

Youth carceral deinstitutionalisation and transinstitutionalisation in Ontario: Recent developments and questions

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Abstract

In early 2021, half of the youth detention centres in Ontario, Canada, were abruptly closed. We ask how this development can be understood in relation to broader explanations of youth detention closures in Canada, which cite the success of the Youth Criminal Justice Act (YCJA) and the best interests of youth, and the broader international context. Using a process tracing methodology to analyse existing data, we demonstrate that these closures had less to do with the interests of youth, and were primarily a cost-effective calculation. We demonstrate this by pointing to three key developments: (i) the transference of institutionalised carceral logics onto community service providers; (ii) an undermining of the principle of ‘relationship custody’; and (iii) a focus on high-capacity and high-security detention centres, over smaller, locally situated open detention centres.

KEYWORDS

Canada, deinstitutionalisation, public policy, youth detention

1 | INTRODUCTION

Since the early 2000s rates of youth decarceration have accelerated globally (Cox & Godfrey, 2020). This trend has been most recently evidenced in legislative and institutional transformations in

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Ontario, Canada. In February and March 2021, after more than two years of closed-door planning, the Ontario government shuttered 26 youth detention centres across the province (Artuso, 2021; Dubé, 2022). Of these 26, one was directly operated by the provincial government, while the remaining 25 were operated by transfer payment agencies (Dubé, 2022).¹ Framed as a cost-savings strategy aligned with the objectives of the Youth Criminal Justice Act (YCJA), these closures would ostensibly free up almost \$40 million CAD per year, to be reinvested in community-based services and alternatives to youth detention (Dubé, 2022). To date, however, there has been no information released as to how these savings will be reinvested, while a number of important critiques have been raised by service providers, community organisations, the provincial ombudsperson and the families of youth in custody. While supporting the general move to decarcerate youth from custody, we argue that the manner in which these closures occurred conflicts in many ways with the objectives of the YCJA, and further, that there remain important questions unanswered as to the future of criminalised youth.

This article situates the recent closures of youth detention centres in Ontario within the broader comparative history of youth criminal legislation. Much of the recent literature on youth detention closures in Canada cite the success of the YCJA and the best interests of the children, deeming it a successful example of progressive changes in youth criminal legislation. However, we argue that the circumstances in Canada bear significant similarities with transformations in youth detention globally which challenge this reading. Specifically, comparative literature has suggested that there has been a general trend towards decarceration in the Global North since the early 2000s, though these shifts do not necessarily reflect a progressive change in penological philosophy. Rather, critical comparative analysis suggests that these trends reflect a downloading of the responsibility for operationalising and financing the surveillance, punishment and rehabilitation of youth, onto municipalities, community not-for-profits, and families, reflecting neo-liberal public spending imperatives (Cate, 2016; Cox & Godfrey, 2020).

Based on an analysis of existing, publicly accessible data, we argue that the Ministry of Children, Community and Social Services's (MCCSS's) decision to close these centres was made to advance the fiscal interests of government, rather than prioritise the best interests of youth. Indeed, as we discuss, it is questionable the degree to which these closures represent any attempt to divert youth from involvement with justice systems. The specific case study of Ontario rejects the 'exceptionalism' attributed to Canadian youth justice legislation in much of the existing literature, and instead affirms broader comparative trends. We demonstrate this by pointing to three key developments which appear to contravene the intention of the YCJA and the interests of youth. These are: (i) the potential for the transference of institutionalised carceral logics onto community service providers (what we will refer to as transinstitutionalisation); (ii) an undermining of the guiding principle of 'relationship custody' underpinning the YCJA; and (iii) a potential greater focus on high-capacity and high-security detention centres, over smaller, locally situated open detention centres. We caution that what, on the surface, appears to be a reduction in a reliance on the carceral confinement of youth, should not be uncritically accepted and warrants further research and critical scrutiny.

The main causal puzzle of this article is to explain why 26 primarily transfer payment youth detention centres were closed *en masse* in Ontario in 2021, and to entangle the implications of these closures both at a domestic and international scale. We use process tracing, a method for tracing causal mechanisms using detailed, within-case empirical analysis. The hypothesis that has been advanced by official government releases is that the centres were closed due to the YCJA working as intended, and that the youth justice system was operating in the interests of youth – less imprisoned youth necessitating less youth detention centres. Our counter-hypothesis is that the centres were closed primarily due to the interests of bureaucracy and government. Through

hoop tests our objective is to show how explanations of declining youth occupancy are not sufficient indicators of the YCJA working as intended. The closures were not indicative of centring youth interests nor ultimately a move away from punitive youth justice practice. This article comprises a critical review and analysis of publicly available documentation and scholarly literature. In addition to process tracing, we use both thematic and Foucauldian discourse analysis. We begin by providing the historical context for provincial and federal legislation regarding criminalised youth in Canada, as well as an overview of the current demographic make-up of youth in custody in Ontario today. We then review existing literature on youth decarceration – and decarceration more broadly – with both a Canadian and comparative international scope.² Following this, we review the timeline for the Ontario closures and the concerns that were raised in the immediate aftermath of the closures. We point to three key analytical findings which complicate the hypothesis that the closures were in the best interest of youth: the proximity of these closures to histories of deinstitutionalisation and transinstitutionalisation; the contested alignment of these closures with the YCJA; and finally the trend of prioritising high-capacity, high-security detention over locally situated, minimum and open-custody settings. We propose that the closures were primarily motivated by financial and labour considerations, and suggest that these findings weaken an argument that the closures were conducted in the best interests of youth. We also argue that the movement to community service provision does not necessarily eliminate punitiveness, and that the closures were not a clear victory for those who support the closure of youth detention centres or decarceration. We close by offering some concrete questions for future research.

2 | METHOD

This article comprises a critical review and analysis of publicly available documentation, ministerial announcements, ombudsperson reports, media releases, open letters and both Canadian and comparative scholarly literature regarding youth deinstitutionalisation. We collected the aforementioned literature documents published between January 2000 and July 2022 through Google Internet searches, media searches (e.g., Canadian Broadcast Corporation), First Nations websites searches (e.g., Nishnawbe Aski Nation and Grand Council Treaty #3), Canadian government website searches (e.g., MCCSS, Auditor General and Ontario Ombudsman), non-profit website searches (e.g., John Howard Society, Elizabeth Fry Society, Canadian Civil Liberties Association, Centre for Addiction and Mental Health, Youth Diversion Kingston, Nelson Youth Centers and Kerr Street Mission), and scholarly databases (e.g., Criminal Justice Abstracts, Lexis Advance Quicklaw, Nexis Uni, PsycINFO, Scholars Portal Journals and Web of Science Core Collection), analysing approximately 100 documents. Search terms specified the age category of interest ('youth'), institutions ('justice', 'prison', 'detention', 'jail', 'deinstitutionalisation' and 'transinstitutionalisation'), jurisdiction of focus ('Ontario', 'Canada'), and comparable jurisdictions ('United States', 'United Kingdom', 'Australia' and 'New Zealand').

