range in Quebec (14 to 18 years) may have influenced these reactions. Prosecutors and probation officers in Toronto were more in agreement than were their colleagues. Perhaps reflecting their youth squad affiliation, police from Montreal

FIGURE 3

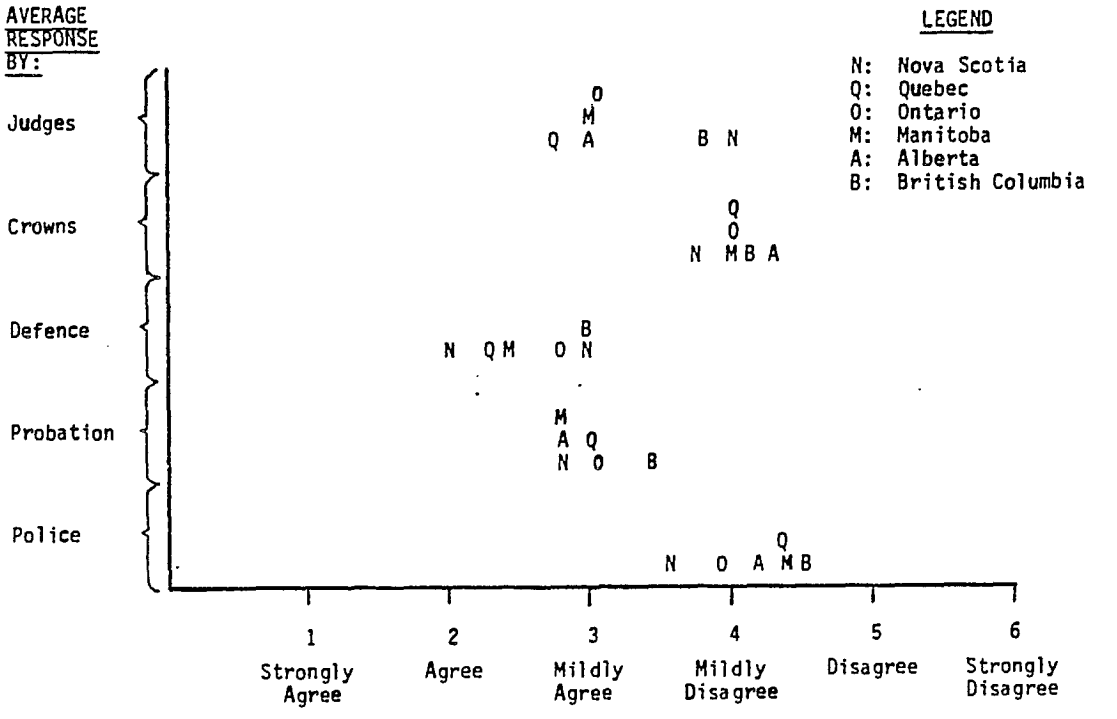
ATTITUDES TOWARDS "YOUNG PERSONS SHOULD NOT IN ALL CIRCUMSTANCES BE HELD ACCOUNTABLE FOR THEIR ILLEGAL BEHAVIOR IN THE SAME MANNER AS ADULTS": BY ACTOR CATEGORY AND JURISDICTION



Young persons should not in all circumstances be held accountable for their illegal behavior in the same manner as adults.

FIGURE 4

ATTITUDES TOWARDS "YOUNG PERSONS SHOULD HAVE SPECIAL GUARANTEES OF THEIR RIGHTS AND FREEDOMS": BY ACTOR CATEGORY AND JURISDICTION



Young persons should have special guarantees of their rights and freedoms.

were rather more in favour of lesser accountability than other officers; their average response was very similar to those of Quebec defence and probation personnel.

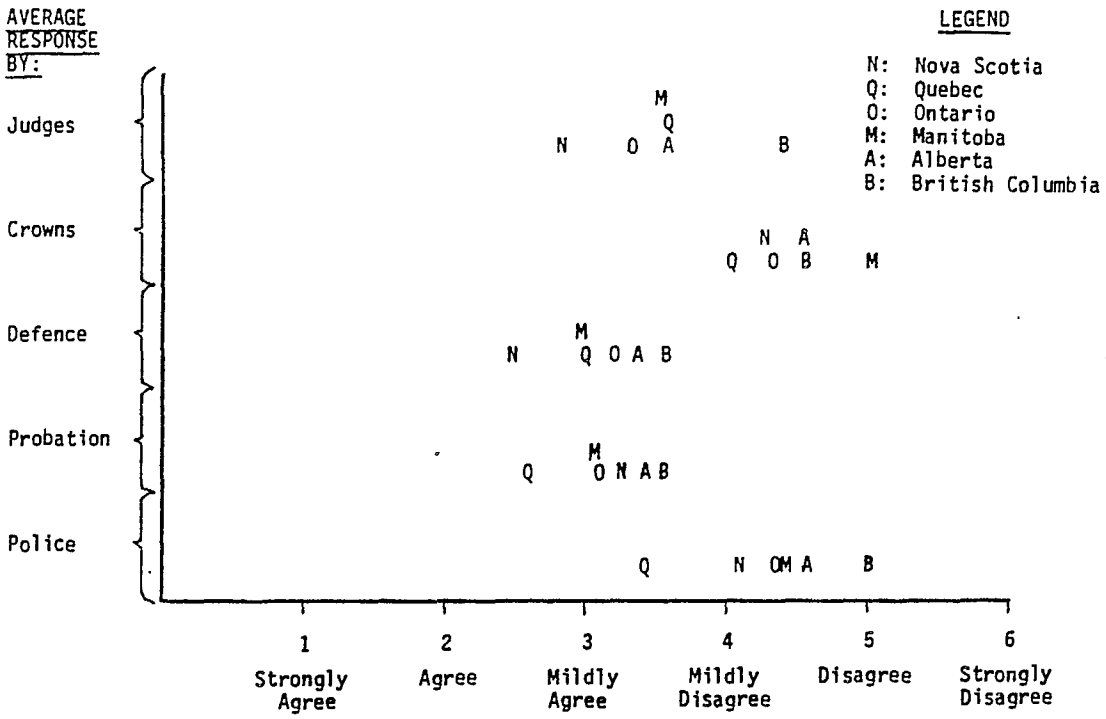
The provision of special guarantees of rights and freedoms is another component of the Y.O.A. that was not well received by police and prosecutors, most of whom disagreed with this principle (Figure 4). Defence were most likely to agree, while, on average, probation officers "mildly agreed". In British Columbia and Nova Scotia, judges were on the "mildly disagree" end of the response continuum, differing from their fellow members of the bench -- most of whom, on average, were mildly in favour of special guarantees.

The principle of minimal interference, seen by Bala and Lilles as a shift away from the child welfare or treatment orientation of the J.D.A., met with the most disapproval of all questions based on the Declaration of Principle. (Figure 5) However, the statement in the questionnaire is worded differently from s.3(1)(f), the qualifier "consistent with the protection of society" being absent in the questionnaire. Police and crowns responded most negatively to this item, and mild agreement to mild disagreement was the norm for the remainder of the samples.

Of the judiciary, the bench in British Columbia were markedly less accepting of the right to least possible interference. As well, police, defence and probation from that province were less supportive than others. Police, probation and crowns from Quebec were more inclined to agree with this principle than were their counterparts in other jurisdictions.

FIGURE 5

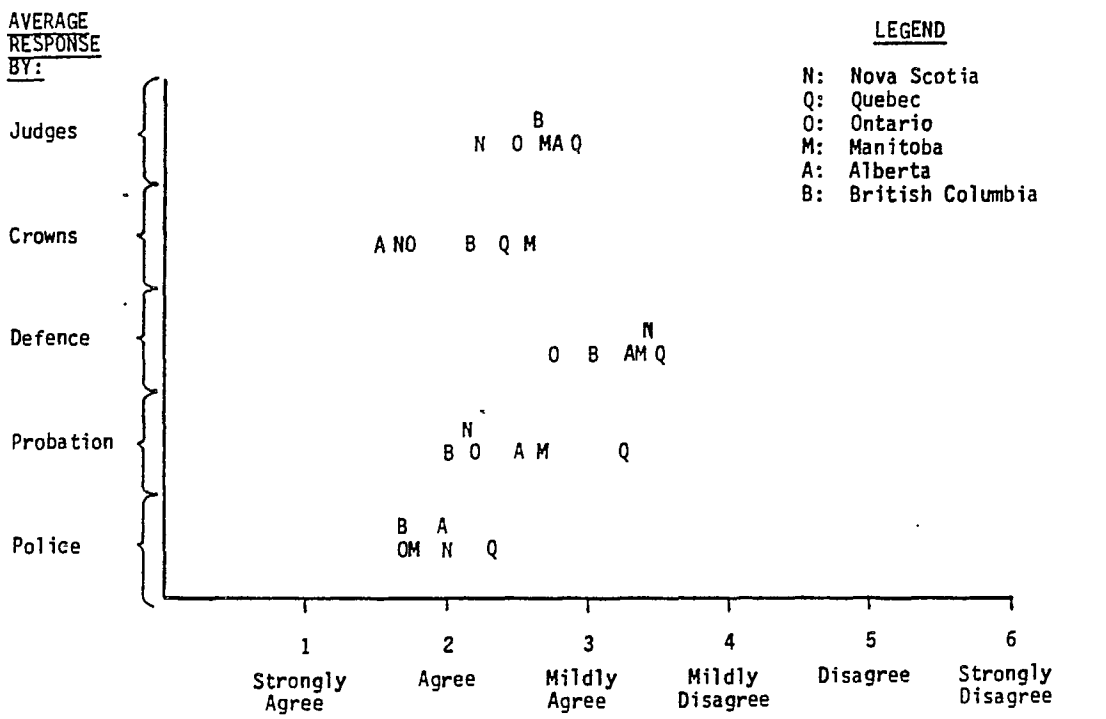
ATTITUDES TOWARDS "IN THEIR DEALINGS WITH THE JUVENILE JUSTICE SYSTEM, YOUNG PERSONS SHOULD HAVE THE RIGHT TO THE LEAST POSSIBLE INTERFERENCE WITH THEIR FREEDOM": BY ACTOR CATEGORY AND JURISDICTION



In their dealings with the juvenile justice system, young persons should have the right to the least possible interference with their freedom.

FIGURE 6

ATTITUDES TOWARDS "WHERE THE NEEDS OF THE YOUNG PERSON AND THE PROTEGTION OF SOCIETY CANNOT BE RECONCILED, THE PROTECTION OF SOCIETY MUST TAKE PRIORITY": BY ACTOR CATEGORY AND JURISDICTION



Where the needs of the young person and the protection of society cannot be reconciled, the protection of society must take priority.

The statement that the protection of society must take priority in instances of conflict between the juvenile's needs and the protection of society (Figure 6) is not an entirely accurate paraphrase of the statement of principle in s.3(1)(b): "Society must, although it has the responsibility to take reasonable measures to prevent criminal conduct by young persons, be afforded the necessary protection from illegal behaviour". Unlike the usual pattern of actor category, defence are less approving, and crowns and police are more approving, than they are of the other items on the statement of principle.

Correlates of Opinion towards the Act's Philosophy:

Two relationships were found between the overall attitude to the philosophy of the legislation, as measured by the average response to most items on the Declaration of Principle, and background characteristics of the sample:

- older, more experienced judges were slightly less accepting of the Act's philosophy than judiciary who had sat on juvenile matters for 5 years or less (73% versus 90% approved);*
- probation and police officers who had more experience in their position were more positive to the Act's statement of principle than those with fewer years of experience.

Specific aspects of the philosophy did, however, correlate with some background characteristics of the respondents:

- views on special guarantees of rights were related, for judges and defence, to the proportion of time spent on juvenile delinquency matters -- the higher the proportion, the much more likely these actors were to agree to

*See Appendix C for supporting tables.

the principle. The same pattern is very apparent for judges alone with regard to the principle of "least possible interference".

- attitudes toward both special guarantees and minimal interference are related to the population of the community in which the judge is employed. A much higher proportion of judges who sit in towns of more than 100,000 population agree with these principles, when compared to judiciary who work in smaller communities.
- defence counsel who spend a sizeable proportion of their professional time on delinquency matters are considerably less in agreement with the "protection of society" item than are those who spend a minimal amount of time on juvenile cases.

Among all respondents, persons who agree that the court should assume a parens patriae role, emphasizing the needs of the juvenile, are more likely to support the overall philosophy of the legislation than are those who disagree. This finding is especially marked among prosecutors, probation and police officers. A similar relationship was found for all five groups between agreement with "dispositions involving removal from the home should be used infrequently" and a positive reaction to the Declaration of Principle. Police and probation officers who agreed that the J.D.A. was adequate to deal with youthful offenders were somewhat more inclined to to support the Y.O.A.'s principles than were their colleagues who did not support the J.D.A. The reverse tends to be true for crowns and (to a lesser extent) for defence counsel.

Not all of these differences are outstanding, but they do illustrate that support for the Declaration of Principle is not necessarily consistent with

a rejection of the concept of the paternalism implied by the doctrine of the "court as surrogate parent", or of the J.D.A. itself.

Correlations with Other Components of the Y.O.A.:

Support for the Declaration of Principle is related to views on other aspects of the legislation. As one would expect from the variations by actor category discussed earlier in this section, the nature of the relationships to other components differ by professional group.

For judges, the summary measure of responses to items in the philosophy section, incorporating six aspects of the Declaration of Principle, is positively (and significantly)* related to views on the right to counsel, alternative measures, the review of disposition provisions, the destruction of records of summary conviction offences, and the maximum age. There is an inverse relationship to their views on the three year disposition length for "life" offences, and fingerprinting youth accused of indictable offences: judges who approved of the philosophy of the Act often disapproved of these measures.

There are similar associations found for prosecutors -- except that there is no relationship to the destruction of records provisions, and additional relationships were apparent. Crowns who approved of the philosophy also approved of the notice provisions and the minimum age of 12 years. (The reverse is also true: disagreement with the Act's principles is associated with disapproval of such measures.)

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*Only those correlations having statistical significant of $p > .05$ and values of .20 or greater will be discussed throughout this report.

Acceptance of the overall philosophy by defence is related to agreement with: an older maximum age (in B.C., Quebec and Manitoba only); alternative measures; the right to counsel; the destruction of summary and indictable offence records; the three year dispositional length for offences for which an adult would be liable to life. Defence approval of the philosophy is also significantly related to disapproval of fingerprints and photographs for indictable offences and to disagreement with the statement that "where the needs of the young person and the protection of society cannot be reconciled, the protection of society must take priority."

Probation officers' overall attitudes to the principles of the Act are positively related to their views on the right to counsel, an older maximum age, the prohibition against fingerprinting for summary offences, the diversion provision that the court "may dismiss a charge for which the young person has partially complied with the alternative measures", and the notice to appear components of the legislation. Like other actor groups, approval of the Act's principles tends to be associated with disapproval of the authorization of fingerprints and photographs.

Finally, police who approve of the philosophy are likely to agree with provisions for: notice, review of dispositions, dispositions, the maximum age, the prohibition against fingerprinting summary offenders, right to counsel, and alternative measures. Uniquely, police who disagree with the philosophy are more in favour of public hearings in the youth court.

II. The Jurisdictional Limits of the Youth Court

The changes in the jurisdiction of the youth court are among the most dramatic of all the Y.O.A.'s provisions and have raised concern among many juvenile justice system professionals. In this section, we will present findings from the Key Actors Survey on three issues: the raising of the lower limit of court jurisdiction to 12 years; the uniform maximum age of 18 years; and the removal of status offences (such as truancy and "sexual immorality") from the purview of federal legislation.

A. The Lower Limit of Court Jurisdiction

The increase in the minimum age from 7 to 12 years was met with disapproval* by sizeable proportions of all respondent groups, but most particularly among the police, defence and crown prosecutors (Figure 7). Judges and probation officers were most in agreement with the new minimum age, but even among these respondents from one-fifth to three-fifths preferred an alternative lower limit.

Quebec system personnel, who have had several years experience with the 14 year minimum prescribed by the Youth Protection Act, obviously have a different perspective on the minimum age from that of respondents elsewhere. However, no Quebec judiciary who responded to the questionnaire preferred a lower limit of 14 years (not true of defence counsel and probation officers in Quebec).

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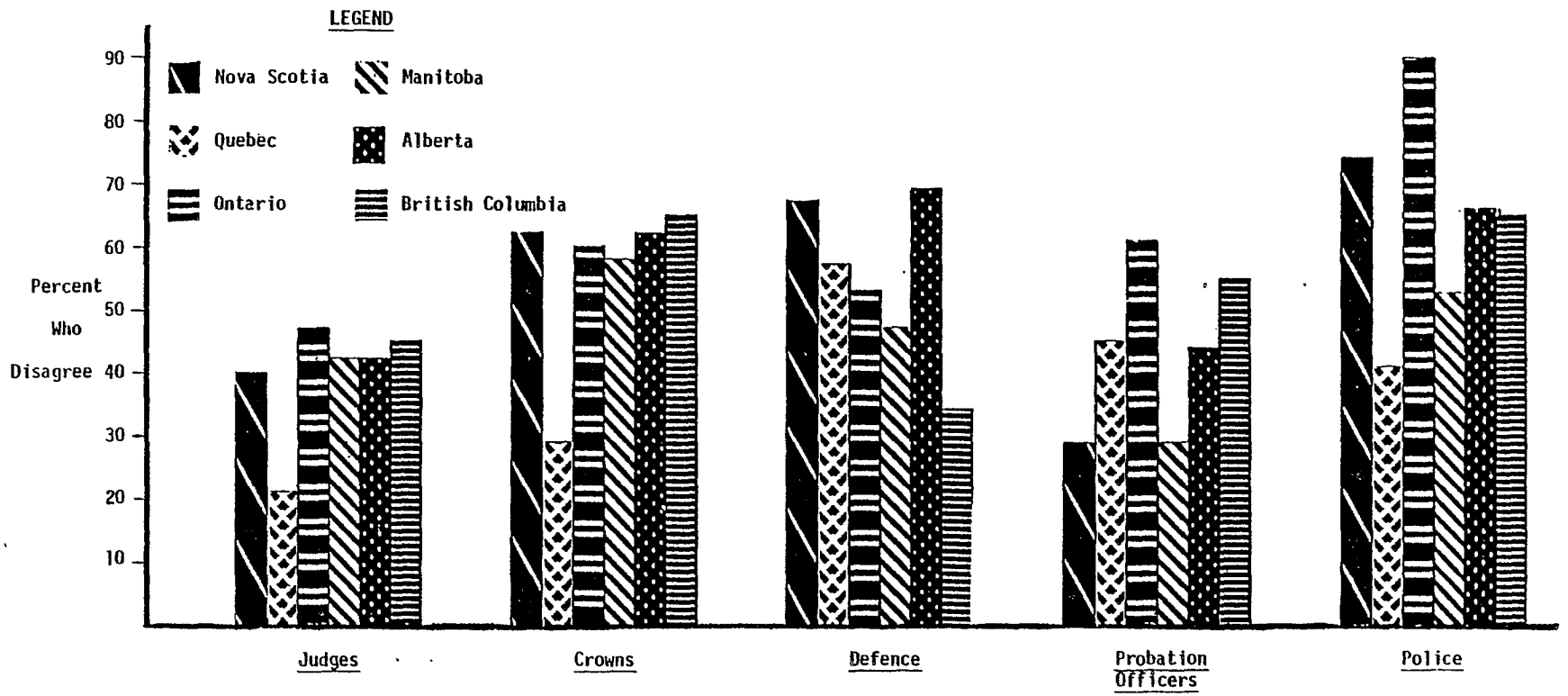
*That is, the respondent preferred an age other than the 12 years specified in the Y.O.A.

FIGURE 7

DISAGREEMENT WITH THE MINIMUM AGE OF 12 YEARS: BY ACTOR CATEGORY AND JURISDICTION



There are other jurisdictional variations in the attitudes towards the most desirable minimum age (Figure 8). Crowns and police in Manitoba, although preferring an average minimum of about 11 years, were more similar in their views to Quebec respondents than were prosecutors and police from other provinces. In fact, all Manitobans sampled tended to be on the upper end of the distribution, presumably as a consequence of the present situation in that province, where probation screening routinely diverts most youth under 12 years of age from appearances in juvenile court.

Ontario system personnel, especially the police in Toronto, were in favour of a lower minimum than most other respondents. On average, all actors from Ontario were in favour of a minimum age of 11 years or less.

Correlates of Opinions on the Minimum Age:

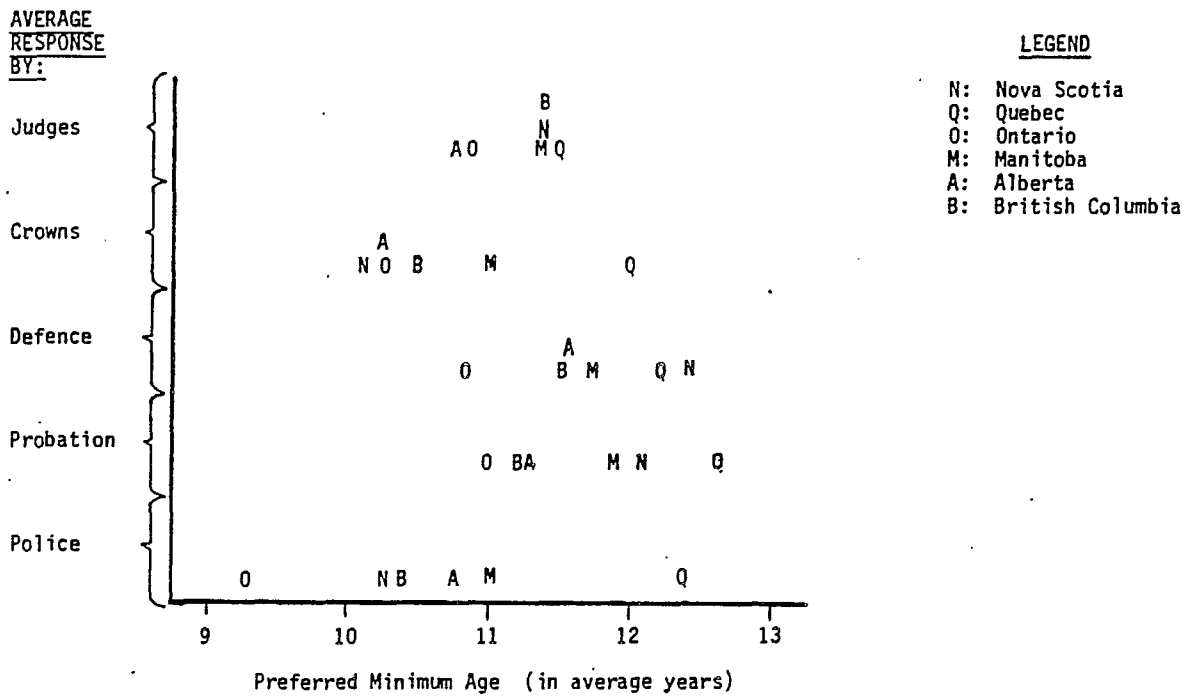
Judiciary in Manitoba and Ontario who had more than six years of experience on the bench were somewhat more likely to support the new minimum age than those more recently appointed. This trend is, however, reversed among judges in Quebec and British Columbia.

No other strong relationships between views on minimum age and background characteristics were apparent for the judiciary, and consistent across-jurisdiction relationships were rarely found for other categories.

The following findings illustrate the difficulty in drawing generalizable conclusions as to the correlates of attitudes on the Y.O.A.

FIGURE B

ATTITUDES TOWARDS THE PREFERRED MINIMUM AGE (IN AVERAGE YEARS): BY ACTOR CATEGORY AND JURISDICTION



Note: Respondents were asked to state the minimum age of juvenile court jurisdiction that they preferred. The mean response was calculated for each actor category, by jurisdiction.

