



Handout: Adult Sentences

Two principles of the *Youth Criminal Justice Act* are that the youth criminal justice system must be separate from the adult system and that it must be based on the principle of diminished moral blameworthiness of young people. Because the youth criminal justice system must be separate, all young persons are tried in Youth Justice Court and have the benefit of the safeguards and protections afforded by the youth criminal justice system. Because of the presumption of reduced moral blameworthiness, there are restrictions on when a youth can receive an adult sentence.

Only youth who are least 14 can be sentenced as adults. Provinces can change the minimum age to 15 or 16. If a youth, who is at least 14 years old, has been found guilty of an indictable offence that an adult could receive a sentence of two or more years in prison for, the prosecution can apply to the Court for an adult sentence. If the youth has been found guilty of a serious violent offence – murder, attempted murder, manslaughter, or aggravated sexual assault – the prosecutor *must* consider applying for an adult sentence. If they decide not to seek an adult sentence in these circumstances they must advise the Court.

The Court can impose an adult sentence only if the prosecution has shown that in the case before the Court, the presumption of reduced moral blameworthiness should not apply. This presumption essentially means that the starting point is that youth are less at fault for committing crimes simply because they are not yet adults. The Court must also find that a youth sentence would not be long enough to hold the youth accountable before giving a youth an adult sentence.

Consequences of an Adult Sentence

If a young person receives an adult sentence, their identity can be published. Their criminal record for that offence is not protected in the same way that youth records are. The sentence may also be much longer, as the limits on youth sentences do not apply. So the young person is subject to the same maximum sentence that an adult could get. However, young people sentenced to an adult sentence must be held in a youth facility until they reach 18 and possibly beyond.

Discuss

1. The principle that youth are presumed to be less blameworthy was added to the YCJA in 2012. This change was in response to a Supreme Court of Canada case that found “because of their age, young people have heightened vulnerability, less maturity, and a reduced capacity for moral judgment.” Do you think that is true in most cases for youth between 14 and 17? Why or why not?
2. Why is it important that the Crown must consider asking for an adult sentence in the case of a serious, violent offence? What purpose does this requirement serve?
3. Why is it important to keep young people sentenced as adults out of adult detention centres? How does this provision reflect the principles of the YCJA?