

CHAPTER 2

To what extent is the justice system fair and equitable for youth?

fair and equitable: governed by rules that apply to everyone, taking into account individual needs and circumstances

justice: applying laws

justice system: the institutions and procedures for applying laws in a society

Crime damages property, and harms people and communities. It has a negative effect on quality of life. **Think critically:** How can the justice system change this? What goals should it have?

Imagine this scenario. You and a friend are hanging around the local store after school. You accidentally break a window. The storeowner calls the police, who arrest you and want to charge you with vandalism. How would you want this situation to turn out? What would be just?

Chapter 2 explores the extent to which Canada's **justice system** is **fair and equitable**. **How effectively does it protect society, protect the innocent, and ensure that those who break the law face appropriate consequences?** The justice system is an important aspect of governance in Canada, and Canadians have different views and perspectives about how **justice** should be served. One of the fundamental principles of justice in Canada and other democratic countries is that a person is assumed innocent until proven guilty.

This chapter focuses on youth justice, because this is the part of the justice system that directly affects Grade 9 students. The questions of fairness and equity you will wrestle with, however, are the same for the justice system as a whole.

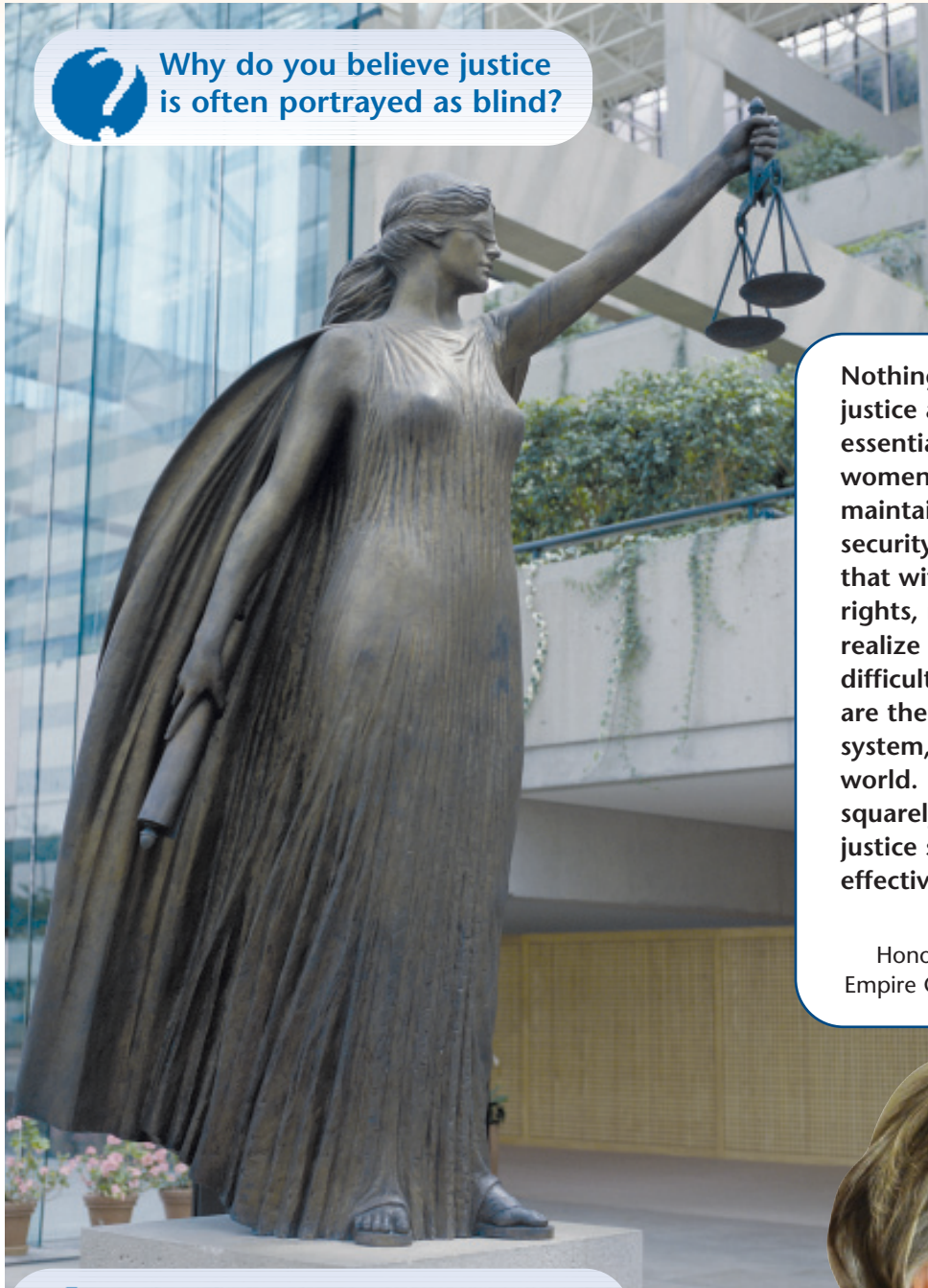
As you work through the chapter, think about the challenges and opportunities citizens face to shape what *justice* means, and the impact it has on their identity and quality of life.

As you work through the activities in this chapter, think about what parts of the justice system, in your opinion, are fair or should be changed.

FOCUS QUESTIONS

- How do Canada's justice system and the Youth Criminal Justice Act attempt to treat young offenders fairly and equitably?
- What role do Canadian citizens and organizations play in the fairness and equity of Canada's justice system for youth?

What issues could the evidence on this page communicate?



Why do you believe justice is often portrayed as blind?

This photo shows the statue of justice at the courthouse in Vancouver, B.C. The statue is blindfolded and holds a scale, or balance. Think about being accused of a crime, such as vandalism. In what way would you want justice to be “blind”? What would you want justice to weigh in the balance?

Nothing is more important than justice and a just society. It is essential to the flourishing of men, women and children and to maintaining social stability and security. In this country, we realize that without justice, we have no rights, no peace, no prosperity. We realize that, once lost, justice is difficult to reinstate. We in Canada are the inheritors of a good justice system, one that is the envy of the world. Let us face our challenges squarely and thus ensure that our justice system remains strong and effective.

— From remarks by the Right Honourable Beverly McLachlin to the Empire Club of Canada, March 8, 2007.



What challenges to the justice system do you think Justice McLachlin is referring to?



In a just society, laws are applied fairly and consistently. Do you agree with Justice McLachlin’s statement that “nothing is more important than justice and a just society”? Why or why not?



Beverly McLachlin was appointed Chief Justice of the Supreme Court of Canada in 2000.



legislation: laws created through the legislative process

Create a multimedia presentation sharing your position on youth justice issues.

