

## THE YOUTH CRIMINAL JUSTICE ACT

# LESSON ONE

The Youth Criminal Justice Act, known as the YCJA, came into effect April 1, 2003. It replaces the Young Offenders Act, which was passed in 1984. Both are federal laws that guide Canada's response to crime committed by youth between 12 and 17 years of age and each has a very different approach to dealing with youth crime and prevention.

The time line for youth justice legislation in Canada is as follows:

1908	Juvenile Delinquents Act
1984	Young Offenders Act, amended 3 times
1996	National research and consultation starts
April 1, 2003	The new Youth Criminal Justice Act comes into force

Canada has had three youth crime laws and each has reflected the values and beliefs of Canadian society when it was in force. The Youth Criminal Justice Act is new legislation, not an amendment. It repeals and replaces the Young Offenders Act, and brings a new approach that focuses on prevention, rehabilitation and reintegration.

1908	1984	2003
<b>Juvenile Delinquents Act</b>	<b>Young Offenders Act</b>	<b>Youth Criminal Justice Act</b>
Youth as child requiring strong parental guidance; "parens patriae" approach (court as parent)	Youth as adult accepting responsibility for criminal acts	Youth as community member requiring guidance into adulthood
<b>Family Court</b>	<b>Young Court or Adult Court</b>	<b>Youth justice Court Act</b>
No recognition of rights	Rights of youth and emphasis on custody	Rights of youth Focus on preventing youth crime, rehabilitation, reintegration and meaningful consequences

The YCJA spells out Canada's philosophy toward youth and youthful offenders in detail. It explains how young people between 12 and 17, who break the law or who are suspected of breaking the law, will be treated under many different circumstances.

It also details treatment after suspects are apprehended by the police. It provides the police with some alternatives to laying charges, if they decide another response would be more appropriate. The YCJA sets out extrajudicial or out-of-court measures for young people and has revised and added some sentencing options for the Court if the case does go to trial.

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## What Happens when Youth are Caught?

When youth are apprehended by the police, they are not necessarily charged. Police may decide that an extrajudicial measure is more appropriate. If the young person is charged but not detained, they may be released to a parent or other responsible adult, who must ensure that they appear for whatever measures are deemed appropriate. Before release, however, the parents or guardians are called, told about the apprehension and may join the young person at the police station where they will be read their charge by a hearing officer. Depending on the seriousness of the offence, they must return to court for judicial measures or, if so decided, appear before a local Youth Justice Committee, or participate in mediation, a Community Justice Forum or other extrajudicial sanction that is most appropriate for their case.

The YCJA strengthens young people's rights and takes community standards into account. How has the community been hurt by this criminal offence? What needs to be done to repair that damage? How can the young person be prepared to re-enter their community as a productive citizen?

- It is a Federal law applying to all Canadian youth and based on years of consultation and research.
- It provides youth, who break the law, with meaningful consequences for their actions.
- It separates violent from nonviolent crime.
- It recognizes that young people who commit offences often need help to turn their lives around.
- It spells out the need to make plans for rehabilitation and re-integration into society as part of any custody sentence.

No young offender will simply be sentenced to custody then released back onto the street or into the environment that contributed to his or her criminal activity, without a reintegration plan and supervision.

The YCJA says that measures taken against youth who have committed offences should respect:

- The young person's gender, ethnicity, culture and language,
- The needs of aboriginal youth, and
- Individual levels of development and all special needs.

In Canada, under the previous Young Offenders' Act, custody has been over-used as a deterrent and punishment for youth crime. Now, young people cannot be locked up as a substitute for mental health services or social assistance. Custody may still be an option, depending on the crime and on the circumstances, but it must be used as a last resort.



Fourteen-year old in custody for murder, outside the jailhouse in Winnipeg, July 1918

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## Principles of the YCJA

Young persons' names will not be published, except under exceptional circumstances, like when an adult sentence is imposed, or if the youth is at large and considered dangerous, or in other limited situations where a youth has been found guilty of a particularly serious crime.

**Victims will be considered when deciding the sentence:**

- Victims may be given the name of the offender and be told what the results of the charge and sentence are to be.
- They may be involved in extrajudicial or judicial measures.

**Community standards will help determine the consequences for the crime:**

- For instance, placing a youth in the care of a responsible adult may be more appropriate than time spent in a detention centre awaiting a court date.

**Community resources will be used to assist the youth to function again, back in their home community, if possible:**

- For instance, group or one-to-one counselling for sniffing solvents may be prescribed within the community.

