

THE YOUTH CRIMINAL JUSTICE ACT

Presented by
The Hamilton Justice Education
Network



The legal content of this presentation is accurate as of August 11, 2014

The Youth Criminal Justice Act

- Legal Rights
- Basic Principles of the YCJA
- Extrajudicial Measures
- Sentences
- Publishing
- Youth Records



What is the YCJA?

- Federal law
- Applies to all youth in Canada from the ages of 12 to 17
- Came into effect April 1, 2003
- Replaced older laws (Young Offenders Act & Juvenile Delinquent Act)



Why is the YCJA Important to You?

It is your **RIGHT** and **RESPONSIBILITY** as a youth living in Canada to know about the laws and criminal justice systems of this country.



Principles of the YCJA

The YCJA establishes clear **PRINCIPLES** and **KEY GOALS** to deal with youth who break the law.

These principles set the focus of the YCJA and guide its application.



What are the Basic Principles?

PURPOSES OF THE YCJA

Accountability
Rehabilitation
Reintegration
Consequences
Crime Prevention
Public Protection



What are the Basic Principles?



Longer sentences
and jail time are not
reducing youth crime
Need to “break the
cycle” and look to
long-term solutions

What are the Basic Principles?

REFLECTS

Social Values

CONSIDERS

Social Situations

Cultural Backgrounds

Developmental Situations

INVOLVES

Communities

Social Agencies

Families

Victims

Legal Rights Under the YCJA



At the time of arrest, youth have the RIGHT...

- To know WHY they are being arrested
- To remain SILENT
- To talk to their parents or a trusted adult
- To be represented by a lawyer as soon as possible
- To have a parent, trusted adult or a lawyer with them if they choose to speak to the police

Extrajudicial Measures

Not all youth who commit crimes go through the court system

The YCJA encourages extrajudicial measures when appropriate

They provide a way for “dealing” with youths outside the judicial system

Extrajudicial Measures

“Extrajudicial Measures” provide a way to deal with youths outside of the court system.

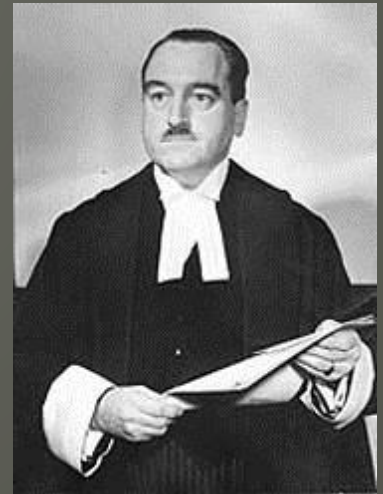
The POLICE can...



- ...take no further action
- ...issue a warning
- ...issue a police caution
- ...refer the youth to a program

The CROWN can...

- ...issue a crown caution



Police Referrals

The police may refer a youth to any of the following programs:



- Child Welfare Programs
- Recreation Programs
- Alcohol/Drug Treatment Programs
- Counseling Agencies
- Mental Health Programs
- **Youth Justice Committee**

Youth Justice Committee

YJCs involve trained community members who meet with victims and young offenders to negotiate appropriate ways for young offenders to make amends



Youth Justice Committees
of Ontario

Youth Justice Committee

To be eligible to bring their case before the YJC, the youth must:



- Be willing to admit the crime
- Be willing to participate in the program

After the YJC makes their decision:

- The youth must following specific rules or conditions
- The youth's behaviour will be monitored by a probation officer



Extrajudicial Sanctions

Sanctions can be imposed by the YJC or the Crown, and can include:

- Writing an Apology
- Personal Services for the Victim
- Writing an essay or poster
- Community Service
- Returning property to victim
- Making a donation to a charity
- Participating in a counseling program
- Being supervised by a YJC member
- Participating in a victim reconciliation program

The Court Process

If extrajudicial measures are insufficient, then the police may follow through with formal charges.