We use a process tracing methodology, which is an analytic tool for drawing descriptive and causal inferences from diagnostic pieces of evidence that are part of a temporal sequence of events or phenomena (Collier, 2011) (see Figure 1). Careful description is a foundation of process tracing, as is providing close attention to sequences of independent, dependent and intervening variables over time (Mahoney, 2010). This method involves close engagement with cases, fine-grained case knowledge and examining key snapshots of time, allowing researchers to identify novel political and social phenomena and systematically describe them; and evaluate prior explanatory hypotheses, discover new hypotheses and assess these new causal claims (Collier, 2011). The diagnostic

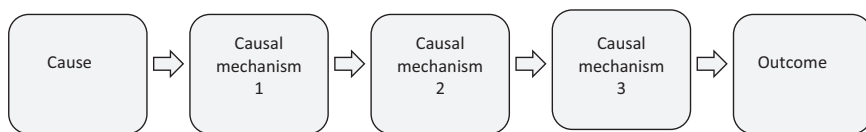


FIGURE 1 Causal chart

evidence we draw upon are conceptual frameworks – interrelated ideas accompanied by ideas of how they can be operationalised. Our process entails identifying hypotheses, establishing a timeline, constructing a causal chart, identifying alternative choices and counterfactual outcomes and locating evidence for hypotheses (Ricks & Liu, 2018). Our examination of the evidence ultimately constitutes a hoop test, affirming the relevance of the dominant or mainstream hypothesis, but not confirming it, and weakening competing hypotheses (Mahoney, 2012).

The process tracing method works by presenting the observable implications of a theory (hypotheses), as well as alternative explanations that are inconsistent with the theory (see Table 1). Our counter-hypothesis is that the Ontario government’s process for closing the 26 youth detention centres in 2021 can be interpreted as prioritising self-interests. The central cause for the outcome (mass closure of youth detention centres in 2021) is government prioritisation of self-interests (efficiency and saving-face). The causal mechanisms are: (i) planning in secrecy to avoid stakeholder and public knowledge and scrutiny; (ii) choice of ‘inefficient’ centres for closure that left more punitive sites open; and (iii) timing ‘abrupt’ closures instead of using a phased closure approach because of fiscal priorities. The dominant/mainstream hypothesis is that the government closed the youth detention centres prioritising the best interests of youth. The cause for the outcome (mass closure of youth detention centres in 2021) is government prioritisation of the best interests of youth. The causal mechanisms are: (i) planning on a need-to-know basis to avoid causing stress to youth; (ii) choice of underused centres to free up funding for other programmes; and (iii) timing abrupt closures to maintain proper staff service and normalcy for youth. We return to these hypotheses in the analysis section where we use hoop tests to test the hypothesis and counter-hypothesis.

In addition to process tracing, we use both thematic and Foucauldian discourse analysis to analyse our findings, identifying conceptual patterns in data (Braun & Clarke, 2021) and analysing power as expressed through language and practices in these documents (Khan & MacEachen, 2021). This form of analysis developed out of Michel Foucault’s (2003) genealogical work, where power is linked to the formation of discourse in particular historical contexts.

3 | HISTORY OF YOUTH JUSTICE LEGISLATION IN CANADA

The history of youth justice legislation in Canada has generally been presented as a linear and progressive movement away from isolation and detention and towards integration and inclusion. Legislatively, youth justice in Canada can be divided into three distinct periods. The first (and longest) is the period from 1908 to 1984 which was governed under the Juvenile Delinquent’s Act, followed by the Young Offenders Act (1984–2003), and finally the YCJA which has governed youth justice in Canada since 2003.³ As with criminal law in general, the legal framework for youth justice is established by the federal government, while the administration of this framework falls under the responsibility of the provincial government. As such, there can be provincial variation in the day-to-day experiences of criminalised youth.

TABLE 1 2021 Ontario youth detention closures hoop test

Counter-hypothesis	Causal mechanisms	Evidence	Passing/failing
Government process for closing the 26 youth detention centres in 2021 prioritised self-interests.	Planning.	Not following the relationship custody principle. Not consulting Indigenous Nations. Preventing public knowledge and transparency.	Passing: Affirms relevance of hypothesis, but does not confirm it. Somewhat weakens the rival hypothesis.
	Choice of centres.	Review of centres with less than 50% utilisation. First only considered less punitive open custody institutions. Left open 'super jails'.	
	Timing.	Deferred closures to mitigate labour issues. Did not use a phased closure approach.	
Hypothesis	Causal mechanisms	Evidence	Passing/failing
Government closed the youth detention centres prioritising the best interests of youth.	Planning.	Need-to-know planning to avoid causing stress to youth through information leaks.	Failing: Eliminates the hypothesis.
	Choice of centres.	Conducted a review in 2018 of inefficient sites. Inefficient site closures open up funding for reinvestment in other youth programmes.	
	Timing.	Deferred closures to ensure proper staff performance and normalcy for youth.	

The first and longest standing statute on youth justice in Canada was the Juvenile Delinquent's Act, which – though premised on ideas of child welfare – favoured the detention of youth. The Act recognised the need to treat youth differently from adults – with the state functioning as a guardian to protect youth from 'immoral' or 'criminal' influence. As such, in contrast to the adult criminal legal system, the earliest phases of youth justice self-identified as rehabilitative rather than punitive. The Act set minimum and maximum ages for the criminal prosecution of youth (7–18 years of age) and established a single, umbrella offence – 'delinquency' – to enable state intervention in the management and education of youth. Youth were confined in Industrial Schools until 1939, and Training Schools from 1931 to 1984 (Bennett, 1988; Grant, 1984).⁴ The focus on welfare – while seemingly concerned with rehabilitation and education over punishment – nevertheless saw a heavy-handed approach to the use of detention in order to place youth under the guidance of the state (Webster, Sprott & Doob, 2019).

The Act empowered classist, racist and sexist assumptions, with a broad definition of delinquency, few guidelines for sentencing and no limits on sentence length. Through this Act, poor and racialised youth could be imprisoned indefinitely in carceral institutions (Sangster, 2002a). There are similarities between Training Schools and Indigenous Residential Schools in that the institutions were designed 'to civilize and acculturate both the poor and the colonized to the middle-class, Western, white and Anglo norms' (Sangster, 2002b, p.59), and to facilitate the expansion of the economy including through the imposition of job training and wage work (Morrison, 1974).

