

Community Education Workshop
Youth Criminal Justice Act/ Youth rights
Length of Session: 2 hours

Workshop Objectives:

At the end of the session each participant will be able to:

1. Understand their legal obligations when stopped and questioned by the Police
2. Understand their legal rights if arrested by the Police
3. Understand the consequences of having a Youth Record

Draft Agenda:

1. Introduction and brief overview (5 minutes)
2. Group guidelines(5 minutes)
3. Warm up/Ice-breaker exercise(5 - 10 minutes)
4. Common Myths about the Youth and the Law(40 minutes)
5. BREAK
6. Scenarios (40 minutes)
7. General Q&A (15 minutes)
8. Wrap up (5 minutes)
9. Evaluations (10 minutes)

Total Time: 2 Hours

Facilitator Notes

The facilitator and the group should be comfortable in changing the agenda to suit their needs.

Materials Needed:

- Paper
- Pens & scrap paper
- Common Myths Worksheet
- Scenarios
- Brochures, flyers and agency contact information
- Evaluation forms

1. Introduction/Overview (5 minutes)

This workshop is intended to help young people identify and dispel common myths regarding the **Youth Criminal Justice Act**. They will be able to analyze situations that require them to understand their legal rights and responsibilities.

Facilitator Notes

At this time the facilitator should go over the outline of the workshop for the group and introduce themselves and their background. The overview of the workshop can be done verbally or written on flip chart paper. Let the group know that there will be a break in the workshop and ask for participants to decide when that will take place. As the facilitator you can recommend that it take place after Common Myths and before the Scenario section.

2. Group Guidelines (5 minutes)

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In the large group, invite participants to set the ground rules for the session. These can include;

- respecting each other,
- listening to one another,
- one person speaks at a time,
- everyone has the right to participate, everyone has the right to pass;
- confidentiality (what is said in the room, stays in the room).

Facilitator Notes

If it is a short session, these rules can be prepared ahead of time, and participant's can be invited to add to it.

3. Introduction/Ice-breaker Exercise (5 to 10 minutes)

There are thousands of exercises, games and tools that can be used to introduce participants to one another. In the resources section of the manual there are a number of exercises that can be used. However the one recommended for this workshop is "Thirteen".

Have the participants sit in a circle and as a group randomly count to 13 one at a time. If two people say the same number at the same time, you have to start over. The goal of this exercise is to encourage active listening skills.

Facilitator Notes

This is a really fun way to get people loosened up and willing to pay attention to each other's face, body language and voice. Watch for people cheating by simply going in a circle.

4. Common Myths about Youth and the Law (40 minutes)

This part of the workshop can be done in two ways; in a large group (no more than 12) or individually. In the large group format the post the questions on flipchart paper (*these can be prepared in advance*) and take "mini-surveys" of each question. Go through each question one after another.

If the group is large, participants can be given the handout (*page 4*) to complete, answers can be discussed the same way as in the large group format

Facilitator Notes

Be careful of time with this session as people may start to ask "what-if questions". If time is starting to run short simply write down the question in the "parking lot" (*a side sheet with questions written on it*) and deal with them after the core material has been covered.

5. BREAK

6. Scenarios (35 minutes, 15 for small group work 20 for reporting back)

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Divide the group in smaller groups (no more than 4 people each). Distribute one Youth and the Law scenario to each group. Have each group reads their scenario, answers the questions and reports their findings to the rest of the group.

Facilitator Notes

Travel between groups to clarify any questions they may have about the situation. Be sure to focus participants on the facts presented to them and not on the “what-ifs & maybes” of each case

7. General Q&A (15 minutes)

In almost every case participants will have general questions about the law or a particular situation involving the police. This section provides an opportunity for people to ask questions

Facilitator Notes

Everyone has a story (usually negative) about the police and will want to tell them. It is important as the facilitator to support people, while at the same time remaining “bias free”. Remember the goal of this workshop is to pass on information.

8. Wrap-up (10 minutes)

The wrap-up section provides the participants and facilitators the opportunity to share some final thoughts on the workshop and the topic

9. Evaluations (10 minutes)

Give participants time at the end of the session to fill out the evaluation forms.

Facilitator Notes

It is important to receive feedback from participants so that as facilitators we can learn and grow with each session.

Common Myths about Youth Rights

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| 1. If arrested you have the right to call a lawyer? | Fact | Myth |
| 2. A warrant for my arrest will expire when I turn 18? | Fact | Myth |
| 3. People under the age of 18 can't be strip-searched? | Fact | Myth |
| 4. Security Guards can't search you? | Fact | Myth |
| 5. Security Guards can't arrest you? | Fact | Myth |
| 6. An employer can't ask about your Youth Court Record? | Fact | Myth |
| 7. Youth Records are destroyed when I turn 18? | Fact | Myth |
| 8. No one can see your Youth Record? | Fact | Myth |
| 9. A Youth Record doesn't prevent you from entering another country? | Fact | Myth |
| 10. It's not a big deal to disobey a court order | Fact | Myth |
| 11. A Youth Record doesn't affect your immigration status in Canada | Fact | Myth |
| 12. If I have a problem with the way I was treated by an officer, there is nothing I can do? | Fact | Myth |

