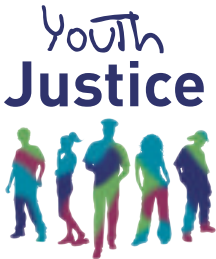




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OVERVIEW

OF THE *YOUTH CRIMINAL JUSTICE ACT*



The *Youth Criminal Justice Act*, or YCJA, is the federal law that governs Canada's youth justice system. It applies to Canadian youth aged 12 to 17 who get into trouble with the law. The YCJA came into force in 2003 and was amended in 2012 to strengthen its handling of violent and repeat young offenders. The following provides a brief overview of key components of the law.

YCJA Principles

The YCJA states that the youth criminal justice system is intended to protect the public by holding youth accountable, promoting the rehabilitation and reintegration of youth back into society, and preventing crime. It provides that the youth criminal justice system must be separate from the adult system and based on the principle that youth are presumed to be less morally blameworthy than adults. In other words, the law recognizes that youth must be held accountable, but in a way that takes into account their greater dependency and reduced level of maturity.

The YCJA states that the criminal justice system for youth must implement special procedures to ensure that young people are treated fairly and that their rights are protected. It also emphasizes the importance of timely intervention to reinforce the link between the offence and its consequences.

Extrajudicial Measures

The majority of youth crimes involve non-violent activities such as shoplifting, possession of stolen property, breach of probation, or relatively minor assaults that do not involve bodily harm. Experience in Canada and other countries shows that measures outside of the formal court process can provide an effective response to youth crime and one of the key objectives of the YCJA is to encourage the use of non-court responses in appropriate cases.

These extrajudicial measures can provide meaningful consequences, such as requiring the young person to repair the harm done to the victim. They also allow early intervention with young people and provide an opportunity for the broader community to play an important role in developing community-based responses to youth crime.

The most formal type of extrajudicial measure is an extrajudicial sanction. These sanctions, such as volunteer work, compensating (or paying back) the victim, or attending a specialized program, can be used where the young person takes responsibility for the offence. If the young person fails to comply with the terms and conditions of the sanction, the case may proceed through the court process. Extrajudicial sanctions must be applied through a program approved by the Attorney General.

Youth Court

If a young person's case is not resolved through extrajudicial measures, it will be dealt with in youth court. When a young person is charged with an offence, he or she may remain in the community or, if the court deems it necessary, be kept in custody until the trial takes place. Being held in custody while awaiting trial is known as pre-trial detention.

Sentencing

If a youth pleads guilty or is found guilty of a criminal offence, the youth court judge must determine the appropriate sentence. The purpose of youth sentences is to hold the young person accountable by imposing sanctions that have meaningful consequences and that promote rehabilitation and reintegration. The YCJA provides youth court judges with many different sentencing options to deal with the full range of youth crime. These include both community-based sentences – where the youth serves his or her sentence in the community, often under strict conditions – and custody sentences, which include both a period of time in a youth custody facility and a



period of community supervision. The maximum length of youth sentences ranges from two to ten years, depending on the offence committed and the type of sentence imposed.

Under the YCJA, custody sentences are intended primarily for violent offenders and serious repeat offenders. The YCJA also allows judges to impose an intensive rehabilitative custody and supervision order if a youth has been found guilty of a serious violent offence and is suffering from a mental, psychological or emotional disorder. In these cases, an individualized treatment plan is developed for the young person.

While in most cases judges impose one of the youth sentencing options in the YCJA, the Act does allow judges to impose an adult sentence on a youth who is found guilty of a serious offence and was 14 years of age or older when the crime was committed. In fact, prosecutors are obligated to consider seeking an adult sentence when a youth is found guilty of murder, attempted murder, manslaughter or aggravated sexual assault. However, the Act allows provinces to raise the age at which this obligation applies to 15 or 16.

When a judge decides to impose an adult sentence, the *Criminal Code* penalties for adult offenders are applied to the youth. This can include mandatory minimum penalties and sentences of up to life imprisonment. However, no portion of either an adult or a youth sentence can be served in an adult prison while the youth is still under the age of 18.

Reintegration

The YCJA recognizes that young people coming out of custody will need assistance in successfully reintegrating into the community. Therefore, every period of custody is followed by a period of supervision and support in the community as part of the young person's sentence. A youth worker helps the young person plan for his or her reintegration into the community and provides support and supervision to help ensure a successful transition back into society.

Publication Bans

While youth court proceedings take place in open court, meaning that members of the public can attend and observe the proceedings, the YCJA does contain specific provisions regarding the publication of a youth's identity. As a general rule, no identifying information that would reveal that a young person has been dealt with by the

youth justice system can be published. The rationale for this general rule is that publication can undermine efforts to rehabilitate and reintegrate young people back into the community.

However, there are exceptions to the rule against publication. For example, when a youth court imposes an adult sentence, the publication ban is automatically lifted. The YCJA also allows for publication when a youth sentence is imposed for a violent offence, and the judge finds that lifting the publication ban is necessary to protect the public against a significant risk that the young person will commit another violent offence.

Conferences

The YCJA recognizes the importance of involving families, victims and communities in the youth criminal justice system. One way in which this is being done is through conferences. Under the YCJA, a conference is defined as a group of people brought together to give advice to decision-makers such as police officers and judges. A conference can give advice on appropriate extrajudicial measures, conditions for release from pre-trial detention, appropriate sentences, and plans for reintegrating a young person back into the community after serving time in custody.

Conclusion

The YCJA is the legal foundation upon which Canada's youth criminal justice system is built. It recognizes that in order to protect society, youth who commit crimes must be held accountable through measures that are proportionate to the seriousness of the offence. The measures taken should also aim to promote the rehabilitation of youth, help them successfully reintegrate back into society and prevent them from committing further offences.