

Youth Criminal Justice Act: **Youth Records**

September 2021

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Copy of this slidedeck, available
for next two weeks:

<https://jfcy.org/en/youthrecords>



Agenda

- JFCY introduction
- Other law and advocacy resources
- Youth Records
 - Types of records: Police, Youth Court, Government and DNA
 - Who can see your records
 - When are Youth Records sealed
 - Background checks for Employment and School programs
- Q & A




Introduction to JFCY



The image shows the header and main content area of the Justice for Children and Youth (JFCY) website. The background is a stylized, hand-drawn illustration of a city street with tall buildings. The website layout includes a top navigation bar with links for 'ABOUT JFCY', 'ASK A LAWYER', 'DONATE', and 'FRANÇAIS', along with an accessibility icon. A search bar is positioned in the top right. The main heading reads 'Legal services for young people under 18 and homeless youth under 25 in Ontario.' Below this, there are three columns of services: 'Legal Rights Wiki' with a list of common legal issues, 'Ask a Lawyer' with contact information, and 'Research & Resources' with links to various documents and media. Each column has a corresponding button at the bottom.

JUSTICE
FOR CHILDREN
AND YOUTH

ABOUT JFCY ASK A LAWYER DONATE FRANÇAIS 

Search ... 

Legal services for young people under 18 and homeless youth under 25 in Ontario.

Legal Rights Wiki

I am being expelled.
The police stopped me.
YCJA Records destruction.
Help with leaving home.
I'm in child protection court.
I am a victim.
I received a ticket.

LEGAL RIGHTS WIKI ►

Ask a Lawyer

Free confidential legal advice for youth under 18 and homeless youth under 25 in Ontario.

416-920-1633
1-866-999-5329

ASK US ONLINE ►

Research & Resources

Our Cases & Decisions
Policy & Position Papers
Download JFCY Publications
Our Blog Postings
YouTube Videos
External Resources

GO TO RESOURCES ►

Types of Calls in 2020

INTAKES - OCT 2019 through OCT 2020	#	%
Administrative	55	4%
Child Welfare	57	4%
Criminal	281	20%
Criminal Injuries Compensation Board	4	1%
Demand Letters	5	1%
Education	234	17%
Employment	35	3%
Family	156	12%
Health Care	36	2%
Housing	74	4%
Human Rights	14	1%
Immigration and Refugee	68	5%
Income Maintenance	68	6%
Leaving Home	188	13%
Police Complaints	13	1%
Privacy	25	2%
Violence	51	3%
Will and Estates	8	1%
TOTAL	1372	

Other Law and Advocacy Services

Office of the Children's Lawyer

- Ministry of Attorney General law office
- Custody and Access, Child Protection, Civil, Estates and Trusts
- Lawyers and social workers (~20/20 in house and fee-for-service)

Ombudsman - Child and Youth Unit

- Replaced the Ontario Child and Youth Advocate
- Complaints and investigations
- Children's aid societies, foster homes, group homes, secure treatment facilities, and youth justice facilities
- School boards, colleges and universities, student loans, health, social and developmental services and Office of Children's Lawyer
- Lawyers and Investigators (~20 total)



JFCY's Rights-Based Approach

- United Nations *Convention on the Rights of the Child*
- Children's rights are human rights
- Children are entitled to recognition of their rights and respect for their dignity as individuals
- Children are not property
- Children don't have to "earn" their entitlement to rights



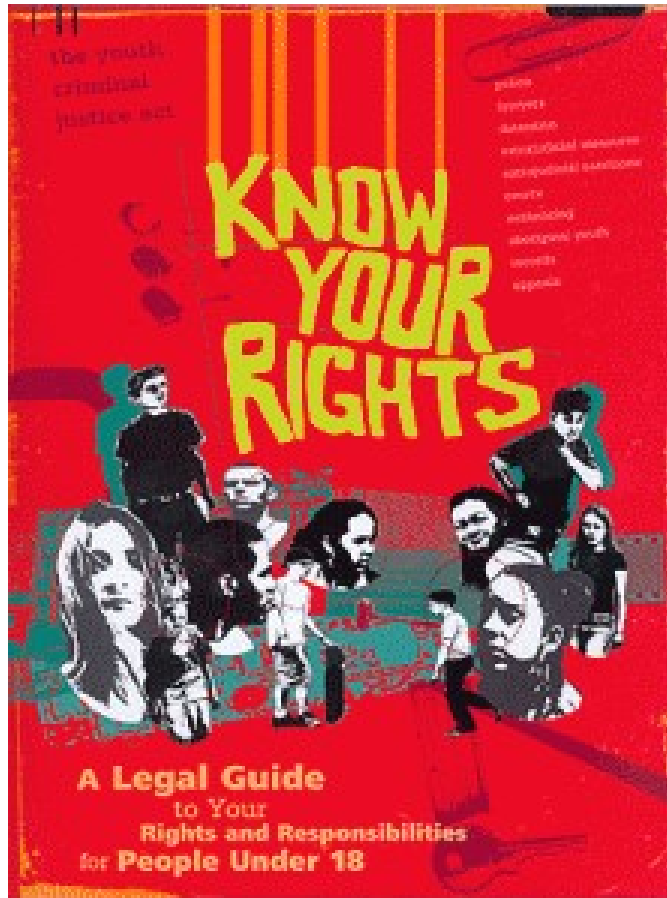
Children's Rights & Role of Adult Supporters

- Recognize, support and advance children's rights
 - Support and develop child's capacity and ability for independent decision making
 - Ensure that child has meaningful participation in decisions that affect them
-

