

THE RIGHTS OF YOUTH: CRIMINAL JUSTICE

March 2011

DEALING WITH POLICE



If I'm stopped by the police, what do I have to tell them?

You must answer these questions:

- Your name
- Your address
- Your age

You do not have to answer any other questions.

What if I'm stopped by the police while driving?

If asked, you must:

- Show your driver's licence and car registration
- Take a roadside test to determine if you've been drinking alcohol
- Take a breathalyzer test

What if they want to search me?

You may be searched by the police if:

- You are under arrest (the police officer must tell you that you are under arrest and why they have arrested you)
- The police have a search warrant for that purpose, or there are probable grounds for a search
- You are placed under investigative detention, which may happen if the police believe you are a suspect that they have been looking for

If you believe that you are being searched illegally or without good reason, tell the police that you do not agree to the search and talk to a lawyer as soon as possible. **Do not resist.**

What happens if I am arrested?

If you are arrested:

- You may not resist arrest (if you resist arrest you may be charged with another criminal offence)
- You do not have to answer any questions
- You have to be allowed to contact your parents and/or a lawyer
- You have to allow your finger prints and picture to be taken (if you resist you may be charged with another criminal offence)

If I am arrested, what are the responsibilities of the police?

The police must:

- Allow you to contact your parents/guardians or other family member
- Allow you to contact a lawyer or Legal Aid
- Release you into your parents'/guardians' custody once you have been processed (in certain circumstances, depending on the crime that you have been charged with and your prior record, you may not be released and will be held in police custody in the Manitoba Youth Centre)



This pamphlet contains only general information. If you have specific questions, you should speak to a lawyer. You can call Manitoba Legal Aid at (204) 985-8570, or toll free 1-800-672-1043.

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INFORMATION ABOUT CANADA'S LAW FOR YOUNG PERSONS 12-17 YEARS OF AGE



The law about how you are handled in the criminal justice system is set out in the *Youth Criminal Justice Act (YCJA)*.

If you break the law, there are consequences.

What are my protections as a young person?

You have added protections, such as:

- To make sure they can help you, your parent/guardian must be told if you are involved with the justice system
- You have the right to speak to and/or have a lawyer, parent or guardian, or other adult with you when speaking to the police
- The police must use words that you can understand when they arrest or interview you
- All sentences can be reviewed or changed if you have done well while serving a sentence
- Only certain people such as the police, your lawyer, a crown attorney or other adult helping you, or those given permission by a judge, can see your record. Even then, your record can only be viewed for a limited period of time



What if my case goes to court?

If the case has to go to court, and it is serious enough, you may have to go to custody for a period of time. The court must be very careful in deciding to use custody, though.

What else is considered?

When dealing with your case, the law requires that the system has to take into account if you are of Aboriginal ancestry, or have special needs.

What does "custody" mean?

Custody is a last resort left for repeat or violent offenders and all reasonable alternatives to custody must be taken into account.

If you are sent to custody, it can't be longer than what an adult or another young person with a similar background involved in a similar crime would get.

Almost all custody sentences have to include a period of supervision in the community. It's a split between 2/3 custody and 1/3 supervision. If you break your supervision conditions, you could end up back in custody.

What other powers does the court have?

The court can ask for advice from people in the community when it makes decisions about you. The court can also refer your case to a child welfare agency to see if you need their services.



What happens if I receive an adult sentence?

Sometimes, if you are over 14 years of age, your charge may be so serious that there would be a possibility that you could be sentenced to the same penalties as someone 18 or older. In cases like that, you can have a trial like an adult would have, but your name can't be published until, or if, you are found guilty. Charges like murder, manslaughter, attempted murder or repeated, violent crimes could result in an adult sentence.

If you receive an adult sentence, your record will always be accessible unless you get a pardon.

How long will my youth record remain active?

A youth record only remains active for a limited period of time, depending on how long your record is and for what types of charges you were sentenced.

If you successfully complete a youth sentence, and are asked about it, you can say that you don't have a criminal record in relation to that offence. Your record may continue to be active or come back if you get into trouble again.



QUICK REFERENCE Q & A's:

Who falls under the Youth Criminal Justice Act (YCJA)?

Young persons 12-17 years of age.

What if I am younger than 12?

Youth 11 years of age or younger are not covered under the YCJA, but still face consequences (including protective care and/or mandatory psychological counselling) under *The Child & Family Services Act* and other child protection or mental health laws.

What are the consequences if I am older than 12?

Under the YCJA, if convicted of an offence you may face:

- A reprimand by the judge in court;
- A fine of up to \$1000.00;
- An order to pay restitution to repair damages or compensation to the victim of the crime;
- Up to 240 hours of community service, or personal service to the victim to compensate them for the damage caused;
- A prohibition order that forbids you from possessing weapons;
- Probationary supervision by the court for up to 2 years;
- An intensive support and Supervision Program Order, which includes supervision and support from the community to help you change your behaviour;
- Custody and supervision for up to 3 years, 2/3 of which will be served in a youth centre, with 1/3 to be served under community supervision;
- In exceptional cases, an adult sentence-if the court thinks that the youth sentence is not long enough to hold you accountable for the crime committed.