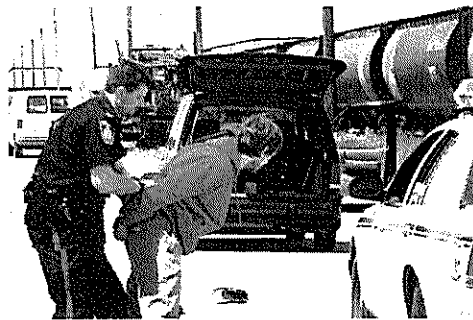
**Parents and extended family are invited to be involved in rehabilitation and reintegration.**

**Young people, who commit crimes against property, will be held accountable and may be required to make financial amends.**



The legislation recognizes that some conditions contribute to crime - like poverty and substance abuse.

- It talks about preventing crime by addressing the circumstances that contribute to it.



*Vandalized car; boy arrested by police for car theft*

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## Meaningful Consequences

Sentences given to young people after they have been found guilty of an offence have been changed. Although the YCJA is federal legislation, provinces and territories have some flexibility with regard to some of these sentencing options. Although there may be provincial variations in the way the YCJA is implemented, the core principles will apply in every province and territory.

The consequence must fit the crime. In other words, after a crime has been committed, the actions taken by authorities must be meaningful and must be appropriate and proportionate to the crime committed. If a teenager is caught with an illegal drug and has no previous offences, they may be issued a warning. However, if that same teenager is caught selling drugs to kids in the schoolyard, they may well face stiffer consequences.

Canada has established a criminal code, setting out what actions are considered criminal. Canadian laws respond to the criminal code by establishing consequences for these criminal offences. The Youth Criminal Justice Act spells out the consequences for young people when they commit these offences. It deals only with young people who have been arrested for breaking a law or who are suspected of breaking a law.

Some consequences are not spelled out in the YCJA. Caught with that same illegal drug in the school hallways, a student may be expelled from school, lose scholarship money or face other consequences imposed by the school in addition to legal consequences.



*Two 14-year old boys captured for murder in Winnipeg, July 1918*

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## **Non-violent Crime**

Non-violent crime will not usually result in custody. In fact, extrajudicial measures are presumed to be adequate to hold first time, non-violent offender accountable, and should be used in all situations where they are sufficient to hold a youth accountable for their actions. Youth may be given a chance to recognize the wrong done and repair it through repayment or community service, or perhaps both. They may meet with a group of community volunteers, known as a Youth Justice Committee (YJC), who will explore their cases individually, talk to the victims and families, and recommend a plan for repairing the harm that was done.

In an extrajudicial or 'out of court' sanction, the young person must take full responsibility for their actions, and be willing to be accountable for the damage they've caused. As with any debt, youth will have the opportunity to clean their slates by following an agreed-upon plan to set things right.

Violent crime may be penalized more severely, and the measures taken will depend on the seriousness of the offence and the circumstances in which it was committed. Still, rehabilitation and reintegration will be a key objective.

## **Follow-up - Why Bother?**

Rehabilitation assists young people to return to their lives after committing an offence. An offence can either be a mistake they will not repeat or a step into a pattern of offending. Rehabilitation helps youth work on the strengths they have and deal with the problems that caused the criminal behaviour. Depending on the offence committed, a young person may receive a sentence where regular meetings will be established with a youth worker or a probation officer.

It's this worker's responsibility to make sure that any conditions imposed on the youth are being met or to work with the youth to develop and implement a reintegration plan, depending on the sentence. Care must be taken to ensure that kids don't fall through the cracks and get dropped back into the same circumstances which helped set up the crime.

