

The Youth Criminal Justice System



Module Goal

To teach young people, ages 12 to 17 years old, about their rights in the youth criminal justice system of Prince Edward Island.



You will learn about:

- ★ the ***Youth Criminal Justice Act*** (also known as the ***YCJA***)
- ★ your rights & responsibilities in the youth criminal justice system
- ★ how to deal with police
- ★ your parent's involvement
- ★ how and why you should get a lawyer
- ★ being dealt with outside of court
- ★ going to court and court sentences
- ★ youth criminal records





The Youth Criminal Justice System in PEI

The youth criminal justice system on PEI is made up of police, courts, lawyers, judges, youth workers, probation services and youth custody centres (jails). If you are in trouble with the law and you are of an age between your 12th and 18th birthdays, you are involved with the youth criminal justice system.

The youth criminal justice system holds young people responsible if they do a crime. It helps them understand the effect of what they have done. Victims, the young person, families and the community are encouraged to work together to support the young person and help him or her to get necessary help.

The law for young people in Canada is the ***Youth Criminal Justice Act (YCJA)***. The ***YCJA*** deals with young people, ages 12 to 17, who are suspected, charged, or convicted of a crime. It tries to give fair and effective responses that connect to the seriousness of the crime. It looks at the needs and circumstances of young people and works for their rehabilitation and reintegration.

The youth criminal justice system wants victims, families, volunteer groups, teachers, and the whole community to participate in the youth criminal justice system.

The ***YCJA*** applies to laws passed by the government of Canada. The most important of these are the criminal and drug laws. For crimes under provincial laws, like careless driving, drinking under age, or trespassing, the provincial ***Youth Justice Act*** gives legal consequences for young people. For example, if police find you with an open bottle of beer and you are under 19 years of age, you may be charged with possession of liquor under the ***Liquor Control Act***.

As a young person, you need to know your rights and obligations. You have special rights that need to be protected. You have the right to be treated fairly and have your privacy respected. You have the right to be heard in court and to participate in the process. You have the right to speak with a lawyer and to have a lawyer and your parent or a trusted adult with you when you go through the youth criminal justice system.



Criminal Law



Criminal law deals with crimes which are listed in the *Criminal Code of Canada* and other laws, such as the *Youth Criminal Justice Act* and the *Controlled Drugs and Substances Act*. Criminal laws are made by the federal government in Ottawa. Crimes and penalties for being found guilty are the same across Canada. Provincial governments also make laws, such as the *Highway Traffic Act* or the *Liquor Control Act*. If you break these laws, you may be dealt with in the same way as you would be with criminal laws.

In Canada, children under 12 years of age cannot be charged with a crime. If a child under 12 does something that would be a crime if he or she was older, it is understood that the child needs help. The child protection and mental health systems may become involved. They become involved to help and support the child and his or her family so the behaviour can be changed.



Crimes

Crimes are actions listed in the *Criminal Code of Canada* and other federal laws. There are certain conditions that have to exist for an action to be included as a crime in the *Criminal Code of Canada*:

- ★ the action must be considered wrong
- ★ the action must cause harm to other people, to society, or to those who need protection
- ★ the harm must be serious
- ★ the harm must be best dealt with by criminal law

Everyone who is charged with a crime is considered innocent until proven guilty in court



What Happens When...

- ★ You do a crime?
- ★ You are accused of doing a crime?



The *YCJA* says that when young people do crimes, the consequences should:

“...be meaningful for the individual young person given his or her needs and level of development and, where appropriate, involve the parents, the extended family, the community and social or other agencies in the young person’s rehabilitation and reintegration.”

You Need To Know Your Rights & Information About...

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The Police



The police are part of your community. They are trained to protect you. You can trust the police and not be afraid of them. Police are responsible for investigating crimes, arresting people who do crimes, helping victims and teaching people about safety. You can call the police if you or someone else is hurt or in danger, or if you see a crime taking place. In P.E.I., the emergency number for the police is **911**. **Emergency numbers are always printed inside the front cover of the telephone book.**

If you do a crime or if you know about a crime, the police may come to you. They may want to question you about what you know, what you saw, or what you did.



