

Supporting Youth Through the Justice System

A Resource for Frontline
Youth Workers





Land Acknowledgement

We would like to start by honouring the land that we are on, which has been the site of human activity since time immemorial. It is the traditional territories of the Huron-Wendat, Anishinabeg, the Chippewa, the Haudenosaunee Confederacy and most recently, The Mississaugas of the Credit River First Nations.

Ontario is covered by 46 treaties and other agreements, and is home to many Indigenous Nations from across Turtle Island, including the Inuit and the Metis. These treaties and other agreements, including the One Dish with One Spoon Wampum Belt Covenant, are agreements to peaceably share and care for the land and its resources. Other Indigenous Nations, Europeans, and newcomers, were invited into this covenant in the spirit of respect, peace, and friendship.

We are mindful of broken covenants and we strive to make this right, with the land and with each other.

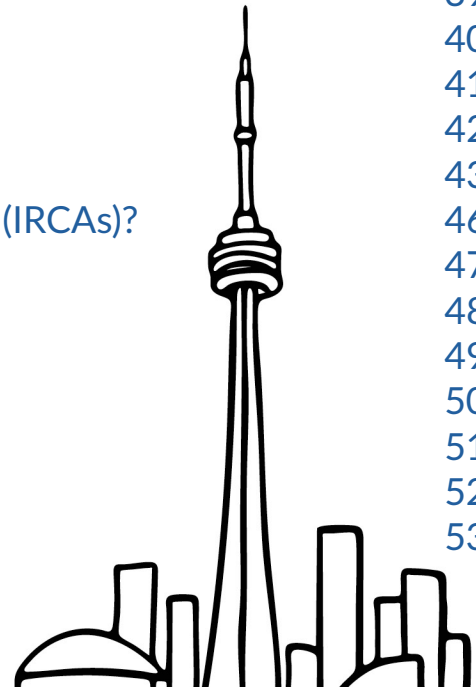
African Ancestral Acknowledgment

We are all Treaty people. Many of us, have come here as immigrants, newcomers in this generation or generations past. We would like to also acknowledge those of us who came here forcibly, particularly as a result of the Trans-Atlantic Slave trade. Therefore, we honour and pay tribute to the ancestors of African Origin and Descent.



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Frontline workers supporting youth through the criminal justice process

This resource is provided for Toronto-area youth workers, teachers, and other professionals supporting young people interacting with the criminal justice system, to aid these professionals in understanding the criminal justice process to better support the

young people they are working with. Criminal charges can result in very serious short-term and long-term consequences. It is very important that young people consult with a lawyer about any criminal matters.

Throughout this resource, you will find practical information on how youth workers and teachers can help support youth as they navigate the criminal justice system through legal aid, to court proceedings, potential sentencing, and post-court support.

This resource describes the criminal justice process for young people between the ages of 12-17 years (youth) and young people over the age of 18 years (adults). The law treats youth differently from adults; they have different legal rights, different legal language is used, and the law is interpreted differently depending on whether the young person is under 18 years old. Keeping this in mind, some of the young people with whom you work will be considered adults by the legal system.

This resource will sometimes refer to young people as the accused (someone who is charged with a crime), while explaining how the law or legal process changes depending on whether the young person is a youth or an adult.

There is always some assistance for young people facing criminal charges. Legal Aid or local Legal Aid Clinics may be able to provide a lawyer for a young person. Justice for Children and Youth (JFCY) provides legal representation and advice for youth across Ontario and can help a young person find a local lawyer: <https://jfcy.org/>.

How to use this resource:

The information provided in this resource is meant to define terminology in very general terms. It does not have any information about specific options or advice for handling a case. This information is inadequate for anybody preparing for their own criminal proceeding. Young people should always consult with their lawyer or with Duty Counsel (Legal Aid lawyers whose job it is to help people in the short term who do not yet have a lawyer). Available in every criminal courthouse in Ontario, these legal professionals should be contacted before any step in a criminal proceeding.

This resource should be used electronically. Information about the criminal justice system changes when the law changes. Links to reliable sources of public legal information are included throughout this resource. Organizations like Justice for Children and Youth (JFCY), Community Legal Education Ontario (CLEO) and CLEO's Steps to Justice website ensure that the legal information they provide on their websites is updated regularly when the law changes.

This resource was originally developed for a training session held in January 2020 in the City of Toronto. It has since been updated for a training session taking place in Fall 2025 in the City of Toronto. While the content offers a general overview of the youth criminal justice system in Ontario, please note that laws and procedures are subject to change.

Please note: This resource is intended for use in Ontario only. Some of the legal processes, supports, and services described here may not apply in other provinces or territories.

Part I: About The Justice System

This section introduces the structure of the criminal justice system and describes some of the people and organizations who work within it. Before you explore how a case moves through the system (see Part II), it's important to be familiar with these fundamental concepts.

What is Legal Aid?

Legal Aid Ontario provides legal assistance to people with very low incomes. To receive help with a problem related to criminal law, the accused must apply to Legal Aid Ontario for a legal aid certificate. If a certificate is issued, this means that Legal Aid Ontario will pay a lawyer to work on the case for a certain number of hours.

In Toronto, there are several options for applying for Legal Aid. The first is at a Legal Aid office. Follow this link and enter your information for the Legal Aid Offices in Toronto closest to you:

<https://www.legalaid.on.ca/legal-aid-offices/>

Depending on the client's needs, Legal Aid Ontario offers different legal services. Legal Aid is available through the certificate program, which entitles clients to receive advice and representation by private lawyers or Legal Aid staff lawyers. To apply for a Legal Aid certificate, attend in person at a local Legal Aid office. If eligible, you will receive a Legal Aid certificate redeemable with a lawyer of your choice. Note that not all lawyers accept legal aid certificates, and that lawyers have the right to decline if they do not accept legal aid.

Every Ontario resident who needs legal assistance is eligible to apply for a certificate, their distribution based on financial need and the type of case. Depending on their financial situation, an applicant may pay nothing or a portion of the cost of legal aid. For a full summary of the price points and income levels that qualify a person for Legal Aid, go to:

<https://www.legalline.ca/legal-answers/what-is-legal-aid-and-who-is-eligible/>

Legal assistance is also available through Legal Aid Ontario's community legal clinic program. Community legal clinics provide information, advice, and representation on various legal issues, including social assistance, housing, refugee and immigration law, employment law, human rights, workers' compensation, consumer law, and the Canada Pension Plan. Some legal clinics do not handle all of these issues, but staff may be able to refer you to someone who can help. There are 59 general legal clinics and seven student legal aid services societies across Ontario.