Youth may be sentenced as adults if they commit serious crimes like

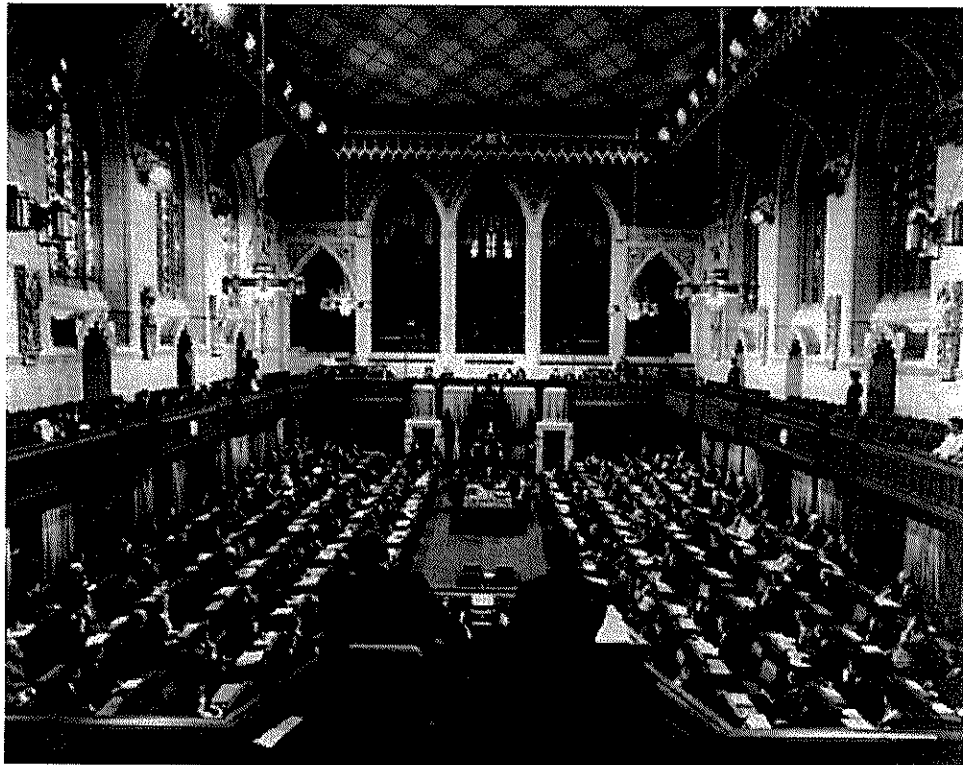
- Murder
- Manslaughter
- Aggravated sexual assault
- Attempted murder or manslaughter
- Other serious and repeat violent offences

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Under the YCJA, anyone 14 and over who commits these crimes can be held accountable through an adult sentence, given in youth court and served in custody. If an adult sentence is given, the young person's name can then be published.



*Court hearing in the Northwest Territories in the 1880s.*



*The House of Commons, Ottawa, Canada, where the Youth Criminal Justice Act was passed in 2002.*

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# CASE STUDIES

## CASE STUDY 1 - GOING FOR A CAR RIDE

Sixteen-year old Billy Joe had never been in trouble with the law before although he'd had some close calls. A year before, he was hanging out with some older kids and got caught drinking. He was never charged but, increasingly, his mother was having trouble setting limits and having him respect those limits. Twenty-one year old Johnny seemed to like Billy Joe. They worked out at the gym together and when he caught Billy Joe smoking, he knocked him down and reamed him out. Billy Joe never told his mom what had happened but he never smoked again.

Johnny began to include Billy Joe on some of his "jobs" as he called them. Billy Joe was nervous but pleased. He needed a good friend and Johnny seemed to care. When they started talking about plans to "knock off a guy who has more money than he needs", it sounded big.

Johnny gathered a group of four, including Billy Joe, and told them to meet at nine on Saturday night and to bring along something to use as a weapon. Billy Joe took the pellet gun his uncle had given him at Christmas.

Johnny was driving a hot-wired old car when he picked Billy Joe up, and he told him to take the wheel. Johnny gave him directions to a pretty upscale part of town. When they pulled up to the house, Billy Joe was sent to the door to talk his way inside. He knocked and when the owner opened the door, told him that he had a flat and would get in trouble if he didn't call home to say why he was late.

As Billy Joe dialed the phone, the other three, all wearing masks, rushed in, tied the owner to a chair and began to systematically strip the place of its computers, cell phones and electronic equipment. Then Johnny put a knife to the guy's neck and demanded his bankcard and PIN. When the man's wife stumbled out of the bedroom to see what the noise was all about, Billy Joe got scared and shot her with the pellet gun. The four young men ran.

Within the week, all four were rounded up by the police. Johnny had used the card to get some cash but Billy Joe hadn't seen any cash or other benefits from the sale of the stolen goods. As directed, he'd abandoned the car after dropping the others off in separate locations around the neighbourhood, then returned home, shaking and horrified at what he had done.

Billy Joe's mother was notified by the police and told that her son was in custody. She was invited down to the station to see him and to be present when he was charged with armed robbery and aggravated assault. Billy Joe was kept in custody until he appeared before the judge. He didn't get an adult sentence. He received a custody and supervision order in a youth facility for the maximum of three years.

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### CASE STUDY 2 - MAKING THE TEAM

Wally had worked hard to make the community club's hockey team. Ever since coming to Canada four years ago, he'd known that guys who play hockey are accepted more readily and he wanted that acceptance. He still felt like an outsider. To keep up his marks, which his parents insisted upon, and to improve his skating, Wally worked around the clock. He rose before 6 a.m. to skate, returned straight home from school to do homework, then went to hockey practice at the club from 9:30 every night until he fell into bed after eleven. His schedule didn't leave him much time to make friends.

Wally's hard work paid off and he went into his Senior Two year with an 85% average. He was in the final cut for the Bulldogs. Then he was cut. "Sorry Wally, you're not quite fast enough. If you were bigger or meaner, maybe....," the coach had quipped.