Agreement to the minimum age by defence counsel was related to the proportion of time that they spent on delinquency cases, but in an inconsistent fashion, varying by the province in which they work:

- in Quebec, least support came from defence who spend 30% or more of their time on delinquency (many of whom were full-time public defenders in juvenile court); these respondents tended to agree to the present 14 year minimum in that province.
- most agreement by defence in Toronto came from those whose law practice was approximately one-fifth J.D.A. matters.
- in Winnipeg, defence who spent a minimal amount of time on delinquency (10% or less) exhibited most disapproval of the increase in the minimum age.
- in Edmonton and B.C., the defence surveyed were not juvenile specialists. With 70% or more of counsel in those provinces spending 10% or less of their time on delinquency matters, no relationship between involvement in juvenile justice and views on minimum age (or any other element of the legislation) can be established with any certainty.

Opinions on the number of good and inadequate youth services in the community correlated with judges' views on the minimum age in all provinces, although the nature of the relationships differed. In all provinces but British Columbia, judges who preferred a higher minimum age also tended to rate their community's services highly -- perceiving a small number of poor services and noting a larger number of good or excellent services.

In British Columbia, on the other hand, the higher the desired minimum age,

the more poor services were mentioned (and fewer good ones). This finding provides limited evidence that perhaps the perceived absence of good quality community resources may be a factor in the rejection of the lower age limit by some judiciary in B.C. An identical trend is found for correlates to views on the uniform maximum age, discussed next.

Among Quebec and Manitoba judiciary, theories of family or personality factors as causes of delinquency (e.g., lack of parental supervision, children's lack of respect for adult authority) were often rejected by supporters of a higher minimum age -- and accepted as important by those who would prefer a lower minimum. However, the same relationship was not found in other provinces.

Police in British Columbia who preferred a lower limit -- unlike the judiciary in the same province -- also tended to believe that the overall service quality of their community resources was high, noting fewer poor and more good or excellent youth services than did those who wanted a higher minimum age.

Correlations with Other Components of the Y.O.A.:

For all actors except the judiciary there was a relationship between views on the minimum and maximum ages of court jurisdiction. There were few correlates of any relevance for judges and police. Crowns who preferred an older minimum age tended to agree with the Declaration of Principle.

Views of defence were consistent with many more aspects of the legislation, including the destruction of records provisions, the philosophy of the

legislation, the mandatory one year reviews of custodial dispositions, and alternative measures. On the other hand, defence counsel who were in favour of a high minimum did tend to disapprove of the principle that the young person should be held responsible for their illegal behaviour, the provision that the judge may dispense with notice to parents in some circumstances, and the statement that alternative measures do not preclude judicial proceedings. It seems clear from these correlates that defence views on minimum age are linked both to a due process orientation, and to a belief in special protection for young offenders.

Probation officers who accepted an older minimum age very strongly preferred a higher maximum as well, and approved of the right to counsel provisions. There was an inverse relationship, however, to opinions on the protection of society taking priority in instances of conflict with the individual's needs, to public hearings, and to the authorization of fingerprinting for indictable offences.

B. The Uniform Maximum Age

The great diversity of opinion across actor categories and provinces with regard to the maximum age is apparent from Figures 9 and 10. As expected, there are differences by actor group, with police and crowns strongly against the new upper limit, and defence and judiciary most in agreement.

However, even more outstanding are the jurisdictional differences. Not surprisingly, a larger proportion of Quebec and Manitoba juvenile justice system personnel agree to age 18 than do their colleagues in other provinces. However, the extent of the agreement differs considerably: for example, notwithstanding that police in Montreal are more positive than most police (Figure 9), still two-thirds of police there disapproved of age 18. Approval is much more pronounced among Quebec and Manitoba judges, defence and probation officers, when their responses are compared to their counterparts in other provinces; one-third or fewer of these personnel disagreed with the maximum age to be proclaimed by the Y.O.A.

Justice system personnel from British Columbia were most negative towards the maximum age. All of the judges and over 90% of the crowns and police there were against the raising of the age to 18.

One-half or more of Ontario respondents were against the new upper limit, with Toronto defence counsel most supportive (48% disagreed) and police least in favour (90% of Toronto officers disagreed).

FIGURE 9

DISAGREEMENT WITH THE MAXIMUM AGE OF 18 YEARS: BY ACTOR CATEGORY AND JURISDICTION

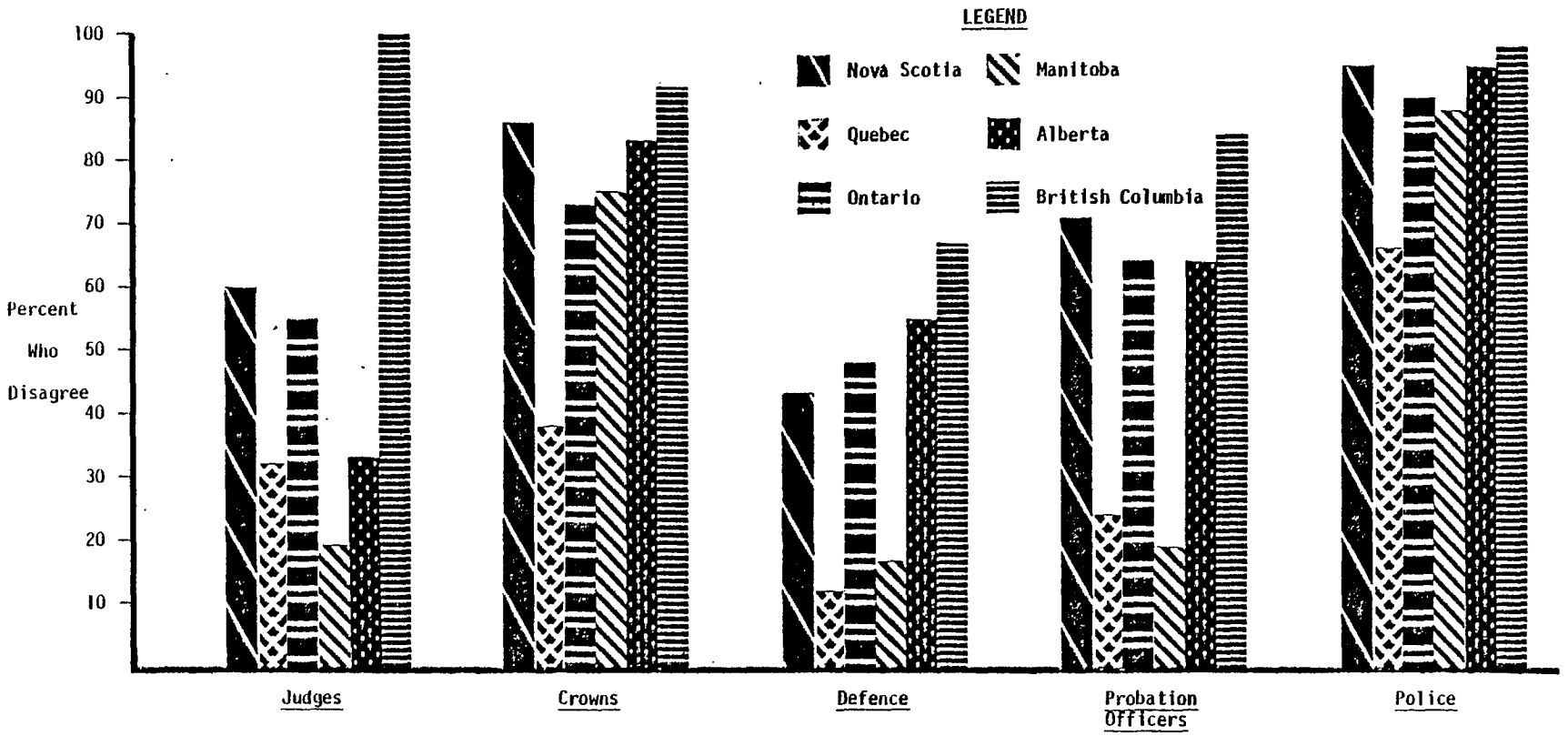
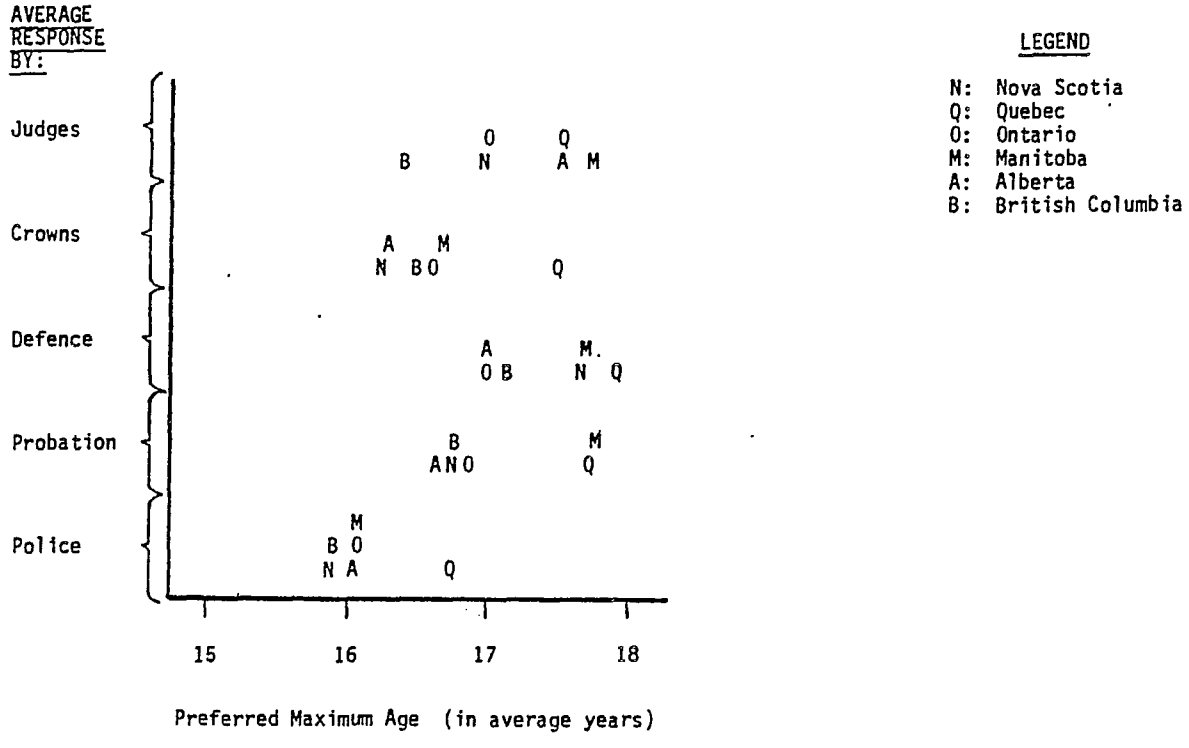


FIGURE 10

ATTITUDES TOWARDS THE PREFERRED MAXIMUM AGE (IN AVERAGE YEARS): BY ACTOR CATEGORY AND JURISDICTION



Note: Respondents were asked to state the maximum age that they would prefer. The mean response was calculated for each actor category, by jurisdiction.

Correlates of Opinions on the Maximum Age:

Background characteristics of the judiciary sampled are differently associated with their views on the maximum age, depending on the jurisdictions in which they work. The proportion of time on the juvenile bench is strongly associated with Ontario judges' views on the maximum age: about three-quarters of those who spent forty percent or more of their time hearing juvenile cases agreed to age 18, compared to only 17% of those who are less professionally involved in J.D.A. cases. Alberta judges, on the other hand, showed an opposite pattern, although the number of respondents there is small.

Community size was also associated with judges' attitudes, although, again, in differing ways depending on the jurisdiction: a slightly higher proportion of small town judges in Alberta exhibited approval; in Ontario, and Manitoba the reverse was true, with judges from larger communities of 100,000 or more being most in agreement with the maximum age of 18.

Quebec and Ontario (Toronto) defence who spent more professional time on delinquency cases were slightly more likely to agree to the maximum age than defence who had minimal involvement.

The relationship between size of community and Alberta and B.C. probation officers' attitudes towards the maximum age differs. In the province of Alberta, those in small communities are slightly more likely to agree to age 18, while the reverse was the case in British Columbia.

The amount of information available on the Y.O.A. was related to the views of defence (Toronto and Edmonton only) and of police in Montreal on the upper limit, but in an unexpected manner. Those who had neither read documents on the Act nor had attended any briefing sessions, were more likely to agree to this aspect of the legislation than those who had -- indicating that access to information is not related to acceptance of the new limit.

Perceptions of the number of poor or non-existent services in the community is an area that relates to opinions of two actor groups:

- judiciary in B.C. who preferred a higher maximum (i.e., 17) also tended perceive that there were more poor quality youth services in their community than did judges who were in favour of a 16 year limit. The opposite trend was found in the other provinces -- that is, the higher the age preferred, the fewer number of poor services were mentioned.
- secondly, defence counsel (in provinces other than B.C.), who preferred a higher limit, also frequently stated that a number of youth services were either poor or non-existent in their community.

Police and probation officers who agreed with the parens patriae approach to juvenile court functioning also tended to exhibit greater support for the 18 year upper limit than did respondents who disagreed with that role for the court. Our expectation was that the "court as a surrogate parent" doctrine would not extend to 16 and 17 year olds, but this is apparently not the case. On the other hand, responses to other attitudinal items indicate that a "tough minded" approach to juvenile justice system processing is related to views on maximum age. For example:

. a greater degree of crown, defence, probation officer and police resistance to the 18 year limit tended to come from those who disagreed that "dispositions involving removal from the home should be used as infrequently as possible" than came from personnel who agreed to that statement.

Correlations with Other Components of the Y.O.A.

In this section, we will discuss the relationship between respondent attitudes towards the maximum age issue and other main elements of the Act, focussing on the differences by actor group and province.

In general, few relationships were found between a preferred maximum age and judicial attitudes to other components of the legislation. The older the maximum age preferred by judiciary in Quebec and Manitoba, the more likely they were to approve of alternative measures and to agree with the statement of principle on the juvenile's right to "least possible interference" from the juvenile justice system.

For the total judicial sample, relationships were found to the philosophy underlying the legislation (particularly the principles of "least possible interference" and the right to participate). However, judges who preferred an older limit tended to resist the authorization of fingerprinting and photographs for indictable offences.

There were more, and somewhat stronger, correlates of crown attitudes to the maximum age. In Quebec and Manitoba, the older the preferred age, the greater likelihood that there would also be approval of: alternative

measures, review of dispositions, representation by counsel independent of parents, and the minimum age of 12 years. (Of course, the reverse is also true: the lower the stated age limit, the more disapproval of alternative measures, etc.)

Among crowns in Nova Scotia, Ontario and Alberta, the greater the approval of an older maximum, the more likely the crown agreed to: the principles or philosophy of the legislation, the maximum fine of $1,000, notice provisions, destruction of summary conviction records, the right of access to records, right to counsel, and the measures for review of dispositions (especially the authorization of provincial boards, and annual reviews of custodial dispositions). On the other hand, preference for a higher maximum also meant that the prosecutor disagreed with the Act's authorization of fingerprinting for indictable offences.

Defence counsel opinions of the maximum age were, in Quebec and Manitoba, directly related to a number of other components of the legislation, most notably: the destruction of records provisions, the availability of court records to the accused, the right to counsel, provincial review boards, review requests by young persons, maximum fines, the minimum age, and the principles of the Act. The higher the preferred age, the more likely defence in these provinces were to agree with these items. In Nova Scotia, Ontario and Alberta, however, defence views correlated with the preferred minimum age (the older the upper limit, the older the lower limit) and the destruction of summary conviction records. In all provinces but B.C.,

a relationship was found between a stated high maximum age and disagreement with the statement that "the protection of society must take priority" in instances of conflict with the individual's needs.

Very strong associations were found between the attitudes of defence in British Columbia to the maximum age and several aspects of the legislation: the right to counsel, detention separate from adults, destruction of records, the minimum age, exclusion of the public from some hearings, the philosophy of the Act, and alternative measures.

Approval of a higher maximum by all probation officers in the sample was related to approval of the minimum age, the Act's philosophy and the right to counsel. There was a direct relationship between a higher limit and views on disallowing fingerprints for summary conviction offences in all provinces but B.C. On the other hand, the higher the stated upper limit, the greater the likelihood probation personnel everywhere disagreed with two principles of the legislation (items on the "protection of society" and "young persons should be held responsible for their illegal behaviour"), but agreed with permitting fingerprinting for indictable offences, and public hearings.

Relationships between police views on the maximum age and other components of the legislation were few in number and not strong. However, the police sample as a whole who preferred a higher upper limit were more likely to agree to the Declaration of Principle and to want a higher minimum age.

C. The Removal of Status Offences from Federal Jurisdiction

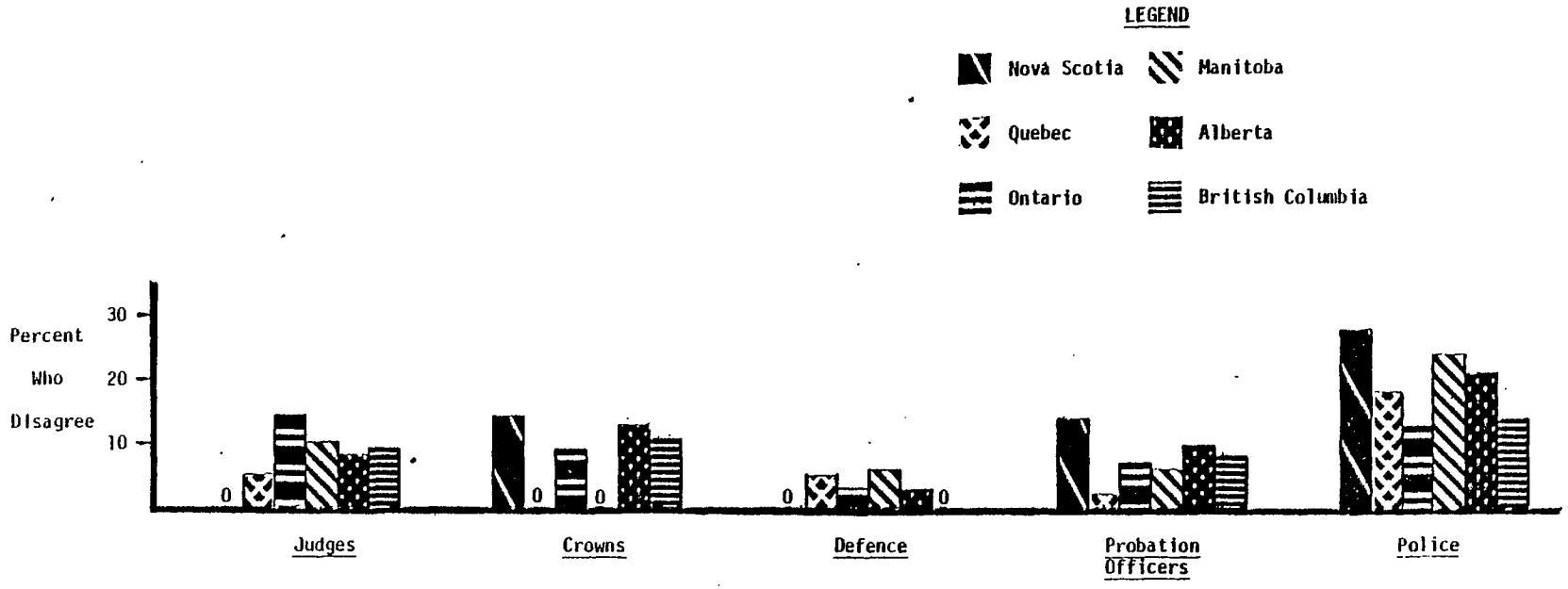
The elmimination of so-called "status" offences, such as "sexual immorality" and truancy, is one of the most uncontroversial features of the legislation, according to the Survey results shown in Figure 11. Other than police, fewer than 15% of respondents objected to the removal of such offences from federal jurisdiction. Even among police, in no city did more than three out of ten disagree with this aspect of the legislation. Provincial child welfare legislation was most often the preferred alternative for the handling of these types of juvenile behaviour. One-third of the police, however, wanted provincial juvenile offenders legislation to replace this feature of the J.D.A. (Table II.C.1 in Appendix C.)

Correlations with Other Components of the Y.O.A.:

No correlates of opinion towards the removal of status offences were found when responses were examined in relation to the respondents' background characteristics and other attitudes, and few correlations were apparent with attitudes towards other elements of the Act. However, judges who agreed to the narrowing of jurisdiction did tend to agree to "alternative measures" and to the Declaration of Principle. For crowns, there was a direct association between agreement and the statement that "young persons should not in all circumstances be held accountable for their illegal behaviour", although there was no relationship between crown attitudes to this measure and the Declaration of Principle summary measure, as there was for the judiciary.

FIGURE 11

ATTITUDES TOWARDS THE REMOVAL OF STATUS OFFENCES FROM FEDERAL JURISDICTION: BY ACTOR CATEGORY AND JURISDICTION



III. Public Hearings in the Youth Court

This aspect of the Y.O.A. produces a considerable difference of opinion among the key actors who responded to the survey questionnaire. Both actor type and jurisdiction appear to play a major part in views on open hearings (Figure 12). Probation officers from all jurisdictions disapproved of the measure and so, to a lesser extent, did defence counsel. Police, on average, were somewhat more approving than other respondents.

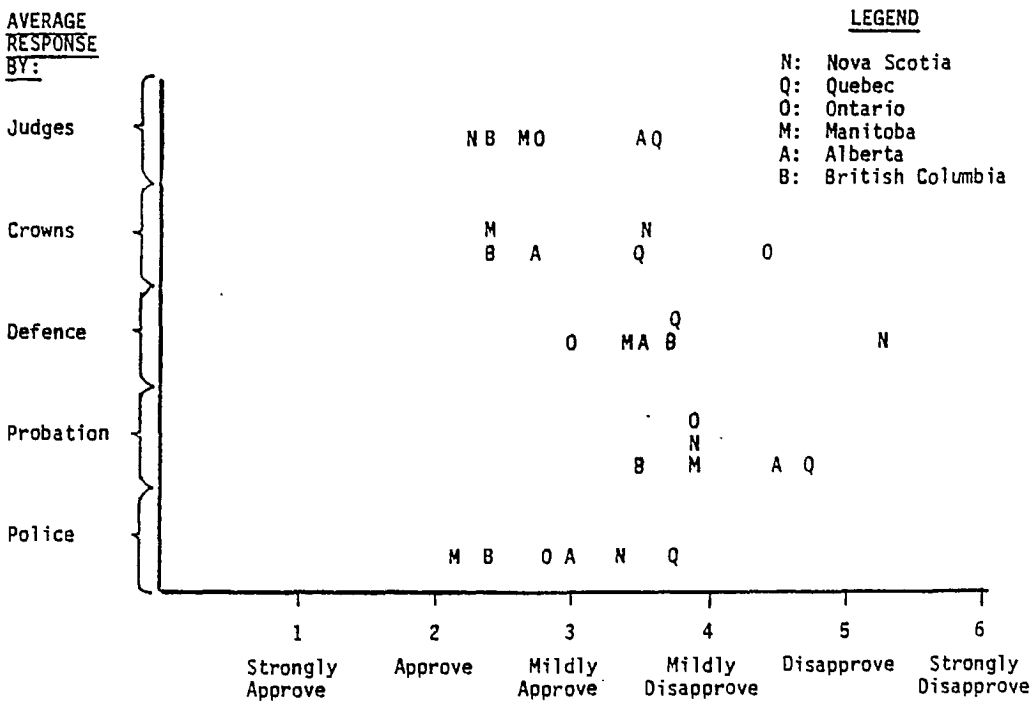
Quebec police and probation officers (as well as Alberta probation personnel) disapproved more than their fellows elsewhere. Judges in both Quebec and Alberta shared a tendency to "mildly disapprove". British Columbia judges, crowns, probation officers and police were among the most positive towards public hearings when compared to their counterparts in other jurisdictions. The small number of Nova Scotia defence counsel sampled were by far the most negative, but their disapproval was not shared by other actors from that jurisdiction.

