

## Chapter 8: Aboriginal Youth

This chapter is about some of the special parts of the criminal system that apply to young people who are aboriginal.

### 1. Who is an aboriginal youth under the YCJA?

Youth who are Inuit, First Nations, Indian or Metis are all considered aboriginal youth, whether they are living on or off reserves. There is no official process that is required to be identified as aboriginal.

### 2. Are aboriginal youth given special rights?

Yes, the particular needs of aboriginal youth must be taken into account. This is because in the past young aboriginal people were not treated fairly by the criminal justice system. In addition many aboriginal youth may not have some of the same advantages as other youth. Therefore, at each stage of the criminal justice process, everyone must respect and respond to the particular needs of aboriginal youth.

s. 3(c)(iv)

### 3. Do aboriginal youth use the same courts?

In some places there are special courtrooms designed for aboriginal youth. These courts use a different format than other courts and they try to use approaches that are inspired by practices from different aboriginal communities. You can ask your lawyer or a court worker if your courthouse has a courtroom for aboriginal youth.

### 4. Do aboriginal youth get different sentences?

The circumstances of aboriginal youth must be taken into account when they are sentenced. In the past, too many aboriginal youth ended up in custody. This means that the judge must consider any factors that help to explain why the young person committed the offence. These factors might include low income, poor housing, lack of education, loneliness and other stresses in the community.

If there is a pre-sentence report (see *Chapter 7 – The Sentencing Process*), the report must include information about your experience as an aboriginal person. This is sometimes called a “*Gladue* Report” or it might just be a *Gladue* portion of the pre-sentence report.

s. 38(2)

*R. v. J.L.M.*, [2005] SJ No 362

### 5. What sentencing options are available to aboriginal youth?

Judges and prosecutors should be aware of alternative forms of sentencing for aboriginal youth, especially those which are connected to the aboriginal community. This may include such things as sentencing circles and other forms of restorative justice. These alternatives are meant to heal the entire community, including the offender and the victim, instead of only focusing on punishing the offender.

*See also Chapter 9 – Types of Sentences.*