

CYJC

CALGARY YOUTH JUSTICE COMMITTEES

UNDERSTANDING YOUTH RECORDS

DID YOU KNOW?



A Youth Record can:

- Remain open after you are 18
- Keep you from getting a good job or into certain college/university programs
- Restrict you from traveling outside Canada

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Calgary Youth Justice Society

YOUTH RECORDS

A Youth Record doesn't end when you turn 18. It can be closed before you turn 18, or it can stay open longer. The time a Youth Record lasts depends on:

- how serious the crime was,
- the sentence and;
- whether you commit another crime while your record is open.



TYPE OF OFFENSES

Summary Conviction Offences - are minor crimes. An adult can only be fined up to \$2000 or go to prison for up to 6 months, or both, for these crimes. If you are found guilty of a summary conviction offence, your youth record will last for 3 years after the end of your sentence. The 3 years don't start when you commit the crime, or when you are found guilty. They start when you have finished your whole sentence, including your probation. How old you will be when your youth record for a summary conviction offence is closed depends on how old you are when you are sentenced, and how long the sentence, including the probation, is for. Your youth record will only be closed before you turn 18 if you finish your sentence before your 15th birthday. If you are 17 or older when you are sentenced, you will have an open record into your 20s.

Indictable Offences - are serious crimes. Punishment for these crimes is more severe than the punishment for summary conviction. If you are found guilty of an indictable offence, your youth record will last at least 5 years after you finish your sentence. It can sometimes remain open to the police and the Attorney General for 10 years or more. This can happen if the crime you committed was a serious sexual or violent crime in which you used a weapon or injured the victim. The 5 years don't start when you commit the crime, or when you are found guilty. They start when your sentence (including your probation) is over and you have done everything you were told to do.

Hybrid Offences - are crimes that can be treated as either summary conviction offences or indictable offences. Only a few minor crimes are always summary conviction offences. It is up to the Crown attorney to decide which way to treat these crimes. If you commit a hybrid offence, you won't know how long your youth record will last until the Crown attorney decides. The Crown attorney is a lawyer who works for the government. It is their job to present the case against you in court.



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Sentences and Outcomes:

You will always get a Youth Record if you have been involved in the youth justice court system. The length of time it will last depends on the outcome of your case. For example:

- If the charges are dismissed or withdrawn, or you are given a reprimand, your record will last for 2 months after the decision.
- If you have a hearing and the judge gives you an absolute discharge, your record will last for one year after the judge's decision.
- If the discharge is conditional, the record will last for 3 years after the decision.
- If you are found guilty of a summary conviction offence, your record will last for 3 years after you finish your sentence, including probation.
- If you are found guilty of an indictable offence, your record will last for at least 5 years after you finish your sentence, including probation.
- Even if you are acquitted, your youth record will last for 2 months after the end of the time allowed for an appeal. Or, if an appeal is heard, 3 months after all appeals have been heard or decided.
- If you are sent to an alternative program (Extra Judicial Sanctions Program) instead of having a court trial, you won't have a court record. Instead you will have a police record showing that you have been in an alternative program because you have committed a crime. That record will last for 2 years from the time you agree to enter the alternative program.

If you have an open youth record, and you are found guilty of another crime before you turn 18, the record for the first offence won't be closed until it is time to close the record for the later offence. For example, if you are found guilty of a serious crime 2 years after you have finished serving a sentence for a minor offence, your record on the minor charge won't be closed at the end of 3 years. It will remain open until 5 years after the end of your sentence for the second, more serious charge. This means that your record for the minor charge will remain open for 8 years instead of 3.

If you commit another crime after you turn 18, but while your youth record is still open, your youth record will remain open indefinitely. This means that police and other government agencies will be able to look at your records at any time. You are committing a crime if you deliberately fail to carry out your sentence. If you are still serving your sentence when you turn 18, and you disobey it, your youth record could remain open indefinitely for that reason alone.

Closing a Youth Record

Once your youth record is closed, the law considers you to have never committed an offence. This means nobody can see your youth record or tell anyone about it. The Royal Canadian Mounted Police should take any information about you off their "active files" list. You should make sure that they do this. Go to your local police station with a photo ID and ask them to check the RCMP files for you. You should do this even if you have been charged but found not guilty.