Correlates of Opinions on Public Hearings:

Police with little or no recent involvement in juvenile justice agreed with public hearings in larger proportions than did officers with more system contact (78% vs. 58%). Greatest support for public hearings came from police who disagreed with the parens patriae doctrine, who rejected the statement that the J.D.A. is adequate for dealing with juveniles, who agreed that dispositions are presently too heavily based on personal characteristics, who supported due process, and who disagreed that removal from the home should be an infrequent disposition of the court. It is apparent that the public hearing issue is related to both a "legalistic" orientation

FIGURE 12

ATTITUDES TOWARDS "GENERALLY YOUTH COURT PROCEEDINGS UNDER THE YOUNG OFFENDERS ACT WILL BE OPEN TO THE PUBLIC": BY ACTOR CATEGORY AND JURISDICTION



Generally youth court proceedings under the Young Offenders Act will be open open to the public.

and to a "tough minded" approach to delinquency. Probation officers show a similar trend in their responses to these independent variables, as do prosecutors although to a lesser extent.

Correlations with Other Components of the Y.O.A.:

For judges, approval of public hearings is directly related to approval of the application of the Code to bail proceedings and to the provision that dispositions cannot exceed those which could be given an adult. Approval is also associated with disapproval of treatment orders (consensual custody for medical problems). These correlates suggest that judges who accept that hearings should be open to the public may have a stronger orientation towards due process.

Crown views on public hearings have quite different correlates: prosecutor approval is strongly related to approval of the appeal provisions, and to the principle which emphasizes the protection of society.

The greater the agreement with public hearings by defence, the more likely that group is to prefer a higher minimum age.

Probation officers who are more in favour of public hearings tend also to approve of fingerprinting for indictable offences, the use of the Criminal Code in bail proceedings, an older minimum age, and the principle that young persons should be held responsible for their actions.

Among probation and police officers, disapproval of the prohibition against fingerprinting youth for summary offences is associated with approval of hearings open to the public.

The attitudes of the police towards public hearings are directly related to their acceptance of fingerprinting in indictable cases, and to the availability of court records to young persons. However, police who approve of public hearings tend to disagree with the Act's philosophy and with the provision whereby some persons can be excluded from youth court proceedings.

IV. Bail and Detention

The Y.O.A. provides that bail applications in the youth court are to be dealt with by the rules set down in the Criminal Code and that juveniles should be detained separately from adults. The latter is well accepted: three-quarters or more of all personnel surveyed either "strongly approved" or "approved" of separate detention. The use of the Code for bail decisions met with less enthusiasm (Figure 13).

The two groups that are generally most inclined to accept the Act -- defence and probation -- are slightly less approving of the use of the Code than are police and crown prosecutors. The majority of judges range between "approve" and "mildly approve".

Judiciary in Alberta, and probation personnel from Alberta and Quebec, are more disapproving of bail than their counterparts in other provinces. Toronto police and probation officers are somewhat more in favour than their peers, probably because the Y.O.A. has merely formalized what has been practice for several years in the Toronto juvenile courts.

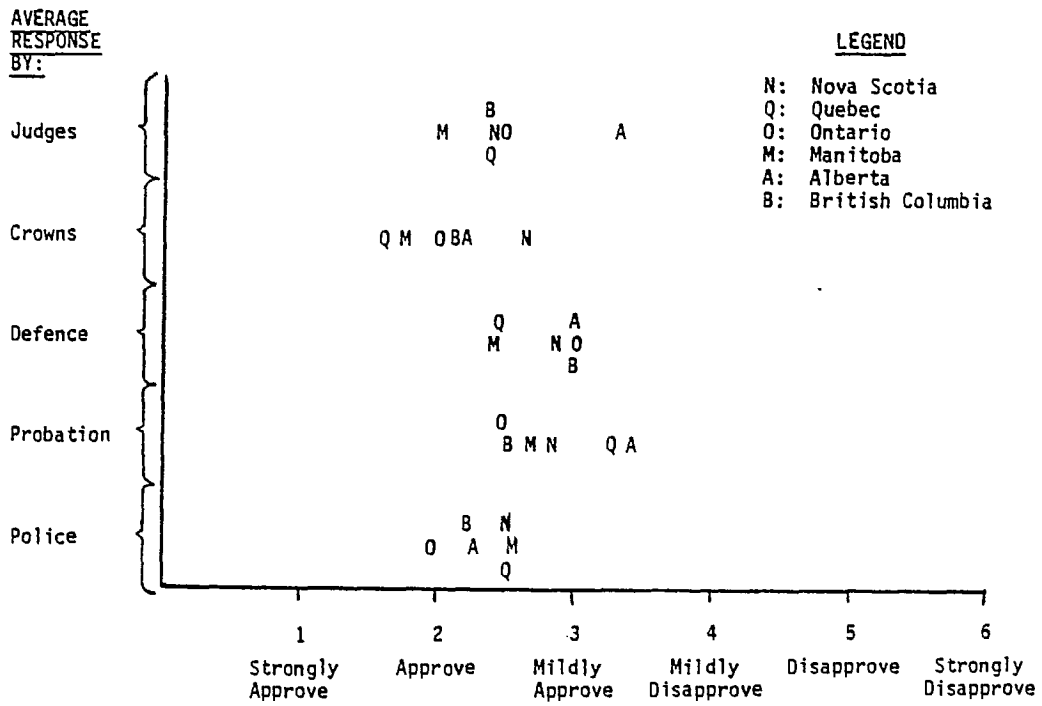
Correlates of Opinions on the Bail Provisions

It is clear that recent judicial appointees are more in agreement with this aspect of the Y.O.A. than are those who have spent 6 or more years on the bench.

Defence involvement in delinquency -- as measured by the proportion of their law practice spent on delinquency matters and the extent of familiarity with

FIGURE 13

ATTITUDES TOWARDS "THE YOUTH COURT WILL DEAL WITH BAIL APPLICATIONS USING THE RULES AND CRITERIA SET FORTH IN THE CRIMINAL CODE": BY ACTOR CATEGORY AND JURISDICTION



The youth court will deal with bail applications for young people using the rules and criteria that are set forth in the Criminal Code.

the new legislation -- also affects views on the use of the Code in bail: those who are more involved are more likely to accept this change. Probation personnel with more familiarity with the Act are also more likely to accept the bail provisions.

Correlations with Other Components of the Y.O.A.:

For the total sample, there are only three sizeable correlates to other aspects of the legislation: those who agree to the use of the Code in bail applications are also likely to be more favourable to fingerprinting for indictable crimes, public hearings, and to believe in the need to give priority to the protection of society (one of the principles of the legislation).

According to the judiciary, agreement with bail was consistent with approval for the disposition provisions, public hearings, the measures providing the juvenile with counsel, the right to appeal, and alternative measures.

Only the right to counsel was directly related to crown agreement to the use of bail. However, crowns who are more in favour of bail tended to be less well disposed to the principle which states that "juveniles should not in all circumstances suffer the same consequences as adults". The same finding was apparent for defence.

Responses of probation officers to the bail issue suggest that their approval is related to agreement with fingerprinting/photographs for

indictable offences, public hearings, the protection of society principle, and the right to appeal. Almost identical "within-legislation" correlates were found for police.

V. Notice to Appear Provisions in the Y.O.A.

The new legislation makes a number of provisions for notifying parents or other responsible adults about proceedings under the Act, including the notification of parents of juveniles detained at arrest.

Other components of the notice to parents section are: the right of the court to adjourn the proceedings, or to dispense with notice, in those cases where notice is not served; and the failure to give notice rendering proceedings invalid, unless the parent is in attendance or the court has dispensed with notice. In this section, we shall discuss both the attitudes to these provisions as a whole, and to two individual components -- the right of the court to dispense with notice under certain circumstances, and the failure to give notice rendering the proceedings invalid.

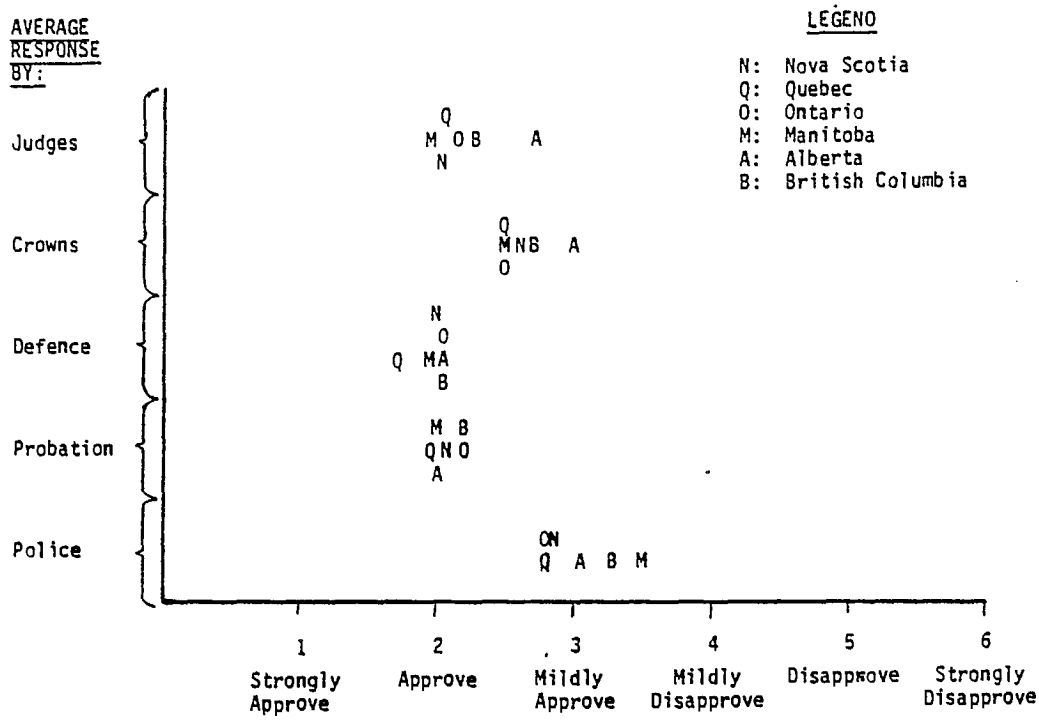
Attitudes to most provisions in s.9 of the Y.O.A. were uniformly quite positive with only police and, to a lesser extent prosecutors, on the "mildly approve" point on the response continuum (Figure 14). There were almost no jurisdictional variations in response, although judges and crowns in Alberta were somewhat less positive generally than were their associates elsewhere.

Approval for the provision for the dispensing of notice (Figure 15) was also apparent, except that defence counsel were slightly less positive than the other actor groups, and judges and crowns were most in favour. Quebec judges and crowns were particularly well disposed to this aspect of notice.

Figures 16 and 17 show the responses of the key actors to the section of the Act which states that proceedings are rendered invalid unless the court

FIGURE 14

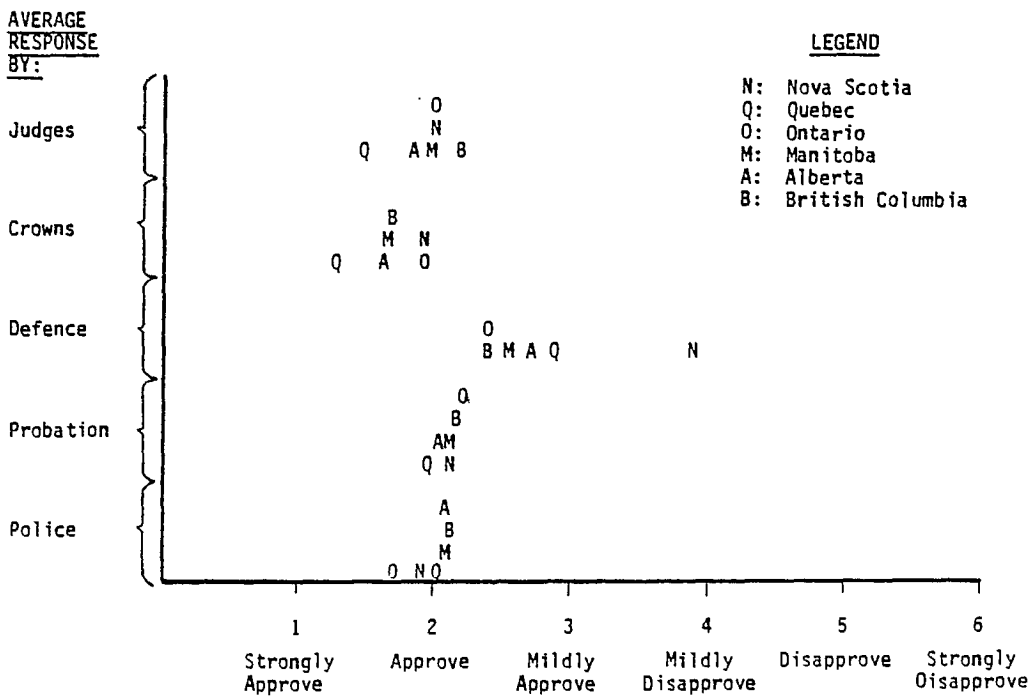
ATTITUDES TOWAROS THE NOTICE TO APPEAR PROVISIONS OF THE Y.O.A.:
BY ACTOR CATEGORY AND JURISDICTION



Parent must be notified on arrest, judge may adjourn proceedings, proceedings invalid unless the court has dispensed with notice or unless the parent on own initiative is in attendance.

FIGURE 15

ATTITUDES TOWARDS "A JUDGE HAS THE DISCRETION TO DISPENSE WITH NOTICE WHERE COMPELLING REASONS EXIST": BY ACTOR CATEGORY AND JURISDICTION



A judge has the discretion to dispense with notice where compelling reasons exist.

has dispensed with notice or the parent is in attendance. Responses are similar to both questionnaire items with defence and probation officers most positive, and police and crown prosecutors less approving than other system personnel. Crowns and judges in Alberta tend to be less in favour of both items than their counterparts.

Correlates of Opinion on the Notice Provisions:

The large majority of judges "approved" of the notice measures; approval was very slightly more apparent among judges who had been on the bench for 5 years or less, those who spent 40% or more of their time on delinquency matters, and those from communities of less than 100,000. These differences are not large -- for example, 90% of those from smaller cities and towns agree to the notice provisions, in comparison to 78% of those from larger communities.

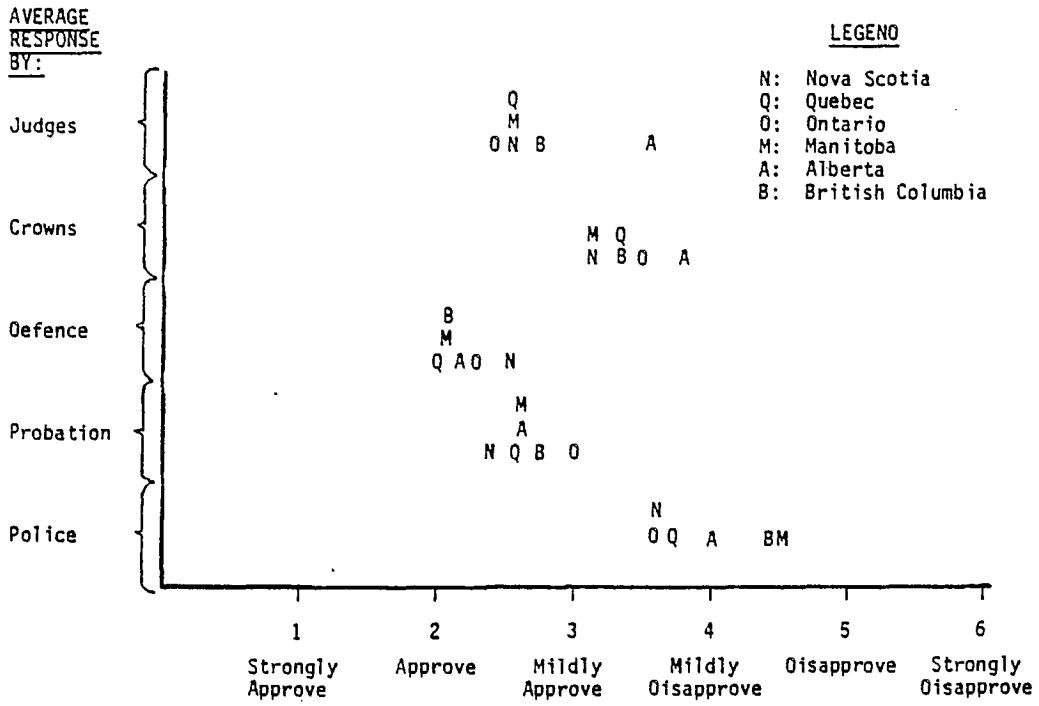
Judges who agree to the notice provisions often agree that due process best serves the juvenile's interests, and that removal from the home should be used as infrequently as possible. For the latter item, an identical trend was found for crowns, police and probation officers -- suggesting that support for notice is related to a "legalistic" orientation.

Correlations with Other Components of the Y.O.A.:

Over the total sample, those who approved of the notice provisions had similar reactions to the philosophy of the Act, alternative measures, the right to counsel, review of disposition provisions, detention separate from adults and the rights of appeal. On the other hand, key actors who

FIGURE 16

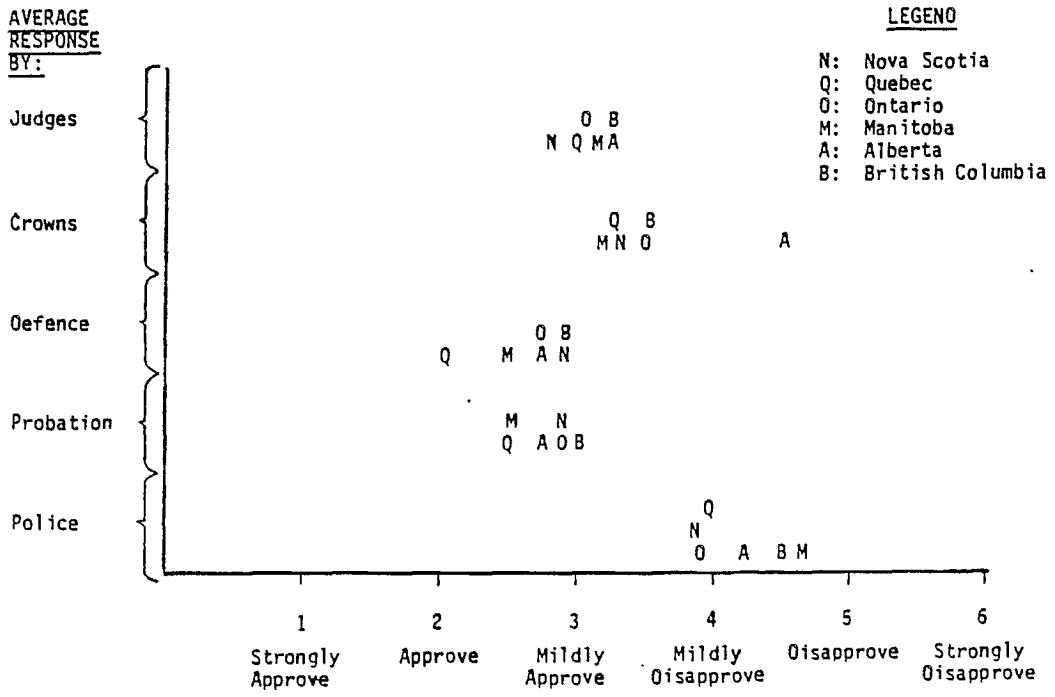
ATTITUOES TOWAROS "THE FAILURE TO GIVE NOTICE TO THE PARENTS RENOERS THE PROCEEOINGS INVALIO UNLESS THE COURT HAS OISPENSEO WITH NOTICE": BY ACTOR CATEGORY ANO JURISOICTION



The failure to give notice to the parents or to another appropriate adult renders the proceedings under the Young Offenders Act invalid, unless the court has dispensed with notice.

FIGURE 17

ATTITUOES TOWAROS "THE FAILURE TO GIVE NOTICE RENOERS THE PROCEEOINGS INVALIO, UNLESS A PARENT, ON HIS/HER OWN INITIATIVE, IS IN ATTENOANCE": BY ACTOR CATEGORY ANO JURISOICTION



The failure to give notice to the parent renders the proceedings under the Young Offenders Act invalid, unless a parent, on his/her own initiative, is in attendance.

approved of notice to appear measures tended to disagree with fingerprinting youth accused of indictable offences, the destruction of records (not true of judges) and of public hearings.

VI. The Right to Counsel and Other Legal Representation Measures

The right to instruct counsel, to be informed of the right to counsel at arrest, the right to be given the opportunity of obtaining counsel if not represented at the youth court proceeding, and representation by counsel independent of parents are among the most potentially significant features of the Y.O.A. In many Canadian communities, juveniles receive no legal representation during their juvenile court proceedings. Considering the potential impact of the s.11 provisions on the operation of the youth court, it is perhaps surprising that there was not more opposition to the four measures outlined above. In fact, however, all responses to the provisions ranged from "strongly approve" to "mildly approve", with only the police at the latter end of the scale. For four out of the five professional groups surveyed, Quebec respondents were among the most supportive, and B.C. personnel among the least in favour of the legislation when compared to other jurisdictions (Figure 18).

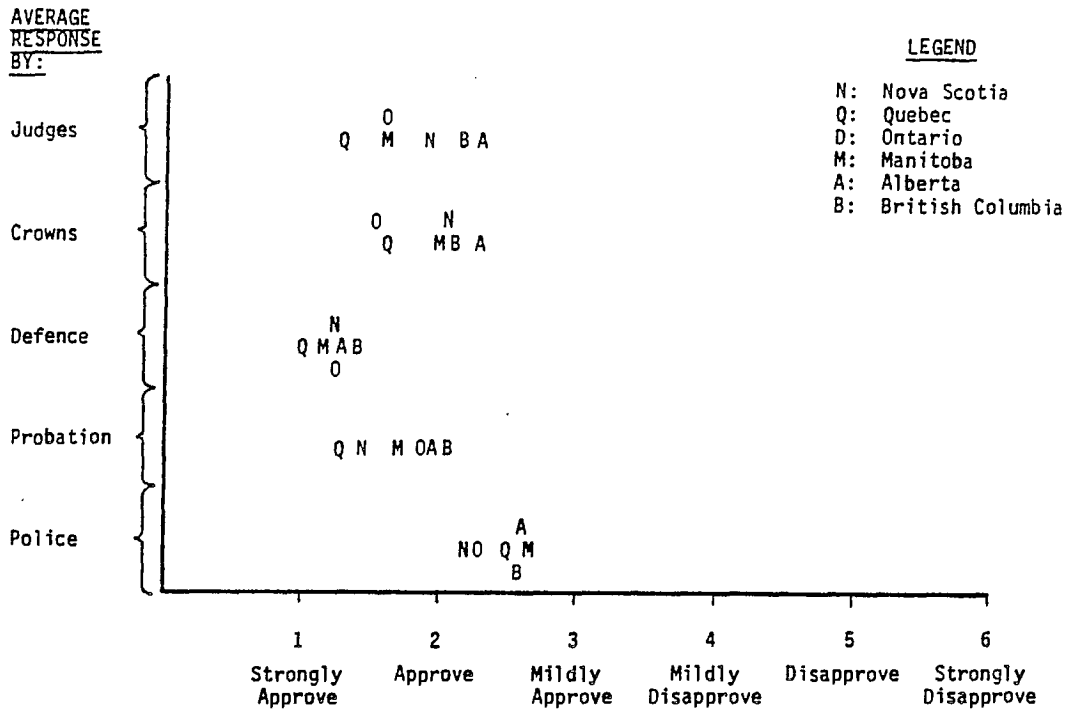
This is not the case with the provision that "the young person, on his/her request, may be assisted by an adult (i.e., a non-legally trained person) whom the court considers suitable" (Figure 19). While most actor groups "mildly approved" or "approved", there was distinct opposition to this measure from judges, crowns and defence from Quebec, who greatly differed from their colleagues in other provinces. Ontario judges were also less well disposed to this provision than were other judiciary, although not as negative as were Quebec judges.