Your Role

The Minister of Justice is holding a forum to raise awareness about the Youth Criminal Justice Act and the youth justice system. He is inviting students to participate in the forum by researching and making a multimedia presentation sharing their views on issues related to youth justice.

Your research and presentation should answer the question:

Should the justice system be harder on youths who commit crimes?

Your Presentation

Your multimedia presentation should focus on how the justice system should treat young people who commit crimes.

- An understanding of the **legislation** that affects young offenders.
- Knowledge of views and perspectives on justice for young offenders.
- A statement of your position before and after your research.

Understanding the views of others, and sharing your opinions with legislators, is one way to influence government decision making that affects the quality of life of everyone in Canada. Make your views known!

Before I learn more about a topic I usually think my opinion is correct and I have to remind myself that other people have their own beliefs about the topic too.



If you're like me, sometimes I don't know about a topic. So, I have to research it to find out more. I question what other people say to get a better idea of what they are talking about.



Let's get started!

Should the justice system be harder on youths who commit crimes? What is your position on this issue? What might be some other views and perspectives on this issue? How do you determine their **validity**? For the chapter task you will be comparing your position on the issue with the research you gather.

Try this to help you get started.

<p>Before Research</p> <p>Question: Should the justice system be harder on youths who commit crimes?</p>	<p>Share the position you have now, before research, with your classmates. Are their positions the same or different? Which views, in your opinion, are valid? Are you surprised by any of their reasons? Did you find out something that you didn't know before? Do their views change your opinion?</p>
<p>My Position</p> <p>I believe that...</p>	
<p>Reasons</p> <p>The reasons supporting my position are...</p>	



validity: reliability, based on a critical assessment of source, facts and bias

As you work through the chapter, you will have many opportunities to learn new information and views, determine their validity, and maybe even change your position. Use an organizer like the one below to help you collect evidence and ideas.

<p>Research</p> <p><i>This is what I found out about the Youth Criminal Justice Act...</i></p> <p><i>These are the views and perspectives that I discovered...</i></p> <p><i>This information is valid/not valid because...</i></p> <p>My Position on the Issue Now</p> <p><i>I believe that...</i></p> <p>What Happened After Research</p> <p><i>My position has:</i></p> <p><input type="checkbox"/> <i>Changed</i> <input type="checkbox"/> <i>Stayed the same</i> <i>because...</i></p>

How do Canada's justice system and the Youth Criminal Justice Act attempt to treat young offenders fairly and equitably?

WHAT'S IN THIS SECTION

In this section, you will read about Canada's youth justice system and how it deals with young people who break the law. You will find:

- A true story about a girl who broke the law and what happened when she entered the justice system.
- The objectives of the Youth Criminal Justice Act (YCJA). This important piece of legislation affects all young people who come into conflict with the law.
- News articles that reflect different views on the effectiveness of the youth justice system.
- Statistics that illustrate trends related to youth crime.

What are you looking for?

As you read the section, look for:

- The steps involved when a young person enters the justice system.
- The type of justice that the system determines will best meet the needs of the young offender, the victim and the community.
- The advantages and disadvantages of the YCJA and areas that, in your opinion, should be changed.
- The ways in which the justice system is fair and equitable when dealing with young offenders.

An Edmonton hockey fan kicks a burning phone booth during a riot following a playoff game in 2006. Police arrested many people — youths and adults, bystanders and others — to stop the rioting in the interests of public safety. **Think critically: Who should face consequences for incidents like this? What consequences would be just?**



When you get caught breaking the law, you no longer have choices about what happens to you. Other people — the police, lawyers, justice committees and judges — make choices for you. You are...

INSIDE THE JUSTICE SYSTEM

This is the true story of a girl from Alberta, aged 15, who broke the law.



When the alarm went off in the store, me and my friend ran away. The store security officers ran after us and arrested us. They called the police.



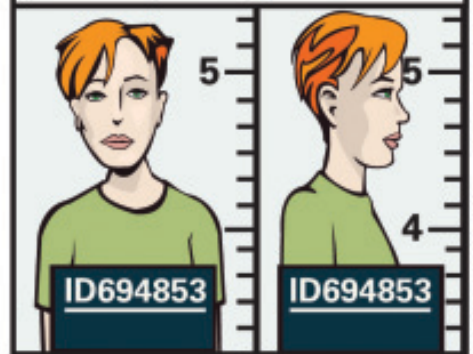
What worried you most about being arrested?

What my parents and friends would think. How mad they would be. And I was really scared that I would go to jail.

What happened next?



The police put us in a cell, and they read us our rights and asked for a statement. After that, our fingerprints and pictures were taken.



If you are arrested, you have the right:

- to remain silent
- to speak to a lawyer parent or guardian
- to have your parents with you during questioning
- to have a lawyer if you go to court

Then they called my parents to come and pick me up.



My parents were so disappointed and upset they didn't know what to say to me.



They all asked questions and I had to explain why I did what I did. They said what they thought I should do and we made a contract.



Why do you think it might be hard for an offender and a victim to face each other ?



What are you doing for your community service?

I'm helping repaint two rooms at a daycare.

Has the justice system treated you fairly, in your opinion?

I think it has been fair, because I had not been in trouble before and I didn't think I deserved to be put in jail. I think I deserved a second chance to show people I am a good person and not a criminal.

Do you agree that the consequences this young offender faced were fair for her and for the person she wronged? Why or why not? What other consequences might she have faced? ?

How have you changed?

I have a different attitude than before. I realize there are serious consequences when you steal, like community service. You also lose your parents' trust, and people don't want you to be around their kids, so you lose friends.

I think it has made me a better person to admit what I did and complete the contract I signed.

In your opinion, what factor had the biggest impact on this young offender's change of attitude? Why? What life lessons can you learn from her story? ?

How are youth justice and adult justice different in Canada?

community service: help in the community performed as part of a sentence, such as assisting with a community clean-up or food bank

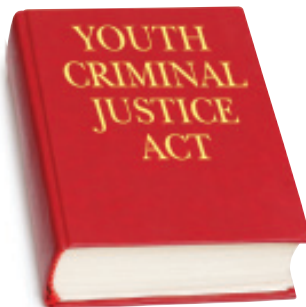
criminal record: a permanent record of breaking the law, which is public information. A criminal record can bar you from some jobs, volunteer positions and travel to other countries.

sentence: a consequence for a crime, such as imprisonment, determined by a court of law

- Canada has different legislation for young people who break the law and for adults who break the law.
- The Youth Criminal Justice Act (YCJA) was passed by parliament in 2003. Canada has had laws like the YCJA — that treat young offenders differently from adult offenders — since the 1890s.