If You are Questioned by Police

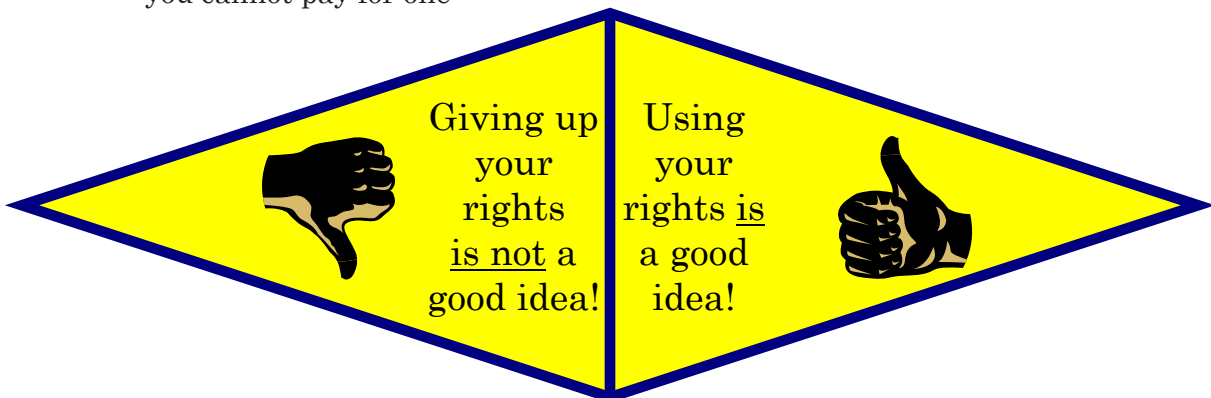
- ★ Call the police officer “Officer”
- ★ Accept the police officer’s authority - do not try to argue
- ★ Give the police officer your **name, address and age**
- ★ You do not have to say anything more to the police. The police cannot arrest you for refusing to answer questions. You have a **‘right to remain silent’**. If you say anything to the police, you are making a statement, even if it is not in writing or you do not sign your name to it. If you make a statement, the police might use that statement as evidence against you in court
- ★ The police must tell you why they picked you up or pulled you over
- ★ Be ready to show identification if a police officer asks you for it. If you are stopped by the police while driving a car, the police will probably ask you for your driver’s license, proof of insurance and car registration



You have the right to talk with a lawyer and an adult you trust before you say anything to the police!

If You are Arrested by Police

- ★ The police can arrest you to question you. This does not mean that you will be charged
- ★ They must explain to you your rights and why you are being arrested
- ★ You do not have to give information to the police other than your name, address and age
- ★ You do not have to make a statement to police or answer questions. You have the right to speak with a lawyer and an adult and to have them with you. If you want to make a statement without speaking with a lawyer or having an adult with you, the police will get you to sign a paper, called a waiver, which says you give up your rights to have a lawyer and an adult with you
- ★ The police must allow you to call a lawyer and an adult as soon as possible. If you do not have a lawyer, they must give you the Legal Aid telephone number and let you call. You have the right to speak with a lawyer even if you cannot pay for one



If You are Searched by Police

- ★ If the police believe you have done a crime, they can search you and (possibly) your car without a search warrant. They cannot search your house without a search warrant
- ★ The police must explain to you your rights and why you are being searched



The police must allow you to call a lawyer and an adult you trust. Even if you have no money, you still have the right to a lawyer!

Will You be Charged by Police?

- ★ If the police have evidence that you have done a crime, they do not have to charge you. They have several choices about how to deal with you. Their decision depends on what you did and the circumstances of what you did. The police first consider out-of-court procedures, called extrajudicial measures
- ★ If the police charge you with a crime, they do not have to take you to the police station
- ★ If the police do not take you to the police station, they will give a notice to you and your parent that explains:
 - the crime(s) with which you are charged
 - your right to be represented by a lawyer
 - the date and time when you must be in court (if you have to go)
 - the court's address

Extrajudicial Measures

Include:

- taking no further action with the young person
- warning the young person
- referring the young person to a community program
- using alternative measures with the young person
- using restorative justice with the young person (for example, a community justice forum)



Your Parent



What Is A 'Parent'?

Any person who has custody or control of you, and may include an adult with whom you live

Informing Your Parent

When you become involved in the youth criminal justice system, your parent must be told about it. Your parent is expected to participate in the process used to deal with your situation. The police must notify your parent. They may call or visit your parent. If your parent does not attend court, the judge may delay court and order your parent to be present at the next court date. Your parent will be given a chance to speak in court.



The *YCJA* says that “parents should be informed of measures or proceedings involving their children and encouraged to support them in addressing their behaviour.”

