

Publication & Records

Protection of Privacy of Young Persons

While court sessions are usually open to the public, under the Youth Criminal Justice Act, youth are protected from having their names and other identifying information published in the media. However, there are two cases where the young persons name may be published:

- 1) In cases where the young person receives an adult sentence
- 2) In cases where the young person is at large in the community and may be a danger to others, the youth's name may be published for five days in order to assist the police in finding and apprehending the person.

Youth are also protected from having their names and other identifying information published as the victim or witness of an offense committed by a youth.

Technology Research Activity:

Find examples in the media where youths names have *not* been published because of the protection the Youth criminal Justice Act offers. Use the search capabilities offered by your regional newspaper or television station website. Try combined search terms and quotations to narrow your search like the following:

- 1) Record any other search terms you use:
- 2) Identify the source and briefly describe one of the cases you read about.

Name of Website:

Story Title/Headline:

Date of Story:

Date Accessed:

Url: *http://*

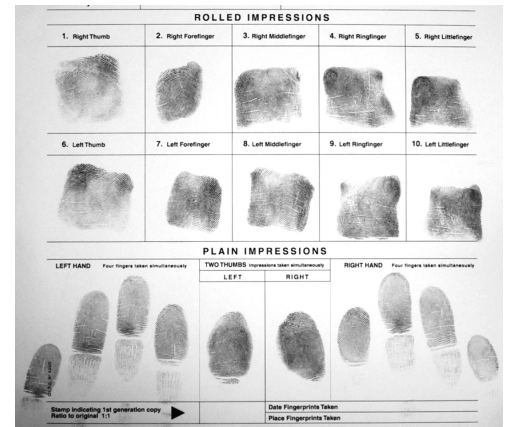
Description of case:

- 3) In this case, what could the impact of publishing the youth's or youths' name(s) be?

- 4) Why do you think the protection of an automatic publication ban is offered for youth and not for adults?

Fingerprints and Photographs

Anyone who is being charged with a potentially indictable offense, will be fingerprinted and photographed. Youth may be fingerprinted and photographed following the same criteria that is applied to the fingerprinting and photographing of adults (this information is in the *Identification of Criminals Act*).



Records That May Be Kept

In the media one often hears the term “Criminal Record.” In Canada, a number of types of record are kept such as:

- Court records, which record proceedings in court.
- Police records, which may be records kept within a local police jurisdiction or within a national police database. Individual jurisdictions may keep a record of contacts with youth and may keep information about extrajudicial sanctions. The CPIC (the Canadian Police Information Centre) database is a national database that contains information, including fingerprints and photographs, on people charged with hybrid and indictable offences.
- Other information may be kept by various organizations for the carrying out of sentencing and by government organizations for statistical and program evaluation purposes.

Access to Records

Youth records are accessible by the young offender, their lawyer, the court and those directly involved in the sentencing and supervision process. They are also accessible by the victim, the youth’s parents, police, a person acting under the firearms act, statistics Canada for statistical purposes, and government offices for the purposes of a criminal records check. A court may also offer access to others upon special application if the court feels that this access is beneficial.

An employer or volunteer organization may request a potential employee or volunteer to submit a **police security clearance check** or a **vulnerable sector search** prior to commencing employment or volunteering. The applicant needs to apply for the security clearance check or vulnerable sector search and sign a waiver to allow for this information to be released to the employer or volunteer organization. Information from the courts database, local police database, and CPIC database may be used in these searches. The searches may reveal past and current convictions, extrajudicial sanctions, as well as upcoming court appearances.

Disclosure of Information in a Record

Information in a record may be disclosed to police officers, co-accused and their counsel, foreign states (under Mutual Assistance and Extradition programs), insurance companies investigating a related claim, for preparation of reports under the act, and to schools to ensure compliance, school safety and rehabilitation. The court may also disclose this information to an applicant in the case of offences involving personal injury, where the young person may cause harm, and where this disclosure can reduce this risk of harm.

Disposition or Destruction and Prohibition on Use of Records

Upon expiry of a record, the record is physically destroyed or deleted unless it is transferred to the provincial or national archives, where it may only be accessed by the archivists. Information which may be used to match crime scene information is kept in the same manner as for pardoned adults.

Sentence Access Periods

Sentences each have different access periods, outlined in the following table.