Find your local legal clinic here:

<https://www.legalaid.on.ca/legal-clinics/>

How do lawyers help?

Lawyers are the number one contact at every step of the legal process. From the first point of contact with the police, up to after all the charges have been dealt with, contact with a lawyer is essential. Lawyers speak for people accused

of crimes (simply referred to often as 'the accused') in court and give advice on what to do. They make legal arguments on behalf of the accused, and in certain circumstances, they may even attend court in place of the accused. Note that you should always consult with a lawyer before not attending any court date. Many charges come with mandated personal appearance requirements for the accused, even once a lawyer has taken the case.

Upon a guilty plea or conviction (a finding of guilt made by the judge), the lawyer can explain to the judge ? what type of sentence would be best for the convicted person. Many lawyers specialize in defending young people accused of crimes and will be able to tell you more about the differences between a youth and an adult interacting with the criminal justice system.

A client does not always have to follow their lawyer's advice, but their advice is based on specialized knowledge and experience.

For more information on a lawyer's role at various stages in the court process, see below.

http://jfcy.org/wp-content/uploads/2013/10/Ch3_Lawyers-1.pdf

Finding a Lawyer

It can be challenging to find the right lawyer. Here are a few ways to start:

Legal Aid Ontario	<p>A person may be able to get a lawyer for free from Legal Aid Ontario. Before contacting Legal Aid Ontario, it is important to gather all the documents related to the legal issue, income and place of residence. If an appointment can be scheduled, it is important to remember to bring identification to that appointment.</p> <p>https://www.legalaid.on.ca/services/criminal-legal-issues/</p>
Justice for Children	<p>JFCY provides legal services for young people under 18 and homeless youth under 25 in Ontario.</p> <p>https://jfcy.org/en/</p>
Community and Legal Aid Services Program (CLASP)	<p>CLASP provides free legal advice and representation to members of the community, and to York students. Students work in CLASP's clinic under the supervision of experienced lawyers.</p> <p>https://www.yorku.ca/cec/clasp-legal-services/</p>
Justice Net	<p>is a non-profit service that charges fees based on a person's income. If the young person has low or middle income and does not qualify for a legal aid certificate, they may be able to get a lawyer that may charge lower fees.</p> <p>www.justicenet.ca</p>

It can be challenging to find the right lawyer. Here are a few ways to start:

Lawyer Referral Service

The Law Society Referral Service is an online service that can give the young person the name of a lawyer in their community. The lawyer will provide a 30-minute free consultation either over the phone or in person.

<https://lsrs.lso.ca/lsrs/welcome>

<https://lso.ca/public-resources/choosing-the-right-legal-professional/preparing-to-meet-your-lawyer-or-paralegal>

Referrals from family

A young person can ask a trusted friend or family member if they've worked with a lawyer on a similar issue and were satisfied with the support they received. Choosing a lawyer with a history of working on similar cases can be a better method than choosing a lawyer based on word of mouth. If they choose to contact the same lawyer, it's important to remember that every case is different. The young person should ask the lawyer what to expect in their specific situation.

How can frontline workers help?

Young people should always seek help from a lawyer if they are charged with a crime. A youth worker or teacher cannot act as the young person's lawyer or stand up to speak for them in court. However, it is appropriate to encourage them to talk to Duty Counsel and visit the legal aid office or call the local legal aid clinic, in order to find a lawyer (more information on how to do this is below). The lawyer will take instructions only from the young person who is legally the client; they cannot take instructions from parents, teachers, or other adults. Once a Defence lawyer has been retained, the frontline worker might be contacted to provide information.

Below are some resources to assist in finding a lawyer, and knowing what help they may be able to provide:

- » <https://www.legalaid.on.ca/youth-criminal/>
- » <https://www.legalaid.on.ca/services/criminal-legal-issues/>
- » <https://www.legalline.ca/legal-answers/what-is-legal-aid-and-who-is-eligible/>
- » <https://jfcy.org/wp-content/uploads/2023/09/Teen-Street-Guide-TSG-Spring-2024-Final.pdf>
- » http://jfcy.org/wp-content/uploads/2013/10/Ch3_Lawyers-1.pdf

Preparing to Meet with a Lawyer

When hiring a lawyer, it is important to choose a lawyer who can work well with the young person and who knows and understands Criminal Law. For people under the age of 18, it is very important that a lawyer understands both Criminal Law and the Youth Criminal Justice Act (YCJA), specifically. While some lawyers may have developed good reputations for representing adults, this does not mean they have experience representing those charged under the YCJA, who are often subject to separate principles, standards, and interpretations of law.

This is especially important when hiring a lawyer through Legal Aid. It is extremely difficult to obtain a new lawyer once one has already accepted the Legal Aid 'certificate'. The lawyer should be someone that the young person can trust and feel comfortable talking to. They should listen to what the young person has to say, respect the young person, respect and keep their privacy and respect what they want to do about their legal matter.

The lawyer hired must respect the privacy of their client. This means that the information given to a lawyer is private unless their client authorizes the lawyer to share information about their case with specific people.

<https://stepstojustice.ca/steps/criminal-law/3-know-about-your-right-free-lawyer/>

Questions to ask when hiring a lawyer may include:

1

How much experience do you have representing young people in criminal cases?

2

What experience have you had with youth who have had similar charges or similar criminal history? How often will we be in contact?

3

Will you spend the time to explain things to me in a way that I will understand?

4

Will you do what I want or what my parents or other adults want?

5

How long will my case take?

6

How much will you charge me?



When a lawyer is hired, the lawyer works for the client - in this case, the young person. This means that the young person, with their lawyer's help and advice, makes the decisions about their case.

For young people under the age of 18, this means that their lawyer's job is to get the best legal outcome for the youth, not to do what their parents or other adults want even if their parent, another adult, or Legal Aid Ontario pays the lawyer.

It is important for young people to understand what the lawyer is suggesting and why they are suggesting it.

If the young person's lawyer does ask for money, check with the lawyer to make sure that they have accepted the certificate for all the young person's legal matters. If they are being paid by legal aid but are still asking for money, contact the Law Society of Ontario at 1-800-668-7380 or email them at lawsociety@lso.ca. Lawyers are not allowed to ask for money on a charge that is already covered by legal aid. However, if legal aid covers some charges but not others, the lawyer is allowed to ask for money solely on those charges not covered by legal aid.