The Court Process



Charges Laid

Court Appearance



PLEA

Plead Not Guilty

Plead Guilty

Release Pending Trial

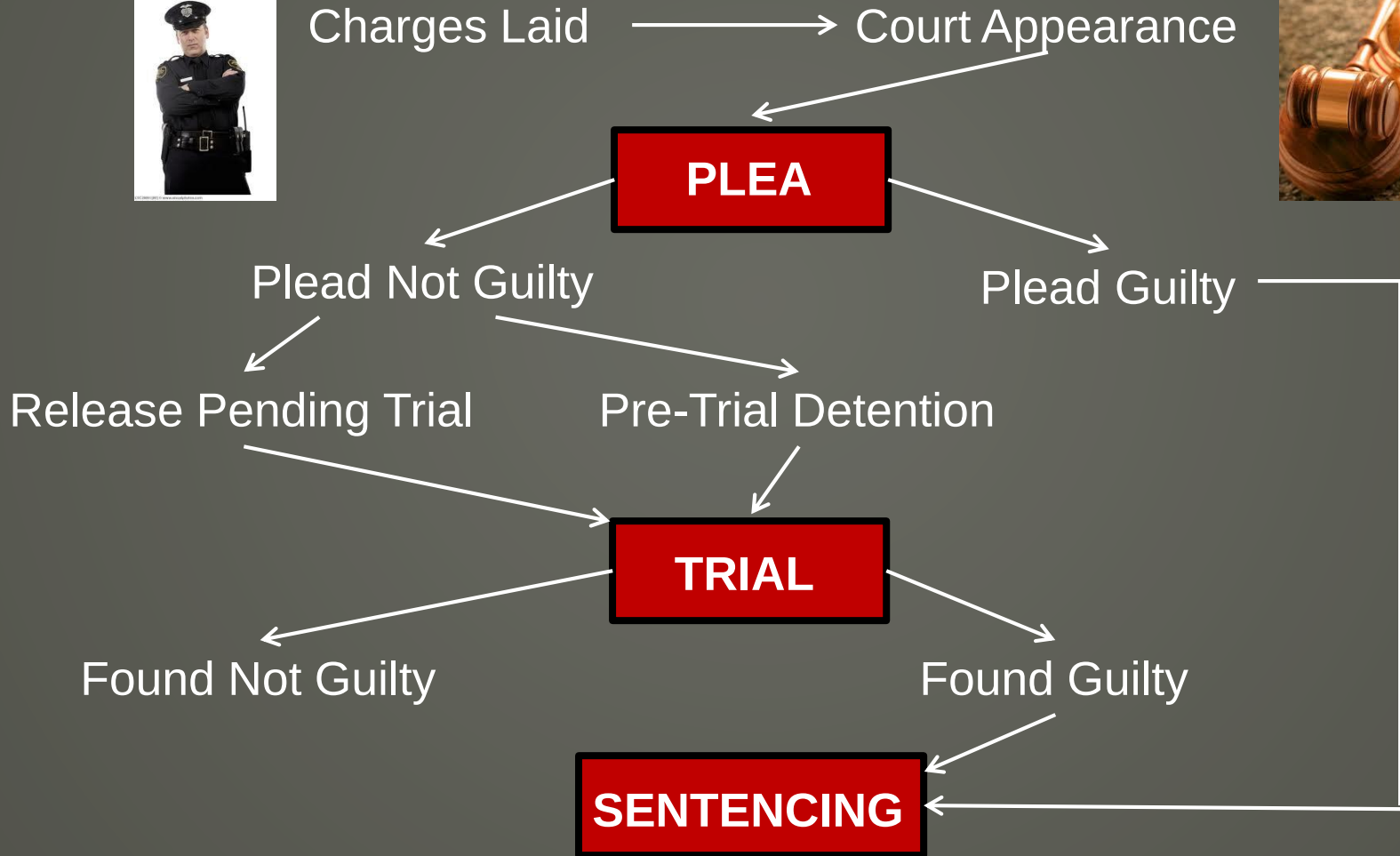
Pre-Trial Detention

TRIAL

Found Not Guilty

Found Guilty

SENTENCING



Impact of the YCJA

In the criminal courts, the YCJA plays a crucial role by setting mandatory guidelines and principles that affect...

Decision-making



Sentencing

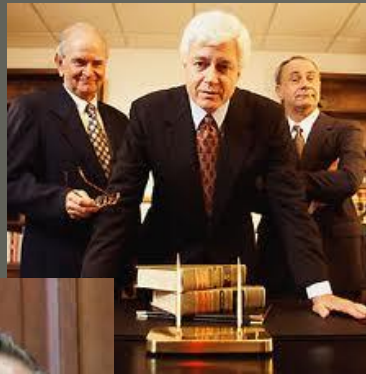


Criminal Records



Impact on Decision-Making

The principles of the YCJA guide decision-makers by emphasizing:



- Unique Nature of Youth
- Level of Maturity
- Fairness
- Rights and Privacy
- Timely Intervention

Impact on Sentencing

The YCJA requires a judge to consider the following when sentencing a youth:

- The youth's role in the offence
- The impact on the victim
- Actions the youth has taken to accept responsibility
- The youth's criminal history
- The youth's particular circumstances that relate to the offence and their rehabilitation and reintegration
- How to change the offender's behaviour
- How to protect society in the long term

Impact on Sentencing

For youths, the following sentences are most commonly imposed:

- Fines
- Community Service
- Compensation to the Victim
- Restitution
- Probation Orders
- Intensive Support & Supervision Orders
- Custody and Supervision Orders



Impact on Sentencing

“The YCJA has been successful in *significantly* lowering the rate of incarceration amongst youths for less serious crimes.”