According to Webster, Sprott & Doob (2019), though the Act remained in place until 1984, a shift in the vision of youth justice was beginning to percolate earlier. In 1965, a report from the Committee on Juvenile Delinquency (established in 1961) recommended that institutional confinement (even for the purposes of youth welfare) should be a measure of last resort. This recommendation eventually evolved into a Parliamentary Bill in 1970 (Bill C-192) establishing definite sentences and strengthening restraint on state intervention. By 1981, calls for new youth criminal legislation had become clear, and were formalised in a Parliamentary Bill. In 1984, the Young Offenders Act (YOA) was passed into law. Remaining Training Schools closed with some (such as Syl Apps and Brookside) transitioning to become youth detention centres. Community-based programmes began to increase during the 1970s/1980s as alternatives to closed confinement.

The YOA did away with the single offence of 'delinquency' and differentiated between those offences which were designated criminal under adult criminal law (the Criminal Code), and those that were not. The YOA would only be allowed to intervene in cases that fell under the former designation and sentences involving custodial detention would also be limited. Youth in some cases could be tried as adults, and sentence lengths were increased up to ten years. Webster, Sprott & Doob (2019) point out that, despite a clear intention of shifting away from imprisonment, these intentions were primarily aspirational and lacked clear legal limits and constraints on the use of custody. These formal constraints would only come about in the YCJA of 2003, which was precipitated by public demand and criticism. Canada also ratified the United Nations Convention on the Rights of the Child (UNCRC) in 1991, which called for youth imprisonment as a last resort.⁵

The YCJA has often been held responsible for the reduction of youth being held in custodial settings and – consequently – for the closure of youth detention centres both in Ontario and across the country. Specifically, the YCJA formalised a set of operational mandates at all levels of the youth criminal legal system (from policing, to prosecution, and finally sentencing) to limit the reliance on custodial sentences for youth (Bala, Carrington & Roberts, 2009; Webster, Sprott & Doob, 2019). At each step of the system, thresholds were established to limit the involvement of youth in the criminal legal system and custodial detention. Rather than aspirational, this commitment to decreasing youth imprisonment became a formal requirement. Police and prosecutors were provided with alternatives to divert youth from the system, while judges were provided with a list of criteria which needed to be met in order to consider a custodial sentence, as well as a requirement to provide written justification for any sentence recommending custodial detention (Bala, Carrington & Roberts, 2009; Webster, Sprott & Doob, 2019). Yet, despite a focus on diversion, Indigenous youth continue to be hyper-imprisoned through this system. With the closure of Residential Schools, Indigenous youth have been shifted into the foster care and youth detention systems. The YCJA also instituted the first requirement for a separate system for youth in detention from that of adults, and shifted the responsibility for administering youth criminal justice from provincial ministries of justice to provincial ministries of child and social services (Elliot, 2015).

Under the YCJA there exist two primary custodial classifications. Secure custody and detention programmes considerably limit youth's access to the community and erect high-security measures, while open custody and detention programmes allow youth supervised access to community programming (Dubé, 2022). Additionally, the YCJA saw the federal government introduce federal transfer payments to provinces through the Youth Justice Services Funding Program. These federal transfers are intended to financially assist provinces and territories 'in the provision of a range of youth justice services and programmes that are consistent with federal policy objectives' (Government of Canada, 2020, n.p.). In Ontario, there are two systems providing youth justice services – provincially run facilities and facilities operated by transfer payment agencies. The segmenting of these two streams has led to considerable labour concerns around training, health and safety, and compensation leading to recommendations for the two systems to be integrated (Ontario Public Service Employees Union, 2017). At the time of writing there are 13 secure custody and detention centres in Ontario. Five are run directly by the province, while eight are run by transfer payment agencies (Dubé, 2022).

Within the first ten years of the YCJA, more than \$28.7 million was reinvested in front-line community-based programmes to provide alternatives to custody and detention facilities in Ontario (Elliot, 2015). In that same time frame, youth crime declined by 46%, youth charged with a criminal offence declined by 54% and there was a 40% decline in youth detention admissions and an 81% decline in custody admissions overall (Elliot, 2015). These same statistics, however, show continuing trends of racialised and disabled youth in custody. In 2000/2001, Statistics Canada (2022b, 2022c) indicated that 15.6% of youth in custody were Indigenous. Of this number, male Indigenous youth represented 11.6% of youth in custody, and female Indigenous youth formed 3.4% of youth in custody, while comprising 5.6% of all children in Canada (Statistics Canada, 2001). Statistics Canada reported that in 2020/2021, Indigenous youth comprised 50% of the total population of youth in custody, while accounting for only 8% of the national child population in general. Male Indigenous youth accounted for 48% of youth in custody, while female Indigenous youth accounted for 62%. This is particularly significant given that the custodial closures under analysis in this article were centred in Ontario's north, disproportionately impacting Indigenous communities (Dubé, 2022). In general, one in five youth in custody are reported as belonging to a visible minority, and 23% are male compared with 14% female. At present, there appear to be no data collected on non-binary and trans youth (Statistics Canada, 2022a). In 1998, over 85% of the incarcerated adolescents in a sample of youth in Ontario custody qualified for at least one Diagnostic and Statistical Manual of Mental Disorders (DSM) diagnosis (Ulzen & Hamilton, 1998). Recent data find that 90% of youth in custody were reported to meet the diagnostic criteria for at least one mental health disorder, while 25% of these were classified as a serious disorder, requiring immediate intervention (Peterson-Badali et al., 2015; Youth Justice Ontario, 2021). A total of 30.8% of youth in one recent study have DSM diagnoses, 97.8% have DSM, suicide ideation, psychiatric medications, or mental health indicators, 76.9% report recent alcohol/drug use, 91.2% report alcohol/drug use in the past year (Vingilis et al., 2020). In addition to high numbers of Indigenous youth, youth with significant mental health diagnoses also continue to be incarcerated.

In light of the Covid-19 pandemic, Statistics Canada reports that countrywide youth detention figures have declined by 27% – the largest decline since the YCJA came into force (Statistics Canada, 2022a). Declines in detention rates are encouraging, though do not necessarily ensure that the youth criminal legal system is operating in the best interests of youth. Despite promises for reinvestment following Ontario's mass closures, it is unclear if, and where, funding has been reallocated.