Below are some more useful links on finding a lawyer, and information on their role at various stages of the court process:

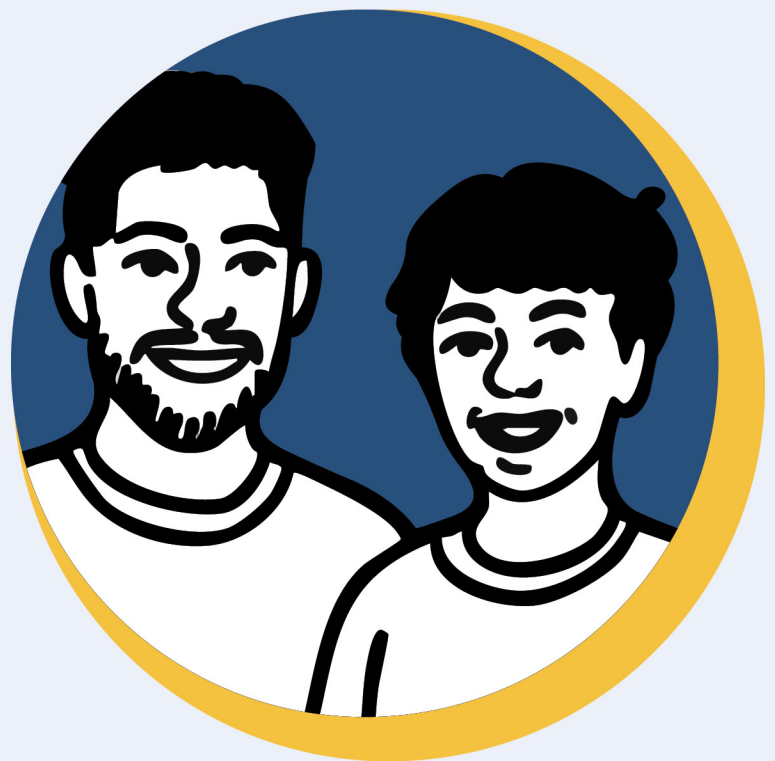
- » <https://jfcy.org/en/rights/ycja-lawyer/>
- » <https://www.legalaid.on.ca/youth-criminal>
- » <https://www.legalline.ca/legal-answers/what-is-legal-aid-and-who-is-eligible>

What is the Youth Criminal Justice Act (YCJA)?

The Youth Criminal Justice Act (YCJA) is the law that governs Canada's youth justice system. It applies to young people who are at least 12 but under 18 years old, who are alleged to have committed criminal offences. The YCJA outlines how young people should be treated by the justice system, including the challenges and needs of young people, as well as their rights and freedoms. In defining the underlying causes of crime, the YCJA emphasizes reducing an over-reliance on incarceration, and instead focusing on meaningful consequences, rehabilitation, and reintegration.

In 2019, amendments were made to the YCJA that many justice sector participants have viewed as further enshrining the principles listed above. Bill-75 was concerned primarily with encouraging the use of alternatives to

criminal charges for youth, restricting bail conditions, and avoiding lengthy custodial sentences for youth. The YCJA describes the purpose of the youth criminal justice system, its focus, society's interests, and special considerations for youth; these descriptions are shown below:



The purpose of the youth criminal justice system is to:

- » Prevent crime by addressing the challenges and needs of young people that commit crimes;
- » Help young people who have committed crimes and reintegrate back into society; and
- » Ensure that young people receive meaningful consequences for their offences.

The youth criminal justice system will put more focus on:

- » Helping to put young people who have committed crimes back into society,
- » Giving fair sentences consistent with the needs of young people and their level of maturity,
- » Giving extra protection to young people, treating them fairly and respecting their right to privacy, and
- » Enforcing the law quickly to strengthen the link between the behaviour and its consequences.

While being fair to the young person, the actions taken should:

- » Reinforce respect and understanding of societal values;
- » Encourage young people to repair the harm done to the victims;
- » Be meaningful to the person given his or her needs and level of development,
- » Involve the parents, extended family and community where possible in the young person's return to society,
- » Respect gender, ethnic, cultural and linguistic differences, and
- » Respond to the needs of indigenous youth and young people with special requirements.

Special considerations that apply in respect of actions against young people, in particular:

- » Young people have rights and freedoms in their own right, such as the right to be heard in court and to participate in the process, other than the decision to prosecute;
- » Victims should be treated with courtesy, compassion and respect for their dignity and privacy and should suffer the least amount of inconvenience because of their involvement with the youth criminal justice system; and
- » Parents should be informed of measures or actions involving their children and be encouraged to support them in addressing their children's behaviour.

All these principles are enshrined in the law, and can be explored more fully at the following websites:

- » <https://jfcy.org/en/rights/ycja/>
- » <https://www.justiceeducation.ca/legal-help/crime/youth-and-crime/young-offenders>
- » <https://www.justice.gc.ca/eng/rp-pr/cj-jp/yj-jj/pdf/back-hist.pdf>
- » <https://www.ycja.ca/sentencing/principles-sentencing>

You can find a good summary of the changes made to the Youth Criminal Justice Act (YCJA) at the following links:

- » **Summary of changes to the YCJA** <https://ycja.ca/youth-justice/amendments-ycja>
- » **Details on changes introduced in Bill C-75 (PDF)**
<https://www.cba.org/getmedia/8ec5eee5-54d4-47aa-ae3a-041bb7b-454ce/18-62-eng-2058601f-9ae0-4dbb-9e8b-7e829462213b.pdf>

Does the criminal justice system treat Indigenous young people differently?

Indigenous young people are those who identify as First Nations, Inuit, or Metis. They are afforded special protections and accommodations in the justice system, in an effort to repair Canada's history of generational and systemic mistreatment under the law for Indigenous peoples.

Gladue is also an important part of how the justice system treats Indigenous people, youth or adults. The word Gladue is from the name of the subject of an important court case decided by the Supreme Court of Canada in 1999. In the Gladue case, the Supreme Court of Canada said:

- » The high number of Indigenous people in prisons and institutions across Canada is a serious issue that courts must consider.
- » There are systemic or background factors that courts must think about when sentencing an Indigenous person.

- » Jail should be the court's last choice when sentencing an Indigenous person
Because of this, the justice system attempts to incorporate elements of Indigenous law into all stages of the criminal process. Indigenous legal principles are often referred to as principles of Restorative Justice.