Type of Sentence	Length of Access to Record
Extrajudicial Sanction	Two years after the sanction is agreed to.
Acquittal	Two months after the expiry of time for appeal or three months after an appeal is completed.
Dismissal, Withdrawal of Charges, Reprimand	Two months after dismissal, withdrawal or reprimand.
Stay in Charges (a stay is where a charge is left open, but proceedings against the person do not continue. The process may continue at any time during the stay, which can last for a period of one year.)	At the end of the stay (a stay may last for a period of one year).
Absolute Discharge	One year after the youth is found guilty.
Conditional Discharge	Three years after the youth is found guilty.
Summary Conviction	Three years after the sentence is completed.
Indictable Offence	Five years after the sentence is completed (Access to RCMP records continue for another five years in the case of indictable offences and can remain for life. In the case of presumptive offences, however, this access is limited to the individual involved, their lawyer, law enforcement officers, the courts and a person acting under the firearms act, and statistics Canada for statistical purposes).

Prohibition Orders may exceed the lengths of time listed above. Even if the record above is purged, the prohibition may continue until the designated expiry date.

Additional offences may continue the access period of charges which are not inactive until the expiry of the new charges. If the youth commits an offence as an adult before the expiry of access period for the youth charges, the youth charges become part of their adult record, are treated as though the offences were committed as an adult for the determination of future sentencing, and are subject to the conditions which apply to receiving a pardon.

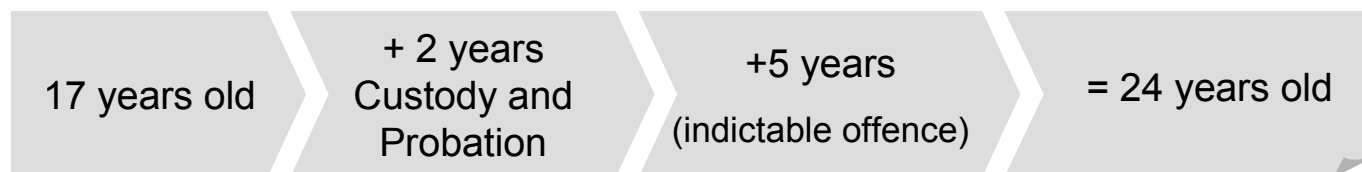
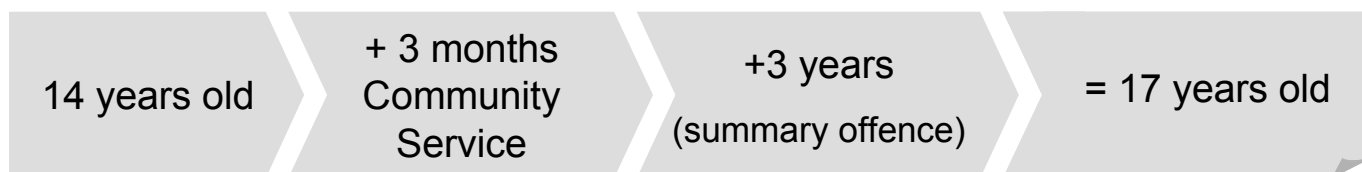
Questions: Costs vs. Benefits

Why do you think access periods to youth records are limited? What are the benefits?

What are the costs of limited access periods? How are these costs managed or minimized?

Impact of a Youth Record

Having a youth criminal record can impact an individual in a number of ways. Records can persist into adulthood for a number of years. An extrajudicial sanction received at age 17 would be on record until age 19. A record obtained at age 14 could last until that person is 17 (3 months community service, +3 year record for a summary offence, plus the time it takes for the offence to come to trial). A record for several indictable offences may last from age 17 until age 24+ (2 years sentence, +5 year record, +time for the court process). Adult sentences would exceed these times.



An Adult Record Can Last Forever

Various jobs, professions, educational programs and volunteer organizations require a police security clearance before employment or entry into a program. You may also be refused a visa to enter many countries or may need to apply for special permission to enter, even after your record has expired. For some countries this special permission costs several hundred dollars and can take in excess of six months to receive. As different countries have different regulations and may treat a youth record differently than an adult record, it is best to inquire at your nearest consulate or embassy before traveling with a record.

A record can affect your opportunities for:

- work***
- education***
- volunteer experience***
- travel***

How Might a Youth Record Impact Your Future Plans?

Make a sketch, collage, or poster that represents where you would like to be and what you would like to be doing in 10 years? (Show work, travel, family, school, and community involvement)



1) How did you accomplish this goal? What are the steps along the way?

2) How could having a youth record impact you achieving this goal? How else might your opportunities to work, obtain an education, volunteer and travel be affected in the next 10 years?

3) Why do you think the Youth Criminal Justice Act has limits the amount of time that a youth record may be accessed?

4) Question for discussion and debate: *“Are the record access periods too long and overly punitive or too short to hold youth accountable for their actions?”*