4 | LITERATURE REVIEW

We identify three key themes in the literature on this topic. The first focuses on deinstitutionalisation, decarceration and closures of adjacent institutions both domestically and comparatively. Adjacent institutions, sites confining people deemed 'other', can include: sanatoria for children and adults with tuberculosis; segregated hospitals confining Indigenous children and adults specifically; asylums or psychiatric hospitals; workhouses for impoverished people; facilities for Home Children sent from Britain; facilities for unwed mothers; facilities for people with intellectual, developmental and physical disabilities; Residential Schools confining Indigenous children; Training Schools for 'delinquent' children; orphanages; and group homes for children removed from their families. Deinstitutionalisation speaks to the state moving individuals out of residential institutions and into community programmes (Lemay, 2009; Martin & Ashworth, 2010; Sealy, 2012). The international literature on deinstitutionalisation specifically centres attention on the closure of facilities that confine people with mental, cognitive, intellectual and physical disabilities (Brown & Radford, 2015; Griffiths, Owen & Condillac, 2015; Lemay, 2009; Owen, Griffiths & Condillac, 2015). With the closure of some facilities such as those for people with disability, others have taken their place, such as prisons, hospitals and community organisations. This is described as transinstitutionalisation, and speaks to the ways an institution persists in different forms and sites (Church, Vostermans & Underwood, 2020; Haley & Jones, 2020). Regarding Ontario, there is some dated literature speaking to the long history of justice reform, including closures and transitions of youth confining institutions – from Reformatories, to Industrial Schools, to Training Schools, to Youth Detention Centers, and the rise of community-run programmes and treatment centres in the 1970s and 1980s (Bennett, 1988; Boyd, 1981; Grant, 1984; Morrison, 1984; Neff, 1994). Regarding institutional closures, Canadian literature also speaks to prison closures (Webster & Doob, 2014; Webster, Sprott & Doob, 2019), and more recently a focus on decarceration during the Covid-19 pandemic (Chartrand, 2021; Iftene, 2021).

The literature on deinstitutionalisation bears significance on the closure of youth detention centres, though to date, it has not been widely applied to these cases. While deinstitutionalisation typically refers to sites of psychiatric and disability confinement, we suggest that youth detention centres, *de facto*, operate as sites for confining youth who are disproportionately present with psychiatric, cognitive and physical disabilities (Peterson-Badali et al., 2015; Youth Justice Ontario, 2021).

Decarceration literature speaks to the efforts of countries across the globe to decrease youth imprisonment rates (e.g., Ulybina (2022) on eastern Europe), attention to diverting youth to community alternatives (Hawks et al., 2022), and awareness that decarceration has occurred unevenly across countries and groups within countries (Goldson et al. (2021) on Australia, England and Wales). Over the last 50 years, starting with American and British scholars such as Scull (1977), Matthews (1987), Cohen (1979, 1985) and Hudson (1987), academic work has taken an interest in decarceration and possible adverse impacts (Cox & Godfrey, 2020). Such attention persists amid mass incarceration and the Covid-19 pandemic (Gordon, Klose & Storrod, 2021; Martin, 2016). Scholars in this field argue that reducing the number of people imprisoned will require targeted investments in the community safety net, including education, housing, employment, health care and social support (Hawks et al., 2022). It is necessary, in this context, to consider issues of transinstitutionalisation, which speaks to the devolution of carceral mandates to a range of community and familial-based arrangements, such as inpatient or outpatient mental health care, mandated community programming, substance use disorder programming and surety arrangements with family members (Bronstein, 2022; Cate, 2016). Such trends have been documented

across the United States, where youth decarceration has been coupled with intensified community supervision and policing through probation, educational programming and family (Cate, 2016).

A second key theme is international literature which speaks to the legacies of youth legislative reform. This includes the decarceration of status offences (e.g., truancy) in American states (Bronstein, 2022), changes in the minimum and maximum ages of youth offenders and overall shifts in penological philosophy (Cox & Godfrey, 2020). The literature speaks to specific reforms, and includes Canadian literature evaluating the outcomes, benefits and challenges of the YCJA. Within this scholarship, there is focus on the reduction of youth imprisonment numbers under this Act as a positive outcome (Bala, Carrington & Roberts, 2009; Doob & Sprott, 2006; Hogeveen, 2003). This comprises the dominant orientation on this topic, with emphasis on quantitative data, and measures related to delinquency and recidivism. There is also analysis of the harmful experiences of youth confinement, with emphasis on qualitative and narrative data, including the cultural displacement and hyper-imprisonment of Indigenous youth (Asmi, 2019; Cesaroni, Grol & Fredericks, 2019; Hansen, 2015; Heo, 2019), and the 'crossover' of youth already institutionalised through the child welfare and mental health systems to the youth and adult prison systems (Bala, De Filippis & Hunter, 2013; Centre for Addiction and Mental Health, 2013; John Howard Society of Ontario, 2021; Representative for Children and Youth, 2021). Last, there is attention to worsening conditions during the Covid-19 pandemic (Gabriel et al., 2020; Lockwood, Viglione & Peck, 2020; Vinson and Waldman, 2020; Wasilczuk, 2020) – particularly conditions of social and physical isolation, and poor provision of education in youth facilities (Canadian Civil Liberties Association, 2021; Dubé, 2022). This is in contrast with the key therapeutic principle of 'relationship custody' in youth facilities, which is the institutional emphasis on relationships between staff and youth as serving a rehabilitative function (Bickle & Shon, 2017; Marsh & Evans, 2008).

The historical trajectory of the major philosophical and economic shifts which underpin successive phases of youth justice reform established in the literature resonate in the Canadian context. However, dominant narratives regarding the most recent transformation of youth justice legislation in Canada (see, e.g., Webster, Sprott & Doob, 2019) appear to posit a divergence from international trends, highlighting the YCJA in Canada as a successful example of youth decarceration. This narrative of success has tended to emphasise legislative changes and their quantitative outcomes as ends in themselves, while remaining relatively silent on the process of implementation. How legislative reforms are implemented, on the ground, bear importantly on the qualitative outcomes produced by such reforms. Delving deeper into these qualitative aspects of the process, we point to the messiness of institutional reform, especially when driven exclusively by the concerns and interests of government. Our analysis suggests that including persons with lived experience in the planning and implementation of legislative reform is essential if such reforms are to be progressive and serve the interests of youth in custody.

To date there is no scholarly literature on the 2021 youth detention closures in Ontario, and little on preceding closures (Davey, 2016, 2017; Provincial Advocate, 2010a, 2010b, 2013), with more work available on the United States (Clark, 2022; Harvell et al., 2020; Heldman, 2022; Krisberg et al., 2010; Love et al., 2018; McCarthy, Schiraldi & Shark, 2016; Schiraldi, 2020; Sentencing Project, 2016; Weissman, Ananthakrishnan & Schiraldi, 2019). There is also relatively little available from other comparable jurisdictions and contexts. In Australia, there is some work on the Don Dale Youth Detention Center (Anthony and Cubillo, 2021; Muncie, 1991; Vita, 2015), and use of prisons as places of disability management (Hamilton et al., 2020; McCausland & Baldry, 2017). In literature on the Ontario context there is mention of the move towards youth 'super jails', which consolidate services into fewer facilities, with more focus on efficiency and security, and less focus on relationships (Davey, 2016, 2017). Of the gray material available, there is literature focusing on

the efficiency of youth detention and monetary impetus to close these institutions (Auditor General, 2012, 2014; Merrefield, 2021). The costs of these facilities can be seen as human and social, but there is emphasis in the gray literature on efficiency and financial cost.