Correlates of Opinions on the Right to Counsel:

Agreement by judges to the right to counsel measures graphically portrayed

FIGURE 18

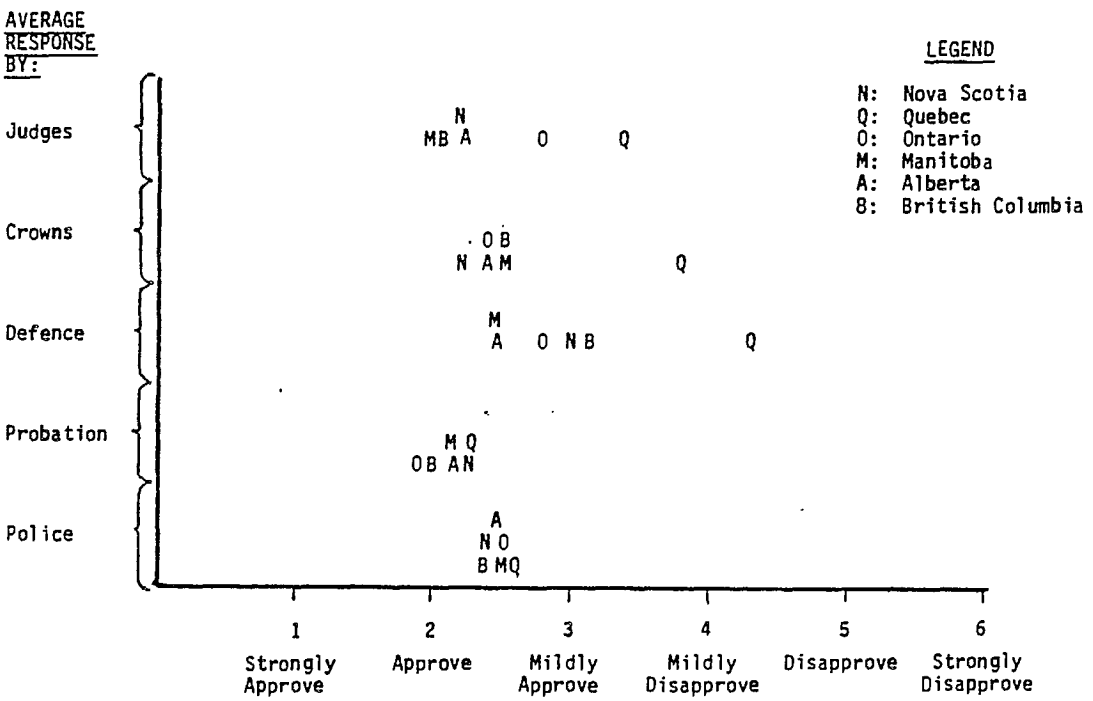
ATTITUDES TOWARDS THE RIGHT TO COUNSEL PROVISIONS IN THE Y.O.A.: BY ACTOR CATEGORY AND JURISDICTION



The right to instruct counsel, to be informed of the right to counsel at arrest, the right to be given the opportunity to obtain counsel if not represented in court, and representation by counsel independent of parents.

FIGURE 19

ATTITUDES TOWARDS "WHEN A YOUNG PERSON IS NOT REPRESENTED BY COUNSEL, THE YOUNG PERSON MAY BE ASSISTED BY AN ADULT WHOM THE COURT CONSIDERS SUITABLE": BY ACTOR CATEGORY AND JURISDICTION



When a young person is not represented by counsel at a youth court proceeding, the young person may, on his/her request, be assisted by an adult whom the court considers suitable.

in Figure 18 meant that, on the whole, they also tended to agree that the juvenile's best interests are served by strictly adhering to due process in court, and to disagree that the participation of defence counsel interferes with the treatment and rehabilitative efforts of the court.

Very strong associations for all actor categories were found between approval for the right to counsel and the importance of the young person being legally represented at all major points in the process, such as bail hearings, trials, and disposition.

Representation by a non-legally trained adult is a measure that was greeted with more disapproval by judiciary who spent most time on the juvenile bench; judges in Ontario, Manitoba and Alberta who worked 40% or more of their time on delinquency matters were somewhat less in agreement with this aspect of s.11 than those who sat more infrequently.

Correlations with Other Components of the Y.O.A.:

Key actors who accepted the right to counsel had very similar responses to the other major elements of the Act, including the right of appeal, its philosophy, and the alternative measures provisions.* There was also a preference for a higher maximum age. However, those who approved of the right to counsel were often against fingerprinting juveniles accused of indictable offences, the destruction of records, and the principle that

*These correlation coefficients were particularly high for this study, from .43 to .48 for the total sample.

the protection of society should take priority.

There were no overall correlates of opinion on the measure that permits the juvenile to be represented by a suitable adult.

VII. Dispositions

A. The Three Year Disposition Length for Offences for Which an Adult Would Be Liable to Life Imprisonment

The maximum of three years for "life" offences evoked disagreement among all respondent groups. Indeed, of all aspects of the Y.O.A. this measure is among the most negatively received (Figure 20). Four-fifths or more of the crown prosecutors and police were against the 3 year length. Defence and probation officers were only somewhat more positive, with from one-half to almost 90% disapproving of the provision. With the exception of Alberta, two-thirds or more of the judiciary believed that the three year was inappropriate.

Some jurisdictional differences are apparent on Figure 21. Judges and probation officers from Alberta are slightly more positive than their peers; crowns, defence and (especially) probation officers in Ontario are among the least enthusiastic towards this measure. Defence and judiciary from British Columbia are also on the negative end of the range of opinion for those two actor categories.

Correlates of Opinions on the Three Year Maximum:

No large relationships to the demographic and other background characteristics of judges, crowns, probation officers and police were apparent. However, defence who agreed to this section of the Act spent a sizeable proportion of their time on delinquency matters, and were more familiar with the Y.O.A.

FIGURE 20

DISAGREEMENT WITH THE 3 YEAR LENGTH OF DISPOSITIONS: BY ACTOR CATEGORY AND JURISDICTION

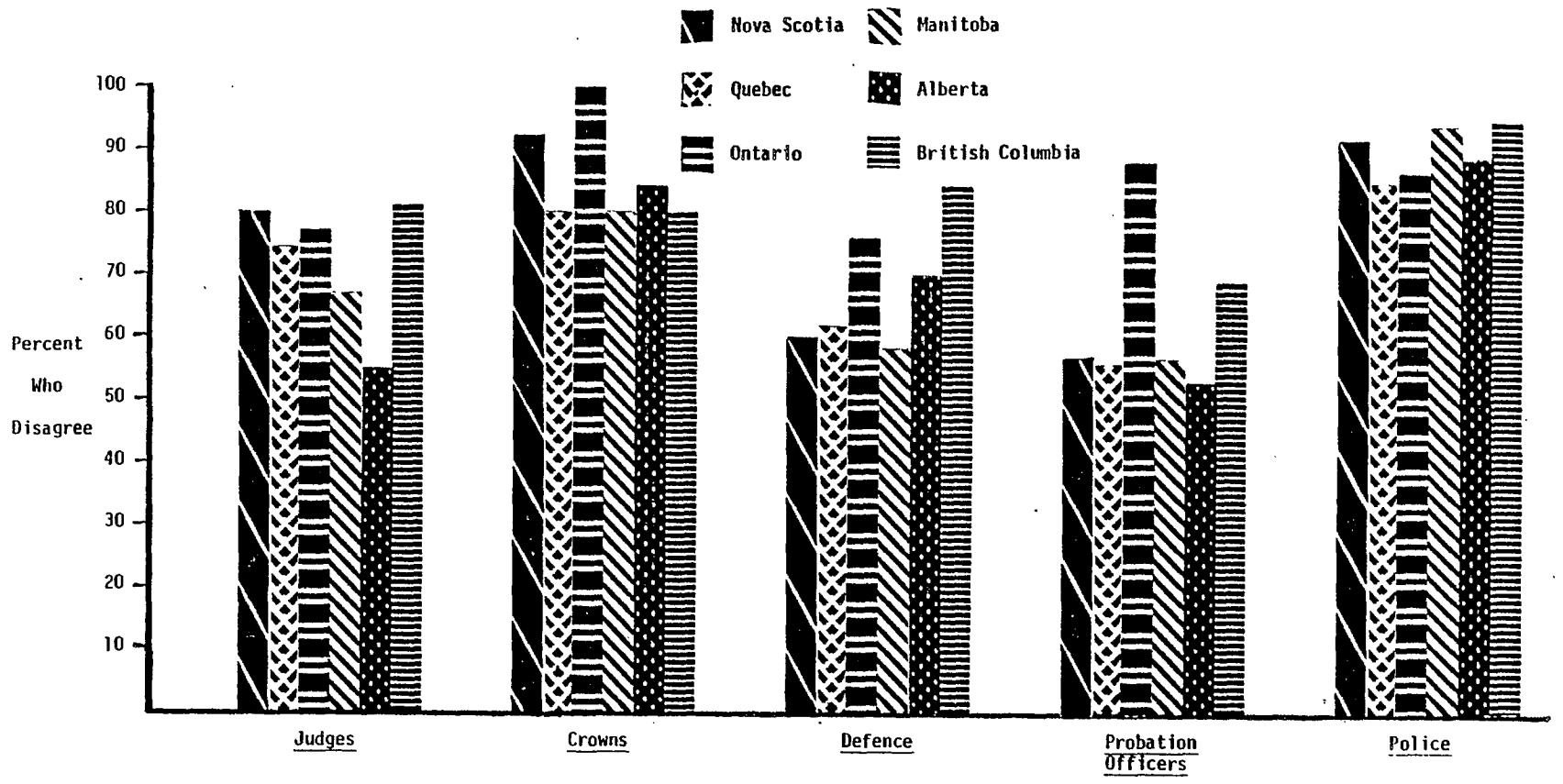
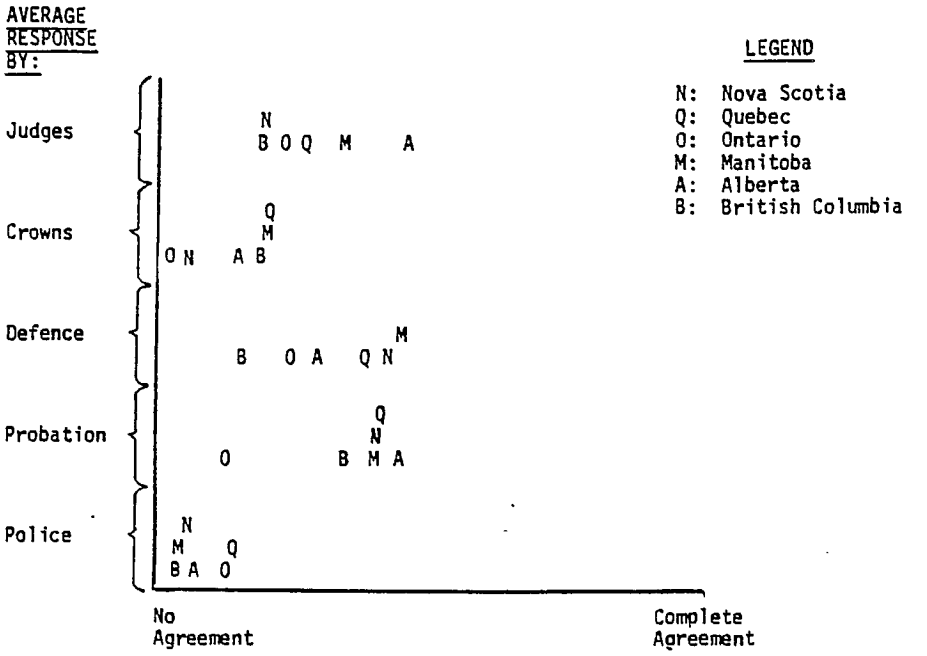


FIGURE 21

ATTITUDES TOWARDS THE LENGTH OF DISPOSITIONS: THE THREE YEAR MAXIMUM: BY ACTOR CATEGORY AND JURISDICTION



Extent of agreement with the maximum 3 year disposition for offences where an adult would be liable to a life sentence

Correlations with Other Components of the Y.O.A.:

A strong relationship was found between the attitudes of judges, crowns and police to the three year maximum for "life" offences and their opinion on the 2 year maximum for "other" offences -- and a weaker, but still significant association was apparent for probation officers. Generally speaking, actors who agreed with one aspect of disposition length also agreed with the other. There were no other "within-legislation" relationship for crowns, probation and police.

For the judiciary sampled, the philosophy items, including the juvenile's right to least possible interference from the justice system, were positively related to their opinions on the three year term.

Like judges, defence who were in favour of this sentence length also approved of the Declaration of Principle. However, the greater the agreement, the less likely defence were to approve of fingerprinting for indictable offences.

B. The Two Year Disposition Length for Other, Non-"Life" Offences

There is much less opposition to this measure than to the 3 year dispositional term, but there is still a sizeable range of opinion among the respondent groups, much of it negative. The police and crown prosecutors were most in disagreement, with probation officers and defence counsel marginally more favourably disposed to the two year maximum (Figure 22).

In terms of jurisdictional patterns of response, there was no consistency of opinion, although there was large variation in average responses (Figure 23). Quebec judiciary were most, and Nova Scotia judges least, in agreement with the provision. Compared to other crowns, Manitoba prosecutors tended towards greater agreement, and prosecutors from Alberta and Ontario were more opposed to this component of the Y.O.A.

Correlates of Opinions on the Two Year Maximum:

The judges and crowns who spent most time on delinquency, when compared to their peers, were somewhat more likely to agree to the two year sentence length. Among defence, a higher proportion of those who spent 20% or more of their time on juvenile matters preferred a shorter dispositional term than did those who were less involved in juvenile justice.* Police who had no recent experience in delinquency matters (i.e., were neither members of the youth bureau, nor had made a recent appearance in juvenile court) were somewhat more likely to want a longer disposition length than the two years specified by the legislation. In addition, agreement by police was slightly more prevalent among officers most familiar with the Act;

*Although the majority of all defence agreed to the 2 year maximum.

FIGURE 22

DISAGREEMENT WITH THE 2 YEAR LENGTH OF DISPOSITIONS: BY ACTOR CATEGORY AND JURISDICTION

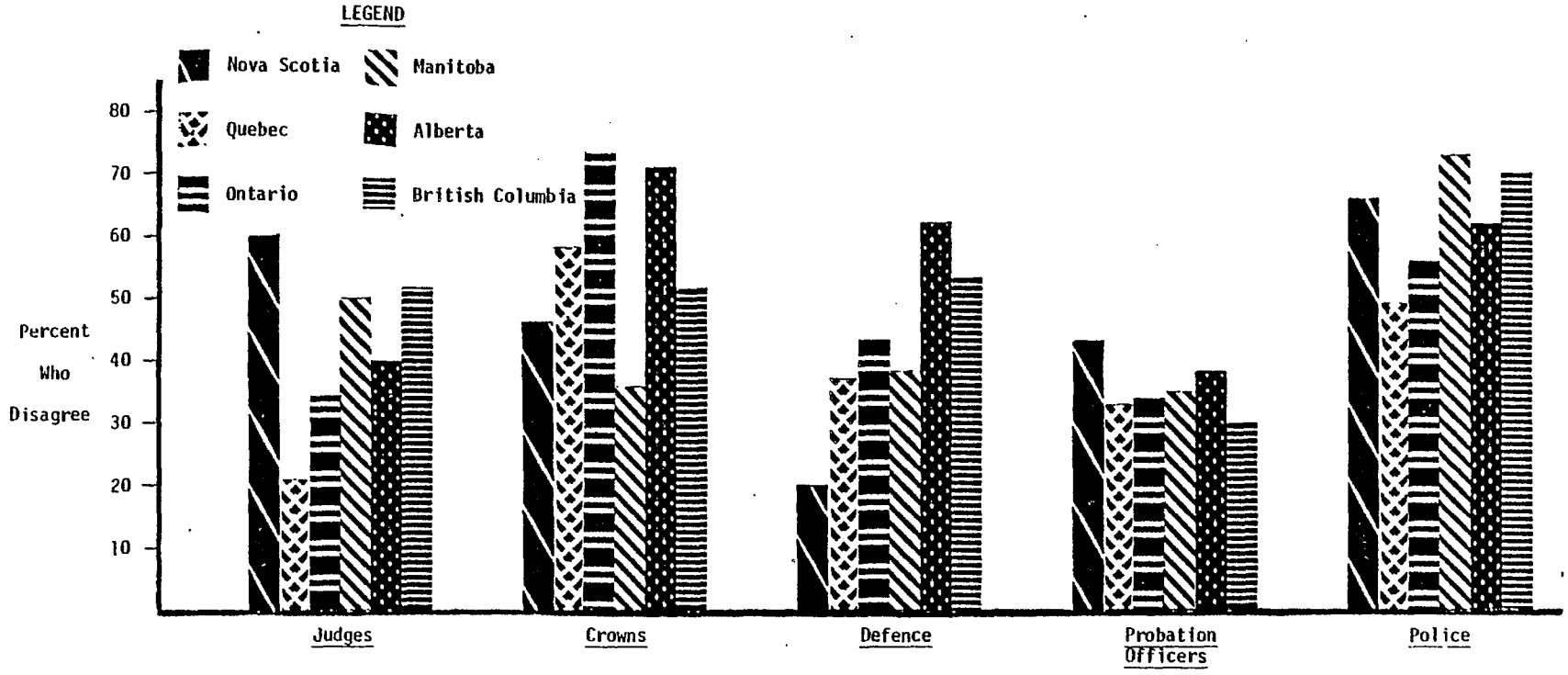
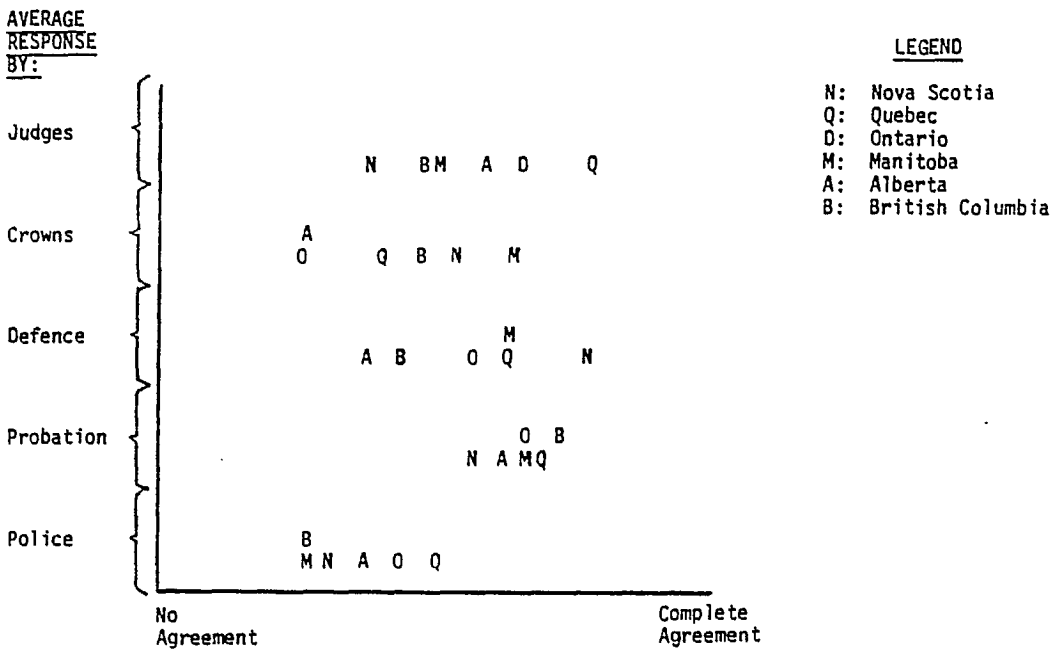


FIGURE 23

ATTITUDES TOWARDS THE LENGTH OF DISPOSITIONS: THE TWO YEAR MAXIMUM:
BY ACTOR CATEGORY AND JURISDICTION



Extent of agreement with the maximum 2 year disposition for other (non-life) offences

i.e., had read documents on the Act and had attended briefing sessions. Most of these findings suggest that an orientation toward limiting intervention was associated with greater involvement in the juvenile system.

There was an interesting relationship between approval of disposition length and judges' perceptions of the quality of youth services in their community: those who agree to the two year term show a tendency to perceive that the overall quality of community services was higher than those who disapproved of the measure; conversely, the less agreement, the more likely that quality was perceived to be low.

Correlations with Other Components of the Y.O.A.:

As noted above, views on the two year term are directly related to attitudes on the three year sentence for all actor categories but defence. Preference for an older maximum age was related to acceptance of this measure for all respondents from British Columbia, and for crowns in Nova Scotia, Ontario, and Alberta. Reactions of judiciary to the two year term were similar to their views on the disposition provisions and special guarantees for juveniles. Police who agreed to the length of dispositions showed a tendency to disagree with the $1,000 maximum fine -- they would prefer a different (in most cases, a higher) fine limit.

C. Attitudes to Other Disposition Provisions

Several other aspects of dispositions were combined into one summary variable: no disposition shall result in a punishment greater than that which could be given an adult for the same offence; the authorization of the establishment of fine option programs; detention for treatment on consent; and s.24(2), the level of custody to be specified by the youth court.

There is considerable unanimity among actor groups and jurisdictions for this combined measure. All system professionals "approve", on average, to the four aspects of the legislation summarized on Figure 24.

Another dispositional feature of the legislation is the provision that officials of provincial youth agencies will decide the place of custody within the level of custody named by the youth court. Other than probation officers, respondents were not as well disposed to this measure as they were to the other dispositional measures; almost all groups fell between "mildly agree" and "mildly disagree" (Figure 25). While Quebec defence and probation were slightly less enthusiastic than their colleagues, and judiciary, crowns and defence from B.C. tended to be on the positive end of the continuum, differences by jurisdiction were not outstanding.