Canada’s Justice System

YOUTH CRIMINAL JUSTICE ACT

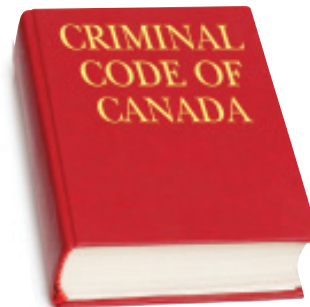


This law defines the consequences young people face for criminal offences.



young offenders

CRIMINAL CODE OF CANADA



This law defines the consequences adults face for criminal offences.



adult offenders



Why do you think a separate justice system is needed for young offenders?

- Deals with 12- to 17- year olds in trouble with the law.
- Allows some young offenders to face consequences such as counselling and **community service**.
- Prohibits adult **sentences** for youths 12 to 14 years of age. Allows adult sentences for young people 14 years of age and older who have committed serious crimes.
- Protects the privacy of young offenders. News media may not publish their names unless they receive an adult sentence.
- Allows most young offenders to avoid a **criminal record**.
- Deals with adults in trouble with the law.
- Makes going to court the usual consequence for breaking the law.
- Defines adult sentences, which can include long periods of imprisonment for some crimes.
- Allows the publication of offenders’ names.
- Creates a criminal record for most offenders.



Based on the information on this page, how would a criminal record affect your quality of life? How might it affect your identity?

connect to the big ideas

1. Reflect back to the story you read about the girl who broke the law on pages 61 to 63. Using an electronic drawing or autoshape tool, create a flow chart of what happened to her inside the justice system. Compare your flow chart with the flow chart on page 66. What path through the justice system for youth did the girl experience? What aspects of her experience would you say are most important in evaluating the fairness and equity of the justice system for youth?

Think about how you use your chart as evidence for your chapter task. **Check page 348 in the Skills Centre for tips on creating charts and diagrams.**



2. You can reflect on what you learn to better evaluate your own thinking. To help you throughout the chapter, use the questions below to check on your thinking.

Hmmm...

YES?

NO?

How will I defend my opinion?

How will I consider the points of view of others?

How will I question statements and seek more evidence?

How will I consider information that could make me change my mind?

How will I revise my position based on what I have learned?

What can I do to be a stronger thinker? I can...



What consequences do young people face when they break the law?

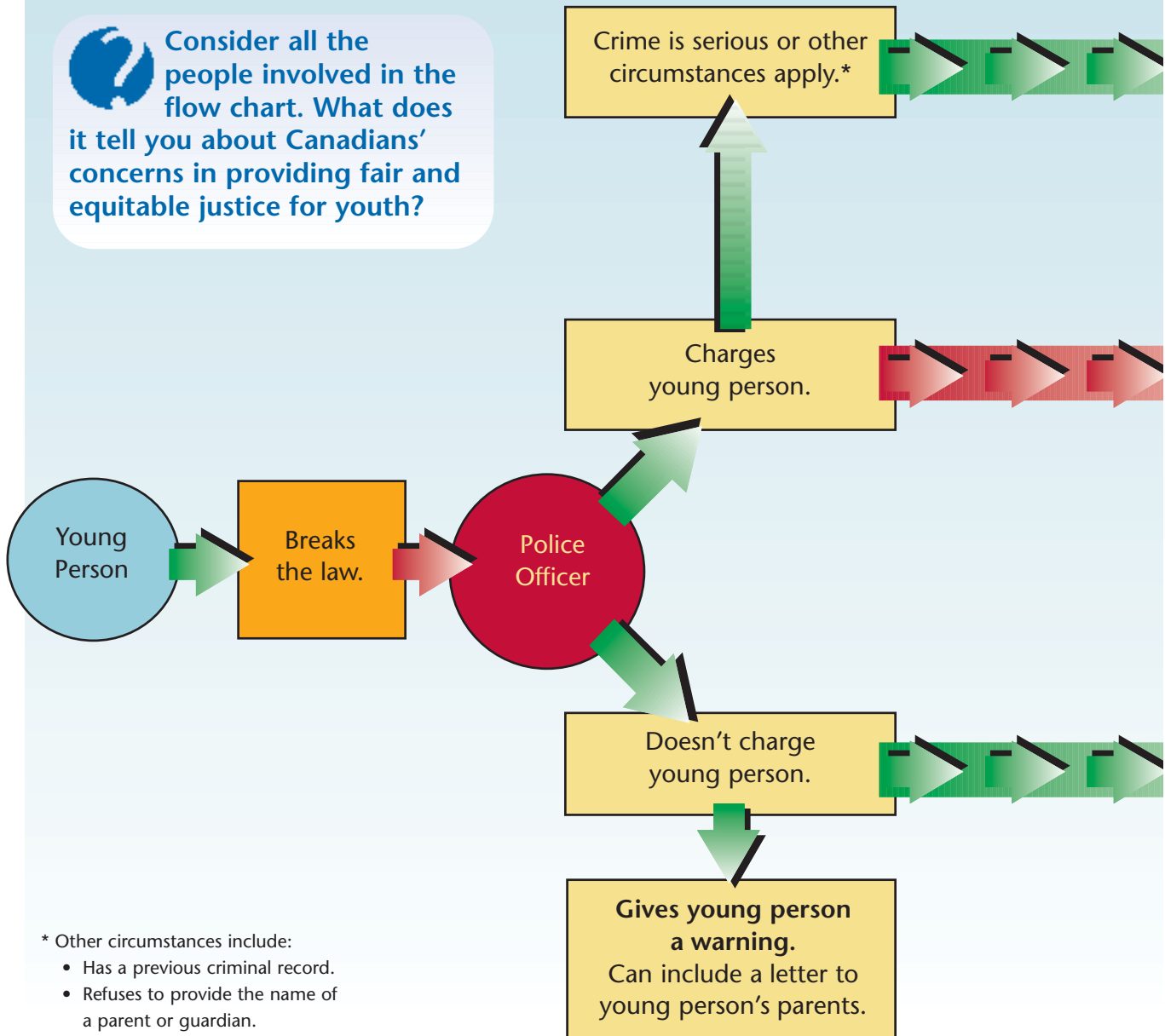
When a young person breaks the law, many agencies and officials in the justice system help decide what happens. The flow chart on this page shows the possible consequences.



If two young people of the same age commit the same crime, would you expect them to face the same consequences? Under the YCJA, they may or they may not. To what extent is this approach to justice equitable?



Consider all the people involved in the flow chart. What does it tell you about Canadians' concerns in providing fair and equitable justice for youth?



* Other circumstances include:

- Has a previous criminal record.
- Refuses to provide the name of a parent or guardian.