5 | TIMELINE OF YOUTH DETENTION CLOSURES IN ONTARIO

Closures have been occurring in multiple countries over the last two decades, including in Canada. Canadian provinces have closed numerous youth detention centres over the last 20 years following the YCJA (see Table 2). There is no consolidated list of youth detention centre closures available. British Columbia closed four centres in 2002 (McCreary Center Society, 2005), and closed another in Victoria in 2016 (Canadian Broadcast Corporation, 2016), with only two centres in Burnaby and Prince George remaining. Most recently, Manitoba announced the closure of the Agassiz Youth Center for Summer 2022 (Manitoba Government, 2022), and Ontario announced the upcoming 2025 closure of the Cecil Fraser Detention Center in the northern city of Sudbury (Canadian Broadcast Corporation, 2023). Before the 2021 mass closures in Ontario, the province closed the Toronto Youth Assessment Center in 2004 (Ontario Government, 2004), York Detention Center in 2009 (Davey, 2016), Bluewater Youth Detention Center in 2012 (Dubé, 2022), and Genest Detention Center for Youth in 2020 (Richmond, 2020). The predominant rationale for most of these closures was efficiency, and there also were some closed for reasons of safety (e.g., Genest Detention Center) and following publicised cases of abuse and death (e.g., Toronto Youth Assessment Center: Canadian Broadcast Corporation (2004)).

In 2012, the Auditor General of Ontario reviewed the province's Youth Justice Program, recommending the reduction of bed capacity in significantly underused facilities. The Auditor General did not specifically call for facility closures, and noted that the Ministry should keep in mind the quality and scope of services provided by each facility for youth located throughout the province (Auditor General, 2012). In 2014, the Auditor General published a follow-up report, and noted that the Ministry had undertaken a review on underutilisation and concluded that the approved funding was appropriate and/or corrective action was already underway (Auditor General, 2014). Underutilisation was also addressed by the Ministry in a report entitled *Because young people matter* (Ontario Government, 2016b), which consulted a panel of agencies and Indigenous community members, and noted that the best course of action was to close some open custody residences and reinvest resources in other residential services. Planning for the closure of youth facilities began in 2018, with a review of all programmes with less than 50% utilisation rate – initially focusing on open custody but later shifting to include secure custody facilities (Dubé, 2022). In the April 2019 budget, the government signaled its intention to close some youth facilities (Minister of Finance, 2019). A proposed closure list was already approved in early 2019, and the Ministry came close to rolling out the closures in May 2019, and again in January 2020 – the closures were deferred with the rationale of providing more time to mitigate job loss (Dubé, 2022). The final closure and transfer plan was finalised on 26 February 2021.

The closure planning process was carried out on a need-to-know basis, with a tight time frame. Planning was 'shrouded in secrecy' (Dubé, 2022, p.3), due to Ministry worries about labour relations and security risks, as well as the treatment and privacy of the youth. The Ministry closed one of its directly operated centres (Brookside Youth Detention Center) in February 2021, a month early, after closure information was leaked to teaching staff (Dubé, 2022). On 1 March 2021, the MCCSS closed 25 youth custody and detention programmes that were operated through transfer payment recipients in Ontario, including ten in Northern Ontario. The centres were to receive

TABLE 2 Ontario youth detention extended timeline (1900–2022)

Year	Event
1931	Training School Act enacted
1939	Industrial School Act repealed
1965	<i>Report from the Committee on Juvenile Delinquency</i>
1970	Bill C-192 Young Offenders Act
1984	Young Offenders Act
1984	Training Schools close, youth detention centres open
2002	Four BC youth detention centres close
2003–2009	Closure of the final three institutions for people with disability in Ontario
2003, April	Youth Criminal Justice Act
2004, June	Toronto Youth Assessment Center closed
2009, May	Roy McMurtry Youth Detention Center opens
2009, Sept.	York Youth Detention Center closes
2009	Youth no longer held in units within Ontario adult prisons
2010	Ontario Youth Advocate reports on Hamilton Wentworth, Brookside and Roy McMurtry Youth Detention Centers released
2012, Fall	Ontario Auditor General report on youth detention released
2012, Mar.	Closure of Bluewater Youth Detention Center leaked
2013	Ontario Youth Advocate report on Roy McMurtry Youth Detention Center released
2014, Fall	Ontario Auditor General follow-up report on youth detention released
2015	Ontario Youth Advocate report on segregation in youth detention released
2015, Nov.	Ontario youth detention class action lawsuit (segregation) filed
2016, Jan.	<i>Because young people matter</i> panel report released
2016	Relationship custody officially adopted following <i>Because young people matter</i>
2016, Nov.	Announcement that Roy McMurtry Youth Detention Center is to eventually become an adult women's prison
2018	Ontario Ministry of Children, Community and Social Services conducts a review of youth detention programmes with less than a 50% utilisation rate
2018, late	Safety audit of Genest Youth Detention Center conducted
2019, early	Ontario youth detention closure list created by the Ministry
2019, April	Ontario indicates intention of closing youth detention centres in the budget
2019, May	Ontario Youth Advocate Office closed by the government
2019, May	Mass closures of Ontario youth detention centres deferred
2020, Feb.	Genest Youth Detention Center closed
2021, Jan.	Mass closures of Ontario youth detention centres deferred
2021, Feb.	Closure of Brookside Youth Detention Center leaked, closes one month early
2021, Mar.	Closure of 25 Ontario youth detention centres occurs
2021, Mar.	John Howard Society Ontario report on the youth bail system in Ontario released
2021, Nov.	CCLA report on education in Ontario youth detention centres released
2022, Feb.	\$15 million settlement by Ontario (segregation in youth detention centres)
2022, April	Ontario Ombudsman report on the 2021 detention centre closures released
2023, Feb.	Announcement that Cecil Fraser Youth Detention Center is to become an adult women's prison in two years

only a few hours' notice, and the 22 transferring youth were to receive even less. Probation officers were to be briefed at noon on closing day and tasked with informing the youth, parents/guardians and Indigenous band offices about the closures and transfers to occur that afternoon. The Ministry believed that this was in the best interest of the youth, to prevent staff from not showing up to work, and avoid media attention that might compromise youth privacy (Dubé, 2022).