Restorative Justice treats a criminal act as harm done to victims and communities. It seeks a solution to the problems caused by the criminal offence and involves victims and community members affected by the crime, such as family members of the victim and offender, in finding a resolution.

Instead of punishment, restorative justice emphasizes:

- » The offender's shared responsibility for a lasting solution,
- » The offender's acknowledgment and willingness to take responsibility for the victim's suffering, and
- » Forgiveness

See these resources for more information on Indigenous peoples in the justice system:

- » http://jfcy.org/wp-content/uploads/2013/10/Ch8_AboriginalYouth.pdf

Gladue:

- » <https://stepstojustice.ca/questions/criminal-law/what-does-gladue-mean>

Restorative Justice:

- » <https://restorativejustice.org/resources/what-is-restorative-justice/>
- » <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/2008-03-lmrj/2008-03-lmrj-eng.pdf>

Part II: How A Case Moves Through the System

This section provides a general overview of the court process, beginning with the laying of a criminal charge. This overview covers the charge, forms of release, bail, obtaining a lawyer, the first appearance and court procedure, pleas, the trial process, justice programs, and sentencing.

At each stage, it is important to remember that youth have different obligations and should be treated differently from adults. Some of those differences are included here.

Consulting a lawyer is the first step in any of these processes. They can provide advice on the proper course of action at any stage.

- » http://jfcy.org/wp-content/uploads/2013/10/Ch1_Introduction.pdf
- » <http://jfcy.org/wp-content/uploads/2013/10/Youth-Criminal-Court-PROCESS-March-2017.pdf>



How is a charge laid?

This section covers what happens when young people come in contact with the police. This does not include situations where the police sometimes have additional powers, such as when they enforce trespass laws on behalf of landlords. This section includes information about speaking with the police, giving information, detention, searches, arrest, and the rights of somebody charged at each of these stages.

The most important piece of advice that a lawyer will give to a young person is to remain silent and not make any statements to the police. A statement is anything the young person says, even if they don't think the police are listening, and even if the police are not writing anything down. The young person should ask a lawyer about this if they have any questions. In addition to telling the accused the reason(s) for the arrest, the Canadian Charter of Rights and Freedoms guarantees the right to be notified of the following upon being charged:

- » The possibility of contacting a lawyer when they arrive at the police station;
- » The possibility of obtaining the assistance of counsel free of charge;
- » The right to remain silent;
- » The fact that everything the accused says may and will be held against him/her in any subsequent proceedings; and
- » The right to retain and instruct counsel (the right to have a lawyer).

Youth also have several additional rights when they are charged with a crime. When a youth is arrested,

the police must, in addition to the previous requirements, immediately inform the youth of:

- » The right to contact his/her parents or other appropriate adult;
- » The right to contact counsel and his/her parents (or appropriate adult) in private; and
- » The right to have the persons contacted present during any questioning by the police.

A young person may think that people whom they trust (parents, teachers, youth workers, friends, a therapist, etc.) will keep what they tell them secret, but very often, they legally cannot. Many professionals have a "duty to report" if they are told about something that poses a risk to the public. If any of these people have to go to court as witnesses in the young person's case, they will have to tell the court what the young person told them. The only person who can keep what the young person tells them private is their lawyer.

- » http://jfcy.org/wp-content/uploads/2013/10/Ch2_Police.pdf

What is Bail (and other types of releases)?

When someone is charged with a crime, they are either released by police or held in custody until a bail application can be made (more on that below). When the accused is released by the police, meaning that they do not need to apply for bail, they are typically released on a 'Promise to Appear'. This is a document telling the accused person when to come to court and what they've been charged with. Police may also release an accused on a form of release called an 'undertaking'. This form of release documents certain conditions they have to follow, such as not contacting a co-accused, complainant, or attending a specific address.

When youth are released on bail, it is almost always on an 'undertaking', even if they are released as the result of a bail application. When adults are released, they can be released on an undertaking, or a form of release called an 'own recognizance'. When an accused is released on their own recognizance, they must:

- » Agree to follow certain conditions set out by the court;
- » Pledge or promise a specific amount of money to the court as a security for their release; and
- » Sign their own bail.



By signing their own bail, they agree to promise to pay a specific amount of money to the court if they do not follow the bail conditions listed on the recognizance. This type of release is considered more onerous (demanding) form of release, and generally only available to adults.

While different language is used for youth and adults for release, the purpose of these releases is to document the conditions required of the young person upon release. These can include no contact conditions, non-attendance conditions, conditions not to possess weapons or firearms, program participation conditions, and many others. Typically, the more serious the alleged offence, the more conditions are included on the accused's release papers. Remember, conditions should always be tailored to the charge in question. Because the justice system treats youth differently than adults, the YCJA stresses the importance both of having minimal conditions for youth, and that those conditions relate only to what the young person is charged with. If you think a youth you are supporting has been given conditions they cannot comply with or are not related to their charge, request to speak with the young person's lawyer.

There are some differences between the adult bail process and the youth bail process. In almost every case involving a young person, the Judge or Justice of the Peace will want them to have a surety before they are released on bail. .

What is surety?

A surety is a person who makes a promise to the court to watch out for the youth while they are on bail. The surety must promise to supervise them, to make sure they go to court on the right days, and to make sure they obey the bail conditions or rules. The judge or justice of the peace will decide whether a surety is suitable. The qualifications of a surety will vary depending on the allegations or charges against the accused. The surety must be a Canadian citizen or permanent resident, be over the age of 18, and will often have to provide evidence of employment with three pay stubs. This is because they must possess sufficient financial resources to cover the bail amount through assets or property. They must be able to monitor the accused,

understand their responsibilities, and be willing to report any breaches of bail conditions. If alcohol was alleged to have been involved in the incident, then a judge or justice of the peace may decide that in order for someone to qualify as a surety, their home must be alcohol-free. They may have to give evidence in court and be cross-examined on their qualifications.

If a surety decides that they are no longer willing or able to supervise the accused person, there are two options:

1. Bring the accused to court and ask to be relieved of the responsibilities; or
2. Go to court and apply in writing to be relieved of the duties. This will result in the surety being 'revoked', and the court will issue an order for the arrest of the accused person or consider a different person as a surety.