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Answer Sheet

1. Fact	You have the right to call a lawyer AND a parent or adult you trust. (Calling an adult you trust is a right that only applies to people under 18 years.) The police must give you the phone number for a lawyer. You get as many calls as you need.
2. Myth	An arrest Warrant means that there are outstanding charges against you. Warrants do not expire after a certain period of time. They exist until you deal with them.
3. Myth	People under 18 years of age CAN be strip searched, although there are limitations. There must be reasonable and probable grounds for the arrest and reasonable grounds to search for weapons or evidence related to the offence. There are exceptions, but usually a strip search must be done at a police station by police officers who are the same gender as you. They are not allowed to use excessive force.
4. Myth	Security Guards can search you with your permission or to save evidence.
5. Myth	Security Guards can arrest you if they see you committing a crime on or against the property. They will hold you until the police arrive (maybe with handcuffs).
6. Myth	This is a complicated thing ... there is nothing "illegal" about asking about your youth court record - but NO ONE is allowed to publish information about a youth court record - that would include the young person. So the answer is that the employer can ask, but you can't answer It is legal to ask for a police record check. You make the request and the information comes to you. It's up to you if you want to show it to the employer.
7. Myth	A youth record doesn't just go away when you turn 18. The time it lasts depends on the sentence you were given and the seriousness of the crime you committed. If you are found guilty of a less serious offence, your record can last for up to 3 years after you finish your entire sentence including probation. If you found guilty of a more serious crime, it will usually last for 5 years after you finish your sentence. For serious crimes it can last 10 years or more.
8. Myth	You can see your record at anytime. Your parents during your case and sentencing. The Police and Courts if you are charged with another offence before your record is closed. [Technically the Court record is not destroyed - we often use the word "closed. On the other hand CPIC records are destroyed.] Government employees for security checks. Sometimes your record may be given to people in charge of supervising you or for safety

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	purposes (i.e. school officials or youth workers).
9. Myth	Police records, including Youth Court Records, are available to customs officials have access to CPIC records, which include youth court records, but CPIC doesn't actively distribute information. Once a border official gets your record it maybe added to that local police jurisdiction's files. It may remain there permanently. Other countries do not have to obey Canadian law about closing youth records.
10. Myth	If you disobey a court order you could end up in jail or your record could last longer. Disobeying a court order is a criminal offence. For instance failure to appear in court, failure to go and get your photos and fingerprints taken, failure to obey your bail or probation conditions or failure to complete your sentence. Often the court considers it a more serious offence to disobey the court than the offence you were charged with in the first place.
11. Myth	If you are a visitor, refugee claimant, landed immigrant or in Canada on a student visa (not a Citizen) and you are found guilty of a crime in Canada, you may be face serious consequences, and could be forced to leave Canada. If you are worried about your immigration status contact a lawyer immediately.
12. Myth	If you are <i>directly affected</i> (i.e. the person the abuse/wrong-doing happened to) by an incident with the police (e.g. harassed, intimidated, assaulted). AND it is <i>within six months</i> of the incident YOU CAN MAKE A COMPLAINT. Your complaint must be in writing. You can make a complaint in person at the police station or write your own letter to the Ontario Civilian Commission on Police Services (OCCPS) . It is best to seek out the support of the Community Access to Education and Police Complaints Project or a legal clinic in your area.

Scenario #1

Antonio and Mohammed are driving around in Antonio's mother's car at 12:30am on a weeknight. They are both 17 years old. The police pull them over and ask to see identification from both of them. Antonio is the driver and he produces his license, insurance and ownership. Mohammed refuses to produce identification "unless he is under arrest". The officer asks again for identification and Mohammed refuses for a second time. The officer asks Mohammed to step out of the car to be searched. Mohammed agrees to get out of the car, but refuses to be searched.

- 1) Is Mohammed right in refusing to produce identification, why or why not?
- 2) Can the officer search Mohammed without his consent?
- 3) What is Mohammed's best course of action in this situation?

Scenario #1 Answers

Facilitator Notes

It is important to note that the answers provided are not the ones that can be suggested. It's important to note that laws are always changing and being redefined. It is also important to note that you are not a lawyer and that anything you say can not be taken as legal advice. It is likely that people will start to ask you question based on their specific incidents/cases. People should be referred to organizations like Justice for Children and Youth or a local legal clinic if they have specific questions about a case.

1) Is Mohammed right in refusing to produce identification, why or why not?

Since Mohammed is not the driver of the car, he is under no obligation to produce identification. However being unwilling to do so may increase the suspicion of the officer toward Mohammed.

2) Can the officer search Mohammed without his consent?

In this case the police have the right to search Mohammed if they believe one of the following:

- they have reason to believe that he is carrying an illegal weapon or one that was used to commit an offence.
- they believe that he is carrying illegal drugs.
- they believe that he is carrying alcohol.