Grand Chief Alvin Fiddler of the Nishnawbe Aski Nation and Ogichidaa Francis Kavanaugh of Grand Council Treaty #3 denounced the Northern programme closures through an open letter on 3 March 2021, and decried that vulnerable youth were transferred further away from their homes restrained in handcuffs and shackles – especially given ongoing legacies of forcibly removing Indigenous children from families. Indigenous nations were not notified in advance of the closures, and the Ministry's communication plan did not account for office closures during the Covid-19 pandemic. There was no consultation or engagement with youth and families, detention centre staff, law enforcement, communities, or Indigenous nations. Following the closures, there are now 13 secure and 14 open custody detention programmes for youth in the province.

6 | ANALYSIS

The three key findings of our analysis centre on themes of youth deinstitutionalisation and transinstitutionalisation, departures from relationship custody, and the maintenance of more punitive centres (i.e., 'super jails'). These findings weaken the prevailing hypothesis that the closures were done according to the best interests of youth, and affirms the relevance of our counter-hypothesis that the closures instead prioritised the self-interests of government. Deinstitutionalisation and transinstitutionalisation, as well as maintaining some of the more punitive youth detention centres align with the causal mechanism of choice of centres for closure. Departures from the relationship custody model align with causal mechanisms of planning and timing of closures.

6.1 | From the institution to the community: 'tandem logics' and transinstitutionalisation

As much as 90% of youth in the justice system have mental health issues, with one-quarter of those requiring 'specialized, significant and immediate treatment response' (Peterson-Badali et al., 2015; Youth Justice Ontario, 2021). As such, a core component of youth custodial programmes is the provision of mental health counselling, group therapy and other psychiatric and psychological supports. While formally and legally distinguishable, many youth detention centres in practice operate with similar logics to psychiatric institutions. As such, the mass closure of youth detention centres may be usefully analysed in relation to concepts of deinstitutionalisation and transinstitutionalisation.

Conventionally, deinstitutionalisation refers to the process by which large-scale, isolated and long-term institutions for individuals with mental and intellectual disabilities, were closed and replaced with community-based services and forms of care. While, broadly, deinstitutionalisation has been viewed as a necessary and progressive process, in practice a number of critiques arose (Brown & Radford, 2015; Griffiths, Owen & Condillac, 2015; Lemay, 2009; Owen, Griffiths & Condillac, 2015). Chiefly, concerns were raised early on that deinstitutionalisation did not, in fact, lead to greater availability of community-based care and support, but instead led to the imposition

and replication of carceral institutional logics onto other public, community and social networks. Rather than transforming institutionalised care, then, many suggest that the institution was simply dispersed and decentralised into the community (Church, Vostermans & Underwood, 2020; Haley & Jones, 2020).

According to Haley & Jones (2020) transinstitutionalisation might be thought of as four often overlapping processes. The first meaning refers to the transfer of mad and disabled people from large-scale psychiatric institutions into other institutionalised settings such as prisons, hospitals and rooming houses. Here, the psychiatric institution is simply replaced by another restrictive social institution. The second usage of the concept references the closure of schools for deaf/Deaf children and concomitant transfer and assimilation of students into educational settings built for hearing students. This usage may be further broadened to include the transfer and assimilation of individuals with specific psychiatric and developmental needs into settings constructed for normative bodies and minds. The third usage refers to the ways in which community-based settings are increasingly made to function like institutional settings. Here we are concerned with how community agencies supporting criminalised youth are increasingly compelled to liaise with, and perform roles similar to, formal detention and custodial institutions (Salole, 2019). The final facet refers to the ways in which institutional logics of confinement and control continue to be written onto the bodies of mad, deaf/Deaf and disabled people.

Following the announcement of the closure of Syl Apps Youth Detention Center in 2021 (Oakville, Ontario), Children's Mental Health Ontario (CMHO) highlighted a number of collateral province-wide consequences that would result from the closure of the centre's specialised programmes. Importantly, CMHO cautioned that youth in these programmes had complex and urgent treatment and care needs, and the closure of Syl Apps programming was likely to shift youth from one institutional setting (custody and detention) to another (hospitalisation). CMHO further cautioned that in the long run, unmet mental health needs were also likely to lead criminalised youth into adult corrections. The financial and social 'burden' of operating programmes like Syl Apps would not be eliminated, but displaced into the health care and adult correction systems (Children's Mental Health Ontario, 2021). CMHO went on to state that:

While we support the aims of further reducing the utilization of youth jails through prevention and early intervention, there are many very ill youth in the court system right now and in the years to come who will need a chance to turn themselves around with our help. It is inefficient and inequitable to deny these acutely ill youth access to treatment. (Children's Mental Health Ontario, 2021, p.2)

Despite formal claims that the nearly \$40 million in annual savings will be reinvested in front-end community services and supports, the province has yet to specify where and how these funds will be spent. The dearth of public reporting and accountability as to the future treatment options for these youth raises considerable concern as to whether the unmet complex needs of youth today will create a pipeline into adult jails and prisons, and involuntary mental health admissions down the road. For example, as Syl Apps transitions to supporting youth with significant mental health challenges who are not in detention, they reported a revenue deficiency of \$3,581,321 in 2021 and \$7,579,842 in 2022. Nearby Elizabeth Fry Society Peel-Halton continues to offer services to justice-involved female youth; yet with many of their services connected to Syl Apps it is unclear how funding and capacity will also shift. Nearby Nelson Youth Center offers youth mental health treatment and social skills programming, with a community fundraising requirement of \$100,000

annually to make ends meet. Kerr Street Mission which provides youth drop-in, mentoring and educational support only receives 6% of funding from the government.

Furthermore, as the history of deinstitutionalisation has shown, a movement of populations away from large-scale institutions and into community-based settings can, and has, reproduced carceral logics of 'care' in community and even familial relations. In the youth justice sector, such processes are not unheard of. Salole (2019) maps the intricate connections and patterns of carceral replication between the formal youth justice sector and the youth voluntary penal sector. Salole shows that declining youth crime rates since the passing of the YCJA have been used to justify the closure of youth detention centres, increasing reliance on the 'youth penal voluntary sector' (YPVS). The YPVS includes non- and not-for-profit community agencies that are often positioned as dichotomous to formal punitive justice systems, replacing exclusionary punishment with inclusionary rehabilitation. And yet, through the framework of 'tandem logics' Salole shows how YPVS workers are intricately bound into the formal punitive system, with the power to set into motion exclusionary and punitive effects. For example, community workers are often still obliged to report to the formal justice sector, such that YPVS workers will invoke such reporting to gain compliance of youth to community ('inclusionary') programming.