Devastated and angry, Wally spent several days alone trying to figure out a suitable revenge. Thursday night before the big game against a rival team he'd hoped to help beat, he bought some cans of spray paint and at midnight, he was out on the rink. Only this time, he wasn't skating. He was spraying the boards and the ice with slogans that slammed his team and pumped up the rivals "Go Clarions go...get those rotten Bulldogs." The damage to the ice and boards was substantial, and would take a lot of work to repair and clean up.

Wally was exhausted when he got home, silent the next morning before he left for school and so flustered, he left his math homework at home. When he returned at lunchtime to pick it up, he looked in the mirror and was horrified to see a streak of blue in his hair that he hadn't noticed that morning. He still had some purple paint that he couldn't get out from under his fingernails, too. He was tired and terrified by what he'd done.

That afternoon, the police came to the school, called him out of math class and questioned him. They too noticed the paint streaks. It was his perfect spelling and formal language that gave the police their first lead. When they spoke to the coach, he remembered cutting Wally from the team.

Unaccustomed to lying, Wally admitted his responsibility immediately. He was mortified. He was taken in the police cruiser to the station, then released in his parents' care. Since this was a first time, non-violent offence, it was presumed that an extrajudicial measure would be sufficient to hold him accountable.

That very night, however, Wally returned to the community club. His dad insisted that he clean up the graffiti himself, after buying the necessary supplies out of his own money at the local hardware store. Wally spent hours cleaning up the graffiti.

It was decided, and Wally agreed to participate, in an extrajudicial sanction. Two weeks later, Wally appeared before the Youth Justice Committee along with his stern-faced father, accepted responsibility for his actions and accepted the decision of the Youth Justice Committee to write a letter of apology to the club and present it to the President of the Board of Directors, explaining why he had committed the act of vandalism.

Everyone decided that would be sufficient, taking into account the seriousness of the offence and the work Wally had already done to repair the damage caused by his actions. The President of the Community Club accepted his apology willingly and encouraged Wally to try out again for the Bulldogs, telling him that he'd failed the first time out too.



## FOLLOW-UP ACTIVITIES

1. Photocopy and have students read the attached case studies and consider the questions that follow them in a class discussion. Use the model of the aboriginal circle in which each student has the right to talk in turn and not be interrupted. Make sure people stay on topic. Alternatively, break the class up into a couple of smaller groups and have a teacher or a teacher's aide help guide each group through the discussion. Following the discussion, ask kids to note in point form the key issues raised. Flip chart and keep these notes for future consideration.
2. Was Billy Joe's sentence fair? Should he have done more time? Less time? Been released into his mother's care until his trial?
3. What kind of supervision will work when he is released? Will custody hold him accountable? How can he be rehabilitated?
4. Was Wally's consequence appropriate to his crime? If not, what else could he have been asked to do? Should he have been charged and have to go to court?
5. Do you think Wally will ever commit a crime like this again? If not, why not?
6. Would you consider that these two cases had meaningful consequences for these young people? What made the consequence meaningful or meaningless in your eyes? Was it fair? Was it enough?
7. Would it have been more helpful for Billy Joe to have him face his victims and give them a personal apology for what he had done? Should they have had a say in what happened to him? If you were in their shoes, what might you have recommended?
8. All students will need to understand what the new Youth Criminal Justice Act involves and how it is different from both the Young Offenders Act, (circa 1984) and the Juvenile Delinquents Act, (circa 1908). Photocopy the entire chapter for independent study. Make sure the students are familiar with and understand the principles. This knowledge will make the chapters that follow more meaningful. The quiz at the end of this chapter will test students' knowledge of what they've studied.

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# PRINCIPLES QUIZ

1. The Youth Criminal Justice Act has a number of guiding principles – name three?  
(point form only)
  - A.
  - B.
  - C.
2. In 1908, the Juvenile Delinquent Act; in 1984 the .....; and finally in ....., the Youth Criminal Justice Act spells out what happens to young people who commit offences.
3. Is the Youth Criminal Justice Act a Federal or a provincial Act?
4. Does it spell out what offences will be considered criminal for young people? Or does it spell out how young people will be treated after they have committed an offence?
5. What ages of young people are covered by this Act?
6. Will a fourteen-year old girl who commits murder be transferred to adult court to be sentenced for her violent crime? Will she be taken into custody?
7. Will anyone help sentenced youth to appear in court on time and make sure that they abide by the rules and limitations of their release, or probation or other conditions? If so, who will do it?
8. What should happen if a young person misses a court date? Is it serious? What if they don't have a bus ticket or forget? (One paragraph only)
9. Who are the Youth Justice Committee? What is their role in providing extrajudicial measures, as set out by the Youth Criminal Justice Act? What are extrajudicial measures? (One paragraph only)