

Handout: History of Youth Justice

Most nations have separate justice systems for young people. However, this has not always been the case.

For a long time, there was only one criminal legal system. Youth and adults alike could be jailed, whipped, or even killed for breaking the law. Around 600AD, the Romans decided that children under the age of 7 should not be punished as criminals. By the 1700s, children under 13 were generally viewed as incapable of appreciating the nature and consequences of their conduct. During the 1800s, reformers began to develop a separate juvenile court and legal system. The philosophy of these reforms was an emphasis on rehabilitation. It was believed that saving young people from a life of crime was an important objective for society.



In Canada, our understandings of law and society have also evolved. Thus, the criminal justice system has changed over time.

Evolution of Canadian Youth Justice

1908: *Juvenile Delinquents Act*

In 1908, the *Juvenile Delinquents Act* (JDA) marked the creation of Canada's separate juvenile justice system. The JDA:

- included youth aged 7 up to a maximum set by each province (age 16 in Saskatchewan)
- treated young persons in trouble with the law as misdirected and misguided children rather than as young adults legally responsible for their actions

1984: *Young Offenders Act*

In 1984, the *Young Offenders Act* (YOA) replaced the JDA. Partially due to public demands for a stronger response to youth crime, the YOA:

- increased the age of criminal responsibility from 7 to 12
- moved away from a welfare-oriented approach to one of responsibility and accountability
- emphasized protection of the public while still recognizing that youth have special needs because they are not fully mature

The YOA was criticized for a number of reasons. It was said that it did not do enough to prevent youth-at-risk from entering a life of crime. As well, some argued that its sentencing options were inadequate to deal with and provide long-term rehabilitation for the most serious violent youth.

Criticism was also levelled because of the over-use of jail sentences for non-violent young offenders who could be better served through community-based approaches that emphasized responsibility and accountability.



2003: Youth Criminal Justice Act

In 2003, the government responded to the perceived weaknesses of the YOA by replacing it with the *Youth Criminal Justice Act* (YCJA).

Referring to values such as accountability, respect, responsibility, and fairness, the YCJA's preamble explained the law's rationale, and stated that:

- addressing the needs of young people and preventing crime is a shared responsibility of society as a whole
- prevention should be accomplished by addressing underlying causes of crime
- youth have legal rights that must be respected
- the youth justice system should ensure accountability through meaningful consequences and rehabilitation and reintegration
- the most serious interventions should be reserved for the most serious crimes
- youth incarceration should be reduced
- accurate information about youth justice should be available to the public

The YCJA included principles to provide clear direction to those dealing with youth in conflict with the law; emphasized out-of-court and non-custodial options for non-violent youth; and focused on reintegration and rehabilitation. At the same time, the YCJA provided custody options for youth who committed more serious offences.

2012: Amendments to the Youth Criminal Justice Act

In 2012 the government passed the *Safe Streets and Communities Act*, an Act that made important changes to the YCJA. The changes were designed to help ensure that youth who commit violent or repeat offences are held fully accountable.

Broadly speaking, the YCJA's general principles were amended and now highlight the protection of the public as a key goal of the youth justice system. The principles of the Act now state that the youth justice system is intended to protect the public by:

- holding young persons accountable through measures that are proportionate to the seriousness of the offence and the degree of the responsibility of the young person
- promoting the rehabilitation and reintegration of young persons who have committed offences, and
- supporting the prevention of crime by referring young persons to programs or agencies in the community to address the circumstances underlying their offending behaviour

At the same time, the amendments also emphasize that the youth justice system must be based on the principle of diminished responsibility of young persons.

Additional amendments, dealing primarily with youth who commit violent and repeat offences, were also incorporated. These amendments are discussed in more detail a little later.

Have These Evolving Laws Worked?

Today, claims such as “youth crime is on the rise” and “youth crime is out of control” seem common in coffee shops and online message boards. There is one problem with such broad statements. They are not true.

The most recent data from Statistics Canada revealed that in 2013 the overall volume of youth crime declined by 16% from the previous year. This included drops in homicides, serious assaults, motor-vehicle thefts, and break-ins. This recent decline in youth crime is consistent with longer-term trends. In fact, Statistics Canada data reveals that crime has been in steady decline for over 20 years.

In 1991 nearly 9,500 crimes were recorded per 100,000 youth in Canada, a peak in recent history. When the *Youth Criminal Justice Act* became law in 2003, there were nearly 7,500 crimes per 100,000 youth. By 2013, the number of crimes per 100,000 youth fell to just under 4,500. This is a 40% decline since the YCJA was enacted.

While many factors contribute to Canada’s falling crime rates, the implementation of the *Youth Criminal Justice Act* may offer some explanation.