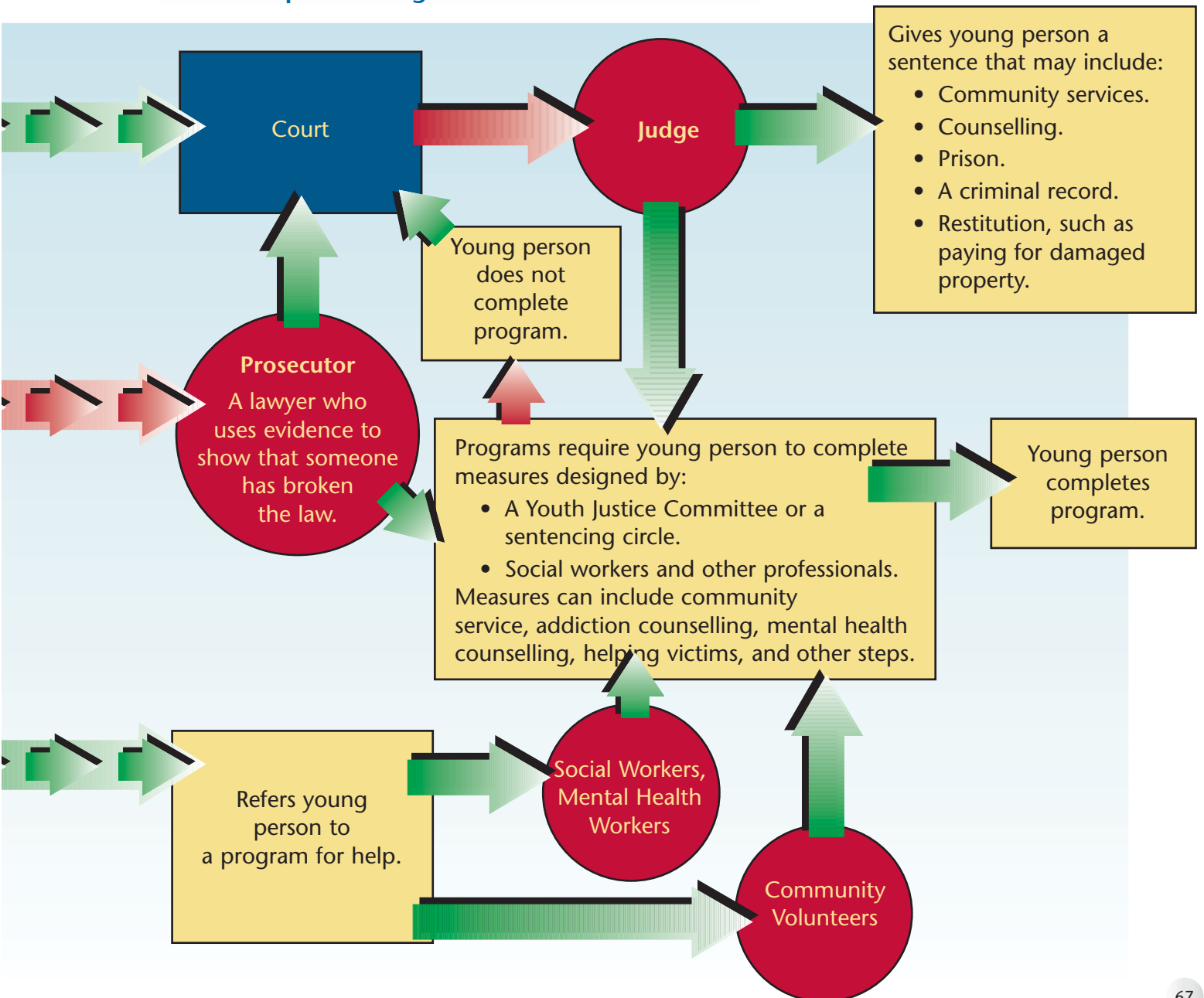
Before the YCJA, every young person who broke the law was charged and went to court. This often meant:

- Young offenders did not face consequences for a long time, because the courts are busy with many cases and offenders.
- The consequences did not always connect back to the people and communities the offence affected.



CRITICAL THINKING

CHALLENGE If you do something wrong, how important is it to receive consequences quickly? Why? How important is it to make up for wrong actions that affect others?



WHAT FACTORS DETERMINE THE CONSEQUENCES YOUNG OFFENDERS FACE?

The YCJA allows police, prosecutors, judges, and volunteers and professionals from the community to decide what happens to each young offender. They consider factors such as:

- The seriousness of the offence. For example, a violent offence is more serious than a non-violent offence.
- The history of the young person. Someone who's been in trouble before may face more serious consequences than a first-time offender.
- The attitude of the young person. A young person who takes responsibility for their actions will face less serious consequences than someone who does not.
- The circumstances of the young person. For example, a young person's actions may relate to substance abuse, or to a situation they face at home or in their community. They may need support from a social worker more than consequences from the justice system.



In your opinion, to what extent should the law apply equally to everyone, no matter what their circumstances? Why?

Police officers across Canada, including the RCMP, work to educate young people about the law. They often act as coaches and mentors. **Think critically: How might this work affect the fairness of the justice system, in your opinion?**



Inside the YCJA

An Interview with Anne McLellan

Q: Why does the YCJA establish a difference between young offenders and adult offenders?

Young people, up to a certain age, should not be treated as adults. They do not understand their actions in the same way we expect of adults. When you talk to young people, and study their reactions and responses to situations, they're different than adults. They are still in the process of forming their views. Also, a young person who has committed a crime has a better chance of changing their life than an adult criminal.

Q: What do you think every young person should know about the YCJA?

That it's serious stuff. If you harm somebody or destroy something, you will face consequences. The Youth Criminal Justice Act sets out those consequences. We can discuss whether the consequences are too soft or too harsh, but there are consequences.

Q: Should young people contribute their ideas to youth justice?

I think it's key. When we created the Youth Criminal Justice Act, we brought together a large group of young people from across the country, from different backgrounds. Some had broken the law and experienced the justice system. Some were leaders in their schools. We wanted to hear how they saw their responsibilities and how they thought society should treat young people. They had things to say about when schools should deal with situations and when courts needed to deal with them.

Young people can make a real contribution as volunteers in their schools, taking up the challenge of working with those who have broken rules or codes of conduct. It benefits the people who have broken the rules and it benefits the volunteers, too. It makes the issue of breaking rules a shared responsibility. That's how, as a society, we should be dealing with issues.



Do you agree that young people do not understand their actions in the same way as adults? Why or why not?



Anne McLellan was Canada's Minister of Justice in 2003 when the YCJA became law. She helped write the act and defended it during debates in the House of Commons. **Think critically: Why might it be useful to know what Anne McLellan has to say about the YCJA and youth justice?**



Anne McLellan makes some suggestions about how young people can get involved with youth justice. In your opinion, how might this make the justice system work better?

What are the objectives of the YCJA?

WHAT THE YCJA SAYS

The following principles apply in the Youth Criminal Justice Act:

(a) the youth criminal justice system is intended to

(i) prevent crime by addressing the circumstances underlying a young person’s offending behaviour,

(ii) **rehabilitate** young persons who commit offences and **reintegrate** them into society, and

(iii) ensure that a young person is subject to meaningful consequences for his or her offence in order to promote the long-term protection of society.