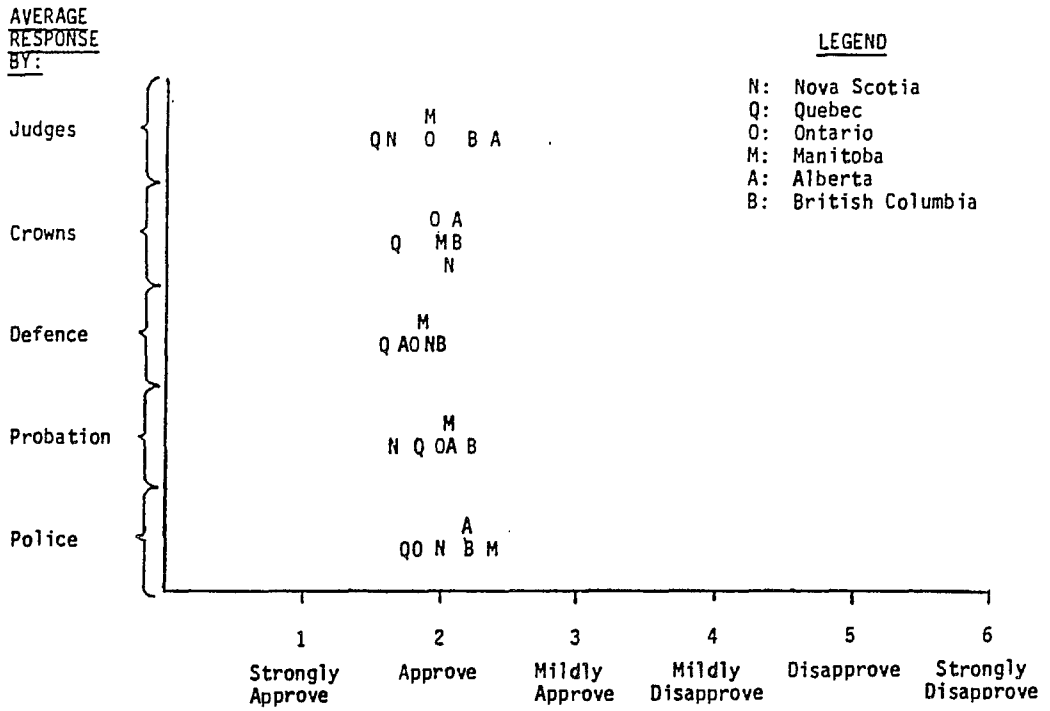
Correlates of Opinions on the Disposition Provisions:

Several of the component items of the summary measure showed a relationship to other attitudinal items in the questionnaire:

. crown prosecutors who believe that "no disposition should result in a punishment greater than that which could be given an adult for the same

FIGURE 24

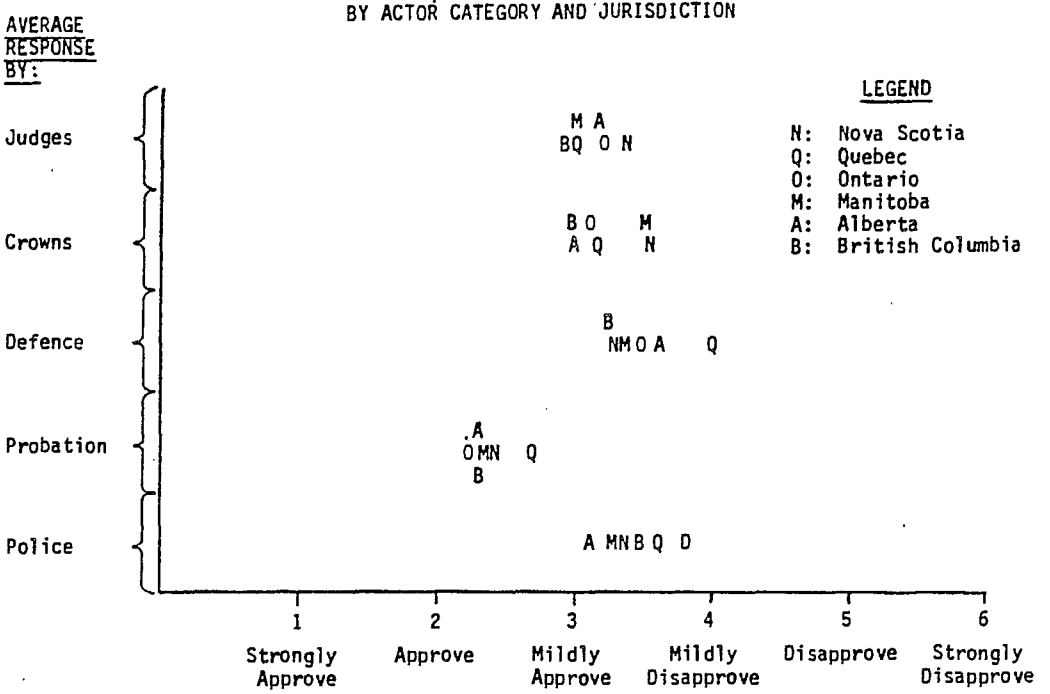
ATTITUDES TOWARDS SEVERAL OF THE DISPOSITION MEASURES IN THE Y.O.A.: BY ACTOR CATEGORY AND JURISDICTION



No disposition shall be more severe than could be given an adult, fine option programs, detention for treatment on consent, and the youth court decides the the level of custody.

FIGURE 25

ATTITUDES TOWARDS "PROVINCIAL JUVENILE SERVICES OFFICIALS WILL HAVE THE RESPONSIBILITY FOR DECIDING THE APPROPRIATE PLACE OF CUSTODY FOR THE YOUNG OFFENDER": BY ACTOR CATEGORY AND JURISDICTION



Officials of provincial juvenile services, rather than the youth court, will have the responsibility for deciding the appropriate place of custody for the young offender within the level of custody designated by the youth court.

offence" tend to disagree that the J.D.A. is adequate for dealing with young offenders.

- there is a strong relationship between judges' approval of fine option programs and a belief that dispositions involving removal from the home should be used as infrequently as possible.
- judicial reaction to treatment orders -- i.e., detention for treatment of medical or psychological problems -- showed similarity to their views on dispositions that involve removal from the home; if judges agreed to treatment orders they also tended to agree that such dispositions should be used as infrequently as possible.

There was one relationship between attitudes to the court's responsibility to determine the level of custody and the respondent's background characteristics: crowns who spent more time on delinquency matters were slightly more likely to approve of this provision.

With regard to the more controversial measure that the specific institution is to be determined by the province, defence with fewer years juvenile court experience, and with least involvement in J.D.A. cases, more often support the power of the province than do other counsel. And for judges, there was an association between opinions on this issue and on the quality of youth services; agreement to this measure is correlated with favourable assessments of the overall quality of youth resources in the community.

Correlations with Other Components of the Y.O.A.:

The items forming the summary measure on dispositions correlated with the right to counsel provisions for all groups except crowns, with the

retention of the jurisdiction to review until dispositions are completed, and with the mandatory review after one year in custody.

Looking at differences by actor category, there are many more correlates for judges than for other groups. Views on dispositions are similar to reactions to alternative measures, the use of the Code in bail applications, rights of appeal, and the principle that removal from parental supervision should be used only as a last resort. There is an inverse relationship to the two year maximum length for most dispositions: judges who agreed to the summary measure for dispositions tend to disagree with the 2 year maximum.

Crowns tended to perceive that the dispositional measures are inconsistent with the measure that states that the province has the responsibility to decide the place of custody.

For police, views on disposition are similar to their opinions of the Declaration of Principle, the review provisions, and the items on alternative measures.

There are different "within-legislation" correlates for the measure which gives the province the authority to decide the institution where the custodial sentence is to be served:

- all actor groups who approve of the measure whereby the court specifies the custodial level (i.e., open or secure) tend to disapprove of the province determining the place of custody.

- judges who approve of the province deciding the custodial level often prefer an older minimum age.
- defence who are favourably inclined to this assignment of responsibility are also positive towards the establishment of provincial review boards, suggesting that the authority of the province in one area of corrections is seen as compatible with the establishment of an extra-judicial body in another.

D. The Maximum Fine of $1,000

The final aspect of dispositional measures to be discussed is the large increase in the maximum amount the young offender may be fined by the youth court. While the majority of all respondents agreed to the increase, there was some variation by actor category. (Figure 26) Judges were the most positive, followed by probation officers, crowns and police. Many defence counsel did not regard the new fine limit with approval; almost 40% of defence would have preferred a lower maximum limit. About one-quarter of police and crowns wanted a higher dollar value.* There were no consistent jurisdictional differences of opinion on this issue.

Correlates of Opinions on the Maximum Fine Amount:

There were few correlates of attitudes to this measure. Crowns who were most familiar with the new legislation were less in agreement with the $1,000 maximum and somewhat more likely to prefer a larger fine. The more time spent on delinquency matters, the larger the proportion of defence who believed that the fine value should be lower than that prescribed by the Act.

Correlations with Other Components of the Y.O.A.:

Among the judiciary, those who agreed to the maximum fine were also likely to approve of the authorization of fine option programs. Crowns who agreed to the maximum amount were in favour of a higher maximum age, but did not approve of the statement of principle that offers special guarantees of

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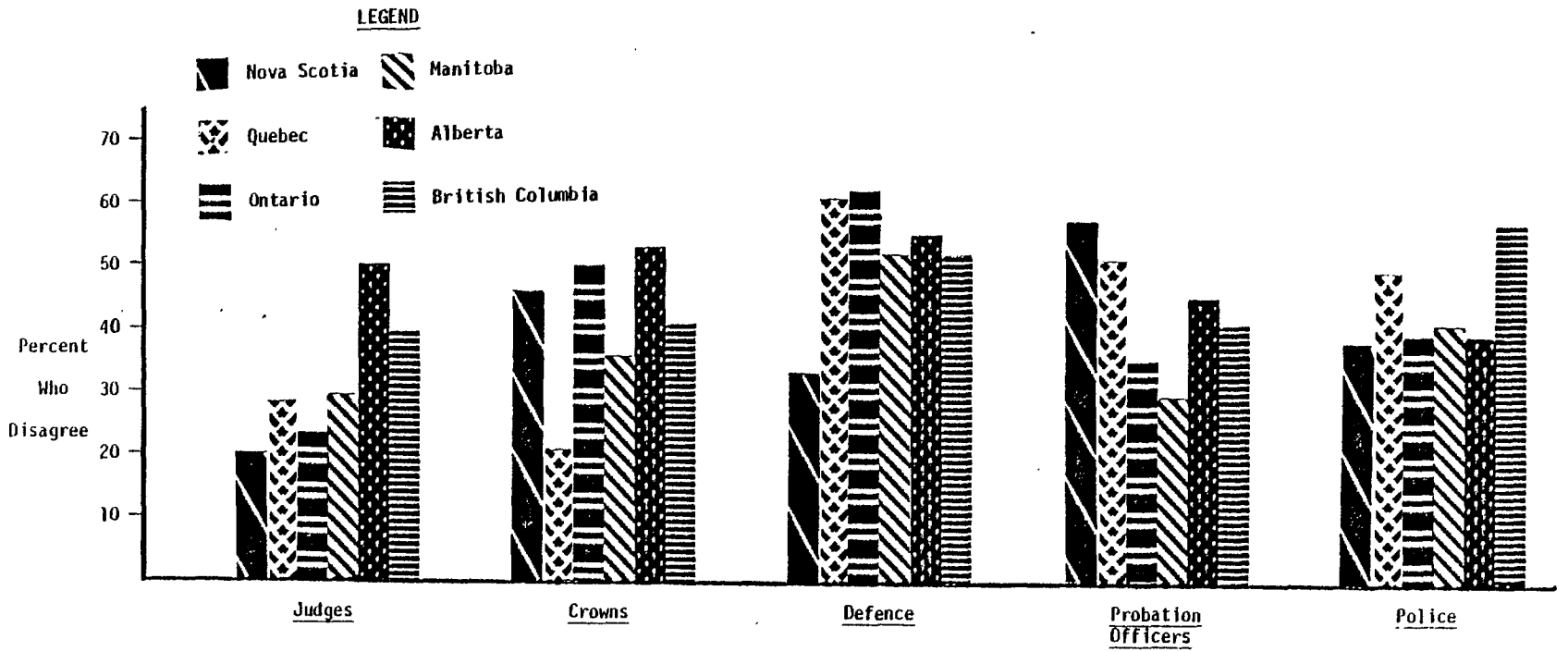
*See Table VII.D.1 in Appendix C.

FIGURE 26

DISAGREEMENT WITH THE MAXIMUM FINE OF $1,000: BY ACTOR CATEGORY AND JURISDICTION



rights to the young person. Defence opinions on the fine amount were inversely related to one of the principles of the Act -- the protection of society should take priority when the needs of the individual and society cannot be reconciled. Police officers who were in agreement were also likely to find the two year maximum disposition length acceptable. No "within-legislation" correlates were found for probation officers or for the sample as a whole.

VIII. The Review of Disposition Provisions

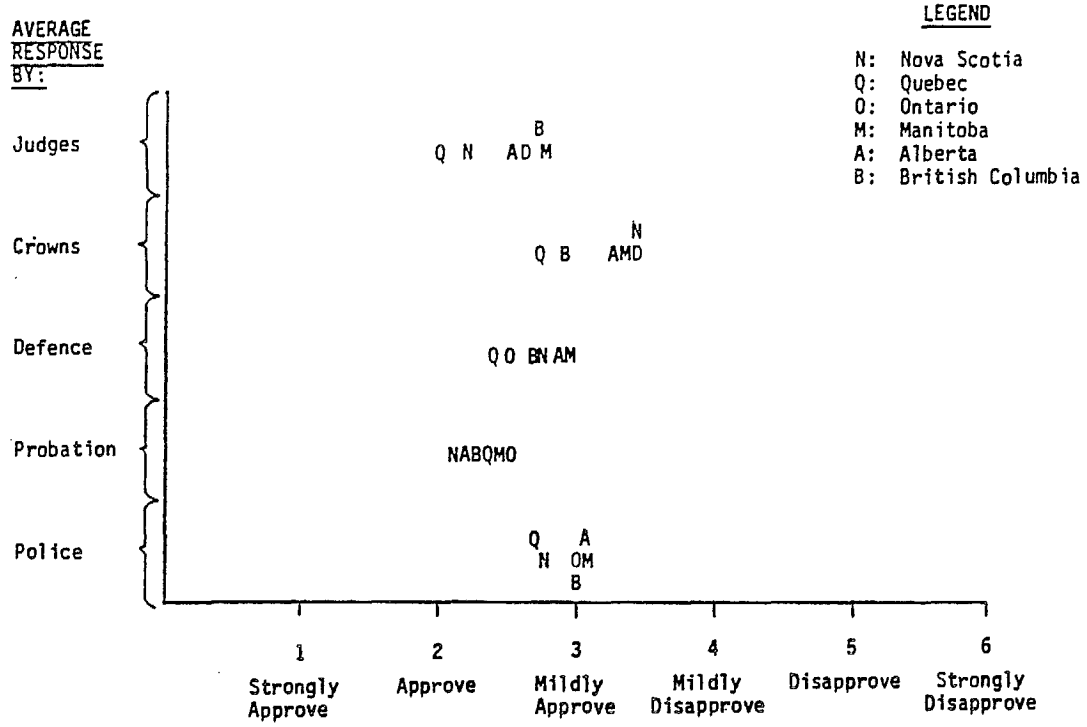
A summary measure of attitudes to reviews was created by combining opinions on two topics: the annual review of custodial dispositions, and the right of various persons (the juvenile, his parents, provincial juvenile service authorities and the crown) to request reviews of non-custodial dispositions.

Mild to moderate acceptance of these provisions is the most common response pattern, according to the data illustrated in Figure 27. Probation and judges are more inclined to accept the measures than are the other groups. As has occurred so frequently in this report, crowns and police are less supportive than othe personnel. Several actor categories from Quebec are slightly more positive than those from other provinces, and Manitoba personnel tend to be on the less favourable end of the continuum. However, these differences are small, for there are relatively few variations by jurisdiction in actor attitudes towards reviews.

There is a wider range of opinion expressed with regard to the provision for the establishment of provincial boards to review custodial dispositions, s.30 and 31 of the Y.O.A. (Figure 28). This is the only item in the procedural and substantive area where the judiciary from all six provinces share a negative viewpoint, perhaps because the measure is perceived as a usurpation of the authority of the court to make custodial dispositions. Nor are crowns disposed to think well of review boards, especially those from Ontario, Quebec and Manitoba. Of the five groups, defence and probation view the possible establishment of such boards most favourably, although their average response is only at or slightly above the "mildly approve" point on the scale. Police

FIGURE 27

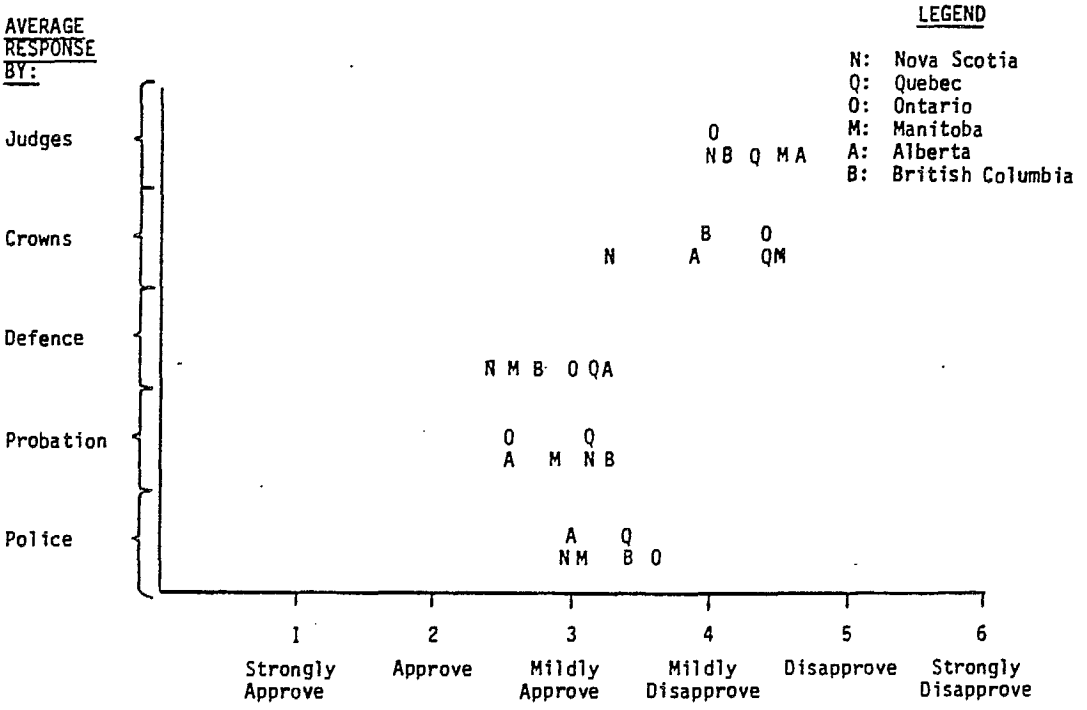
ATTITUDES TOWARDS REVIEW OF DISPOSITIONS: BY ACTOR CATEGORY AND JURISDICTION



Annual review of custodial dispositions; the young person, the parents, provincial juvenile services, and the crown may all request a review of non-custodial dispositions.

FIGURE 28

ATTITUDES TOWARDS "A PROVINCIAL BOARD MAY BE ESTABLISHED TO REVIEW A CUSTODIAL DISPOSITION": BY ACTOR CATEGORY AND JURISDICTION



A provincial board may be established to review a custodial disposition.

officers are ambivalent,with a mean response between "mildly approve" and "mildly disapprove". While the within-actor group range of opinion is reasonably diverse, there are no consistent inter-jurisdictional patterns -- although it does appear that Nova Scotia respondents (except probation) are among the most positive towards the possibility of review boards.

Correlates of Opinion on the Measures for the Review of Dispositions:

There were a number of correlates of opinions for the summary measure on review of dispositions:

- judges who had been appointed to the bench within the past five years were slightly stronger supporters than judiciary who had longer juvenile court experience.
- for crowns, more years of experience working within the criminal justice system was associated with greater approval of the review provisions. Community size was also related to prosecutor views; crowns who worked in large communities were less likely to agree to the review measures than were those employed in towns of 100,000 or less.
- both judges and crowns who spent more time on delinquency matters tended to agree slightly more to the review provisions than did those whose professional lives were only minimally oriented to J.D.A. cases.
- more experienced defence counsel, i.e., those with more than five years in practice as defence in juvenile court, more often accepted the review provisions than did their colleagues with less court experience.

Two attitudinal items showed relationships to opinions on the review of disposition components. "The juvenile court should assume the role of a parent, emphasizing the needs of the juvenile" and "Dispositions which remove juvenile offenders from the community should be used as infrequently as possible" divided the judicial and prosecutor samples. Judges and crowns who disagreed to these statements were less likely to support the review of disposition provisions.

With regard to the authorization of provincial boards to review custodial dispositions, there are also correlates to the background characteristics of the respondents:

- crowns who had more years in the criminal justice system were more likely to accept the possibility of review boards, but the opposite was so for defence.
- among probation officers, a larger proportion of those who had least experience in supervising juveniles approved of review boards than did those with more experience.
- police who had the greatest familiarity with the legislation (e.g., had both read documents and attended briefing sessions) were less likely to approve of the legislation than those officers with no familiarity with the contents of the Act.

No associations were found between this component of the Act and the independent attitudinal variables.

Correlations with Other Components of the Y.O.A.:

The summary measure on the review of disposition provisions is positively related to opinions on a number of other elements of the legislation, most notably the notice measures, the philosophy, right to counsel, alternative measures, and the authorization of provincial review boards for custodial dispositions.

There are few "within-legislation" correlates of opinion on the potential establishment of boards of review, but judges who disapprove of this measure tend to agree that the youth court should retain jurisdiction over all dispositions until they are completed. It appears that provincial boards raise questions in the minds of the judiciary regarding the authority of the court to make dispositions that cannot be overrruled.

IX. Records: Fingerprinting Young Persons, the Availability of Records to Young Persons, and the Destruction of Records

Philosophically and administratively, the records provisions are among the most problematic areas of the Young Offenders Act. The Key Actors Survey inquired into a number of specific aspects regarding youth court and other records:

- the authorization of fingerprinting and photographs of young persons accused of indictable offences;
- the rejection of fingerprinting for summary offences, via the application of the Identification of Criminals Act to young persons;
- the right of access to the court record for the young person;
- the restriction of access to records under specific circumstances -- when release would be detrimental to the treatment or recovery of the young person, or when release would be likely to result in injury to a third party (s.13(5));
- the destruction of records of young persons whose offence history is constituted of solely summary offences, if they have not been charged with any offence for two years; and,
- the destruction of records of indictable offences after 5 years after the completion of the last disposition.

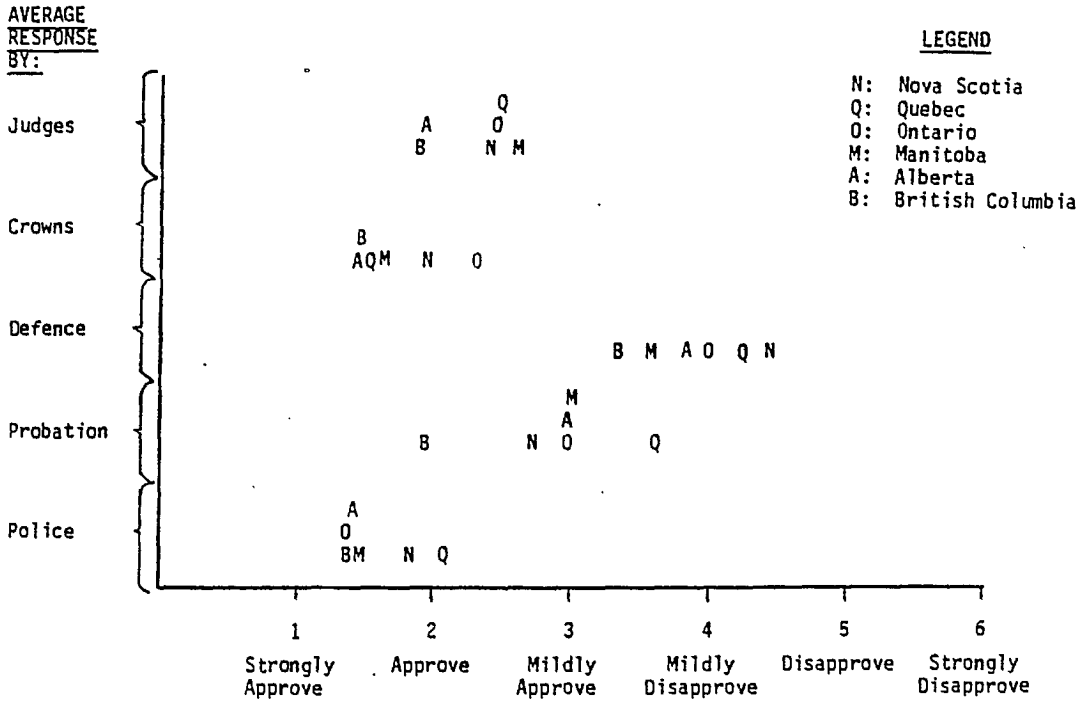
The responses of the five actor categories to each of these provisions will be described in this section.

A. Fingerprinting for Indictable Offences

The extent to which system professionals agreed to the authorization of fingerprinting and photographs for indictable offences is very strongly associated with the professional group to which they belonged (Figure 29). As might be expected, crowns and police were positive towards the measure,

FIGURE 29

ATTITUDES TOWARDS "A YOUNG PERSON MAY BE FINGERPRINTED AND/OR PHOTOGRAPHED FOR AN INDICTABLE OFFENCE, WHENEVER AN ADULT COULD BE SUBJECTED TO THIS PROCEDURE": BY ACTOR CATEGORY AND JURISDICTION



A young person may be fingerprinted and/or photographed for an indictable offence, whenever an adult could be subjected to this procedure.

and defence much less favourably inclined than other groups. Probation officers showed a variety of opinions across jurisdictions, but with two exceptions, on average, "mildly approved". Judiciary in all provinces varied between "approve" and "mildly approve".