The Youth Diversion in Kingston, Ontario, is illustrative of these overlapping and tandem logics. The organisation reports serving a large number of youth: one in 14 youth in Kingston, and referrals have increased 27% in the last year (Youth Diversion, 2022). Youth Diversion operates as a charitable organisation with an objective to provide evidence-based early intervention for youth who are deemed likely to become justice involved. While intended to provide front-end supports to prevent reliance on youth detention and custody centres, the organisation involves relationships with local police forces, and the embedding of staff in schools and other community settings to identify at-risk youth. In practice, then, the movement of youth away from custodial and detention centres does not itself guarantee a move away from carceral approaches to youth justice.

6.2 | 'Relationship custody': does youth voice actually matter?

The recent closures of Ontario youth detention and custody centres has arguably also had a negative impact on the 'relationship custody' approach underpinning what Ontario has deemed to be in the best interests of youth. In 2015, the Residential Services Review Panel (RSRP) was created by the Ministry of Children and Youth Services and tasked with conducting a system-wide review of provincial child and youth residential services. Among the Panel's recommendations was the adoption of a 'relationship custody' approach which would foster 'respectful, caring relationships between staff and young people, and enable staff to provide effective, evidenced based interventions to benefit youth' (Ontario Government, 2016b, p.6). The (then) Ministry of Children and Youth Services accepted the panel's recommendations, affirming a commitment to prioritising 'relationship custody'. In a letter addressed to the MCCSS and penned by former members of the RSRP, the recent 2021 closures of specialised youth custody and detention services – in particular the Syl Apps Youth Center – was heavily criticised. The authors argued that the closure places youth at increased risk of death, contravening the very premises of 'relationship custody' (Newman, Gharabagi & Trocme, 2021). Indeed, these closures largely affected smaller-scale, transfer payment programmes which the RSRP's review identified as most suited for the implementation of 'relationship custody'.

Youth Justice Ontario (YJO), an association representing 50 agencies operating over 100 transfer payment facilities responded in a similar fashion. Penning a letter to MCCSS requesting a meeting with the Minister, YJO alleged that the closures were ‘not in keeping with the principles of the MCCSS’s own Youth Justice Framework and was counter to the YJO’s therapeutic and youth-centered approach’ (Youth Justice Ontario, 2021). The letter goes on to document how the 770 full-time and 780 part-time staff were not consulted or involved in the planning process, despite prior proposals from YJO to create ‘meaningful and necessary service provision in these underutilised facilities, at no additional cost’ (Youth Justice Ontario, 2021). Concerns were raised around the negative impact of these transfers on the important relationships these youth maintained and established – notably those in northern facilities which are disproportionately populated by Indigenous youth. They noted that the abrupt closures also would interrupt carefully planned and complex treatment plans (Youth Justice Ontario, 2021). In all of these points, it is clear not only that the closures themselves, but the process in which these closures were planned and operationalised, transgress the very core of ‘relationship custody’.

The Ontario Ombudsman’s report (Dubé, 2022) confirmed that the empowerment of staff and youth to have a voice through a ‘relationship custody’ approach was entirely absent in the planning of closures across the board. Indeed, staff, youth and their families received no prior notice of the closures (and the relocation of their jobs, residences and loved ones), finding out mere hours before youth were to be transferred. According to the Assistant Deputy Minister, the failure to solicit input from youth was simply a ‘casualty of the reality of the moment’ (Dubé, 2022, p.39). Neglecting to consult staff was a decision made in order to avoid panic around employment and media attention, while failure to solicit input from the broader community (including Indigenous groups) was said to be out of respect for the parents and families of youth who had not received prior notice (Dubé, 2022). The Ministry further argued that prior notice was not necessary as ‘staff would not pay sufficient attention to the youths once they learned of the closures’ (Dubé, 2022, p.39). And yet, institutional culture is important, as many staff explained that at their centre, transfers are opportunities to reinforce trust, comfort youth and reassure them of their safety (Dubé, 2022).

A respectful and caring relationship between staff and young people will be difficult to foster and sustain in the wake of these recent closures. Not only were existing relationships between youth and staff severed, but trust by youth in general has likely been undermined. Reports from the Ombudsman and community groups cite youth being transferred in handcuffs and leg irons – a practice inconsistent with routine transfers at many of the centres that were shuttered (Dubé, 2022). In another instance, a youth was transferred to an institution which conflicted with their gender identity. The Ministry, while conducting a general system scan for potential conflict, failed to follow up and confirm the youth’s gender identity – a circumstance that might have been avoided had the Ministry’s commitment to youth ‘voice’ been considered (Dubé, 2022). In sum, the process through which youth detention centres were closed indicate that the best interests of youth were subordinated to concerns of the government and the management of potential labour conflict.

6.3 | Enduring punitiveness

Prior to 2009, some youth were imprisoned in units within large adult prisons in Ontario. There were efforts to close these units, and by 2009, all youth units in adult correctional facilities were closed including those at Kenora Jail, Thunder Bay Youth Center and Ottawa Carleton Detention

Center (Ontario Government, 2009). The Ministry closed these units with acknowledgement that youth have different needs from those of adults. Yet, there has been a move towards consolidating larger numbers of youth in facilities more akin to adult prisons, such as at the 192-bed Roy McMurtry Youth Center (RMYC), which opened in Brampton in 2009. In 2016, it was announced that the RMYC would be transitioned to house both youth and adults (separately) – indicating that the facility is suited to imprisoning different age groups, and that youth and adults can be imprisoned side-by-side. The announcement also indicated that the RMYC would eventually become an adult-only facility (Ontario Government, 2016a). The facility remains as a large youth detention centre to date. Most recently, in February 2023, it was announced that the Cecil Fraser Youth Detention Center in Sudbury would be transitioned to an adult prison in two years' time (Canadian Broadcast Corporation, 2023).

There is a move to super jails, consolidating detention into fewer, larger buildings like RMYC (Davey, 2016). A total of 25 of the 26 centres closed in March 2021 were transfer payment agency programmes (Dubé, 2022), which have been characterised as less punitive than provincially run centres (Davey, 2016). The RMYC replaced the York Detention Center as one of the main facilities to hold imprisoned youth in Ontario. The Provincial Advocate for Children and Youth (now disbanded by the government) received complaints about the RMYC almost as soon as it was opened, including excessive force, lockdowns, segregation, inadequate food, strip searches, barriers to medical care and education and rights violations (Provincial Advocate, 2010b). Youth indicated that staff often rely on containment methods such as physical restraints and locking youth in their rooms, rather than using alternative strategies to de-escalate tension and solve problems, as promoted through the Ministry's relationship custody model (Ontario Government, 2016b; Provincial Advocate, 2013). The Child and Family Services Act (CFSA) allows staff to use 'extraordinary measures' when de-escalation strategies and other less intrusive approaches are not sufficient.