Close Gaps through Systemic Change: Implement Children's Rights in Canada, Alternative Report by the Canadian Coalition for the Rights of Children (CCRC) | rightsofchildren.ca



Youth Criminal Justice Act (YCJA)



1. Introduction
2. The Police
3. Lawyers
4. Detention
5. Extrajudicial Measures and Extrajudicial Sanctions (EJS)
6. In Court
7. Sentencing Process
8. Aboriginal Youth
9. Types of Sentences
10. Records
11. Appeals



Types of Records

Covered today:

- Police Record
- Youth Record
- (Adult) Criminal Record

Others, not covered today:

- Government Records
- DNA Records
- Youth Court Records



Police Record

Contains all the information kept by the police that they have access to at any time, includes:

- arrests, investigations, suspected criminal activity,
- extrajudicial measures & extrajudicial sanctions,
- findings of guilt (for youth),
- convictions (for adults),
- fingerprints, photographs,
- 911 calls,
- mental health related calls
- interviews, and witness and victim reports.

Youth Record

Contains information about:

- Outstanding charges
- Findings of guilt
- Absolute and conditional discharges
- Conditions (eg. Probation terms)
- Arrest warrants

Adult Record is different

- Same content as above but...
- Adults have Criminal Records
- Adults have “convictions”
- Not automatically sealed, can seek Records Suspension (Pardons)



Youth Records: Access & Privacy

General Rules on access, s.119 of YCJA:

- young person
- lawyers (defence and Crown)
- Parents
- an adult who is assisting youth
- victim(s)
- police
- judges
- people helping the court (for example, in a conference), and
- people dealing with your sentence if you are found guilty



Access ≠ Disclosure

s.119(1) A person who is permitted access to any YCJA records may not disclose that information any further without specific authorization in the YCJA or by Court order.

Reason: Youth are presumed to have a reduced moral culpability, increased vulnerabilities, decreased level of maturity, and increased capacity for rehabilitation. Privacy is a critical to promote rehabilitation and reintegration

There are exceptions [see next slide]



Permitted Disclosures

125(6) A police officer, crown attorney or youth worker may disclose **limited information** about a young person's charges if it is **necessary**:

- (a) to ensure **compliance** by the young person with an order of the youth justice court;
- (b) to ensure the **safety** of staff, students or other persons; or
- (c) to facilitate the **rehabilitation** of the young person

Eg. school may be told about a condition to remain apart from another student to ensure compliance

With Court Order, egs.

- Media sought pre-sentence and victim impact statements
- Other cases, evictions and civil lawsuits



Youth Records: not sealed at 18



Youth Records: not sealed at 18

- Extrajudicial sanction (EJS): 2 years after you agree to the sanction
- Found not guilty: 2 months after the deadline for an appeal. If there is an appeal you have to wait longer
- Charges dismissed or withdrawn, or the judge gives you a reprimand - 2 months
- Charges are stayed: 1 year
- Absolute discharge: 1 year from day found guilty
- Conditional discharge: 3 years from day found guilty
- Found guilty [see next slide]



Youth Records: When Sealed if Guilty?

If found guilty, sealing dates depends on category of offence and date the sentence ended:

- **Summary offences: 3 years from end of the sentence**
- **Indictable offences: 5 years from the end of the sentence**

* If found guilty of another offence before the time has expired on your first record, then the time will start running again. The new time will be either 3 years or 5 years, depending on if it is a serious offence or less serious offence



(Adult) Convictions after 18

If found guilty and given adult sentence = conviction

If found guilty of a crime after turning 18 = conviction

*** 18 or older at the time the crime was committed**

If this happens before the access period on your Youth Record has passed, your Youth Record is added to your Adult Criminal Record and will last forever



What does a SEALED youth record mean?

General Rules:

- Records can not be given to anyone else
- Anyone who knows about your records is not allowed to tell anyone else about it
- Police records have to be physically destroyed, includes DNA record
- Other records can either be destroyed or permanently sealed so that no one else can see them
- A person can ask a judge to let them see the record, but if granted the record can not be used against them



Exceptions: Serious Offences

Serious indictable offence

- fingerprints and photographs can be kept for an extra 5 years beyond the access period
- does not include DNA record which must be destroyed at end of access period)

Serious violent offence

- DNA record can be kept forever
- If adult sentence, can keep photographs and fingerprints forever



Employment Questions

“Do you have a Criminal Record?”

“Have you ever been convicted of a criminal offence?”

- ☐ If only a Youth Record, can honestly answer “no”
- ☐ Adults have Criminal Record (not youth under YCJA)
- ☐ Adults are convicted, youth are “found guilty”



Police, Criminal & Vulnerable Sector Background Checks

Employers and Schools may ask for your consent to do a background check

- Type/depth will depend on type of job, and
- each police service has their own policies for disclosure

Or you will be asked to get the background check and provide it. *Can they do this...?*

* If the Youth Records have been sealed and the contents appear, you can go back and ask the police for a clean record.



Concerns with Background Checks

EMPLOYERS: it is illegal for them to ask about your youth record, but the police may disclose information to you directly. It is then up to you whether you want to give it to a potential employer.

SCHOOLS: yes, some schools can require a Vulnerable Sectors Check to ensure you can take part in the placements required, eg nursing, teaching and social work programs.



Questions?





Justice for Children and Youth

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1-416-920-1633

1-866-999-JFCY (5329), toll free in Ontario



www.jfcy.org



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