If the accused is found not to be complying with their bail conditions while under that surety, bail can be revoked and the surety may be ineligible to be a surety in the future. That is why it is beneficial for a surety to request to revoke their duties if they believe the accused will breach their conditions. Please visit the following website for more information:

<https://stepstojustice.ca/questions/criminal-law/ive-been-asked-be-surety-what-should-i-know-about-my-rights-and>

With youth, the conditions for whether they are granted bail are easier to meet than for adults. A youth cannot be kept in custody unless they have committed a serious offence or they have a pattern of other charges against them.

‘Serious offence’ has a specific meaning in the law – it only includes offences where an adult could get a maximum sentence of more than five years if the adult committed the same crime. For example, a “serious offence” includes robbery and could include possession of cocaine, but it does not include a simple theft or possession of marijuana.

A judge or justice of the peace cannot keep an accused in custody for any of these reasons:

- » Their own protection,
- » They have a mental health issue,
- » They need a place to live, or
- » They need social or child welfare services.

When adults make a bail application, the responsibility (in law this is called the ‘onus’) is by default on the Crown Attorney (the government lawyer in charge of proving the case against the accused) to show that the accused should be held in custody pending the resolution or trial of their criminal matters. Sometimes the onus shifts to the accused to show that they should not be held in custody - such is the case when the accused is alleged to have breached a previous recognizance (i.e. they were already out on bail when they are charged), in situations involving weapons, or for very serious charges.

This is not true for youth, however. When a youth is brought into custody and is making a bail application, the onus is always on the Crown to show why they should be held in custody.

Bail is one of the most crucial steps in the justice system. It determines whether the accused will be allowed out in the community while their matters are pending before the courts.

During the bail process, youth workers or teachers can help by guiding the young person or their family to some of these resources within the courthouse which can help families throughout the bail.

Court Administration Office:

Can provide information on which courtroom bail hearings are being held.

Duty Counsel's Office:

Duty counsel can advise on the bail process, surety responsibilities, getting a lawyer through legal aid and can ultimately represent accused persons in bail court.

Bail Program:

Can provide information on the alternatives available to youth when there are no proper sureties available.

Additionally, frontline workers can help by:

Gathering letters of support and recommending programs

Defence counsel may ask for letters of support from family members, teachers, youth workers, coaches. These letters can help a Justice of the Peace or a Judge have a better understanding of an accused youth's character and/or the support systems available to the youth. They may also help by speaking with the youth's lawyer and recommending programs that the youth can take part in as part of their bail plan.

Encouraging variations to bail conditions

Bail conditions can be changed by bail variations. As circumstances change for a young person, a youth worker or teacher can let them know that it is possible to vary the conditions and encourage the young person to go to their lawyer for assistance in order to avoid breaching their conditions. If there are any conditions that are unreasonable or can no longer be followed due to a change in circumstances, bail variations can and should be requested, though they are subject to approval by a judge. A common example of a condition in need of a bail variation is the address condition on a form of release.

This condition will typically state something like: You must reside at [address] and not move without the permission of a Crown Attorney or a Judge in writing. If the young person is planning to move, the address on this form needs to vary. A variation can happen anytime before the young person is charged with a breach. The best way to do this is through the young person's lawyer. Once the lawyer is made aware of the change in circumstances, they will speak to the Crown attorney about the variation, and if the Crown consents to the change, they will file the variation with the court. The young person and their surety will then need to come to the courthouse to sign the variation, so the court knows that the young person is aware of the changes to their conditions. If the Crown does not consent to the variation, the lawyer can bring the matter onto a court docket, in order to argue for the variation in front of a judge for a decision.

Many people do not request a bail variation, hoping instead that they will not get caught in breach of their conditions, or plan to explain their reasons if they do get caught. This approach does not protect someone from further charges and perhaps a longer record. Administration of Justice charges – breaches of bail – are separate charges that can extend the youth's potential time in custody or conditions of release or probation. Avoid the risk by contacting a lawyer or Duty Counsel to discuss having the bail conditions varied as soon as the circumstances have changed.

What Happens When an Accused Fails to Obey a Court Order?

The consequences of failing to obey a court order are very serious. If an accused person fails to appear in court or breaks any other term of the bail order, they may be charged with another criminal offence. If the person is found guilty of breaching the court order, the Crown may also ask the court to enforce that surety pays up to all the money that they pledged to the court.

See these resources for more information on bail and other releases.

- » <http://jfcy.org/wp-content/uploads/2013/10/Youth-Criminal-Court-BAIL-March-2017-1.pdf>
- » <https://jfcy.org/en/rights/yc-ja-bail/>
- » <https://www.attorneygeneral.jus.gov.on.ca/english/about/pubs/wyant/>
- » <https://stepstojustice.ca/steps/criminal-law/1-learn-about-types-releases>

What are First Appearances? What about other types of court dates?

What are First Appearances? What about other types of court dates?

A First Appearance is the court date given to somebody after they are charged with a crime, either upon release by police, or upon a successful bail application. There are several important things for an accused person to know about their First Appearance, including courtroom protocols, what the accused needs to bring, what they can expect, and how to get information about their charges. Here is a list of things an accused person should take to court for their first appearance.

- » Promise to Appear Form (if they have one)
- » Undertaking or Recognizance Form (if they have one)
- » Other court documents they have been given
- » Other documents given to them by the Crown
- » Other documents given to them by the police
- » Photo Identification
- » Documents to help them apply for Legal Aid, including financial information.
- » A pen or pencil
- » Paper or a notebook



When the accused's name is called, by either the judge, justice of the peace, or their lawyer, they should stand at the front of the court. The judge or justice of the peace will ask them their name. The accused should speak loudly enough for the judge or justice of the peace to hear. The judge, justice of the peace or a clerk may read their charge out loud. The accused should listen carefully and ask questions if they do not understand what is said. The judge or justice of the peace should explain things in a way that helps them to understand.

After the lawyers tell the judge or justice of the peace about the accused's case, the judge or justice of the peace will tell the accused what they need to do before their next court date and will tell the accused what date to come back. The accused should tell their lawyer right away if that is a bad date for them.

- » <http://jfcy.org/wp-content/uploads/2013/10/Youth-Criminal-Court-PRO-CESS-March-2017.pdf>
- » http://jcy.org/wp-content/uploads/2013/10/Ch6_Court.pdf

What are Pleas?

Deciding what to plead (guilty or not guilty) should only ever be done in consultation with a lawyer. Pleading guilty means that the accused person admits to every element of the alleged offence.

Even if an accused person believes they are guilty, a lawyer gives advice on whether the Crown can prove a case, whether the alleged conduct amounts to an actual crime or not, and what consequences an accused person might face upon pleading guilty or if found guilty at trial.

