

HANDOUT 2: Legal Rights for Youth

Stopped on the Street

You do not have to give the police officer your name and address if you are just walking (it is different if you are driving). However, it is a good idea to be courteous and give your name and address.

You do not have to give the police officer your age, but it is a good idea to do so as it lets the officer know that you are a youth. After you have been courteous and given your name, address, and age, you do not have to give any other information to police. You can tell the police officer, "I want to remain silent."



You can be detained (held by police) for a short period of time if a police officer or other person believes you may be involved in a crime. If you are "detained" you are not free to go until the police say so.

If you ask, "Am I free to go?" and the police officer says no, you are being detained. You have the right to be told why you are being detained. Remember the reason the police officer gives you, if he or she gives you one. Get the badge number or name of the police officer so that you will have it if you want to make a complaint.

Arrest and /or Detention

You will know if you are under arrest because a police officer has said, "you are under arrest", or has somehow indicated you are not free to go by physically holding you.

If you are under arrest, and the police ask, you must tell them your name and address. You do not have to give the police officer your age, but it is a good idea to do so.

The police must tell you why you are being arrested unless the reason is obvious – remember what they say so you can tell your lawyer. Do not answer any further questions. You can say: "I want to remain silent."

If you are arrested you have rights that the police should tell you about: You have the right to talk to a lawyer before you say anything to police (other than giving your name, address, and age). The right to talk to a lawyer is called the "right to retain and instruct counsel."

You have the right to talk to your parents or guardian before you say anything to police. You have the right to have a lawyer and your parent(s) or another adult with you if the police question you.

Your Rights in a Car

If you are the driver, you must give the police officer your name and address. Also, you must show the police officer your driver's licence, car registration, and insurance.

A passenger in a car does not need to give their name and address if the car is stopped for a driving matter, unless the passenger is involved in a seatbelt violation.

If drugs are involved or there is evidence any other crime has been committed, a passenger in a car must give their name and address as he/she may be a witness to, or suspect in a crime.

When You are taken into Custody

At the police station you have the right:

- Speak to a lawyer and a parent or other adult in private before you say anything
- Have a lawyer and your parents (or other adult) with you when you make a statement to police

What you need to know

If you say anything about the events the police are looking into, you are "making a statement" – saying something police can use in court.

You are even making a statement if you say you don't know anything about what happened, or say you weren't there or you didn't do it.

What you need to do

If you are arrested, phone a lawyer. If you don't have a number for a lawyer, ask the police for a "duty counsel" number. Duty counsel is a lawyer who will give you free legal advice.

- Do not talk to the police before you get advice from a lawyer
- Do not talk to the police without a lawyer present

Extrajudicial measures

An extrajudicial measure is a way of dealing with a youth who has broken the law, instead of going to court. (Extra = outside of; judicial = court). For non-violent offences, police and Crown counsel have the authority to recommend extrajudicial measures if you accept responsibility for the wrongdoing.

Extrajudicial measures mean you get some punishment for your actions but you will not go through the court system. You have to freely agree to participate in an extrajudicial measures program. You have the right to see a lawyer before making that decision.

You might have to:

- Help clean up the damage you caused
- Write a letter of apology to the person who was affected
- See a counsellor to get some help with your behaviour
- Do some hours of community service

If you complete the program you will not get a youth justice court record.

Searches at School

School officials can search you without your consent. This is because while you are in school they are responsible for your safety and well-being (the law says that they “stand in the place of the parent.”). School officials can also search lockers. They must have good reason to do so. Police can search only if they are arresting you, or they have a search warrant, or with your consent. The bottom line is, when you are at school, you and your locker can be searched.

Special Considerations in Sentencing Youth

Aboriginal youth includes Inuit, First Nations, and Métis youth, either on or off reserve. The justice system recognizes that in the past young Aboriginal people have not been treated fairly by the justice system.

The circumstances of Aboriginal youth must be taken into account when they are sentenced. Where it is appropriate, the judge may give youth a sentence that involves support and supervision in the community. The sentence is meant to help the youth grow up and be a responsible member of the community.

At the Border

The time your youth record lasts has nothing to do with turning 18. How old you are when your record is closed depends on how old you were when you were sentenced, and how long the sentence lasted. There are time periods that apply. At the end of these time periods youth records are closed (“sealed”) and cannot be disclosed to anyone. Youth are no longer regarded as having committed any offence.

This is different from adult records that are permanent. If you have an open or closed youth record, speak to a lawyer who has experience in youth criminal law before you go to the United States or other countries. You cannot assume that the United States will not know about your record. It is only in Canada that the law says that a youth record has to be closed after a certain period of time.

Other countries follow their own laws, not those of Canada. If another country knows about your youth record, they could keep it in their computer forever.