(b) the criminal justice system for young persons must be separate from that of adults and [recognize]... their reduced level of maturity.

WHAT IT MEANS



For example, a young person may need counselling for alcohol or drug abuse, or help coping with a family situation.

This means providing young offenders with the skills to make positive choices in future, and to help them find positive ways to participate in their community — for example, by joining a sports team or a community-action group.

For example, if a young person damages someone’s property, they should explain themselves to the person they wronged, and repair or replace the property.

Young offenders are not as responsible for their actions as adults and should not face the same consequences as adults.

rehabilitate: to instill positive behaviours and attitudes

reintegrate: to make part of again



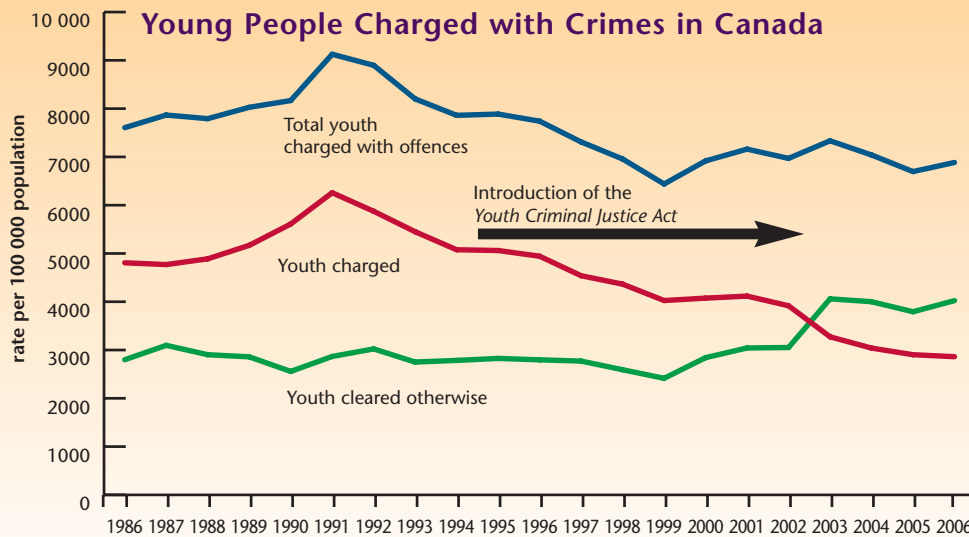
How does each objective of the YCJA strive to achieve justice for young people? For victims? For the community?

Police forces across Canada — whether they are local, provincial or federal — are responsible for upholding the YCJA. These police officers in Calgary work to stay informed about the circumstances of young people. **Think critically:** To what extent should individual circumstances affect justice?



HOW HAS THE YCJA AFFECTED THE NUMBER OF YOUTHS CHARGED WITH CRIMES?

Under the YCJA, fewer young people are charged with breaking the law because the police can give young offenders other consequences. Based on the graph, how effective is this strategy?



DID YOU KNOW?

Most young offenders get into trouble with the law only once. But, the younger a person is when they first break the law, the more likely they are to break the law again.

— Statistics Canada study, 2005.

connect to the big ideas

1. Think about the process for dealing with young offenders. Using a rating scale, to what extent do you think this process is fair and equitable? What do you think should be added to the process or changed?

Extremely Fair and Equitable

Not Fair and Equitable

Support your rating with evidence. You can use your conclusions as a step towards completing your chapter task.

2. Consider each objective of the YCJA. Who does each objective affect most: young offenders, victims, or everyone in society? Why? Use a chart like the one below to organize and reflect on your ideas. Make any changes or additions that you feel are needed.

Objective	Who It Affects Most	Reasons Why

Are the consequences for young offenders appropriate?

As these newspaper articles show, Canadians have different opinions about how the justice system should deal with young offenders. What is the main idea of each article? What does it say about the fairness and equity of the justice system?



Vic Toews, a former minister of justice with the Conservative government, suggested lowering the age when children could be charged under the Youth Criminal Justice Act from 12 years old to 10 years old. The suggestion came from the Conservative Party's policy to "crack down on crime."

Automatic adult jail terms eyed for youth?

CanWest News Service, February 5, 2007

The Conservative government plans to introduce a bill to treat young offenders more harshly. The planned changes to the Youth Criminal Justice Act aim "to hold young lawbreakers accountable to their victims and the community."

Genevieve Breton, a spokeswoman for Justice Minister Rob Nicholson commented, "We were elected on a promise to strengthen our criminal justice system, including the Youth Criminal Justice Act."

One change might make it automatic for youths aged 14 and over who are repeat or violent offenders to receive automatic adult sentences. Under the act now, judges decide this on a case-by-case basis.

Another proposed change could affect youths aged 16 and 17 who are charged with serious violent crimes. It would allow publication of their names and give them a permanent criminal record.

— Adapted from an article by Janice Tibbetts.



The first article on this page says harsher sentences would hold young offenders to account for their actions. To what extent to you agree with this statement?

colonialism: the process of establishing colonies, in which a region is claimed and governed by a country from another part of the world



CRITICAL THINKING CHALLENGE

How should respect for identity shape the youth justice system?

Justice System Discriminates Against Aboriginal People

October 16, 2006

OTTAWA — A report released today says that Aboriginal young offenders are jailed at earlier ages and for longer periods of time than non-Aboriginal young offenders. It charges Canada's prison system with routine discrimination, and with failing to respond to Aboriginal people in a culturally appropriate manner.

The report comes from Canada's Correctional Investigator, who monitors Canada's prisons on behalf of the people and government of Canada.

Some First Nations view Canada's justice system as unjust in principle, because they consider it part of a foreign form of governance imposed on them by **colonialism**.

— Based on research into events, views and perspectives.

Justice can be seen to be done

Drayton Valley Western Review, February 6, 2007

I cannot speak for what happens in courtrooms outside of Drayton Valley because I've never been to one. But I have spent time covering court in this town and the opinion that young offenders automatically get off easy is as bogus as a \$3 bill.

A big complaint is that the justice system does not take the needs of the victim into account. But in a recent case in Drayton Valley, an offender was ordered to pay \$25 000 to the victim. Again, I can only speak to what happens in Drayton Valley, but I'm here to tell you that victims' needs appear to be the first priority of the court.

There's no need to take my word for any of this. Courtrooms across the country are open so the public can go and watch the administration of justice. If you're concerned about crime in the community, I'd encourage you to go and see for yourself.

— Adapted from an article by Graham Long.



What makes youth justice fair, in Mr. Long's opinion?



How do crimes affect the quality of life and identity of victims? To what extent are these important factors in determining consequences for young offenders?