Even if an accused person has set a trial date, this does not prevent them from pleading guilty any time leading up to and even on the day of the trial.

Consult these resources as a guide to the ways in which lawyers can help make this important decision.

- » <https://stepstojustice.ca/steps/criminal-law/3-go-through-plea-inquiry>
- » http://jfcy.org/wp-content/uploads/2013/10/Ch6_Court.pdf



What are Pre-Trials and Conferences?

Crown and Judicial Pre-Trials

Crown Judicial Pre-Trials and Judicial Pre-trials are designed to identify legal issues which might be raised at trial. An accused's lawyer may also discuss ways in which to resolve the case, and the sentence the Crown is asking for if the accused pleads guilty.

The difference between Crown and Judicial Pre-Trials is that in a Crown Pre-trial (also called a 'Crown Resolution Meeting'), discussions are held more informally between a lawyer and the Crown attorney. In a Judicial Pre-Trial, discussions are before a judge in chambers or in closed court, which typically means that the accused will not attend.

The benefit of a judicial pre-trial is that the judge can help further narrow the issues and may be able to convince one party to resolve if there is an impasse in negotiations. With the accused not present, Crown and Defence counsel can discuss the case much more frankly and without reservations since any admissions or concessions that the lawyer may make on behalf of his or her client is not binding until the client accepts it. Judicial pre-trials are also held as a mandatory step in many jurisdictions (a word for legal regions), particularly where the proceeding is expected to take up a significant period of court time.

Preliminary Hearing

A preliminary hearing (or preliminary inquiry) is a court proceeding that takes place before the trial of a serious offence. Preliminary hearings are not available for most minor offences. It can only be requested in cases where an adult is accused of a crime that is punishable by 14 years imprisonment or more, such as murder or aggravated assault.

The purpose of a preliminary hearing is for the judge to decide whether there is enough evidence against the person that a reasonable jury properly directed by the judge could convict. If there is not sufficient evidence, the accused will be discharged. Generally, that is the same as the case being dismissed.

A preliminary hearing is similar to a trial, but usually much shorter. The Crown prosecutor will call witnesses and present evidence against the accused. The Defence lawyer will be entitled to cross-examine the Crown prosecutor's witnesses.

It is the Crown prosecutor's job to try to show the judge that there is enough evidence to proceed with a trial. Although very few cases are dismissed at this stage, preliminary hearings give the accused the opportunity to see the case against them and may help to plan the defence at trial. They also show the accused the strength of the case against them and may assist in resolving the matter.

Generally, young persons do not have this right. However, young persons charged with murder or other serious offences and who may be subject to an adult sentence, if convicted, generally have the right to a preliminary hearing.

Conferences

A conference is a tool used to help better determine the needs of a young person accused of a crime, balancing them with the alleged harm done, and the needs of their community. While there are conferences in adult settings as well, conferences have a special function in the youth context that is supported by the YCJA. Holding a conference means getting together a group of people with some responsibility or knowledge of the accused youth to discuss what measures might assist that youth. A conference can be held at various stages of the judicial process, including when considering extrajudicial measures (EJMs). EJMs are processes other than court proceedings, such as a police warning, that may be used when deciding whether to grant bail and determining any conditions for release. Additionally, conferences can be held during sentencing decisions, sentence reviews, or when planning the youth's reintegration into the community.

This is one of the best opportunities for youth workers and teachers to help the youth they are working with. They can provide insight into how the youth is doing in the community, their specific needs, as well as their strengths. This can influence a judge in determining whether a youth should be out in the community, which types of resources should be used, and how best to balance their interests with those of society.

- » <https://www.ycja.ca/extrajudicial-measures/youth-conferences>
- » <https://www.legalline.ca/legal-answers/preliminary-hearings-in-a-criminal-trial/>
- » <https://robichaudlaw.ca/ontario-criminal-court-procedures/judicial-pre-trials-in-criminal-court/>
- » <https://stepstojustice.ca/questions/criminal-law/what-Crown-pre-trial>
- » <https://stepstojustice.ca/questions/criminal-law/what-judicial-pre-trial>

When does a young person go to trial?

An accused person sets a trial date if, in consultation with their lawyer, they conclude that a) they are not guilty, or b) they are not satisfied with the Crown's offer to resolve the case. Once the trial date is set, there are a number of decisions to be made by the accused, their lawyer, and the Crown. These include:

Will you spend the time to explain things to me in a way that I will understand?

- » Who the witnesses will be,
- » How long the trial will take,
- » Whether there are any pre-trial motions, and
- » Whether accommodations, such as an interpreter, needs to be made.

There may be advantages to having a trial. It's hard to know what might happen on the day of a trial.

Sometimes the Crown may not have the documents, or the witnesses present that they need to prove their case. If this happens, the Crown may even drop the charges against the accused, or they might be offered a better way of resolving the case.

Follow the links below to gain a better understanding of the trial preparation process, as well as the functioning and structure of the trial itself.

- » <https://stepstojustice.ca/steps/criminal-law/4-focus-your-pre-trial-resolution-or-trial-issues>
- » http://jfcy.org/wp-content/uploads/2013/10/Ch6_Court.pdf
- » <https://www.ontariocourts.ca/ocj/self-represented-parties/guide-for-accused-in-criminal-cases/guide/>

What is Diversion?

Diversion is a tool used in the justice system to help reduce over-reliance on incarceration, especially for young people. Diversion programs are community-based projects that people accused of relatively minor crimes can complete voluntarily. There is no finding of guilt in these cases, and if the program is completed successfully, the Crown will stay or withdraw the charges. This means the prosecution ends, and the accused does not have to attend court any further.

If this is the first time an accused has been charged with a criminal offence, the Crown may offer them diversion. If an accused is being offered diversion, they usually find out at their First Appearance. It's up to the accused whether they choose to accept the diversion.

If the Crown hasn't offered diversion, an accused or their lawyer can try to convince the Crown that they should be. This sometimes happens during a Crown pre-trial or a judicial pre-trial.

Some examples of Diversion include:

- » Community service;
- » A charitable donation;
- » Anger management counselling;
- » Addiction or mental health counselling; or
- » A combination of the above.

There are special Diversion programs available for youth. Some are less formal and involve partnering with a local organization to complete community service. Some diversion programs, such as Mental Health Diversion or Extrajudicial Sanctions (EJS) for youth, are more formal, and involve more direct interaction with criminal justice representatives. Whether the accused uses a formal or informal program, they must do the work required of the program to avoid being prosecuted.

