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### 1. Youth Criminal Justice Questions Answered: S.C.C.

In [R. v. S.J.L.-G.](#), 2009 SCC 14 the court decided two youth criminal justice issues: 1) May the Crown prefer a direct indictment? (Yes) and (2) Can a young person be tried jointly with an adult? (No). On the first issue, the majority of the court disagreed with the Court of Appeal findings that a preliminary inquiry is mandatory under [s.67\(7\)](#) of the *Youth Criminal Justice Act* and that a direct indictment is inconsistent with the principles of the Act. The court stated at para.41: "The direct indictment is not inconsistent with the YCJA, since Parliament has not conferred special status on the preliminary inquiry and the direct indictment remains useful in both criminal justice systems." In considering the second issue the court looked at the historical reasons for creating a justice system dedicated to young persons. It concluded:

the history of the separate youth criminal justice system, the abolition of the transfer to adult court, the content of s. 67(5) and (7.1) YCJA, and the fact that neither the YCJA nor the *Criminal Code* contains specific provisions authorizing joint trials of adults and young persons are indications that Parliament intended to prohibit such trials. What is more, the adoption of this solution will make it easier for the youth justice court to perform its special role and will avert the practical difficulties inherent in a joint trial of young persons and adults.

It should be noted that the Attorney General of Manitoba was an intervener in the case and that the direct indictment issue was recently considered in *R. v. C.L.S.*, 2009 MBQB 14.

The following article summarises the decision:

- [The Courts Say "Yes" to Direct Indictment of Youths and "No" to Joint Trials of Youths and Adults: R. v. S.J.L.-G.](#) by Sona Dhawan, posted April 2, 2009 on The Court.

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### 2. Truth in Sentencing - Bill C-25

[Bill C-25](#), An Act to amend the Criminal Code (limiting credit for time spent in pre-sentencing custody), received first reading on March 27, 2009. The bill proposes changes to [s.719\(3\)](#) of the *Criminal Code* which would limit sentencing judges' discretion in awarding credit for time spent in pre-sentence custody. Response to the bill has been varied, as reflected in the following articles:

- [Another Step Toward Eliminating Judicial Discretion in Sentencing](#) by James Stribopoulos, published March 27th, 2009 on The Court

- [The Debate over 2-for-1 Credit](#) by Regina Lee published March 30th, 2009 on The Court
  - [Isn't the real problem the glacial pace of Canadian justice?](#) by Christie Blatchford, published March 26, 2009 in the Globe and Mail
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### **3. Proper Procedure Must Be Followed to Use Prior Witness Statements: Man. C.A.**

[R. v. Kemash](#), 2009 MBCA 15 deals with the proper process for refreshing a witness's memory using prior statements, and how those statements may come into evidence. The court found that the trial judge erred in accepting prior consistent statements of a witness into evidence without any application for their admission under the doctrine of past recollection recorded or otherwise. Given the severely prejudicial nature of the evidence admitted, the court overturned the conviction and ordered a new trial.

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### **4. Criminal Justice Statistical Report**

[Public Safety Canada](#) has released its annual report for 2008 called [Corrections and Conditional Release Statistical Overview](#). The report provides a statistical overview of corrections and conditional release within a context of trends in crime and criminal justice and is a good source of statistical information on criminal justice issues. Some interesting stats include:

- the rate of youth charged peaked in 1991 and has declined steadily since
  - police-reported crime rate has been decreasing since 1991
  - the 2006-07 annual average cost of incarcerating a male inmate was \$90,744 and a female inmate was \$166,830
  - federal corrections expenditures in Canada totalled about \$1.91 billion in 2006-07
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### **5. Judges' Book of Authorities**

As announced in a [Notice](#) dated March 30, 2009, all Court of Appeal judges now have a Judges' Book of Authorities containing copies of authorities frequently relied upon in appeals. A current list, which will be amended from time to time, is appended to the notice. Counsel need no longer include these cases in their case books, but extracts should be included where appropriate.

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