The Provincial Advocate (2013) notes that 43% of youth reported being physically restrained by staff; nearly half of all youth interviewed commented on excessive use of force and injury. A total of 61% of youth commented on strip searches, with some noting that it occurs more frequently at RMYC (weekly basis) than at other institutions, in addition to body frisks, and room searches. Further, 44% of youth reported being placed in secure isolation (segregation), and some were barred from their legislated right to contact the Advocate's Office while isolated. There were 278 placements in secure isolation at RMYC in 2014 which is categorised as high usage, and a higher rate than for other youth detention centres (Provincial Advocate, 2013). In interviews with youth, the RMYC is described as a space striving to look and feel more like an adult prison, and lacking a focus on relationships (Davey, 2016). Of the recent 2021 closures, the focus was on efficiency, which left larger institutions like RMYC open.

7 | CONCLUSION / DISCUSSION

If the abrupt, mass closure of youth detention and custody centres in Ontario cannot strictly be read as a successful outcome of the YCJA, what else can help explain this shift? A close reading of the available evidence and documentation affirms the relevance of the counter-hypothesis that government interest was also an important factor. The most consistent consideration in the decision to close these institutions, and the way in which such closures proceeded, was both efficiency-focused and to save face. The letter penned by YJO affirms this, noting that these closures must be understood within the context of ongoing financial pressures on transfer

payment agencies 'to do more with less resources' (Youth Justice Ontario, 2021). The secrecy around planning the closures was also intended to prevent media attention as occurred in the closing of Bluewater Youth Detention Center – officially to protect youth privacy, but arguably to avoid criticism of, or embarrassment to, the government. The deferred timing of the closures to mitigate challenges around labour, as evidenced in the Ontario Ombudsman's report (Dubé, 2022), suggests that the process of the closures was done primarily with the government's – rather than youth's – interests in mind. In the Ombudsman's report, officials indicate that this process was done to avoid staff from not showing up or acting differently on the job. The closures were also arguably shifted to avoid critique from a large body of workers suddenly without work during the pandemic and before an imminent provincial election.

Collateral consequences include both: (i) the legal and regulatory sanctions imposed through court sentence; and (ii) the impacts of the criminal justice system on families, communities and democracy (Kirk & Wakefield, 2018). In Canada, collateral consequences were defined by Supreme Court Justice Wagner in *R v. Pham* (2013 SCC 15) in 2013. Wagner defined collateral consequences broadly, stating that they are 'any consequences for the impact of the sentence on the particular offender'. We reflect on whether the recent 2021 youth prison closures can also have collateral consequences. The purpose of the YCJA is not to eliminate the use of imprisonment, but to reduce it, and the low usage and closure of youth detention centres is an outwardly positive development. However, the unintended consequences of institutional closures are those to which we draw attention, youth being shifted to different systems and service providers, or not receiving support at all, and a reduction of capacity in the youth detention system without equal investments in outside non-carceral support.

In contrast to the prevailing evaluation of the YCJA in Canada, then, our analysis suggests that legislative change and quantitative reductions in youth detention alone are not sufficient to affirm success. Rather, it is important to attend to the specific processes through which legislative changes are implemented, and the qualitative nature of the collateral consequences that arise from such. Taking these factors into account, these shifts in Canadian youth justice appear to replicate what has been documented in much of the comparative literature. Rather than decarceration, these transformations in youth justice represent a decentralisation of responsibility for the surveillance, punishment and reform of youth in conflict with the law, with a concomitant widening of the scope of punitive measures.

There is little research available on the closures of youth detention centres and shifting responsibility to community programmes in Ontario, elsewhere in Canada and in other countries. Research is needed to examine these closures and better understand the political, economic and social motivations; impacts on youth, families, communities and First Nations in settler colonial countries; whether community programmes meet the needs of youth; and whether community programmes continue punitive legacies of youth detention centres. Freedom of Information (FOI) and Access to Information and Privacy (ATIP) requests and expert interviews may provide an opportunity to better understand the motivations underlying the closures and reinvestment in community programmes. Regarding impacts, youth participatory action research (YPAR) using Indigenous research methodologies (e.g., storytelling, sharing circles) with youth, families, communities and First Nations would help fill in those knowledge gaps. Interviews and ethnographic observations at community programmes may also help reveal how, or whether, these programmes echo punitiveness from youth detention models. It is the case that provinces are not required to collect and share disaggregated data regarding youth imprisonment (including gender, age, disability) and we call for this to change.

In sum, without indication that the needs of youth are being met using non-punitive means, the 2021 mass closures of youth detention centres in Ontario is notable. It is possible to support the closure of penal institutions, but also care about how it is done. Youth and community can be at the centre of deinstitutionalisation and decarceration work, and were decentred in the recent Ontario case. There are continuing pressures to close youth detention centres in Ontario, other provinces in Canada, and other countries such as the United States, Australia and New Zealand. Multiple aspects of future closures can be subject to reflection, including: which centres are selected for closure; the timing of closures; transparency of closures; inclusion of youth and other important stakeholders in closures; and the resourcing of alternative community supports.

ACKNOWLEDGEMENTS

We thank attendees of the Critical Perspectives Conference in Ottawa, Canada, for their feedback.

Open access publishing facilitated by University of Canterbury, as part of the Wiley - University of Canterbury agreement via the Council of Australian University Librarians.

ENDNOTES

- ¹ Transfer payment agencies receive government funding, but operate independently from the government to run youth justice programmes, including custody and detention centres.
- ² The recent 2021 closures of youth detention centres in Ontario were not a clear case of decarceration, as the imprisoned youth were moved to different detention institutions and not released to the community. That said, the closures indicate a reduction of institutional capacity to imprison youth in the province. The YCJA seeks to divert certain youth from imprisonment, with a long-term outcome of decarceration.
- ³ Youth were confined in adult prisons such as Kingston Penitentiary until the creation of Reformatories in 1859. Reformatories were replaced by Industrial Schools in the 1880s.
- ⁴ Indigenous youth were concurrently confined in Indigenous Residential Schools. The last Ontario Residential School closed in 1991.
- ⁵ Article 37(b): 'No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time' (UNCRC, 1991).

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Legislation

- Bill C-192, The Young Offenders Act
Bill C-61, The Young Offenders Act
Child and Family Services Act, RSO 1990, c. 11
An Act to amend The Industrial School Act, SS 1944(2), c. 70
Juvenile Delinquent’s Act, SC 1908, c. 40
Training Schools Act, SO 1939, c. 51
Young Offenders Act, RSC 1985, c. Y-1
Youth Criminal Justice Act, SC 2002, c. 1

How to cite this article: Mussell, L. & Evans, J. (2023) Youth carceral deinstitutionalisation and transinstitutionalisation in Ontario: Recent developments and questions. *The Howard Journal of Crime and Justice*, 1–23.
<https://doi.org/10.1111/hojo.12538>