An accused can change their mind at any time about accepting diversion and set a trial date instead. Find out more below.

- » <https://stepstojustice.ca/questions/criminal-law/ive-been-offered-diversion-what-do-i-need-know>

What are Pre-Sentence Reports (PSR)?

A pre-sentence report (PSR) is a document prepared by a probation officer to assist a judge in deciding an appropriate sentence for a young person found guilty of an offence. The report provides background information about the youth, including their personal and family circumstances, education, employment, peer relationships, and any prior involvement with the justice system. It may also include information about the youth's attitude toward the offence, their level of responsibility, and their willingness to make amends. Importantly, the PSR outlines available community resources and programs that could support rehabilitation and reduce the likelihood of reoffending. If you are supporting a young person, a PSR can be a good way to help give input on their needs to the court.

Under the YCJA, the use of pre-sentence reports reflects the Act's emphasis on proportional, fair, and rehabilitative responses. Judges rely on these reports to better understand the context of the offence and to craft a sentence that balances accountability with the youth's prospects for reintegration. Because youth justice is focused more on rehabilitation than punishment, PSRs play a key role in ensuring that sentencing decisions consider the young person's unique needs and circumstances, as well as the protection of the public.

What are Medical or Psychological Assessments?

Section 34 of the YCJA gives youth courts the authority to order medical, psychological, or psychiatric assessments of a young person at any stage of proceedings. These assessments are conducted by qualified professionals and are intended to provide the court with reliable information about the youth's mental health, learning needs, or emotional functioning.

A report may be requested with the consent of both the youth, in consultation with their lawyer, and the Crown, but in some circumstances, the court can order one without consent—particularly where there are concerns about a mental or physical disorder, a history of repeated offences, or allegations of a serious violent offence. If you don't believe the youth you are supporting consented to the report, ask their lawyer if it was ordered without consent.

The law limits when a young person can be placed in custody for the purpose of an assessment, emphasizing that such measures should be avoided unless strictly necessary—spending time in custody should be a measure of last resort, even if such an assessment could be helpful. Courts and parties also have the right to examine and, in many cases, cross-examine the professional who prepared the report, ensuring fairness in how the information is used.



What is a Referral to Child/Welfare Agency?

Section 35 allows a youth justice court, at any stage in proceedings, to refer a young person to a child welfare agency for an assessment of whether they are in need of child protection or related services. This provision recognizes that some behaviours leading to criminal

charges may be rooted in neglect, abuse, or other unmet needs that fall outside the scope of the justice system. Unlike section 34, a referral under section 35 does not mean the agency has to take action, nor does it mean that a report must be prepared.

What is Sentencing?

Sentencing is the process by which the judge comes to a decision about what sentence will be appropriate for somebody who is guilty of a crime. If that person is being sentenced, it is either because they chose to plead guilty or were found guilty at trial.

When requested by the young person's lawyer, a teacher, youth worker or supportive adult can help in the following ways:

1. Providing information to the lawyer that will individualize the young person to the judge. For example, any information about:

- » Family background;
- » Diagnoses, personal history;
- » School & progress;
- » Ambitions;
- » Extracurricular Activities; or
- » Character Assessments.

This information should be provided to the lawyer as soon as possible. It can also help with Pre-Sentence Reports.

2. Gathering letters of support:

We mentioned letters of support on page 14 when we were discussing bail, but these can also be helpful at this stage. can come from family members, teachers, youth workers, and coaches. These letters can help a judge have a better understanding of an accused youth's needs as they are given their sentence.

During the criminal process and throughout sentencing, the young person gives instructions to the lawyer. It is very important that efforts to provide assistance are part of the lawyer's strategy and not undertaken independently. The young person makes decisions about the process, not their parents, guardians or other adults.

For youth, the YCJA includes a specific purpose and set of principles to guide judges in deciding on a fair and appropriate sentence for a youth. Thus, youth and adults sentences differ substantially. Because in Canada, we only use incarceration as a last resort for youth, their sentences are typically significantly lighter than adult sentences for corresponding crimes

By default, all youth who are found guilty will get a youth sentence. They will not have to go to an adult court and will always appear in Youth Justice Court before a Youth Justice judge. In certain circumstances, however, a youth can be given an adult sentence. They can only be given an adult sentence in certain circumstances: if they are over 14 years of age and the Crown prosecutor convinces the judge that they should get an adult sentence due to the serious and violent nature of their charge.

The prosecutor will figure out what kind of punishment an adult could have been given for doing the same thing that the youth offender did. If an adult could have been given more than two years in jail, then the prosecutor can ask the judge to give the youth an adult sentence. If an adult could not have been given more than two years in jail, the prosecutor cannot ask the judge to give a youth offender an adult sentence.

Some examples (non-exhaustive) of available sentences for both youth and adults include:

- » **A Reprimand:** A formal warning from the judge telling the youth their behaviour was wrong, without further punishment.
- » **An Absolute Discharge:** A finding of guilt but no conviction or sentence, meaning the youth is free without conditions.
- » **A Conditional Discharge:** A finding of guilt where the youth must follow certain rules for a set time, after which no conviction is recorded.
- » **Fines:** Money the youth must pay to the court as punishment.
- » **Compensation:** Money the youth pays to the victim to cover costs or losses caused by the offence.
- » **Restitution:** A requirement that the youth return stolen property or pay back the value of what was taken.
- » **Buy it Back:** When the youth must pay money to replace or repair property they damaged or lost.
- » **Personal Service:** Work the youth does directly for the victim to make up for the harm caused.
- » **Community Service:** Unpaid work the youth does to benefit the community instead of paying money.
- » **Prohibition Order:** A court order stopping the youth from doing certain things, like driving or owning a weapon, for a set time.
- » **Probation:** A period when the youth must follow court-ordered rules and report to a probation officer.
- » **Non-Residential Program:** A program the youth attends in the community, such as counselling, education, or treatment, instead of being in custody.
- » **Custody or Custodial Sentence:** The last resort for sentencing in the youth context. This includes time spent in closed custody at a carceral facility.

What is Impact of Race and Culture Assessments (IRCAs)?