- Statistics Canada, 2007 -

In 2010/2011, the youth incarceration rate fell for the third consecutive year.

- Statistics Canada, 2013 -

Adult Sentences

Adult sentences can still apply if certain conditions are met:

- Youth is 14 or older AND,
- The Youth has committed a presumptive offence



The following are considered presumptive offences:

- 1st Degree Murder
- 2nd Degree Murder
- Manslaughter
- Aggravated Sexual Assault
- Attempted Murder
- Serious Violent Offences

You decide!

Alex, a 17 year-old youth just days away from his 18th birthday, pled guilty to first degree murder when he was hired to kill Mr. Jones as part of a contract murder.

He was hiding in a treed area near Mr. Jones' residence and shot him in the back of the head with a .45 calibre handgun once he came outside. He was eventually apprehended when wiretaps provided sufficient evidence to make an arrest.

What the Court decided

Alex got the maximum youth sentence for 1st degree murder – 10 years with a maximum 6 to be spent in custody (*R v. Van Buskirk, 2013*).

The Court considered:

- The fact that the murder was planned
- The fact that the motive for the crime was money.
- The fact that a maximum sentence would ensure that Alex would appreciate the seriousness of his acts
- A lengthy sentence would rehabilitate Alex and reintegrate him into society
- The promotion of taking responsibility for his acts

Do you agree?

Jordan, a 17 year old youth, was arrested by police in a rough area of town for trafficking marijuana. He was found with \$1,400 in cash, a large quantity of marijuana, and a digital scale.

Jordan does not have a criminal record. He has a history of depression. The Crown and defence counsel both agreed to 1-year probation, 2 months house arrest, and 50 hours of community service. Do you agree?

What the Court decided

Jordan received probation and community service, but the house arrest portion was removed (*R. v. T.M, 2003*). The following reasons were given:

- No criminal record
- House arrest is STILL a custodial sentence (i.e. a term of imprisonment and deprivation of liberty).
- While trafficking is a serious offence, it does not warrant a custodial sentence for a youth.
- However, in a subsequent case the court *did* order an “absolute curfew” (essentially house arrest) for a youth who drove drunk resulting in two deaths. (*R. v F.S.P., 2007*)

Impact on Criminal Records

There are several types of records that are associated with a youth criminal conviction:



- Local Police Records
- Court Records
- Canadian Police Information Centre (C.P.I.C.)
- Records of Other Organizations (e.g. community service centres, Youth Justice Committee, etc.)



Have a Youth Record?

Having a criminal conviction on your record can have many serious negative effects:



Employment



Travel



Social Stigma



Court Appearances

Impact on Criminal Records

ALL records must be destroyed, deleted or transferred to a special government archive after a certain period of time.

That period is determined by the category of the offence:

- Summary Convictions – Least serious; records destroyed in 3 years after sentence completed
- Indictable Offences – More serious; records destroyed 5 years after sentence is completed
- Hybrid Offences – Can be summary or indictable (Crown decides how to punish depending on severity)

You decide!

Tim, a 14 year-old youth, was arrested for breaking and entering into a home and stealing two items worth less than \$5,000. He has prior records for break and enters (*R v. C.S., 2011*).

The sentencing judge ordered that no DNA sample be taken since the crime was relatively minor and the “offensive nature” of taking a DNA sample from a 14 year-old child. Was he justified?

What the Court decided

On appeal, the Court decided that the judge was NOT justified in denying the DNA order. The DNA sample was ordered to be taken for the following reasons:

- While the individual crime was minor, the threat to the community was high because Tim could re-offend, especially since he has a record for similar offences.
- The purpose of a DNA sample is to protect the public by allowing for easy identification of past offenders.
- The judge's personal opinion on the offensiveness of taking a DNA sample from a child is irrelevant.

THE END



Thank you for your attention!!