As notable were the jurisdictional patterns of response. In British Columbia, where fingerprinting has been an issue for the juvenile justice system in recent years, actors in all categories were most (or among the most) approving when compared to their colleagues in other provinces. This is especially apparent for probation officers. Overall, British Columbia respondents were significantly more in agreement than other provincial personnel. Personnel in Quebec showed a reverse pattern: with the exception of prosecutors, Quebec actors were among the least approving of fingerprinting for indictable offences; Quebec probation officers were exceptionally "deviant" when compared to other provinces, with an average response nearing "mildly disapprove".

Correlates to Opinions on Fingerprinting for Indictable Offences:

Involvement in juvenile delinquency matters -- as measured by the percentage of time spent on delinquency cases -- was related to defence views on fingerprinting; it was found that those with a moderate amount of contact with the juvenile justice system tended to agree in larger proportions than either defence whose involvement was minimal or those who were more integrally involved.

The opinions of probation officers showed relationships to community size and the amount of information on the Y.O.A. that did not hold for other

groups. Probation personnel from smaller communities, and those with more familiarity with the legislation, were more likely to approve of the authorization of fingerprinting and photographs for indictable offences.

Correlations with Other Components of the Y.O.A.:

This issue is one which elicits disapproval from many persons who otherwise support the major components of the legislation. Disapproval of fingerprinting for indictable offences is related to approval for the most of the Act's philosophy (the Declaration of Principle), the maximum age, legal representation, and to a lesser extent, destruction of records, the minimum age, some of the review provisions, and the length of dispositions for offences which have life as the maximum in the Code. Disapproval of this measure is linked to disagreement with the principle that "where the needs of the young person and the protection of society cannot be reconciled, the protection of society must take priority", and of measures such as public hearings, withholding of records from the young person if injury may result to a third party, the right to dispense with notice, and the use of the bail criteria in the Code. All these aspects are seen as inconsistent with the overall approach of the legislation.

For the prohibition against fingerprinting for summary offences (to be discussed next), the reverse of these findings is apparent: supporters of this latter measure are much more likely to see the restriction on police in such circumstances as consistent with the large majority of the Young Offenders Act. Futhermore, those who disapprove of the authorization

of fingerprints in indictable offence situations are very likely to agree to prohibiting fingerprints for summary offences.

B. The Prohibition Against Fingerprinting for Summary Offences

Attitudes towards this provision are among the most wide ranging of all components of the legislation, with average responses ranging from "strongly approve" to "disapprove". While there remain distinct patterns of response by professional groups, there are sizeable differences from province to province. Furthermore, the responses are almost precisely the reverse of those for fingerprinting in indictable cases -- the police and crown prosecutors are most disapproving, and defence more in favour of the prohibition. The judiciary and probation officers tend towards a "mildly approve" response, but as for other groups, there are large jurisdictional variations (Figure 30).

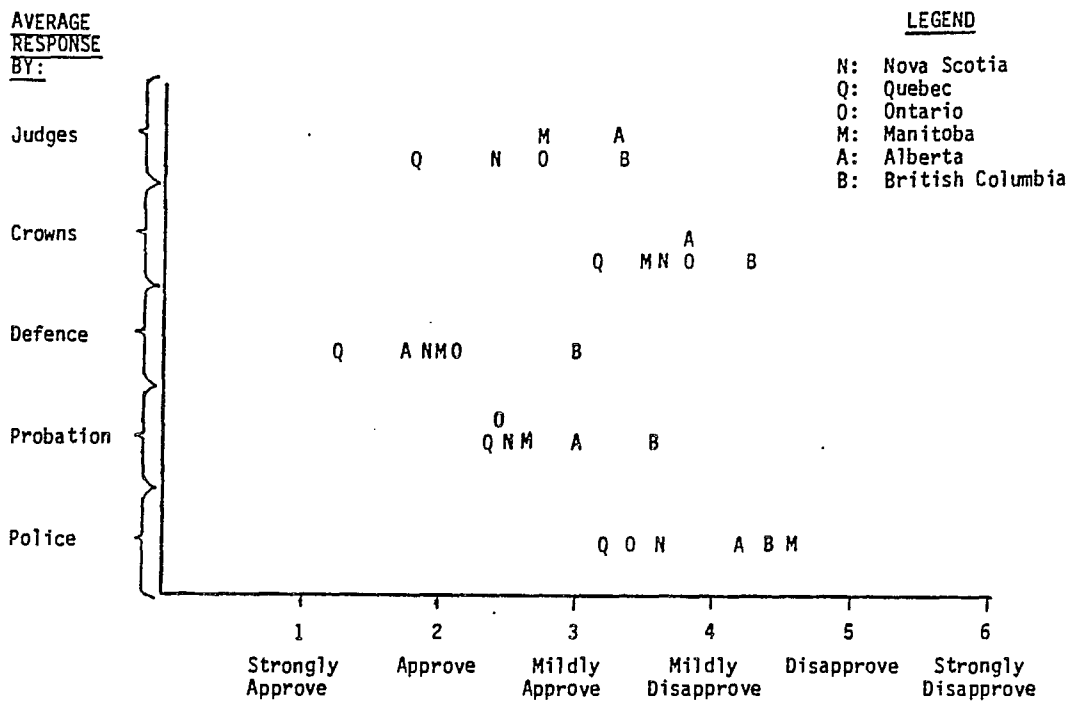
Judges, crowns and defence in Quebec are much more, and probation and police slightly more, positively inclined towards this measure than others in their actor group. Personnel from B.C. are generally most against the legislation (except for police among whom disapproval is found in Alberta and Manitoba, as well as in B.C.); crowns, defence and probation officers from B.C. are most at odds with their counterparts elsewhere on this issue.

Correlates of Opinions on the Prohibition of Fingerprinting For Summary Offences:

There was a clear trend everywhere for judiciary who spent a sizeable proportion of their time on the bench on delinquency matters to show greater agreement to the prohibition against fingerprinting for summary offences. As well, judiciary from larger cities tended to approve of the prohibition

FIGURE 30

ATTITUDES TOWARDS "A YOUNG PERSON CANNOT BE FINGERPRINTED FOR A SUMMARY CONVICTION OFFENCE EVEN WITH HIS/HER CONSENT": BY ACTOR CATEGORY AND JURISDICTION



A young person cannot be fingerprinted for a summary conviction offence even with his/her consent.

to a greater degree than did their colleagues in smaller towns. Overall, urban probation officers were more favourable to the prohibition; this was most noticeable in Quebec, Alberta and British Columbia.

Police who had over ten years employment experience as police officers were somewhat more inclined to agree with the prohibition than were their colleagues with fewer years of experience. Contact with the juvenile justice system (either as youth bureau officers or by their recent juvenile court experience) was also related to a more favourable response to the limitations on fingerprinting.

Correlations with Other Components of the Y.O.A.:

For all respondents, approval of this prohibition is related to disapproval of the authorization of fingerprints in indictable situations, and to support for the Declaration of Principle. The attitudes of the samples towards this issue show variability by actor category. Judges who agree to this provision have similar responses to the alternatives provisions, the destruction of summary records, and to a higher maximum age. But judges who like the prohibition tend to disagree that indictable records should be destroyed.

Crowns who disapprove of the prohibition against fingerprinting tend to be less in favour of the right to counsel on arrest, and to agree that the protection of society should take priority in instances of conflict with the young person's needs.

There is a congruence between defence counsel opinions on the prohibition and alternative measures, to the provisions that dispositions may not be more severe than those given an adult, the right of access by the young person to court records, the right to counsel, and to a higher minimum age.

Probation officers' support is related to approval of the destruction of summary records, the upper and lower age limits of the youth court, and the right to counsel, but to disagreement with public hearings. Similar relationships are found among police, except that there is no relationship to attitudes to the maximum age.

Among all respondents, it is apparent that approval for the prohibition against fingerprinting summary offenders is related to a tendency towards protecting the juvenile from intrusion by the system. The Identification of Criminals Act provides that adults may be fingerprinted only when charged with or convicted of an indictable offence. Presumably, those who object to the prohibition in relation to young offenders also disagree with the prohibition in relation to adults.

C. Access by the Young Person to Youth Court Records

The Y.O.A. provides that youth court records shall be made available on request to the young person involved, with the proviso that the records may be withheld when the information in them is detrimental to the person's treatment and/or if the release of the information may be harmful to a third party.

The general provision that records should be made available to the young person on request (Figure 31), met with overall approval. Defence were most in agreement, followed by judges and prosecutors. Most probation and police, on average, "mildly approved".

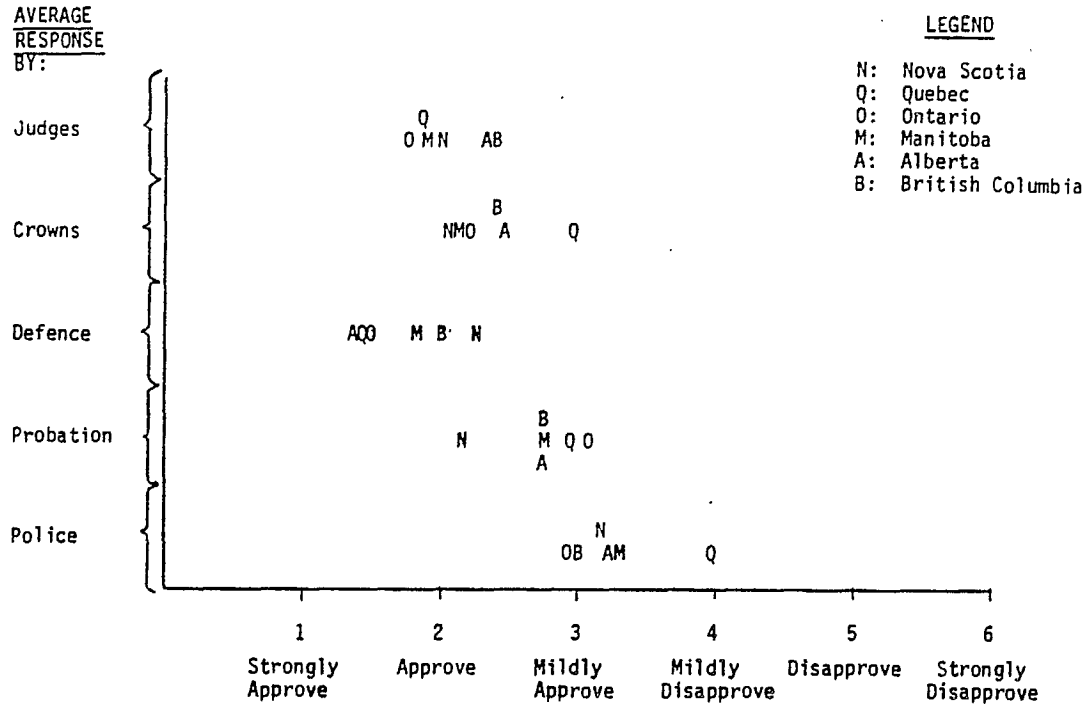
Of all categories of respondents, only police officers in Montreal disapproved, with crowns in Quebec also less positive than other prosecutors. Nova Scotia probation workers were more in agreement than their associates in other provinces.

Even more outstanding provincial variations were found for the question which asked the respondents' opinions on the withholding of records when information may be detrimental to the young person's treatment or recovery (Figure 32). All personnel from Quebec were significantly more in favour of withholding records under these circumstances. Most exceptionally, the responses of all Quebec actors but defence were almost identical (between "strongly approve" and "approve").* Defence counsel as a group, and particularly those from Alberta, were least approving of the measure.

*This is perhaps the only instance where one jurisdiction shows almost total unanimity of opinion with regard to a controversial issue.

FIGURE 31

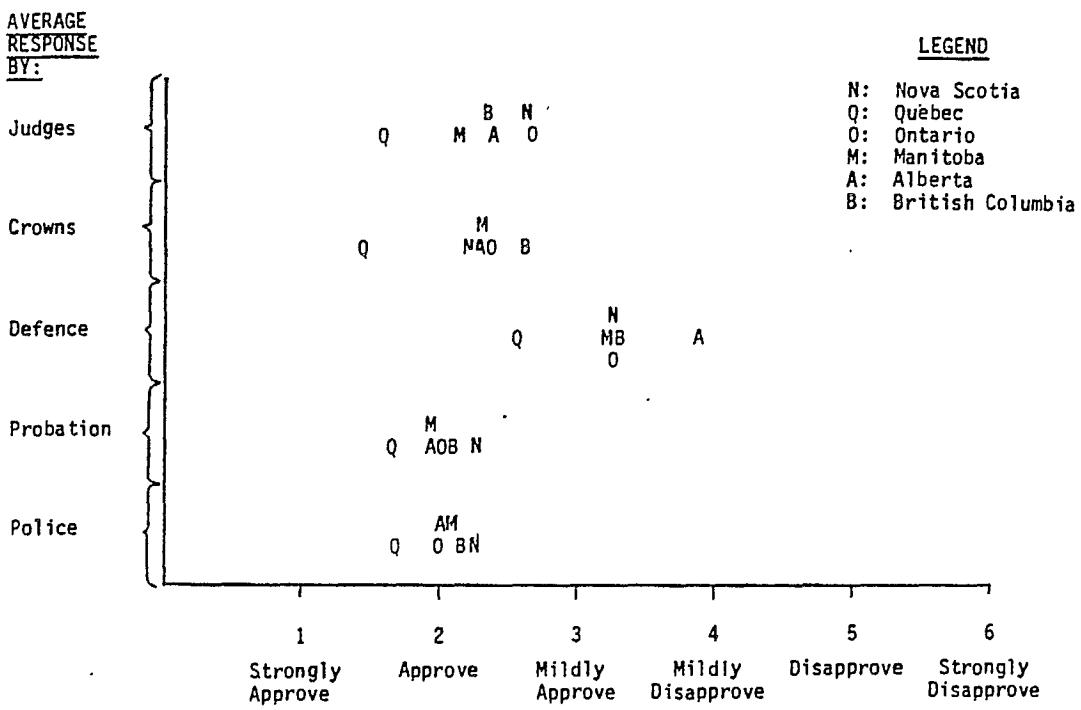
ATTITUDES TOWARDS "NORMALLY ALL YOUTH COURT RECORDS SHALL BE MADE AVAILABLE UPON REQUEST TO THE YOUNG PERSON": BY ACTOR CATEGORY AND JURISDICTION



Normally all youth court records pertaining to youth court proceedings shall be made available upon request to the young person concerned.

FIGURE 32

ATTITUDES TOWARDS "INFORMATION CONTAINED IN REPORTS WHICH FORM PART OF THE RECORD MAY BE WITHHELD FROM A YOUNG PERSON IF THE INFORMATION WOULD BE DETRIMENTAL TO THE TREATMENT OF THE YOUNG PERSON": BY ACTOR CATEGORY AND JURISDICTION

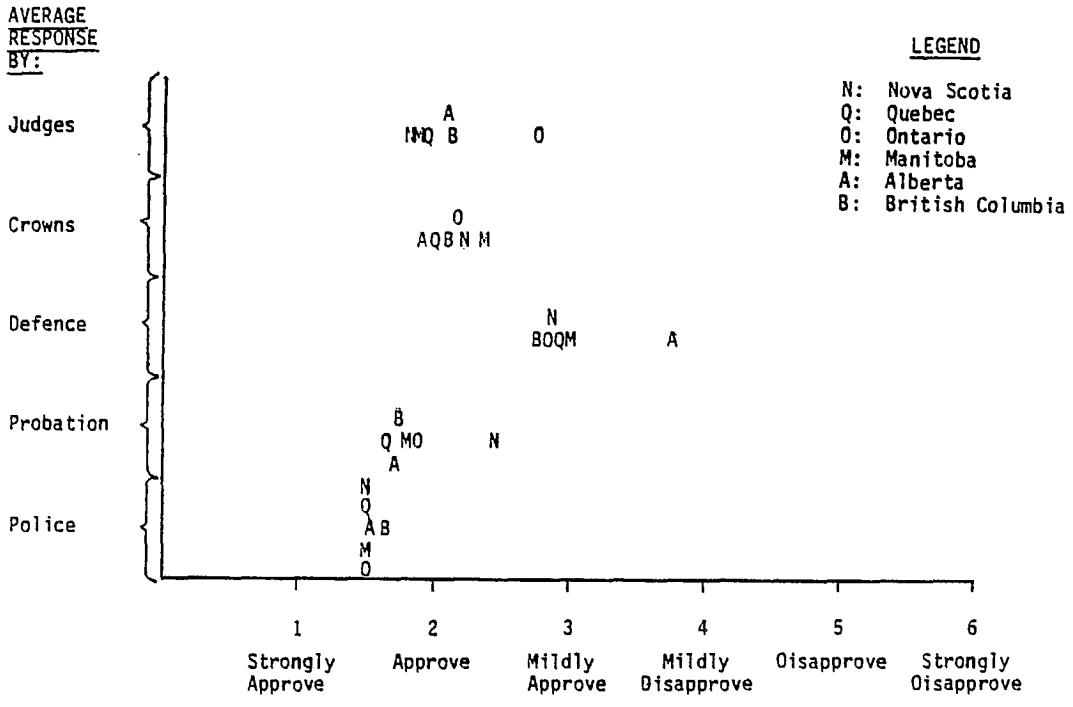


Information contained in reports which form part of the youth court record may be withheld from a young person if the information would be detrimental to the treatment or recovery of the young person.

More unanimity and not as much jurisdictional variation were apparent in the reactions to the withholding of records if the information would be likely to result in injury to a third party (Figure 33). Only defence stand out as being less inclined to accept this measure (and, as above, especially Alberta defence). Ontario judges and probation in Nova Scotia were not as wholeheartedly approving as their associates in other provinces. In all jurisdictions, police officers support this measure highly.

FIGURE 33

ATTITUDES TOWARDS "INFORMATION CONTAINED IN REPORTS MAY BE WITHHELD FROM THE YOUNG PERSON IF IT WOULD BE LIKELY TO RESULT IN INJURY TO A THIRD PARTY": BY ACTOR CATEGORY AND JURISDICTION



Information contained in reports which form part of the youth court record may be withheld from the young person if the information would be likely to result in injury to a third party.

Correlates of Opinion on Young Person's Access to Court Records:

A higher proportion of small town or rural judges agreed to withholding records if they could be detrimental to the treatment or recovery of the young person (98% agreed vs. 84% of urban judiciary). As well, all judges who have been on the bench for more than ten years agreed to the withholding of records when information could result in injury to a third party -- in contrast to about 85% of those who had worked for a briefer period.

More experienced prosecutors were more in agreement with the restriction on access when the information might be harmful to the young person. Also, crowns who are least knowledgeable about the legislation are somewhat more likely to approve of the withholding of records when a third party could be harmed.

Correlations with Other Components of the Y.O.A.:

Both "withholding" records questionnaire items were strongly related to each other. As well, persons who agreed to the general provision with regard to the right of access by the young person did tend to disagree with both items on restricting availability. Right of access generally is positively related to views on the right to counsel, and the rights of appeal.

D. The Destruction of Summary Records

All records pertaining to conviction for a summary offence must be destroyed after two years, if the young person has not been charged with any subsequent offences. Figure 34 shows the proportions of each respondent category who disagreed totally with the destruction of summary records. Very little opposition to the destruction is found among defence and probation officers; one-fifth or fewer of these actors disagreed with the measure. As has been commonly found, police and prosecutors were much more against records destruction; from about 40% to 60% disapproved of the measure. The majority of judiciary in all provinces but Alberta agreed with this provision. In Alberta, precisely one-half of judges who responded were against any destruction.

The average responses* of each actor category by jurisdiction indicate that the same patterns by actor group hold as were found in Figure 34. However, as Figure 35 illustrates, variations by province are not consistent across all actor groups. Judges, defence and probation officers in Nova Scotia do tend towards greater agreement, as do Quebec crowns and police, although to differing degrees depending on the professional group. Defence from Alberta are much more positive, and judges there are much more negative, than their associates in other provinces.

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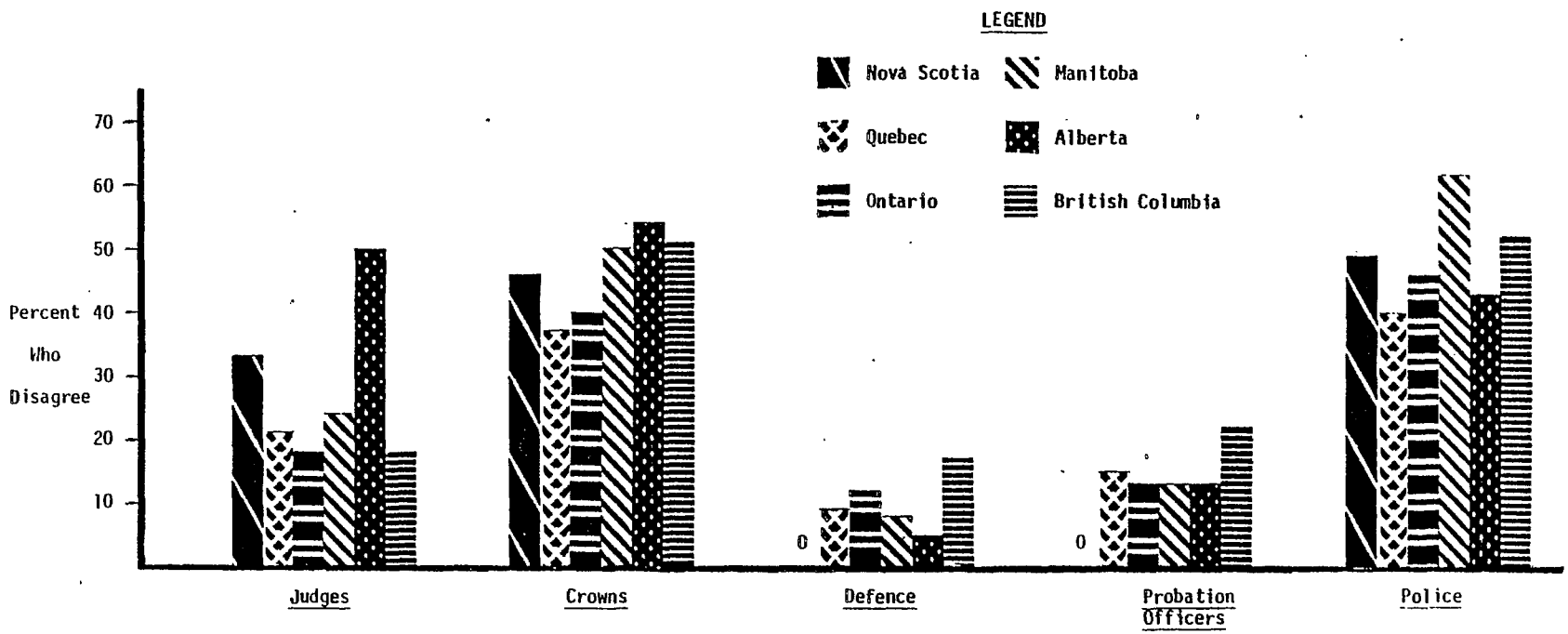
*Calculated by assigning values of 0 to those respondents who disagreed totally to records destruction, of 1 to those who agreed but not with the timing of the destruction, and of 2 to those who agreed both to destruction and to the timing.

FIGURE 34

DISAGREEMENT WITH THE DESTRUCTION OF SUMMARY RECORDS: BY ACTOR CATEGORY AND JURISDICTION



Correlates of Opinions on the Destruction of Summary Records:

The sole relationship to the background of the respondent was found for police officers from several cities; a higher proportion of officers who had most years of service agreed with the measure than did police with fewer years experience.