An Impact of Race and Culture Assessment (IRCA) is a report that provides the court with important background information about a racialized young person's experiences of racism, discrimination, culture, identity, and systemic barriers. It helps the court understand how their social location including factors like race, culture, and social context may have contributed to their involvement in the justice system. With input from the youth, their family and community, IRCAs are used during sentencing and are prepared by trained professionals like registered social

workers, psychologists, or consultants that have expertise in cultural competency.

For more information about IRCA's please visit:

- » <https://www.legalaid.on.ca/irca>
- » <https://www.courthouselibrary.ca/how-we-can-help/our-legal-knowledge-base/impact-race-and-culture-assessments-ircas>

Note: IRCAs are intended for Black, Indigenous, and other racialized youth. The assessment focuses on how systemic racism and cultural context may have influenced the youth's life and legal circumstances

Why do IRCAs Matter?



IRCAs are important because they:

Give the court a fuller picture of the youth's life, including the impact of racism, poverty, displacement, trauma, and lack of access to supports.

Recognize that systemic barriers—not just individual choices—can shape how a young person ends up in conflict with the law.

Support rehabilitation over punishment by helping courts find alternatives to custody, like community-based or culturally appropriate supports.

Reflect restorative justice principles by focusing on healing and accountability.

- » <https://stepstojustice.ca/steps/criminal-law/1-give-the-judge-information-about-anti-black-racism/>
- » <https://www.journalcswb.ca/index.php/cswb/article/view/361>
- » <https://youthrex.com/report/making-a-difference-final-report-examining-impact-of-race-culture-assessments/>
- » <https://www.canada.ca/en/departement-justice/news/2023/03/federal-funding-to-help-sentencing-judges-in-ontario-understand-impacts-of-race-and-discrimination-on-offenders.html>

When are IRCAs used?



- » During the sentencing phase of a youth criminal proceeding.
- » When the court believes race or culture may have played a significant role in the circumstances leading to the offence.
- » When requested by a lawyer, the youth, or the judge.
 - » <https://www.legalaid.on.ca/faq/impact-of-race-and-culture-assessment-irca/>
 - » <https://www.legalaid.on.ca/lawyers-legal-professionals/for-criminal-lawyers/impact-of-race-and-culture-assessments-ircas/>

IRCAs are being increasingly used in Ontario courts, particularly in cases involving Black and other racialized accused persons, and especially where systemic factors are relevant to sentencing.

How do youth benefit from an IRCA?

- » The young person's voice and experiences are included in the report.
- » The report may recommend support or interventions like therapy, cultural programs, community mentors that are more appropriate than incarceration
- » It encourages greater empathy and understanding from the court.
 - » <https://youthrex.com/report/making-a-difference-final-report-examining-impact-of-race-culture-assessments/>
 - » <https://www.journalcswb.ca/index.php/cswb/article/view/361>



Who can write an IRCA?

IRCAs are written by qualified social workers or cultural experts with experience in anti-racism, cultural competence, and criminal justice. Preparing for an assessment involves interviews with the youth that is accused and sometimes their family or community members.

These professionals are usually:

- » Registered social workers (RSW/MSW)
- » Psychologists
- » Community-based practitioners with appropriate credentials and experience who have credentials in cultural competency.
 - » <https://www.legalaid.on.ca/irca/>
 - » <https://www.courthouselibrary.ca/how-we-can-help/our-legal-knowledge-base/impact-race-and-culture-as-sessments-ircas>

Note: Frontline workers cannot write IRCAs but can play a role in supporting the process.

IRCA Costs & Legal Aid/ Ontario (LAO)

What if the youth has Legal aid?

- » Legal Aid Ontario (LAO) will usually cover the cost of the IRCA
- » The youth's LAO-funded lawyer must submit a request to get approval
- » Funding for IRCAs comes from the Government of Canada as part of efforts to address systemic racism in the justice system

If the youth does not have Legal Aid:

- » The court may still order an IRCA.
- » The youth or their family may be asked to cover the cost if they have the means to.
- » Some community agencies or advocates may help families find subsidized or low-cost options.

Quick tip: Even if a youth is not currently on legal aid, their lawyer may still apply and request IRCA funding if it is considered necessary.

- » <https://www.legalaid.on.ca/irca/>

How can frontline workers support an IRCA?

Frontline workers cannot write IRCAs, but they do play a supportive role by:

- » Identifying when an IRCA might be appropriate especially if the youth is racialized and has experienced discrimination, trauma, or systemic barriers.
- » Encouraging the youth to talk to their lawyer or duty counsel about requesting an IRCA.
- » Providing (with the youth's consent) supporting background or context to the IRCA writer.
- » Helping the youth prepare emotionally for interviews or conversations with the assessor.

- » Supporting follow-through on recommendations made in the IRCA such as referrals to counselling and/or culturally relevant programs and/or services.

Note: If the youth is not sure about their Legal Aid eligibility, help them connect to:

- » www.legalaid.on.ca
1-800-668-8258 or Duty counsel at the local courthouse (they can assess eligibility and start the process).

Quick Tip: Even if a youth is not currently on legal aid, their lawyer may still apply and request IRCA funding if it is considered necessary

- » Legal Aid Ontario – IRCA Info and support roles:
<https://www.legalaid.on.ca/irca/>



What are sentence breaches?

A breach of any of these sentences may result in new charges being laid. For example, if a Probation Order states that the offender must do 30 hours of community service within one year, and the hours are not completed in that time, the Probation Officer may provide a report to the Crown Attorney asking to authorize new charges for breaching the Probation Order. Breach charges are typically laid as Failure to Comply with Sentence, or Failure to Comply with Probation, and would include the specific breach. These new charges need to be addressed in court, even though the original (also called substantive or originating) charges have already been dealt with.

The youth justice system also has their own structures and personnel for many of these sentencing options which deal exclusively with youth.

Also available to youth being sentenced is the Intensive Support and Supervision Program (ISSP). This program is like probation but with stricter supervision and more direct resources, where the youth is subject to closer monitoring and more support.

The following resources provide more information on these sentences and what they involve, as well as more on the differences between sentencing for youth and adults, principles of sentencing, and sentencing procedures in court.

» **Types of sentences:**

http://jfcy.org/wp-content/uploads/2013/10/Ch9_Sentences.pdf

» **Principles:**

<https://www.ycja.ca/sentencing/principles-sentencing>

» **Procedure:**

<https://stepstojustice.ca/questions/criminal-law/what-happens-sentencing-hearing-my-criminal-case>

» **Youth Sentencing Options:**

<https://www.ycja.ca/?q=police/youth-sentencing-options/in-depth-2>