Identify violent youth offenders

In a tragedy that defies understanding, a 13-year-old girl is convicted of three counts of murder.

The details of the crime were deeply disturbing to hear.

But there's one very basic, crucial fact that the public cannot know and that's the name of the killer. Under the Youth Criminal Justice Act, the girl's name cannot be published.

The act aims to protect young people from the full glare of publicity that would hurt their chances of returning to the community. That approach is especially appropriate where the crime is a single case of shoplifting or vandalism.

But the public is not well served when it cannot know the name of the convicted teen in cases of the worst violence. In those cases, the community has a lot at stake, including public safety.

Canada's lawmakers should review the act. Protecting the identity of a convicted murderer does not serve the community or the cause of justice.

— An abbreviated version of an editorial in the *Edmonton Journal*, July 11, 2007



In your opinion, which is more important: the privacy of young offenders or public safety? Why?



SPOT AND RESPOND

TO THE ISSUE

What are the issues in the articles on page 72 and 73? What opportunities and challenges does the justice system create for building a society where people with different views, perspectives and identities belong? Refer to the steps in **Spot and Respond to the Issue** on pages 12 and 13.

HOW TO READ A POLITICAL CARTOON

Political cartoons convey an opinion about a topic. They are a type of persuasive communication. Most political cartoons use humour for serious purposes: to make points about public figures, government decisions, or news events.

Here are some steps for reading political cartoons.

What symbols does the cartoon use?

Cartoons use symbols, such as carefully chosen objects and people, to stand for ideas. In this cartoon, there is a jail for young offenders and a young person. The youth justice system sometimes puts young people in jail when they break the law — so maybe the jail stands for the youth justice system. The young person has been in the jail, so maybe he stands for young offenders.

What situation does the cartoon show?

Cartoons set up situations and exaggerate aspects of events to make points about issues. The footprints indicate that someone has put the young person in the jail, and that the young person has easily walked out again. The bars in the jail are too widely spaced to stop him. What does the young person's expression communicate about his attitude?

What's the message?

The message of a cartoon is the main idea or point the artist is communicating about an issue. Try describing the situation in the cartoon in one sentence. For example, you could say, "The jail hasn't stopped the young person." Then say the sentence again, but this time use words to describe the symbols: "The youth justice system doesn't stop young offenders."



What do you think of the message of this cartoon?



With computer-generated or hand-drawn graphics, create your own political cartoon on an issue related to youth justice. *Refer to the Skills Centre on page 373 for tips on creating political cartoons.* Share your cartoon with a partner. How do your issues and presentations compare? Submit your cartoon to the school or local newsletter.



connect  to the big ideas

1. E-mail or write a letter to the Minister of Justice about your position on the YCJA. Consider this question: Should the YCJA be changed to be more fair and equitable for young people? Use a chart like the one below to help you organize your ideas.



My Conclusion:

I think...

BECAUSE...

2. As a challenge, role-play a scenario where a young person has broken the law and entered the justice system. Think about the consequence that he or she should receive. Consider these scenarios in your role-play:
 - 14-year-olds charged with bullying another student.
 - A 17-year-old and a thirteen-year-old charged with assault.
 - 15-year-olds charged with vandalism.
3. As a challenge, scan both online and print news sources for articles about young people charged with crimes. Summarize the information from each source, and look for similarities and differences. Do any of these articles change your opinion about youth justice? Why or why not? How could you use the articles as evidence for your chapter task?



Determining Validity and Authority of Information

In this chapter so far, you have learned about the YCJA, and considered views and perspectives on issues related to youth justice. **What additional information have you found on the Internet, and from books, newspapers and other sources? How will you determine what information to use for your chapter task?**

You need to sort out sources with authority to speak about the topic of youth justice. You need to identify information that is valid and accurate.

I like to be aware of types of information. I check to see if it's a primary or secondary source, and I look at what purpose it serves. I think about whether it's accurate, and how I could confirm what it says. Information supports your views and ideas, so it's important to know what information you can rely on.



HOW DO YOU DETERMINE THE VALIDITY OF INFORMATION?

Basically, when I assess if a source of information is valid, I consider whether it is weak, strong or biased. I look for how much fact it contains, and how much emotional language. I think about how it might change my position on an issue.



What you know about the views and perspectives of others affects who you are towards others — who you are as a citizen. So, I check the people and information the source quotes, and whether the people are speaking about their own identity. I check to see if the source includes people of different identities.



Try this!

To help you gather more research for your chapter task, try these activities to evaluate views, perspectives and information on the question: Should the justice system be harder on youths who commit crimes?

Use the checklist below to help you determine the authority and validity of the information you find.

Determining Validity and Authority of Information

Checklist	Interview a family or community member for their opinions on whether the justice system should be harder on youths who commit crimes.	Scan local and national newspapers and magazines for information related to youth justice issues.	Conduct a search of websites dealing with the YCJA and youth crime.
Does the speaker have experience or qualifications to speak about the topic?			
Does the information come from a reputable source?			
Does the source/ information state facts, opinions or bias?			
Does the source/ information represent balanced points of view and perspectives?			
Does the source/ information meet your research needs?			

Think critically: Why are interviews an effective way to gather information?



What role do Canadian citizens and organizations play in the fairness and equity of Canada's justice system for youth?

WHAT'S IN THIS SECTION

In this section, you will read about how citizens participate in the justice system to help make it fair and equitable. You will find:

- A true story of one citizen who was chosen for jury duty.
- A description of two groups that work with people in trouble with the law.
- An interview with Elders about their perspectives on justice.

What are you looking for?

As you read the section, look for:

- The roles and responsibilities of citizens in the justice system, including the roles of jurors, advocates and Elders.
- Opinions about problems with the justice system and suggestions for how to reduce crime.

These students in Ontario visited a courtroom as part of a program with their school district to learn about the justice system. **Think critically:** How important is it to know the responsibilities of citizens in the justice system, in your opinion?



What responsibilities do jurors have?

What's a jury?

- Under the YCJA, a person 14 years of age or older may choose to be tried by a judge and jury for certain serious offences, such as assault or murder.
- For these offences, juries always have twelve people and all twelve must agree on the verdict. Their decision must be unanimous.
- Anyone 18 years of age and older who is a Canadian citizen is eligible for jury duty, with some exceptions. For example, people convicted of some crimes are not eligible.
- Serving on juries is considered a duty of Canadian citizens.
- If you are summoned to jury duty, it's your responsibility to appear at the courthouse on time. You must make whatever arrangements are necessary for transportation, time off work or classes, and rebooking appointments.
- Employers have to give you time off for jury duty, but don't have to pay you.
- People are excused from jury duty only if they can demonstrate that it would cause them undue hardship.



CRITICAL THINKING CHALLENGE

What advantages and disadvantages might a jury have for an accused person?