The potential for social and employment liabilities arising from the retention of court and other records was presumably a reason for the inclusion of s.45 in the Act. However, only for judges, crowns, and defence was there a relationship between attitude to summary record destruction and the opinions on the degree to which "stigmatization as a result of contact with the juvenile justice system" contributed to the causation of delinquency. The less agreement with the destruction of records, the more likely that the respondent regarded stigmatization to be of little importance. The reverse is also true: the more agreement, the greater the likelihood that these groups believed that system contact was related to subsequent delinquent behaviour. This was not so for the indictable records provision.

In addition, there was a trend for those who were in favour of records destruction to rate "punishment" less highly as one of the desirable objectives of the juvenile court; this pattern of response was even more noticeable for the destruction of indictable records, discussed below.

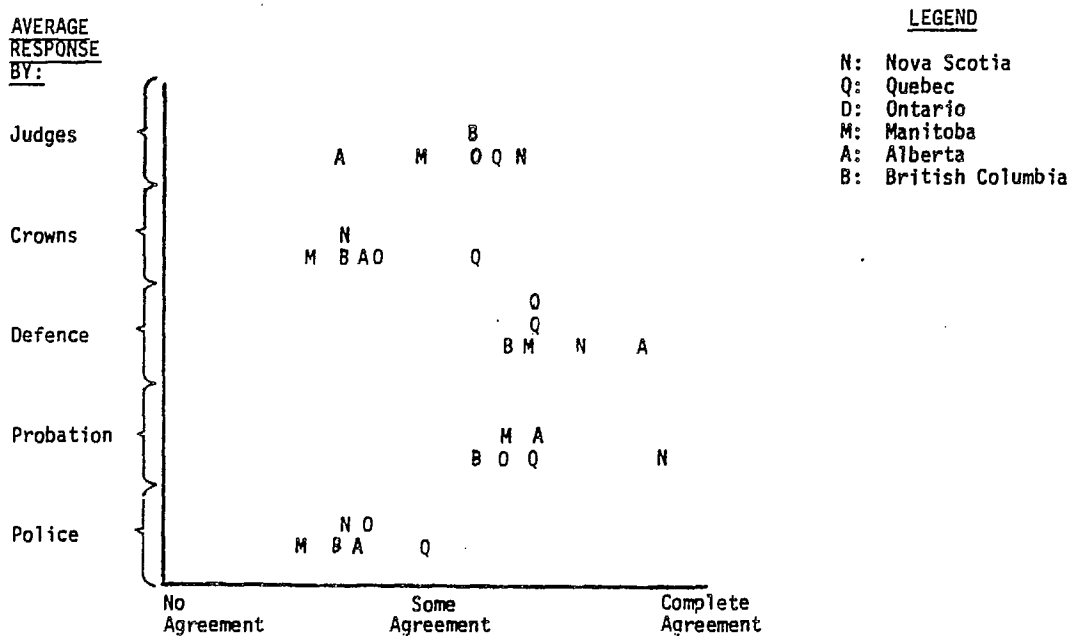
Correlations with Other Components of the Y.O.A.:

Actors in all five categories who agreed to the destruction of summary records were very likely to agree to the destruction of indictable records.

Other associations were much less pronounced, but it is clear that respondent agreement to this measure is directly related to views on fingerprinting for summary offences, to acceptance of the Declaration of Principle and the maximum age.

FIGURE 35

ATTITUDES TOWARDS THE DESTRUCTION OF SUMMARY RECORDS : BY ACTOR CATEGORY AND JURISDICTION



E. The Destruction of Records for Indictable Offences

The pattern of response by actor category to this item is the same as for the summary records destruction provisions -- although there is clearly much less agreement among all respondents, except perhaps defence (Figure 36). As we would expect from attitudes towards other components of the Y.O.A., defence are least, and police (and crowns) most, disapproving. There are considerable variations by province in judicial opinions: the proportion who totally disagree to any destruction of indictable records range from 20% (Quebec judiciary) to 75% (judges from Alberta).

The average response data* indicate that Alberta judges and crowns share the same negative opinion of the destruction of indictable offence records; they differ significantly from their associates in other provinces (Figure 37, page 96). The judiciary and police from Quebec appear to be more in agreement than others in those actor categories; Quebec probation and crown prosecutors are also slightly more approving than their counterparts in most other jurisdictions. The small number of Nova Scotia probation personnel in the sample were most in agreement with the destruction of indictable records.

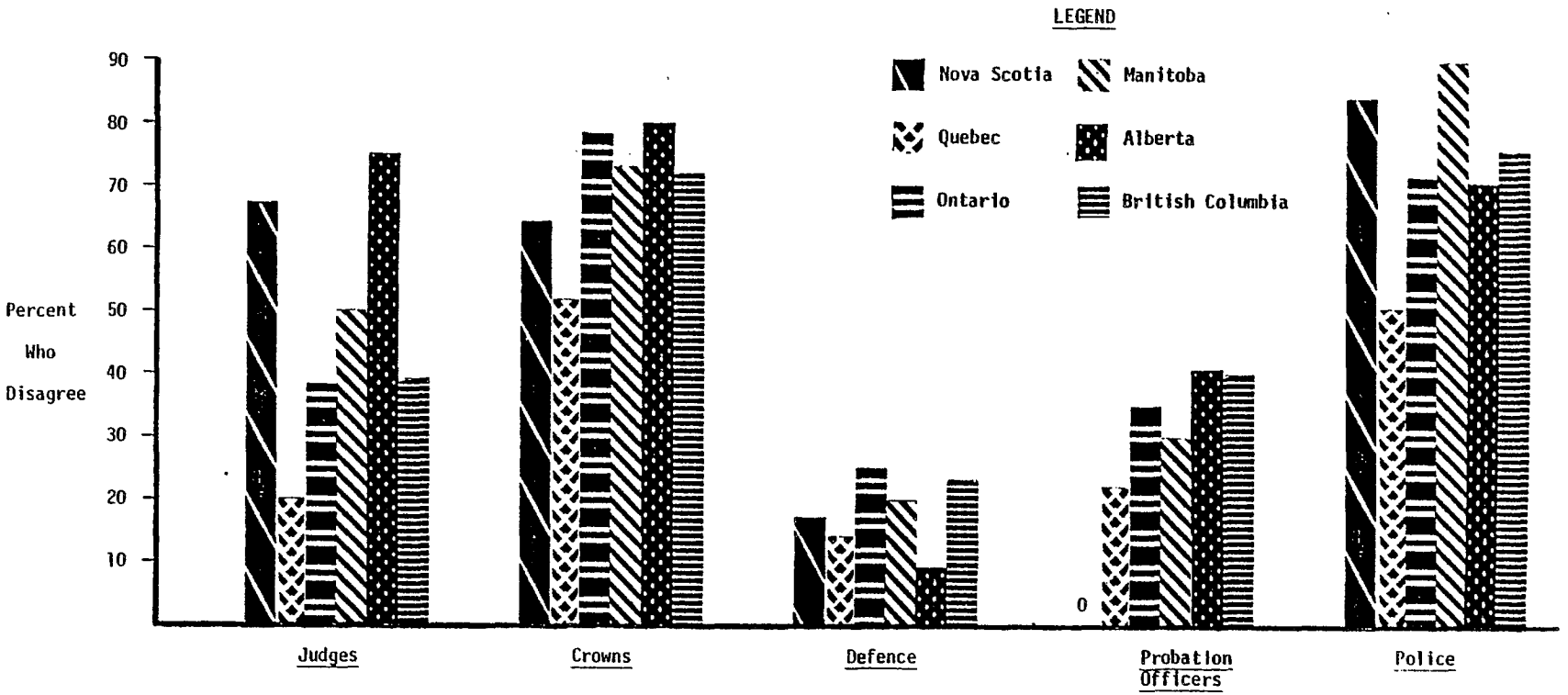
Correlates of Opinions on the Destruction of Indictable Records:

The correlates of attitudes to the destruction of such records frequently vary by jurisdiction -- relationships occurring in one or two provinces

*Calculated by assigning values of 0 to those respondents who disagreed totally to records destruction, of 1 to those who agreed but not with the timing of the destruction, and of 2 to those who agreed both to the destruction and to the timing.

FIGURE 36

DISAGREEMENT WITH THE DESTRUCTION OF INDICTABLE RECORDS: BY ACTOR CATEGORY AND JURISDICTION



often do not hold elsewhere for the same actor groups. For example:

- B.C., Alberta, and Quebec crown prosecutors who have spent most time working with youth in the criminal justice system (i.e., 6 or more years), and/or have that length of experience as prosecutors, are more in agreement with the measure.
- defence in most provinces who spend a larger proportion of their time defending delinquency charges tend to agree with the destruction of indictable records completely or partially (i.e., with the principle but not necessarily with the timing; this is most pronounced among Quebec defence).
- probation officers in Manitoba who had two years or less experience supervising juveniles are somewhat more likely to disagree than do their associates with more years experience.
- the number of years employed in the system is also related to Alberta and B.C. police views on the matter -- those who have spent 21 or more years in police forces are more likely to agree than those with fewer years of experience.

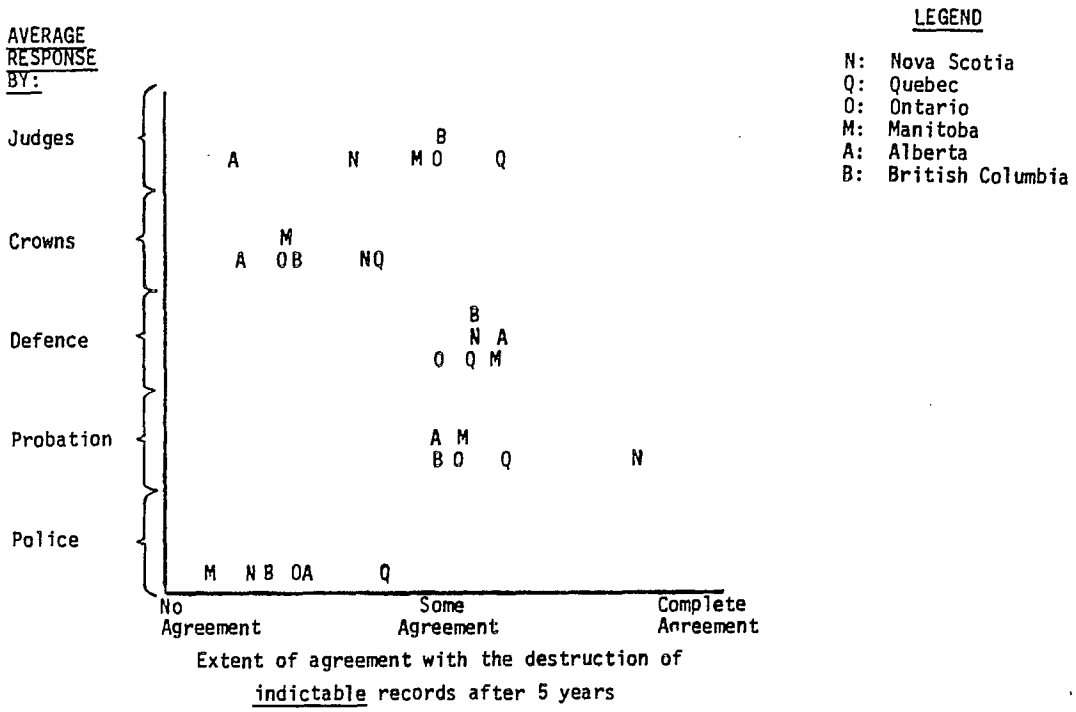
With the exception of prosecutors, there was a strong association between disapproval of destruction of indictable records and expressed support for "punishment" as a desirable goal of the juvenile court -- suggesting that responses to this provision may be related to a deterrence orientation to the handling of delinquent behaviour by the juvenile justice system.

Correlations with Other Components of the Y.O.A.:

The actors sampled who agreed with the destruction of indictable records after five years tended to find this measure consistent with summary records destruction, an older maximum age, and the Declaration of Principle.

FIGURE 37

ATTITUDES TOWARDS THE DESTRUCTION OF INDICTABLE RECORDS : BY ACTOR CATEGORY AND JURISDICTION



X. Alternatives to Judicial Proceedings (Diversion)

The Young Offenders Act provides legislative authority for measures which divert young persons from the youth court and lays out ground rules for provinces that wish to establish, or to continue, diversion programming. Of the jurisdictions for which we have Key Actor Survey data, British Columbia, Manitoba, and -- most notably -- Quebec already have institutionalized pre-court screening mechanisms. Justice officials in Ontario have traditionally been against formalizing, on a large scale, post-charge diversion for either juveniles or adults. Nor has the Alberta government supported the establishment of province-wide alternative measures. As a result of these variations in present practice, it would be expected that there would be major inter-jurisdictional differences in opinions on alternatives to judicial proceedings.

The Survey questionnaire did not directly ask if the respondent approved of the principle of diversion. Instead, the questionnaire focussed on the attitudes towards the procedural safeguards established by the Act for diversion processing. For example, the summary variable for alternative measures was constructed by combining the following items:

- alternatives may be used only if the young person consents and if there is evidence to proceed with the prosecution;
- alternatives may not be used if the youth denies involvement in the offence, or if s/he would prefer to have the charge dealt with by the court; and,
- the judge must dismiss a charge when the young person has fully complied with the alternative measure.

We cannot, therefore, draw any conclusions on the acceptance (or lack of it) of the principle of alternative measures. We can only discuss attitudes to specific aspects of the Y.O.A.'s provisions on the subject. It is not known to what extent views on the specific measures are coloured by an aversion to the concept of diversion. We suspect that opinions on the concept may be affecting the responses to the procedural safeguards, but have no way of determining the extent of the impact.

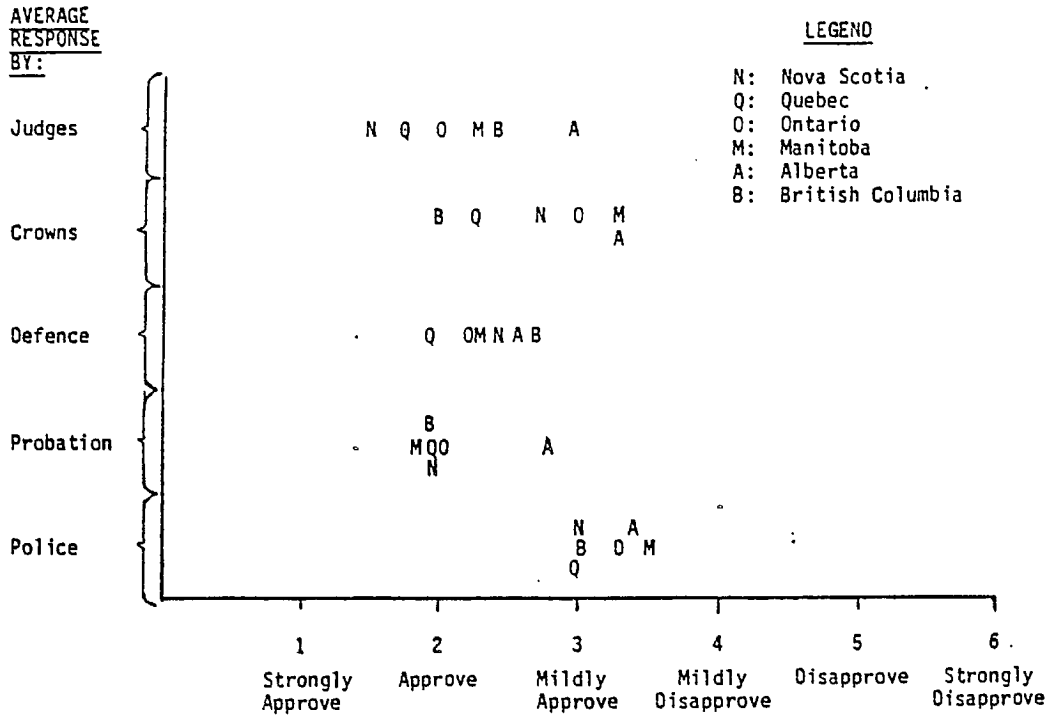
The attitudes to five components of the alternative measures section of the Act are summarized as a combined response in Figure 38. Mild to moderate approval is the most common response, except for police. There is a wide range of opinion among judges and crowns, and least enthusiasm comes from Alberta (judges) and Manitoba, Alberta and Ontario (crowns). System personnel from Quebec are among those most in agreement to the summary measure.

One of the safeguards in the legislation is the provision that the young person must freely and fully consent to the alternative measure. This item was the first in the Survey questionnaire in the section on alternative measures, and the "double barreled" nature of the statement ("alternatives may be used if...") may have elicited reactions to the concept of diversion, as well as to the "full consent" aspect. Certainly, there is more diversity of opinion than one would expect (Figure 39).

There are no major differences among respondent groups, although police are less inclined to accept this statement than are other respondents. More

FIGURE 38

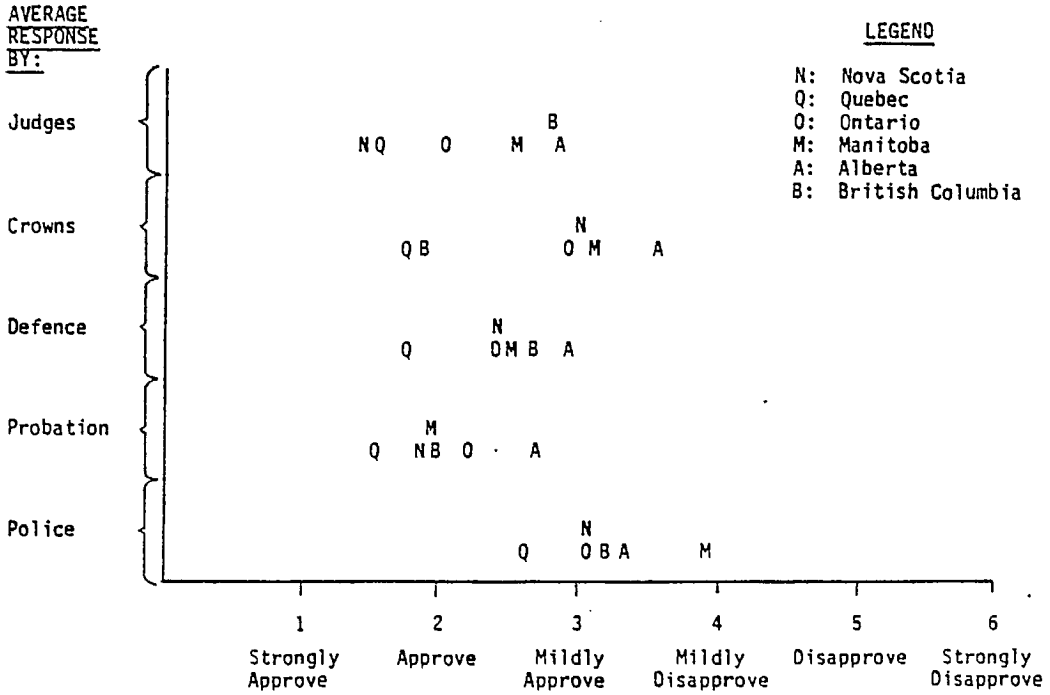
ATTITUDES TOWARDS ALTERNATIVE MEASURES: BY ACTOR CATEGORY AND JURISDICTION



Alternatives may be used only if the youth consents and there is evidence to proceed; alternatives may not be used if the youth denies involvement or if he wants the charge dealt with by the court; the judge must dismiss a charge when the young person has fully complied with the alternative measures.

FIGURE 39

ATTITUDES TOWARDS "ALTERNATIVES MAY BE USED TO DEAL WITH A YOUNG PERSON ALLEGED TO HAVE COMMITTED AN OFFENCE ONLY IF THE YOUNG PERSON FREELY CONSENTS TO PARTICIPATE": BY ACTOR CATEGORY AND JURISDICTION



Alternatives to judicial proceedings (diversion) may be used to deal with a young person alleged to have committed an offence only if the young person, after having been informed of the alternative measure, fully and freely consents to participate.

notable are the jurisdictional differences, with Quebec actors almost uniformly the most positive, and personnel from Alberta among the most negative.

Figure 40 illustrates the average responses to a paraphrasing of s.4(4), which states that the use of alternative measures does not bar proceedings against the young person.* However, the questionnaire item excluded the "but" found in s.4(4) which qualifies the "bar to proceedings" provision by stating that the judge must dismiss the charge when the court is satisfied that the juvenile has complied with the measures, and that the court may dismiss the charges if prosecution of the charge "would be unfair". By omitting these qualifiers, the questionnaire item becomes somewhat misleading. The item did evoke a considerable range of response. Defence were most disapproving (even some crowns shared defence disapproval), and the police and, to a lesser extent, probation officers most in agreement. Judges, except those from Alberta, were in the middle of the response continuum.

Judges from Alberta and defence from the same province are more positively inclined to this item than their counterparts in other provinces. Prosecutors from British Columbia and Ontario are considerably more negative than are others. Of defence, those from Nova Scotia and Quebec are least approving.

Another component of the summary measure evoked sufficient variation in opinion that it deserves attention on its own: the measure that states that the court must dismiss a charge when the young person has fully complied with the altern-

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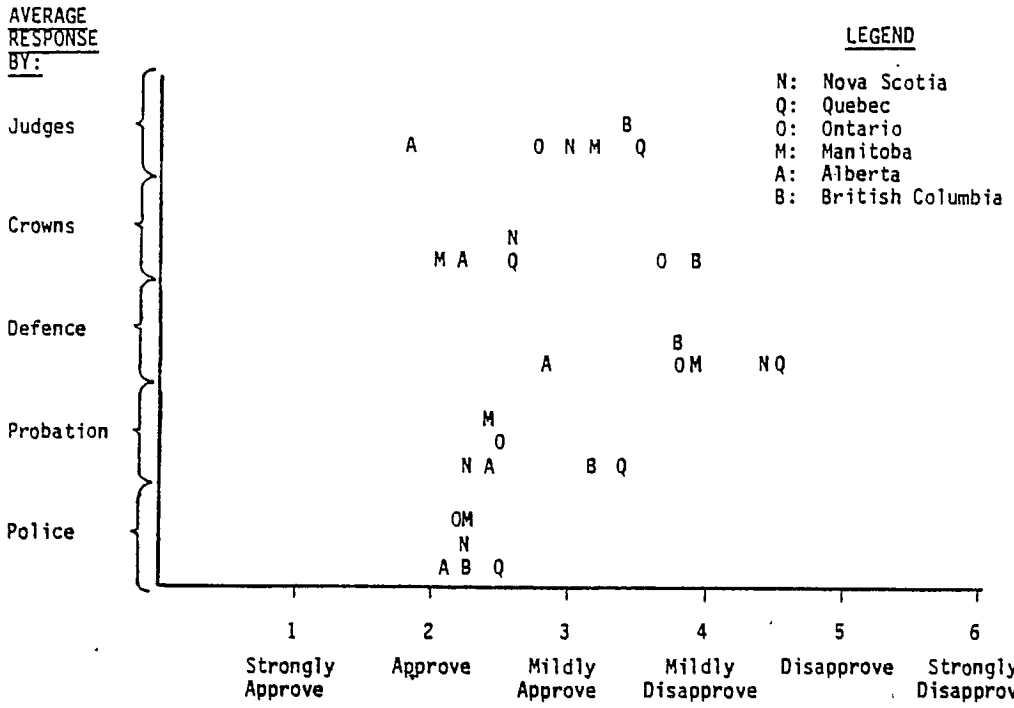
*This item was excluded from the summary measure on alternative measures.