Your Right to Have Your Parent with You

When you are being questioned by police, you have a right to have your parent (or an adult you trust) with you. The police must tell you about this right and allow you to call someone. **You have the right to have a parent with you and you have a right to call a lawyer and have a lawyer with you.**

Your Lawyer and Your Parent

Your lawyer works for you, not for your parent. Even if your parent is paying for your lawyer, that lawyer is working for you. Your lawyer cannot tell your parent any information about your case without your permission.



Lawyers have a duty to keep information about their client secret. This is called “*confidentiality*”.

If you have a lawyer, you are called their “*client*”.

Information about your case will be kept secret, even from your parent. Your lawyer takes instructions from you, not your parent.



LAWYER PHONE NUMBERS

Legal Aid:

Charlottetown - 368 6043

Summerside - 888 8219

Lawyer Referral Service

Charlottetown - 892 0853

Anywhere in PEI - 1 800 240 9798

Getting a Lawyer



You have a right to a lawyer. The police must tell you about this right. If you have been charged with a crime, you have a right to a lawyer (even if you cannot pay). Your lawyer works for you, not for your parent. Even if your parent is paying for your lawyer, you are the client of your lawyer. Without your consent, your lawyer cannot tell your parent any information about your case.



Lawyers have a duty to keep information about their client secret. This is called “confidentiality”.

If you have a lawyer, you are called their “client”.

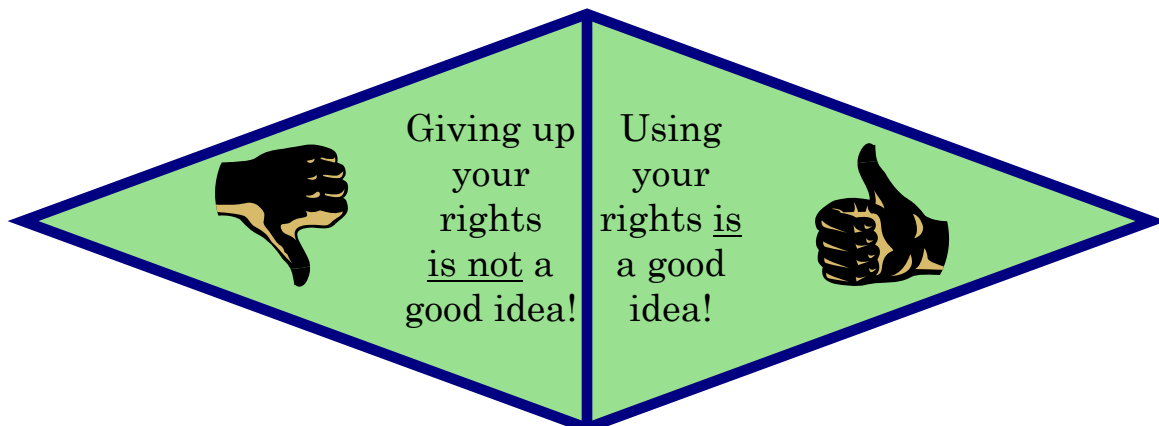
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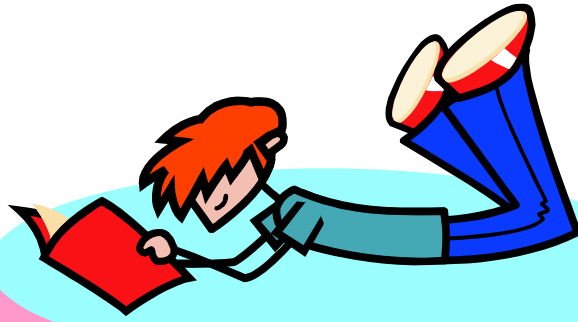
When You Should Call a Lawyer

Anytime you do not understand or agree with what is happening, you should speak with a lawyer. It is your right to refuse to make a statement to police or to answer any questions until after you have spoken with a lawyer. It is a good idea to speak with a lawyer whether you are being dealt with in court or out of court. If you are charged with a crime, you should speak with a lawyer as soon as possible.

If You Cannot Pay for a Lawyer

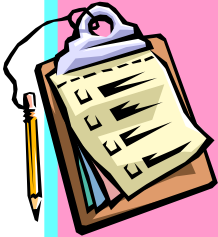
You have the right to a lawyer even if you or your parent cannot pay for one. If you cannot afford a private lawyer, Legal Aid will be available to you. Remember, even if your parent is paying for your lawyer, your lawyer works for you. Your lawyer’s role is to advise you and take instructions from you, not from your parent.





