



## Handout: Custody, Supervision, and Reintegration

As we have seen, the *Youth Criminal Justice Act* encourages, and in some cases requires, the use of non-custodial sentences. Where a custodial sentence appears appropriate, the YCJA requires that all available, reasonable alternatives to custody still be considered. Particular attention must be paid to the circumstances of Aboriginal youth. There are situations where a custodial sentence is required to hold the young person accountable.

In these circumstances the young person will be sentenced to a period of custody and supervision. Custodial sentences must focus on eventual reintegration and ways to assist the young person to not re-offend.

Under the YCJA, all periods of custody are followed by a period of supervision and support in the community. Generally, a young person who receives a custody and supervision order will serve the first 2/3 of the sentence in custody and the last 1/3 under supervision in the community. In very limited circumstances, a young person could be ordered to serve their entire sentence in custody. This can happen only when the Youth Court Judge decides that the young person is likely to commit a serious violent crime while serving the remainder of their sentence in the community.

The custody provisions of the YCJA recognize that the young person will eventually be released back into the community and set out the framework for programs and services throughout the custodial period. Additionally, the YCJA calls for support during the young person's transition from custody back into the community. As soon as the custodial portion of the sentence begins, the young person begins to work with a youth worker to plan for the young person's reintegration into the community. Together the young person and the youth worker will develop a reintegration plan aimed at maximizing the youth's chances for successful reintegration. When the young person is released into the community, the youth worker will supervise the young person and provide help and support in putting the reintegration plan into action and respecting the conditions of release.

During the community supervision portion of a custody and supervision order, the young person is required to abide by a number of conditions. These conditions include orders that the young person:

- keep the peace and be of good behaviour
- report to a supervisor, or other person, as required
- inform a supervisor immediately if the young person is arrested or questioned by police
- advise a supervisor of any change of address, employment, education, family, or financial situation, and other circumstances that could affect their ability to abide by conditions of their sentence
- not own, possess, or have control of any weapon, ammunition, etc. without the supervisor's authorization

The young person may also be required to follow any other conditions imposed to address the needs of the young person and their reintegration, or the protection of the public. These conditions typically include orders to do things such as attend school, maintain employment, obey a curfew, abstain from alcohol and drugs, or attend counselling. If the young person breaches a community supervision

condition, conditions will be reviewed. This could result in the conditions being modified or the young person being returned to custody.

The custody and supervision section of the YCJA provides clear statements about the purpose of custody and supervision orders and how young persons in custody and under supervision are to be treated. The purpose of custody and supervision is to contribute to the protection of society by:

- carrying out sentences in a safe, fair, and humane manner
- assisting the young person to be rehabilitated and reintegrated into society as a law-abiding citizen through effective custody and supervision programs



The principles specific to custody and reintegration call for:

- using the least restrictive measures that are consistent with the protection of the public, the people that work with the young person, and the young person
- retaining the same rights for young persons sentenced to custody as those afforded to other young persons (except those rights which are necessarily removed as a consequence of their sentence)
- involving families of young persons and members of the public
- ensuring direct, fair, and timely custody and supervision decisions, and access to an effective review process

These principles are in addition to the general principles of the YCJA that apply throughout the entire youth justice system. The youth criminal justice system must be separate from the adult system and based on the principle of diminished blameworthiness. It must emphasize:

- rehabilitation and reintegration
- young persons have enhanced procedural protections
- measures must be proportionate and consistent with a young person's level of dependency and maturity
- measures must be meaningful
- parents, family, community, and social agencies should be involved in the young person's rehabilitation and reintegration
- measures should respect gender, cultural, and linguistic differences
- young persons have rights and freedoms in their own right, including the right to be heard and to participate in processes that affect them
- measures should respond to the needs of Aboriginal young persons and young persons with special requirements

The custody and supervision provisions of the YCJA are designed to allow authorities to monitor the young person closely and ensure that the young person receives the necessary treatment and support required in order to return safely to the community.



## **Discuss**

1. Until the introduction of the YCJA, there was no requirement for a young person to begin thinking about reintegration and to actually formulate a reintegration plan while they were still in custody. Nor was there any requirement that there be supervised reintegration after custody.
  - a. Why is the emphasis on reintegration an important concept for society as a whole?
  - b. How does it fit with the principles and policies of the YCJA?
2. What issues might a reintegration plan address? What things do you think would be important to deal with as a young person prepares for reintegration? How do they relate to offending behaviour?
3. How important is it to involve the young person in this process? Why? Is it valuable to involve others also, such as the young person's parents and family, community members, and social agencies? What and how can they contribute?