You never have to agree to be searched, but if the police search you for any of the reasons listed above, you should not try and stop them. If you believe that you are being searched illegally or without good reason, tell the police you object to the search and talk to a lawyer as soon as possible.

Facilitator Notes

A commonly asked question involves “when can Police strip search a person?” You should have to take your clothes off in a public place or in front of someone of the opposite sex. If the Police ask you to agree to be stripped searched, you should tell them you wish to speak to a lawyer right away.

3) What is Mohammed's best course of action in this situation?

Mohammed should continually state his refusal to be identified and/ or searched. If the Police continue their efforts to search Mohammed should not physically resist the police. He should mentally note as many details as possible. Badge numbers, squad car numbers, time of day, description of the officer, what was said, etc.

Scenario #2

John, Mark and Julio are 16 years old and play ball hockey on Friday nights in a local league run by the community centre. One Friday night Mark is in a pushing match with another player, but the officials quickly break it up. After the game while at a local restaurant Mark sees the other player he almost fought with. Mark confronts the other player and a fight starts in the restaurant, which spills out onto the street. John and Julio also participate in the fight and the other player is badly injured and spends several months recovering from the attack.

All three are convicted of assault causing bodily harm. For Mark this is the second time he has been convicted of the crime, the first time for a fight that happened outside of school when he was 14. At the sentencing the Crown Attorney asks that all the young men be sentenced as adults because of the serious nature of this crime.

- 1) Is the Crown Attorney allowed to ask for an adult sentence?
- 2) Will the fact that this is Mark's second conviction for the same crime be a factor in the sentencing?
- 3) What are the alternative options facing all three in sentencing?

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Scenario #2 Answers

- 1) Is the Crown Attorney allowed to ask for an adult sentence?

If the crime is of a serious enough nature the Crown Attorney may make an application to a judge to have the young offenders sentenced as adults. It is up to the Crown to prove to the judge that this is in the best interest of the parties involved and serves a public good.

- 2) Will the fact that this is Mark's second conviction for the same crime be a factor in the sentencing?

Yes

- 3) What is the alternative options facing all three in sentencing?

Scenario #3

Lisa and Roxanne are both 14 and have been arrested for shoplifting from their local mall. For Lisa this is her second time being charged with the same offence in the past three months. While at the station the Police tell Roxanne that “they know that the theft was Lisa’s idea and that it would go a lot easier if she just told them the details of what happened.” Roxanne is upset and scared she knows her parent’s will be really upset with her and would want her to cooperate with the police fully and saying or doing whatever they say. Roxanne knows that this is her first time in trouble with the law and courts will go easy on her. Roxanne is planning to plead guilty just to “get it over with” and say what the police want her to say.

- 1) Are the police allowed to tell Roxanne ‘they know that the theft was Lisa’s idea?’
- 2) Is it a mistake for Roxanne to confess?
- 3) Who should Roxanne talk to first, more importantly who should Roxanne tell the truth to?

Scenario #3 Answers

1) Are the police allowed to tell Roxanne ‘they know that the theft was Lisa’s idea?’
Yes, the Police are allowed to lie to Roxanne.

2) Is it a mistake for Roxanne to confess?
Yes, it’s a mistake for Roxanne to plead guilty in order to get it over with. There is no guarantee that the courts will go lightly on Roxanne because she pleads guilty.

3) Who should Roxanne talk to first, more importantly who should Roxanne tell the truth to?
Roxanne should speak to her lawyer first and tell her lawyer the full truth. Her lawyer is there to work in her best interest, not her parents, not the courts, but Roxanne’s.

Scenario #4

Carlos and Chung have been arrested for breaking and entering and possession of stolen property. Carlos has called his parents and Chung has called his older cousin Tim for help. Alone at the station Chung tells Tim that the break and enter was his idea and that he's scared that Carlos will tell the police. Chung further says that if this happens he will blame Carlos for everything.

Two Weeks before the trial is set Tim receives a subpoena to be a witness for the Crown Attorney and testify as to what Chung has told him. Chung feels betrayed and can't understand why his cousin is turning against him.

- 1) Was Chung right in telling Tim whose idea the crime was?
- 2) Who should have Chung discussed his case with?
- 3) Can Tim refuse to testify at court?

Scenario #4 Answers

1) Was Chung right in telling Tim whose idea the crime was?
NO, anyone (except your lawyer) can be called to court to testify about what they know about the crime in question.

2) Who should have Chung discussed his case with?
Chung should have discussed his case with his lawyer

3) Can Tim refuse to testify at court?
No

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References:

“What’s New in Youth Justice?” Community Legal Education Ontario (CLEO) April 2002

“Talking to Police: Why do you need a Lawyer?” CLEO, April 2002

“What’s the Big deal about Court Orders” Cleo, April 2002

“My Child is in Trouble with the Law / What can I do to help?” CLEO, March 2002.

“Your guide to making a Police Complaint” Community Legal Aid Service Program (CLASP), 2004.

“Series of wallet-sized rights cards” Justice for Children & Youth (JFCY) 2000