Do I Need A Lawyer?

The *YCJA* says that you have the right to a lawyer at any stage of the proceedings against you. This is true even if you or your family cannot pay for one. You have the right to a lawyer if:



- You are being questioned or interrogated
- You have been arrested but not charged
- Your case might be dealt with outside the court system, or
- You have been charged with a crime

In all of these situations, the police must provide you with a phone & privacy to contact a lawyer.

LAWYER PHONE NUMBERS



Legal Aid:

Charlottetown – 368 6043

Summerside – 888 8219

Lawyer Referral Service

Charlottetown - 892 0853

Anywhere in PEI - 1 800 240 9798

Look in the phone book 'Yellow Pages'
under "Lawyers"

Going To Court



If you have been charged with a serious crime or you have not accepted responsibility or you do not agree to out-of-court measures, you will go to youth court. This court is separate from adult court and there is extra protection for your rights.

When you become involved in the youth criminal justice system, your parent must be told about it. Your parent is expected to participate in the process used to deal with your situation. The police must notify your parent. They may call or visit your parent. If your parent does not attend court, the judge may delay court and order your parent to be present at the next court date. Your parent will be given a chance to speak in court.

The *YCJA* says that *“parents should be informed of measures or proceedings involving their children and encouraged to support them in addressing their behaviour.”*



At your first appearance in court, you will have to enter a plea. Pleas are:

“Not Guilty”

You are saying you did not do the crime that the judge has read to you

“Guilty”

You are saying you did the crime that the judge has read to you



Your Sentence



The purpose of youth sentences is to hold you accountable (responsible) for your actions. If you plead guilty or you are found guilty in court, the judge will give you a sentence. The judge may need information about you and your situation before deciding on your sentence. This information is called a pre-sentence report. It may be written by a youth worker who interviews people to get a complete picture about you and your situation.

The judge may choose from a wide range of sentences. It is important for you to understand your sentence because you must obey it. If you disobey your sentence, you could be charged with another crime. Some possible sentences in youth court are:



★ **reprimand**

- the judge gives you a stern warning or lecture in the court

discharge

- the judge orders you to be let go with no conditions or with conditions and requirements

fine not exceeding \$1000

- the judge orders you to pay money, called a “fine”

compensation

- the judge orders you to pay for or provide services to the victim to make up for loss or damage to property, for loss of income or support, or for personal injury

restitution

- the judge orders you to return property to the victim

community service

- the judge orders you to perform tasks that benefit the community and to report to a person named by the judge

probation

- the judge orders you to report to a probation officer under specific conditions named by the judge, for up to 2 years

deferred custody and supervision order

- the judge orders that you can serve your sentence in the community, under conditions ordered by the judge

custody and supervision order

- the judge orders you to serve time in a youth custody centre followed by a period of supervision in the community



Staying Out Of Court

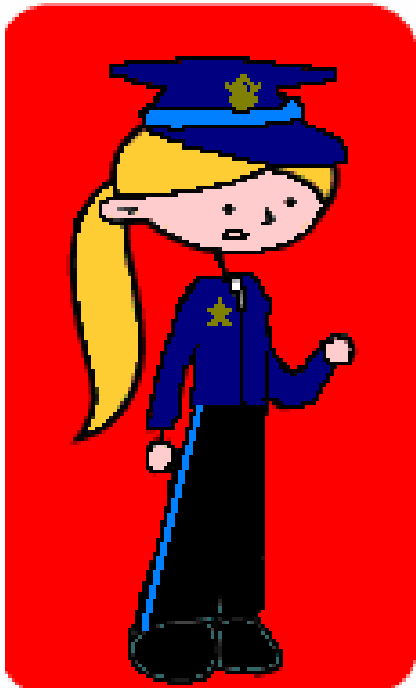
The *YCJA* encourages the use of out-of-court measures to hold young people accountable for their actions in a fair and meaningful way

If you did a crime, the consequences you face will depend on the seriousness of the crime and your role in the crime. If you do more crimes and the crimes become more serious, the consequences become more severe.



The police have several choices of how to deal with your situation. Their decision depends on the crime and the circumstances under which you did the crime. The police first consider out-of-court options, called extrajudicial measures.