Is it possible to get time off for good behaviour?

Yes, all sentences can be reviewed or changed if you have done well while serving a sentence.

Will my name be in the paper if I am convicted of an offence?

Your name can't be published unless you have been found guilty of a very serious offence and have been given an adult sentence.

RESOURCES

If you have any concerns about the conduct of a Winnipeg Police Service member, you can contact:

Law Enforcement Review Agency (LERA)

420 - 155 Carlton Street, Winnipeg, MB R3C 3H8
Ph: 945-8667

If you have any concerns about the conduct of an RCMP member, you can contact the:

Commission for Public Complaints Against the RCMP

Suite 102, 7337 - 137th Street, Surrey, BC V3W 1A4
Toll-free: 1-800-665-6878
www.cpc-cpp.gc.ca

If you need a lawyer but are concerned that you don't have enough money, you may qualify for assistance from Legal Aid Manitoba. For more information call:

Legal Aid Manitoba

Ph: 985-8500 (in Winnipeg)
Toll-free: 1-800-261-2960 (outside Winnipeg)

If you have concerns about something your lawyer has done (or not done), you can contact the:

Law Society of Manitoba

219 Kennedy Street, Winnipeg, MB R3C 1S8
Ph: 942-5571



Office of the Manitoba Ombudsman

The Manitoba Ombudsman investigates complaints from anyone who feels s/he has been treated unfairly by departments or agencies of the provincial or a municipal government.

There are also laws in Manitoba that require the provincial and municipal governments, school divisions, hospitals and health professionals such as doctors to respect and uphold your information access and privacy rights. The Ombudsman investigates complaints about your access to information and privacy rights under those laws.

If you feel a decision or action of someone in government that affects you was wrong or unfair, or if you have questions about your information access and privacy rights, you may contact the Ombudsman Office. There is an intake officer you can speak to and who will listen to you. You can discuss your complaint privately.

If your concern is something they can investigate, they will explain the process. If it is not something that they can investigate, they will try to refer you to someone who can help.

OFFICES THAT PROTECT THE RIGHTS OF YOUTH

Office of the Manitoba Ombudsman

Winnipeg

750 - 500 Portage Avenue
Winnipeg, MB R3C 3X1
Ph: 982-9130
Toll-free: 1-800-665-0531
Fax: 942-7803

www.ombudsman.mb.ca

Brandon

202 Scotia Towers
1011 Rosser Avenue
Brandon, MB R7A 0L5
Ph: 571-5151
Toll-free: 1-888-543-8230
Fax: 571-5157

Office of the Children's Advocate

100 - 346 Portage Avenue
Winnipeg, MB R3C 0C3
Ph: 988-7440
Toll-free: 1-800-263-7146
Fax: 988-7472

www.childrensadvocate.mb.ca

Manitoba Human Rights Commission

Winnipeg

7th Floor - 175 Hargrave Street
Winnipeg, MB R3C 3R8
Ph: 945-3007
Fax: 945-1292

Brandon

Provincial Government Building
341 - 340 9th Street
Brandon, MB R7A 6C2
Ph: 726-6261
Fax: 726-6035

The Pas

2nd Floor - Otineka Mall
PO Box 2550
The Pas, MB R9A 1K5
Ph: 627-8270
Fax: 623-5404

TOLL FREE: 1-888-884-8681 TTY: 1-888-897-2811
Collect calls accepted www.manitoba.ca/hrc



Office of the Children's Advocate

The Children's Advocate represents the rights, interests and views of children and youth who feel they are not getting the services they need from a child and family services agency or department.

An advocate is someone who speaks with you and for you. Advocacy is about supporting and helping to make sure you are heard and taken seriously.

The Office of the Children's Advocate will do their best to help you and support you whenever you have a concern. More specifically, the Advocate:

- can listen: give you information about how you can solve your situation on your own; help you say what you want to say; call someone for you and explain what you want or need; and assist you in participating in decisions that affect your life
- may also: arrange a meeting with all the people involved and try to sort things out; work to change the system for all children and youth having the same problem; and work with the community to promote and support advocacy for all children and youth
- has information on *The Child and Family Services Act* and *The Adoption Act*



Manitoba Human Rights Commission

The Manitoba Human Rights Commission deals with complaints of **discrimination** and **harassment** in a number of areas of public life, including:

- employment;
- rental of housing; and
- services to the public and facilities such as stores, hospitals, schools, and recreation programs.

Manitoba's *Human Rights Code* is designed to promote equality of opportunity and to protect against discrimination based on:

- age;
- ancestry (including colour and perceived race);
- nationality or national origin;
- ethnic background;
- religion or religious association or activity;
- sex (including pregnancy);
- gender-determined characteristics;
- sexual orientation;
- marital or family status;
- source of income;
- physical or mental disability (which includes circumstances related to your disability, such as reliance on a wheelchair);
- political belief, activity or association.