FIGURE 40

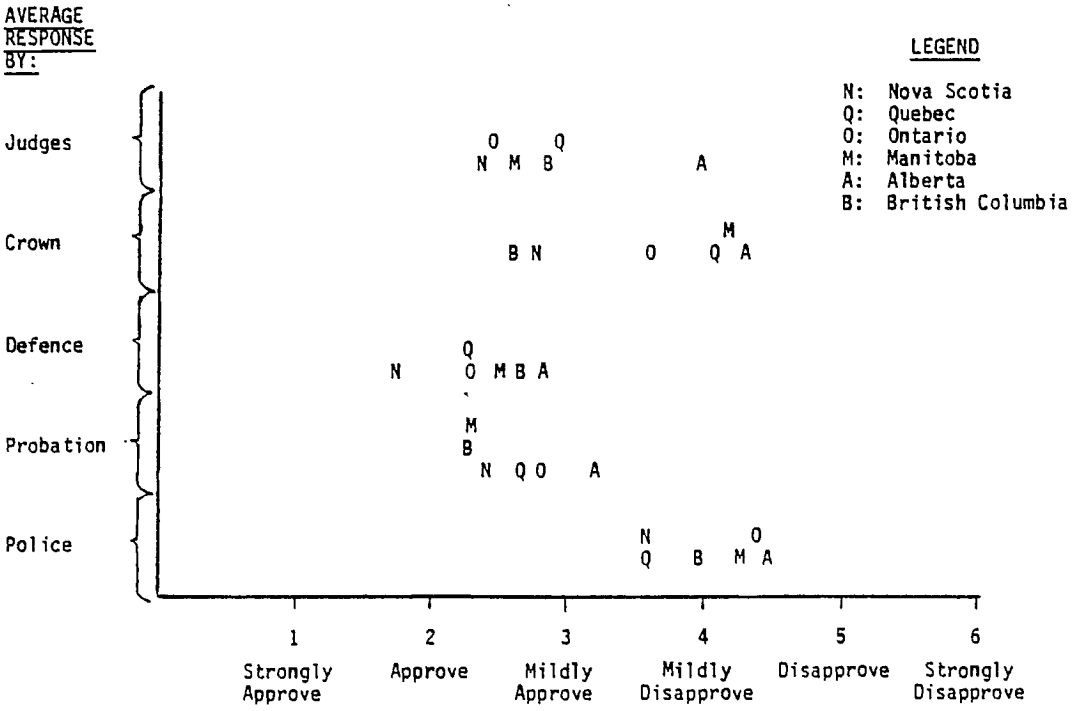
ATTITUDES TOWARDS "THE USE OF ALTERNATIVE MEASURES DOES NOT PRECLUDE JUDICIAL PROCEEDINGS CONCERNING THAT OFFENCE": BY ACTOR CATEGORY AND JURISDICTION



The use of alternative measures (diversion) in respect of a young person alleged to have committed an offence does not preclude judicial proceedings concerning that offence.

FIGURE 41

ATTITUDES TOWARDS "THE JUDGE MUST DISMISS A CHARGE FOR WHICH THE YOUNG PERSON HAS FULLY COMPLIED WITH THE ALTERNATIVE MEASURES": BY ACTOR CATEGORY AND JURISDICTION



The judge must dismiss a charge for which the young person has fully complied with the alternative measures.

ative measure (Figure 41). Notwithstanding fairly clear groupings of responses by actor type, the samples are almost evenly split between approval and disapproval of this provision. On the latter end of the continuum there are Alberta judiciary, crowns from Ontario, Quebec, Manitoba and Alberta, and all police. Respondents from Alberta are the most ill disposed to the "must dismiss" measure, and Nova Scotia juvenile justice personnel are among the most positive.

Different, and more negative, responses occur for another component of s.4(4) -- the judge may dismiss a charge when the young person has only partially complied with the alternative measure* (Figure 42). In descending order from most to least approval, we find the judiciary, defence counsel, probation, crowns and police. Almost all crowns and all police disagree with the provision. Judges from Quebec and Alberta -- unlike the pattern described above where their responses tended to be on opposite ends of the continuum -- are most disapproving of members of the bench. As well, defence counsel in British Columbia are less in favour of the "may dismiss" provision than are other defence.

Correlates of Opinions on Alternative Measures:

Four-fifths or more of four categories of respondents (the exception is the police) "approved" in our summary measure for views on alternatives to judicial proceedings. The search for correlates of opinions is therefore hampered by the small numbers of persons who disagreed with the measures.

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*This item was not part of the summary measure on alternatives.

However, attitudes to alternatives were shown to have some relationships to attitudes to other aspects of the juvenile justice system:

- judges who are inclined to approve of the provisions for alternative measures are more likely to believe that it is important to have representation by counsel at diversion proceedings.
- the degree of approval for the measures among judges is related to agreement that a warning by police is probably the best way of handling a minor offence, even when the juvenile has a prior record.
- the greater the agreement by judges, crowns, and defence to the alternative measures items, the more likely they are to agree that the due process of law best serves the juvenile's interests.
- agreement with the statement that dispositions involving removal from the home should be used as infrequently as possible is strongly related to the judiciary's approval of diversion measures -- and somewhat associated with that of defence and probation.
- for four actor categories, all but police, a positive reaction to the statement that "where evidence does not clearly establish that the juvenile is guilty, the case should be dismissed regardless of the juvenile's apparent need of assistance", not unexpectedly, evoked a similar response to alternative measures.

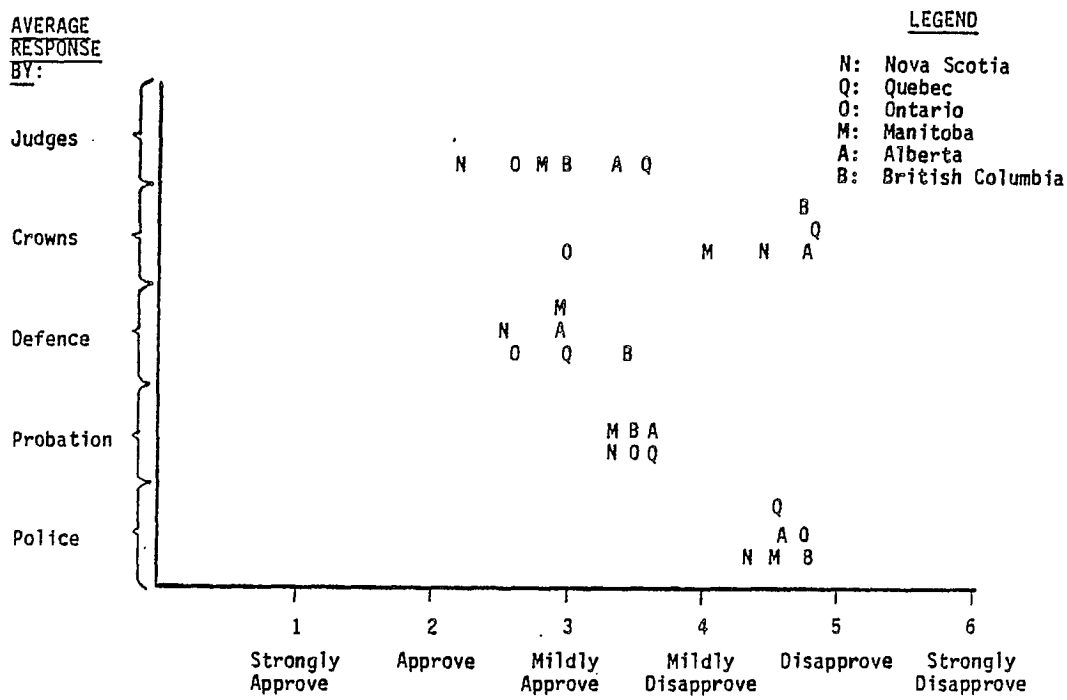
A belief in minimal interference and a commitment to the due process model for juvenile justice are therefore associated with approval for the items on alternative measures -- not surprising perhaps, considering the orientation of most of the diversion measures paraphrased in the Survey questionnaire.

Correlations with Other Components of the Y.O.A.:

With the exception of police and probation officers, whose views have few "within-legislation" relationships, attitudes to alternative measures are associated with a favourable reaction to the Declaration of Principle and the right to counsel provisions.

FIGURE 42

ATTITUDES TOWARDS "THE JUDGE MAY DISMISS A CHARGE FOR WHICH THE YOUNG PERSON HAS PARTIALLY COMPLIED WITH THE ALTERNATIVE MEASURES": BY ACTOR CATEGORY AND JURISDICTION



The judge may dismiss a charge for which the young person has partially complied with the alternative measures.

Chapter 3: Summary and Implications for Policy

I. Summary of Major Findings

A. Areas of Support for the Legislation

Despite the focus in this report on the areas of resistance to the Young Offenders Act, a number of components of the legislation evoked little or no opposition. Strong support was evident among most system professionals for the following specific provisions of the Act:

- the statements in the Declaration of Principle that the young person should be held responsible for illegal behaviour, and removal from parental supervision should occur only as a last resort;
- the requirement that the young person be detained separately from adults;
- the notification of the parent on arrest and detention, and several other notice provisions;
- most of the "right to counsel" measures;
- the provision that the young person cannot be subject to a disposition more severe than the maximum penalty that could be given an adult for the same offence;
- the authorization of the establishment of fine option programs;
- the disposition that permits detention for treatment of a psychiatric or medical problem (treatment orders);
- the retention of the review jurisdiction of the court until all dispositions are completed, and annual reviews of dispositions involving custody;
- rights of appeal similar to those for adults;

- the exclusion of the public from youth court hearings under some circumstances; and,
- the removal of status offences from federal jurisdiction.

B. Areas of Resistance to the Legislation

The areas of the legislation that raised the most concern differ by actor category.

The juvenile bench who were surveyed tended towards mild acceptance of the majority of the Y.O.A. In comparison with their fellow key actors, judges were in the middle of the response continuum -- more supportive of the Act than crowns and police, but often less in agreement than defence and probation personnel.

Among judges, the areas of most disagreement were: the authorization of the establishment of provincial boards to review custodial dispositions; the destruction of summary and indictable records (especially the timing of the former); the raising of the upper limit to 18 (in Nova Scotia, Ontario and B.C.); and the three year maximum length of dispositions for offences for which an adult would be liable to life imprisonment.

Crown prosecutors and crown agents showed strong disapproval of several items from the Declaration of Principle: the provisions that young persons should have special guarantees of their rights, and the right to the least possible interference with their freedom. Of the substantive and procedural measures contained in the legislation, opposition was expressed to: the diversion provision that states that the judge may dismiss a charge for which the young person has only partially complied with the alternative measures; the notice to appear provision whereby proceedings become invalid if notice is not given.

unless the parent is in attendance; the prohibition against fingerprinting young persons charged with summary offences; and provincial review boards. As with judges, there was crown opposition to the destruction of summary and indictable records; the majority believed that records should never be destroyed. Most crowns preferred an age limit lower than is prescribed by the Y.O.A. The maximum lengths of dispositions -- three years for "life" offences, and two years for other offences -- were greeted negatively by crowns, particularly the former measure.

Defence counsel showed rather different patterns of negative response. While defence were the most accepting of the new legislation, there were some exceptions: the provision that alternative measures do not preclude judicial proceedings for the offence; the authorization of fingerprinting and photographs of young persons accused of indictable offences; the place of custody to be determined by the province, not the youth court; and hearings open to the public.

The destruction of records for indictable offences was of some concern to defence, but for reasons different from those of most other actor groups: many defence agreed to the concept of records destruction, but wanted a shorter time period than is found in the Act. In several provinces, defence counsel preferred lower minimum and maximum ages of youth court jurisdiction than specified by the legislation. The three year maximum for "life" offences was opposed by almost three-quarters of the defence counsel in the Study, with almost all of those who disagreed preferring a longer maximum length.

Probation officers were most opposed to the opening of court hearings to public view, and did not support dismissal of the charge when the youth has only partially complied with the alternative measure. Just over one-half of probation personnel disapproved of the destruction of records of summary and indictable offences. Opposition to the 12 year lower age limit was found among probation officers in Ontario. Probation officers from Ontario, Alberta and British Columbia were against the increase in the maximum age. Two-thirds of probation officers disagreed with the three year maximum disposition length for "life" offences.

The police sampled had the most negative reactions to the Y.O.A. Police attitudes were similar to those of prosecutors, and they opposed many of the same measures: the two principles of special guarantees of rights and "least possible interference"; the authorization of dismissal of charges when there is full or partial completion of the alternative measure; the failure to give notice rendering proceedings invalid; the restriction on fingerprinting juveniles accused of summary offences; both destruction of records provisions; the minimum and maximum ages (although officers in Quebec were often satisfied with the 12 year minimum); and, the maximum length of dispositions (the majority of police* preferring a longer time span than the two and three years permitted in the legislation).

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*Approximately 90% of the police sampled disagreed with the three year maximum disposition length for "life" offences.

C. Jurisdictional Patterns of Response

While variations by professional groups usually outweighed jurisdictional differences, there were some issues for which all or most actor groups from one jurisdiction tended to respond in the same direction, if not with the same strength of opinion.

Juvenile justice system personnel from British Columbia were less approving of many elements of the Act's Declaration of Principle than were most other system workers. On the issue of the increase in the maximum age, respondents from British Columbia supported a lower limit than did others. The opening of the youth court to the public tended to be more acceptable to personnel from that province. British Columbia respondents were on the negative end of the response continuum of their actor group for provisions related to notice to appear, right to counsel, and disposition. They were more in agreement with the authorization of fingerprinting for indictable offences but the reverse is true for the restriction on fingerprinting summary offenders -- presumably because the fingerprinting of juveniles has been an issue in that province for several years.

Quebec system personnel exhibited greater approval of the Y.O.A.'s changes in the lower and upper limits of court jurisdiction. They were often more favourably inclined to the "alternative measures" items, the disposition and review of disposition provisions, the prohibition against fingerprinting summary offenders, and the destruction of indictable records than were their counterparts in other jurisdictions. On the other hand, they expressed more concern about public hearings, representation by a non-legally trained

adult, and the authorization of fingerprints in indictable situations.

Jurisdictional consistency of response was not as apparent for other provinces, but it is noteworthy that Manitoba respondents were often more in favour of the Declaration of Principle than were others, and supported the minimum and maximum ages to a greater extent. System professionals from Alberta found the right to counsel and alternatives provisions somewhat less acceptable than their peers elsewhere. For Ontario, the only item that brought a consistent provincial pattern of response was the raising of the minimum age to 12, with most actors negative to the change. On many issues, Ontario respondents tended to be in the middle of the range of responses for all jurisdictions.

D. Perceptions of Inconsistencies Within the Y.O.A.

About half a dozen components of the legislation elicited disapproval among persons who otherwise supported the Act. The authorization of the use of the Code in bail proceedings, of fingerprinting and photographs of young persons accused of indictable offences, and of hearings opened to the public were seen as inconsistent with the basic thrust of the legislation. Also, two slightly misleading items in the questionnaire* raised objections from supporters of the Act -- statements that the protection of society must take priority where the needs of the young person and the protection of society cannot be reconciled, and that alternative measures do not preclude judicial proceedings.

The court's right to dispense with parental notice and the withholding of court records from the young person under some circumstances were also perceived by some respondents as being incongruent with the remainder of the Y.O.A.

On the other hand, those who approved of the "protection of society" principle, the use of the Code in bail decision-making, fingerprinting indictable offenders, and public hearings often opposed the destruction of records, the increase in the minimum and maximum ages, and the maximum three year disposition length for young persons accused of the most serious offences.

*Misleading in the sense that the statements in the questionnaire did not adequately paraphrase the provisions in the legislation. See Chapter 2, p. 17 and p. 100.

E. The Relationships Between Attitudes to the Y.O.A. and Respondent Background Characteristics

In order to ascertain the correlates of opinion on the legislation, the analysis attempted to relate views on the forthcoming legislation to the background and demographic characteristics of the samples. and to their attitudes to other elements of the functioning of the juvenile justice system.

It was found that a greater degree of involvement in the juvenile justice system (as measured by the proportion of time spent on delinquency matters) is associated with approval for several components of the legislation -- at least for judges and defence, and occasionally for prosecutors.* This relationship does not, however, apply to a large part of the legislation. The extent of system involvement was related to only one major issue -- the increase in the maximum age -- and that only for judges and defence in a few provinces.

Furthermore, correlates of defence opinions indicate that counsel with more contact with the juvenile justice system are more likely to disagree with several components of the Act that could be construed as violating the "least possible interference" principle (e.g., the increase in the fine amount, the two year length of dispositions, and the authorization of fingerprinting for indictable offences). Similarly, judges who spent a sizeable proportion of their time hearing delinquency cases often disapproved of the provision which permits representation by a non-legally trained adult at youth court proceedings.

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*Different dependent variables showed relationships to degree of involvement in the system for each of these actor groups; that is, there was no consistency across professional groups in terms of delinquency involvement and opinions on the Act.

For several groups sampled, relatively inexperienced personnel (those with least years of experience in the position) were more in favour of some aspects of the legislation. Judiciary with five years or less on the bench were more supportive of the Act's philosophy, the formalizing of bail proceedings via the use of the Criminal Code, the notice to appear and review of disposition provisions -- suggesting a greater orientation towards due process than those with more experience on the bench.

Not as many relationships were found between length of experience of other groups and attitudes towards the legislation. Nor was there consistency either in the direction of the relationship (e.g., sometimes greater approval was found among those with most experience), or in the aspect of the legislation to which this characteristic was related (i.e., length of experience did not hold as a correlate for the same components across actor groups).

Population of the community in which the actor was employed showed several associations with opinions, particularly for judges.* Judiciary working in cities of over 100,000 population were more likely to accept several aspects of the Act (for example, the prohibition against fingerprinting for summary offences, the "special guarantees" and "least possible interference" principles), but the opposite is the case for the notice provisions. Practical difficulties in locating parents or responsible adults in large cities are probably related to this latter finding.

For crowns, probation and police officers, the background correlates of opinions were seemingly almost random in nature. The patterns found for judges and defence

*Note, however, that the samples of defence and police were almost entirely drawn from large urban areas.

did not constitute a trend for the other three professional groups involved in the Key Actors Survey.

The analysis inquired into the relationship between attitudes to the Act and the amount of familiarity with its contents. The Survey questionnaire asked all respondents if they had read any documents or attended any briefing sessions on the Y.O.A..

The simplistic assumption that greater familiarity de facto would be related to strength or direction of opinion was not supported by the data. Almost all judiciary were familiar with the legislation; as a consequence, no relationship could be established to opinions.* For other personnel, the degree of familiarity was rarely and inconsistently related to views of the legislation.

The few associations that were found were often not in the direction of "more information equals greater agreement": sometimes persons with the least information exhibited a higher degree of approval than did actors with more exposure. For example, in several provinces a larger proportion of defence counsel with no exposure to the legislation agreed to the 18 year limit than did defence with more familiarity.

On the whole, the level of information (that is, some exposure versus no exposure to the contents of the Act) was not related to attitudes. The degree of association between attitudes and information level was obtained for more than

*Sixty percent of the judges sampled had both read documents and attended briefing sessions on the legislation, making the numbers of those who had less exposure too small to permit any conclusions.

70 variables for each actor group; approximately 10 significant correlations were found. Thus, only about three percent of the possible total relationships showed statistical associations of any magnitude (and this is no more than one would expect by chance), and one-half were not in the expected direction. The "supporters" and "resisters" were equally well (or ill) informed within each actor category.

We also explored the possibility that the degree of approval for the Y.O.A. is related to attitudes to the present functioning of the juvenile justice system and the resources associated with it.

Perceptions of the quality of youth services in the community showed some limited relationships to the judiciary's views on the age limits. Higher upper and lower limits did tend to be preferred by judges who cited fewer poor services and more good services -- except in British Columbia, where the opposite was the case. In addition, more favourable opinions on the two year maximum for dispositions and on the province determining the place of custody were found among judges who rated the overall quality of community services more highly. These findings did not hold for the other professional groups.

A number of other attitudes to current system functioning were analyzed in order to ascertain their relationship to support and resistance. Many of the findings point to the interpretation that resistance to the legislation comes from persons more inclined to take a "tough minded" view of the handling of delinquency.*

*Further support for this hypothesis comes from relationships found between resistance to several aspects of the legislation (most notably the destruction of records) and a belief that an objective of the juvenile court should be "to see that juveniles are appropriately punished".

For example, responses to the attitudinal item "Dispositions involving removal from the home should be used as infrequently as possible" divided the sample into "supporters" and "resisters" more effectively than did all other attitudinal items in the Survey questionnaire. Personnel who approved of a number of components of the Act were more likely to agree with that statement than did those who were opposed.

An attitudinal item on the appropriateness of the parens patriae role for the juvenile court also brought some unexpected responses -- supporters of the legislation did not often reject the approach that emphasizes the role of the court as a surrogate parent, emphasizing the needs of the juvenile.

Nor was approval of elements of the legislation necessarily related to a rejection of the statement that "The Juvenile Delinquents Act is adequate for dealing with juvenile offenders". Indeed, responses to this item rarely showed a relationship to opinions of the forthcoming legislation.

In summary, we were unable to arrive at general interpretations of opinions on the Y.O.A. in terms of background characteristics of the respondents or their attitudes toward other features of the juvenile justice system. The major determinants of opinions on the Y.O.A. are, in order of strength, the respondent's role in the system (i.e., his "actor group"), and the jurisdiction in which he works.

II. Implications for Policy

This research was intended to provide the Ministry of the Solicitor General with information on the degree and nature of support for, and resistance to, the Y.O.A., and on the correlates of support and resistance. The main areas of resistance were described in detail in Chapter 2, along with the variations by professional group and jurisdiction. Analysis has not revealed overall trends in the correlates of support (the structural and attitudinal characteristics related to approval). Professional role and jurisdiction are related to opinions to a greater extent than are age, years in profession, community size, degree of involvement in delinquency, familiarity with the contents of the Y.O.A., or other attitudes towards the functioning of the juvenile justice system.

We differentiate reactions to the Y.O.A. into (a) overall resistance to, or support for, the Act, and (b) support or resistance regarding specific provisions. First, it is apparent that some aspects of the legislation evoke almost unanimous resistance among all actor categories sampled: the three year maximum length of dispositions for "life" offences; the increase in the upper age limit (in provinces other than Quebec and Manitoba); and the destruction of records of indictable offences, including the timing of the destruction. On the other hand, there is considerable general support for a number of components of the Act, including the rights of appeal, the right to legal representation, most of the notice to appear measures, and detention separate from adults.*

*For a more complete list of areas of support, see above, pp.105-6.

Other reactions appear largely determined by the actor's role or position in the system, and jurisdiction-specific concerns. Resistance by actors to certain aspects of the legislation is probably related to the special interests of the profession to which they belong. For example, judges are not in favour of the province assuming responsibility for deciding the place of custody; defence counsel object to the authorization of representation by a non-legally trained adult; probation officers are against the opening of youth court proceedings to public view.* These role-specific concerns should be taken into consideration in information targetting and in the development of administrative policies by provinces.

While jurisdiction-specific concerns were much less in evidence, there were some variations by province -- for example, views of public hearings showed wide differences among provinces. In addition, it was clear that provincial practice affected support for other measures, most notably the age limits of court jurisdiction. Training and orientation programs should take into consideration these variations, particularly the greater acceptance by several jurisdictions of some of the more controversial measures -- e.g., the generally more positive attitude by Quebec respondents.

We began the analysis by hypothesizing that overall reactions to the Act are largely determined by the respondent's world view, which is in turn largely determined by his background and professional experience. The analysis showed that respondents' backgrounds are not relevant to their reactions to the Act. The implication for targetting information to the juvenile justice audience

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*For other examples of actor-specific resistance, see pp. 107-9.

is that information campaigns need to be differentiated by actor group (primarily) and jurisdiction (on some issues), not by sub-categories of actors defined by background variables.

Our analysis of the relationship between exposure to the Y.O.A. (via reading and/or briefing sessions) and attitudes to the Y.O.A. suggests that information programs did not increase the acceptability of the Act to key actors in the juvenile justice system. The link between familiarity with the legislation and acceptance of its features is very weak, or possibly non-existent. For example, the police and crowns who are most familiar with the legislation are not necessarily most favourable towards it. Of the few associations found for these groups, the majority were in the opposite direction -- the less knowledgeable were more supportive.

It may be unrealistic to expect that providing information to those most resistant to the legislation will affect attitudes, when that resistance is based on fears that the Y.O.A. does not adequately protect society from youth crime. Notwithstanding this, we expect that future training and orientation programs will be effective to the extent that they are directed to the general and, more importantly, the actor-specific and jurisdiction-specific concerns discussed in this report.