Extrajudicial Measures



include:

- ★ The police take no further action
- ★ The police give you a warning
- ★ The police refer you to an agency that can help you make better choices
- ★ The police refer you to an extrajudicial sanctions program. Extrajudicial sanctions are the most formal type of out-of-court measures. You need to have accepted responsibility for the crime (this means you admit that you did it) and you must agree to participate in this program

Community Justice Forums

These are one type of extrajudicial sanction.

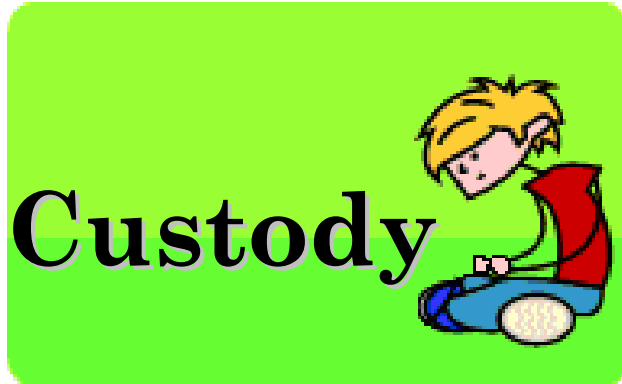
The offender (the young person who did the crime), the victim, support people of each, and police meet with a facilitator to discuss the situation.

Everyone has a chance to speak about how the crime affected him or her. An agreement is reached about how to repair the harm done. If the agreement is not kept, further action may be taken.

A forum makes it easier for everyone involved to live together more comfortably after the crime!