To what extent are the rules for jury duty fair and equitable, in your opinion? What factors do you need to consider?

DID YOU KNOW?

Here are some terms jurors need to know.

Defence

The defence includes the evidence that supports the innocence of a person accused of a crime. In a courtroom, the lawyer who represents an accused person presents the defence. The defence can include witnesses, and physical evidence such as DNA samples and objects.

Prosecution

The prosecution includes the evidence that supports the guilt of an accused person.

Sequester

To sequester means to remove from contact. Juries are sequestered to ensure they consider only the evidence presented in the courtroom.

Jurors swear an oath to use only the evidence and the law to reach a verdict. **Think critically:** What does this oath indicate about the impact of jurors on the fairness and equity of the youth justice system?





On Jury Duty

This is the true story of one Albertan who was called to serve on a jury in 2005...

One day, I got a letter telling me, “You have to appear at the law courts for jury duty. If you don’t show up, you’ll face a fine or jail time.” I showed up.

I found myself sitting in a room with about 200 other people. Two lawyers were also there: one for the defence and one for the prosecution.

First, they showed us the accused person, who was there in person, to make sure none of us knew him. Then they began drawing names from a little barrel. Mine was the second name called. When I stood, the lawyers asked me what I did for a living — that was all. First one lawyer, then the other, got to say if they wanted me as a juror. If either had said no, I could have left, but they both said yes. I sat down again and waited. They went through about three dozen people before they had a jury of twelve.

The trial began on a Wednesday morning. We all stood as the judge entered the courtroom and then we each swore an oath to do our duty.

The judge spoke to us for at least fifteen minutes. I remember her saying, “There’s no such thing as ‘not really guilty,’ or ‘kind of guilty.’ It’s either ‘guilty’ or ‘not guilty.’” She told us to remain open-minded when we listened to the evidence. We were not to make judgements until the very end.

We listened to evidence, taking notes constantly, all that day.

Jurors remain anonymous during and after trials, which is why the juror in this story has no name or photograph. **Think critically:** In what way does the anonymity of jurors help or hinder justice?



On Thursday morning, we began deliberating. From that point on, no one was allowed to speak to us — not even the jury guard.

We began by taking a vote. Six of us thought the accused person was guilty, and six thought he was not. I thought, “Uh oh, we’re going to be here for a while.”

We talked over the evidence and drew up a timeline to keep some of the facts straight. Two or three hours later, we took another vote. This time, three said guilty and nine said not guilty.

We had lunch brought in. I think the jury guard was surprised that it was taking us so long. Eventually we had dinner. About 9:00 p.m., we started thinking, “We’re not going to come to a decision tonight.” So we were sequestered. That meant that our jury guard, on behalf of the justice system, had to find a motel.

We were each allowed one phone call before we left for the motel. I wasn’t allowed to speak directly to my husband, Bruce. I had to talk to him through the jury guard. So I said to the guard, “Can you tell Bruce that I’m not coaching soccer tonight? Oh, and can you tell him I love him?” So the guard tells my husband, “Uh, Bruce? I love you.”

They put us on an unmarked bus and drove us to the motel. We each headed off to our own rooms. We couldn’t read the newspaper, our TVs were unplugged, we had no computers — we had no access to the outside world.

Friday morning, back in the jury room, eleven of us were thinking that the defendant was not guilty. But there was one woman who was adamant that he was guilty. And by the end of Friday, we realized we could not agree. This meant the accused person would need a new trial. I felt like a failure, but the judge was kind and thanked us for our efforts.

As a juror, you feel a huge responsibility. Someone may go to jail — or not — because of what you decide.

NOT GUILTY	GUILTY
6	6

NOT GUILTY	GUILTY
9	3




NOT GUILTY	GUILTY
11	1

connect to the big ideas

1. You have just read about the experience of a person who served as a juror. What evidence can you find that the procedures surrounding juries attempt to treat accused people fairly? What part of the procedures do you think is most important in helping achieve justice for the accused? Why?
2. Based on the story, to what extent can jurors influence how hard the justice system is on someone? Use your conclusion, with supporting evidence, in the presentation for your chapter task about justice for youth.

DID YOU KNOW?

Have you ever heard the saying, “ignorance of the law is no excuse”? It means that citizens have a duty to know the law. If you do something illegal, but do not know it’s illegal, you can still be charged and convicted of an offence.

 **More than 2500 people volunteer with the John Howard Society across Canada. How do you think volunteering with an advocacy group might help you influence the fairness and equity of the youth justice system?**



Brad Odsen was executive director of the John Howard Society in Alberta at the time of this interview in 2007.

What do justice advocacy groups do?

What are advocacy groups?

- Canada has two major citizen-led organizations involved in the justice system: the John Howard Society and the Elizabeth Fry Society.
- These organizations work independently of government. They try to solve the underlying reasons for crime.
- They provide public education about laws and the justice system, including the Youth Criminal Justice Act.
- They work with youths and adults who have broken the law to help them return to their communities. For example, they may help them find jobs and places to live. Sometimes they arrange meetings between victims and offenders to help everyone move forward.
- They stand up for the rights of youths and adults accused of crimes.
- They call for measures to improve the fairness of the justice system for people accused of crimes and those harmed by crime.
- The Elizabeth Fry Society focuses on justice issues for women and girls. The John Howard Society works with men, women, boys and girls in trouble with the law.

What is the role of the John Howard Society?

We are like a conscience for the justice system.

There has been a tendency over the last twenty to thirty years for the justice system to respond to crime by passing more laws, harsher laws and harsher penalties. The John Howard Society says, “Let’s look at the evidence. What do we want to accomplish? How do we make our communities safer?”

The federal government really hasn’t helped with things that prevent young people from getting involved in crime: things like adequate housing, jobs, literacy, food in your belly, things like that. These are pretty fundamental things, and they’re missing from the lives of many people who end up on the wrong side of the law.

For every dollar spent on programs to prevent crime — like community development and recreation for young people — society would save \$7 to \$20 on the justice system that deals with crime.

Prevention makes good sense economically, it makes good sense socially, and it’s the right thing to do. But it’s not the politically popular thing to do. Politicians want something quick and easy. They want to win the next election.

What is the role of the Elizabeth Fry Society?

Our philosophy at Elizabeth Fry is that the justice system needs to look at each case individually. Every person who breaks the law is an individual and her situation is individual. Every person deserves to be treated in a non-judgmental way, and needs a safe environment to heal and grow.

People can make bad choices and end up in custody. But at some point, they are going to re-enter society, and society needs to help them become better citizens in the future.

How can that person learn and change so they don't go through another cycle of crime? Do they need to go back to school? Do they need help in another area? It might be a situation where we can help someone get a better job — a person may have dropped out of school because she had six brothers and sisters, and had to work at the local grocery store to help support her family.

