



Information about Youth Records

One of the biggest differences between the youth justice system and the adult justice system is that young people's privacy is protected and their personal information kept confidential. Under the *Youth Criminal Justice Act (YCJA)*, publishing any information that would identify a youth is not allowed. Youth records are sealed or destroyed after a specific period of time has passed, as long as the youth has not re-offended. As well, during the period that the record is open, only certain people are allowed access to it.

However, in some situations, identifying a youth or releasing records is allowed. For example, a youth can be identified if he or she has received an adult sentence. In fact, if a youth receives an adult sentence, his or her record will be treated in the same way as an adult record. The limitations on publication and access that apply to youth records do not apply to adult records.

If you have a youth record, there are some things you should know.

What is a youth record?

A record is anything that contains information created or kept for the purposes of the YCJA or for investigating an offence that could be prosecuted under the YCJA. Almost any contact with the justice system creates a record. This includes arrests, charges and sentences. A record may contain information provided by family members, neighbours, school authorities and victims.





Will my record be destroyed when I turn 18?

Not necessarily. Your record may be closed before you are 18, stay open after you turn 18, or even become an adult record – which is permanent. How soon your record will be destroyed depends on the sentence, how serious the crime is, and whether you commit another crime while your record is still open. The period during which a record is open is called the **access period**.

Who has access to my record?

The following are some of the people, agencies and organizations who may have access to a youth record under the YCJA:

- you, your lawyer, your parents or other adults who the court says can assist you in court, have access at any time;
- the Crown prosecutor;
- any judge, court or review board have access for any reason relating to the proceedings against you;
- police officers have access for law enforcement purposes or for any reason relating to the case during proceedings or during the sentence;
- directors of correctional facilities where you serve your sentence;
- those participating in a youth justice conference;
- the victim has the right to access youth court records, and may be given access to other records (e.g. government or police records); victims also have the right to know if you have been given extrajudicial sanctions, which are arranged outside court;
- a privacy or information commissioner who is investigating a complaint to which the record relates;
- a coroner or a child advocate;

- a person acting under the *Firearms Act*;
- a person from a department or agency of the Government of Canada who is performing duties such as supervision, investigation, considering an application for release, or administering a youth sentence, or for statistical purposes under the *Statistics Act*;
- a person carrying out a criminal record check for employment with a municipal or provincial government or with the federal government;
- any person that a youth court judge determines to have a valid interest in the record has access in special cases by court order.

Can I travel outside Canada if I have a youth record?

Other countries do not have access to your youth record except in very limited circumstances. However, if another country does obtain the information, they may decide to keep it in their files well after the access period. Only in Canada does your youth record have to be closed after a certain time.

Any record, no matter how minor the offence, can keep a person from getting into other countries. For example, in the United States, it is often up to the individual border guard where you are crossing to decide whether you get in. If you have a youth record and it has been shared with the U.S., it is impossible to know when you might be refused entry. The U.S. is one of the countries where you may need a travel waiver to enter if you have a record. It is best to verify with the immigration office of the country before visiting.

Can having a youth record affect employment?

The police will not give any employer, except a government employer, information about your record – even if you say they can. However, an employer



can ask you to go to the police and get proof that you have no record. You have the right to refuse to do this, but a criminal check may be required for some jobs.

It is not illegal for an employer to refuse to hire you because you have a record, as long as it is still open. Once your record is closed, it is against the law for an employer to refuse to hire you for having committed a crime as a youth. Under the YCJA, once you have finished your sentence, including probation, it is as if you had never been charged or found guilty. After your record is closed, you no longer have a record.

Also, an employer may ask whether you have been convicted of a crime. However, under the YCJA, you are not **convicted** of a crime, but rather, **found guilty**.

If you commit another crime before your record is closed, it makes your record for the first crime stay open longer. If you are under 18 when you commit the second crime, the record for the first crime will stay open as long as the record for your second crime does. If you are over 18 when you commit the second crime, your record for the first crime will become part of your permanent adult record, and people are then allowed to access it.

How do I find out if I have a youth record?

You can ask the local police to check the Royal Canadian Mounted Police files to see whether your record has been destroyed, since the RCMP is required to do so when the time comes. Your local police, unlike the RCMP, do not have to destroy their copy, but they do have to close it and not let anyone see it without a court order.

What about getting a pardon?

You do not need to apply for a pardon for a youth record, because your record will be destroyed or sealed. However, if you were found guilty and

received an adult sentence, or if you committed a crime as an adult while your youth record was still open, your youth record becomes part of your adult record, and neither will go away without receiving a pardon.

For information on pardons, see the National Parole Board's Web site at:

http://www.npb-cnrc.gc.ca/pardons/service_e.htm

The following table provides information on what happens to a youth record according to the type of consequence or sentence given and/or the type of offence committed.

(see next page)



Sentence/Offence	Record will be sealed or destroyed and cannot be disclosed:
Acquittal	Two months after the time allowed to file an appeal, or, if an appeal is filed, three months after all proceedings related to the appeal are completed
Not guilty by reason of a mental disorder	Record stays open indefinitely
Dismissal or withdrawal	After two months
Finding of guilt for which the youth received a reprimand	After two months
Charge is stayed	On the expiry of one year, if no further court proceedings have been taken in a year
Extrajudicial Sanction	Two years after the youth agrees to participate in the extrajudicial sanction program
Absolute discharge	One year after the youth has been found guilty
Conditional discharge	Three years after the youth has been found guilty
Summary conviction offence	Three years after the sentence is completed (unless another offence is committed during this period)
Subsequent summary conviction offence	Three years after <i>all</i> sentences made in respect to that offence are completed
Indictable offence	Five years after the sentence is completed (unless another offence is committed during this period)
Subsequent indictable offence	Five years after <i>all</i> sentences made in respect to that offence are completed
Serious offences such as murder, manslaughter, attempted murder, aggravated sexual assault or repeated violent offences	Record may be retained indefinitely.*
Violent offence other than those mentioned above	Record will be kept for an additional five years.*
A person over 18 found guilty of another crime before the mandatory crime-free period for a youth record has expired	Youth record will become part of the adult record and the rules applicable to adult records prevail.

*There are special provisions relating to these offences, and it is best to contact a lawyer for advice.