Going To Custody

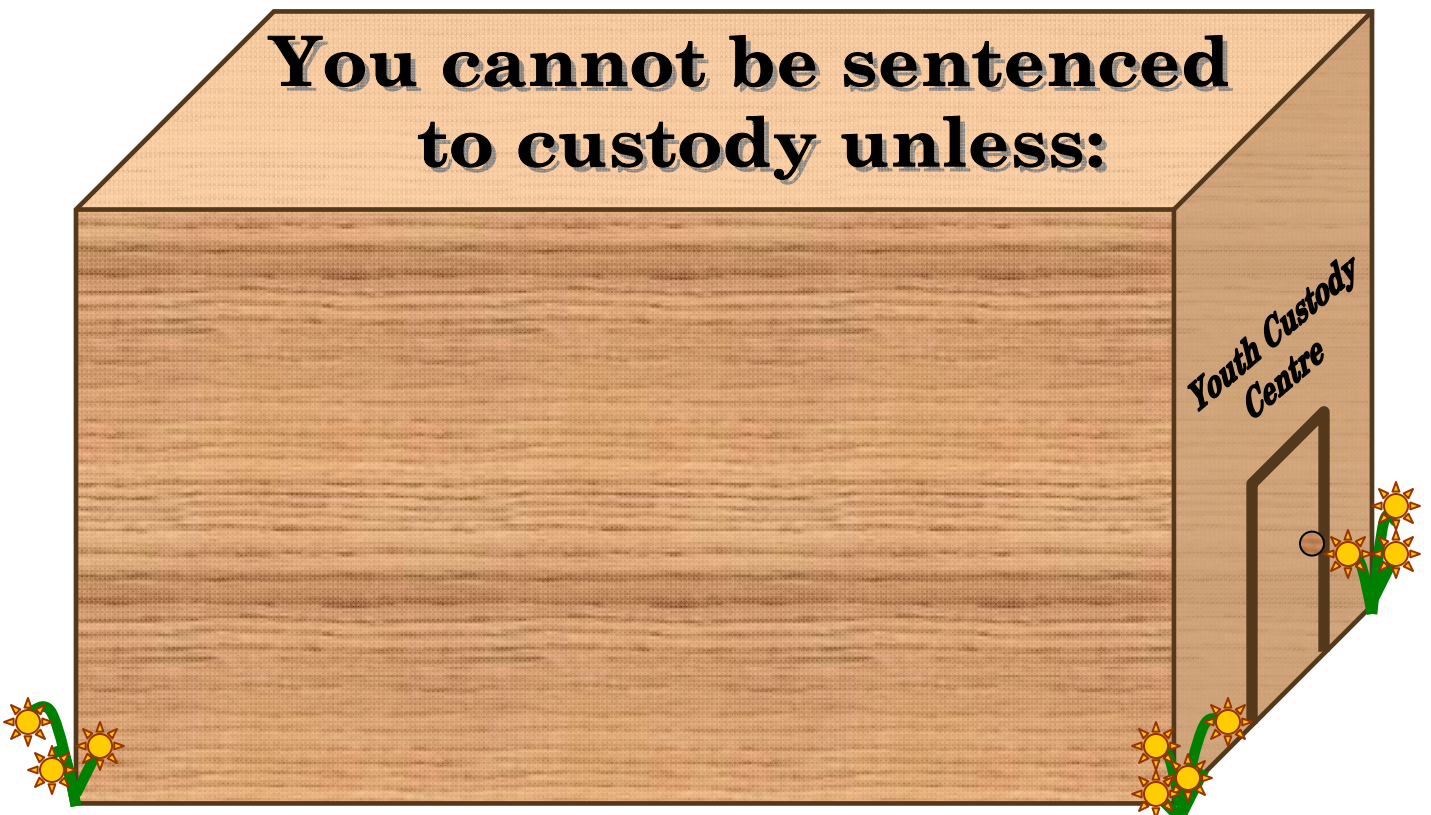


In serious cases, you may be kept in custody while waiting to appear in court. You may be sentenced to custody after being found guilty of a crime. If you are in custody, your freedom is removed.

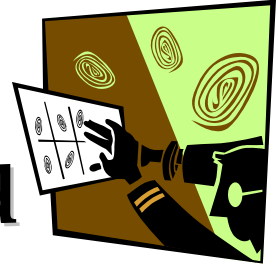
The *YCJA* says that custody is to be saved for serious, violent crimes. The judge has to have considered all other sentences that are reasonable and decided that these are not enough to hold you accountable. Custody is to be used as a last resort for young people.

If you go to custody, you will be in a centre for young people only, called a youth custody centre. After the period of custody, you will be supervised in the community with conditions imposed on you. If you do not follow these conditions, you may be returned to custody.

**You cannot be sentenced
to custody unless:**

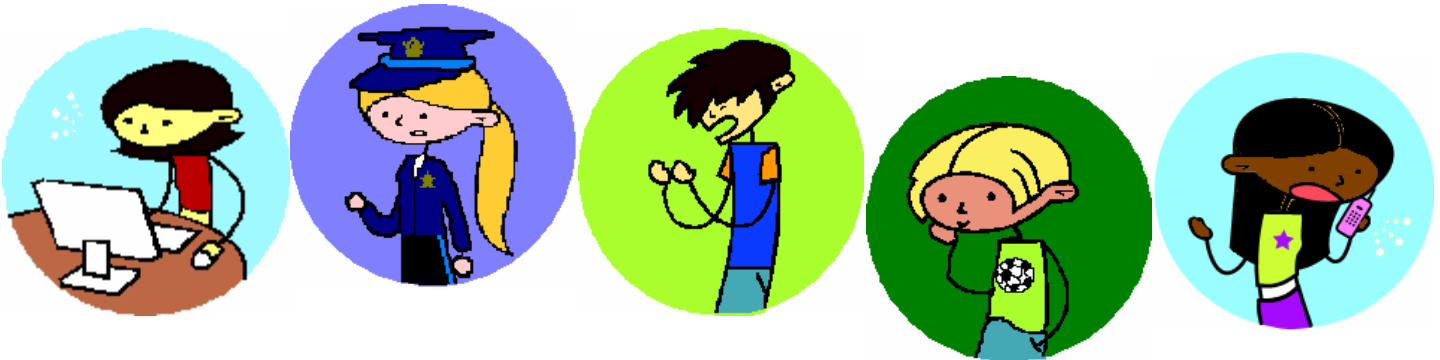


Youth Criminal Record



When you do a crime and you are dealt with by the youth criminal justice system, you will have a **youth criminal record**. Having a youth record can affect your ability to apply for college or university, to get certain jobs, and to travel to other countries. Your youth record may not be erased when you turn 18 years of age. Your youth record may stay open longer or may be closed sooner, depending on such factors as the type of crime, the type of sentence, and whether you do another crime while your record is still open.

- ★ Your record from extrajudicial measures closes after 2 years if you don't do another crime
- ★ Your youth court record stays open for 3-5 years after you complete the sentence and/or probation
- ★ If you do another crime during this waiting year period, your record will be kept open until the waiting period is over for the most recent crime
- ★ If you are over 18 years of age and you do a crime while your record is open, your youth record becomes a part of your adult record
- ★ Adult records stay open for life unless you get a pardon



The content of this module is not legal advice. You need to speak with a lawyer to get legal advice.

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