Justice is not about putting people in a jail where they just work on their own anger. That isn't going to solve anything or reduce crime.



Jacqueline Biollo was executive director of the Elizabeth Fry Society in Edmonton at the time of this interview in 2007.



To what extent do Brad Odsen and Jacqueline Biollo agree on what goals the justice system should have?

connect to the big ideas

1. Research one of the advocacy groups in this section to find out more about how they work to prevent crime and reintegrate offenders into society. How is their work related to citizenship — to building a society where all Canadians belong?
2. Consider your opinion so far on whether the youth justice system should be harder on young offenders. Based on your opinion, would you consider volunteering with a group such as the John Howard Society or the Elizabeth Fry Society? Explain your answer by comparing your opinion with the goals and work of these two groups.



How do Elders contribute to the fairness and equity of youth justice?

What role do Elders have in the justice system?

Under the YCJA, young people can face consequences from Youth Justice Committees. These committees exist in communities where volunteers agree to work with young offenders.

Youth Justice Committees reflect the idea of sentencing circles. Sentencing circles come from the traditions of some Aboriginal peoples, whose systems of justice can also include consequences such as banishment. The committees act on the idea that breaking a law harms everyone in a community, and that the community must become involved in solutions. Any community can have a Youth Justice Committee.

As respected members of their communities, Elders play an important role in this approach to justice.



Elder Rita Auger of the Bigstone Cree Nation works with the Youth Justice Committee for Wabasca and Desmarais in Alberta. Traditionally, Elders are respected for their experience and knowledge, and for acting in the best interests of their entire communities.

When the committee meets, we begin with a smudging ceremony to get things started in the right direction. The ceremony represents truth, peace and understanding.

Traditional knowledge, language and culture are very important, especially for a young person who needs guidance and direction. We strive to show that person compassion. We strive for truth and honesty. We strive to make that person welcome and understand that they belong to our community.

This is the key to our approach: our culture and most importantly our language. They are our own. They are part of our belonging and identity, and they are part of the person who seeks our guidance.

Culture is something that comes whole, not in parts. We look at the four great directions: the physical, spiritual, emotional and mental aspects of a person's development. We all of us need balance among these directions, and this at times is not easy. If you have negative influences in your life, it is tough to regain balance.

Culture is the root of our identity. We have to remain distinct in this country we all call Canada. The best way is to practise our traditions, values and of course our language.

It is of utmost importance to remember that traditional cultural ways and values are dynamic. They can be re-expressed in new forms. Aboriginal Elders know this better than anyone, as more of our people seek their advice and counsel, healing and inspiration, interpretation of the present and direction for the future.

An Elder represents a person molded by traditional culture — who that person can become. Elders' quality of mind and emotion, their profound and refined morality, and their high level of spirituality deserve careful attention. They deserve to be understood and followed. When you approach an Elder, it must be done with complete humility and utter respect. There can be no rush: patience is a virtue.



Darrell Anderson Gerrits, an author of this textbook, interviewed Elder Rita Auger and translated what she said from Cree into English. He is a member of Bigstone Cree Nation in Alberta.



These Siksika drummers are performing at a powwow in Alberta. The drummers sit in a circle, a shape that represents an important idea in the worldview of many Aboriginal peoples. **Think critically:** In what way is a Youth Justice Committee a “circle”?

connect to the big ideas

1. What aspects of your identity would you want the justice system to take into account? With a small group, discuss what individual and collective identity means to you. Create a paragraph or a visual about factors that affect your personal identity, and why they should matter in the justice system.
2. Invite an Elder to speak to you about their traditional system of justice. Your teacher can help with protocols around contacting and consulting Aboriginal Elders. Work out a list of questions to ask the Elder in advance. What do you want to know about their perspective on justice, fairness and equity? How could this help you with your chapter task?



Wrap Up Your Task

For your chapter task, you need to create a multimedia presentation that illustrates your research and position on this question:

Should the justice system be harder on youths who commit crimes?

Summarize Your Ideas

Complete and summarize the research organizer you began on page 59. Share your conclusions with a partner.

Has your position changed? Did theirs? Why or why not?

Before Research

My Position

I believe that...
society should be harder on young people who commit crimes.

Reasons

I think this because...
it's the best way to stop crime and make everyone safer.

After Research

This is what I found out...

- *Young offenders face such as...*
- This is how I validated my sources...
- *I checked for bias by...*

My Position on the Issue Now

I believe that...
When I've finished summarizing my notes, I'll think about what I believe now and list my reasons.

What Happened After Research

My opinion has:

- changed
- stayed the same

because...
I'll compare my opinion now with my opinion at the start of the chapter. I'll list the evidence that changed or reinforced my opinion.

Create Your Presentation

Your multimedia presentation should include evidence to support your position, and a statement indicating whether your position has changed. You could create:

- A slide presentation with support graphics.
- A website with links to your sources, and to photos, sound or video clips.
- A video or DVD presentation, where you orally present your research and position.

Decide what format will communicate your ideas most persuasively.

TIPS FOR CREATING SUCCESSFUL MULTIMEDIA PRESENTATIONS

- ✓ Be original! Try new ideas and think of creative ways to present the information.
- ✓ Use a variety of fonts, colour, graphics and other tools to enhance the presentation.
- ✓ Speak clearly and make eye contact with your audience.
- ✓ Rehearse, rehearse, and rehearse!

Chapter 2 Review

WHAT DID CHAPTER 2 EXPLORE?

- How do Canada's justice system and the Youth Criminal Justice Act attempt to treat young offenders fairly and equitably?
- What role do Canadian citizens and organizations play in the fairness and equity of Canada's justice system for youth?

Revisit the Chapter Issue

Use what you have learned in this chapter to develop your own informed position on the chapter issue:

To what extent is the justice system fair and equitable for youth?

Work through the directions for "Demonstrating Your Learning" on page 55 to present your position.

Share What You Know

Plan and create a presentation that educates your classmates about aspects of the youth justice system. Think of a format that would best communicate your ideas. You could include a skit or tableau, music or sound effects, or a poster with graphics, pictures, and written descriptions.

Link with Technology

Create a list of online sources and images that relate to Canada's youth justice system. Evaluate the validity of each source. Compare your list with your classmates' lists. *Go to the Skills Centre on page 361 for tips on online research.*



Take Action

Share your opinions, supported with reasons, about youth justice with others. Write a letter to the editor of your local newspaper outlining your views on the fairness and equity of the youth justice system. Look for examples of articles in the media related to young offenders to support your position.

Reflect Before You Forget

Reflect on what you learned in this chapter. Complete these thoughts:

- I used to think... but now I think...
- The most important thing I learned in this chapter about the youth justice system is...
- One thing I'd like to know more about how Canada's justice system works is...