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Once your youth record is closed, local police are also supposed to remove your police record from their active files list. Contact them to make sure that they have done this. You don't want your record to be a problem for you any longer than it has to be.



EMPLOYMENT

A youth record makes it harder for you to get good jobs at the beginning of your working life. This can be a long-term problem because good early work experience helps you get desirable jobs when you are older. You also might not be able to get some volunteer positions because of your record. Volunteer positions are often the best way of getting experience that will help you to get paid work that you want.

Most employers are not allowed to get information about your youth record from the police. But they have other ways of finding out if you have been in trouble with the law. The police are not supposed to give any employer, except a government employer, information about your record even if you say they can. Some employers will, however, ask you to get proof that you have no record. An employer may ask you to sign a special form asking the police to send you the results of your police record check. Or an employer may ask you to go to the police and get a copy of your record. If you ask the police for a copy of your own record, the police will give it to you. Once you have it, you can give it to anyone you want. Employers know this. You have the right to refuse to have a record check done. An employer doesn't have a right to insist on this. But, if you refuse, the employer might think it is because you have something to hide. There will usually be other people applying for the job who will be willing and able to provide a clean record check.

During the time your record is open, an employer who finds out about it can refuse to hire you. This means that if you have been found guilty of a less serious crime, you might lose jobs because of your record for up to 3 years after you have finished your sentence. If your sentence includes probation, then your record will be open for 3 years after your probation ends. If you have been found guilty of a more serious crime, your record might get in the way of jobs you want for 5 years after you finish your sentence.

After your record is closed, it is against the law for an employer not to hire you because you committed an offence as a youth. Even if an employer finds out that you have been in trouble with the law, they can't refuse to hire you simply because you have a closed youth record. But until it is closed, most employers can decide not to hire you at all. They can also decide not to hire you for certain positions because of the type of crime you committed. For example, if you stole something, you might not be hired as a cashier. If you already have the job, and your employer finds out that you lied about having a record, they can fire you.



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A youth record shouldn't stop you from trying to find a good job. It might just be more difficult. It will be easier if you know what questions to expect from employers. It is a good idea to have some answers ready.

How to answer questions employers might ask you:

Q - Do you have a criminal record?

A - You can honestly say that you do not. Your record is a "youth record" and not a "criminal record".

Q - Have you been found guilty of a criminal offence?

A - While you are still carrying out any part of your sentence, you must answer "yes" to this question. After you have finished your sentence, including probation, you can answer "no" to this question. This is because the law says that, for most purposes, once you have finished your sentence, it is the same as if you have never been charged or found guilty. However, you may want to answer "yes" to this question even if you have finished your sentence, including probation, if your youth record is not yet closed. This is because you will not be able to get proof of a "clean record" until your youth record is closed. If you have gone through an alternative program rather than being sentenced by the court, you can honestly say at any time that you haven't been found guilty of an offence. You can say this even if you are still in the alternative program.

Q - Have you ever been convicted of a criminal offence?

A - You can honestly answer "no". Youth are not "convicted". Youth are "found guilty".

Q - Do you have a youth record or a youth court record?

A - Before your record is closed, you will have to answer "yes" to this question. After your record is closed, you can honestly say that you don't have a youth record or a youth court record. You can even say that you have never committed a criminal offence.

Q - Are you bondable?

A - In most cases, that is a technical question that many people don't know how to answer. You could say that you don't know what it means.

Not all employers ask questions like these. Not all employers care if you have been involved in the youth justice system. But some do care, and some do ask. It is best to be prepared. It is even better if you don't have any past involvement with the law to worry about.



TRAVELING



A youth record won't stop you from traveling within Canada, but it can stop you from traveling to other countries. Some countries won't let you in, even for a visit, if you have a record. Being unable to travel to another country can keep you from doing things you want or need to do. Here are just a few examples:

- You might lose a chance at a job you want because you can't get into the country where the job is.
- You might try to go to the United States with friends for a football game or a March break vacation and be stopped at the border.
- You might have relatives you can't visit because they live in a country that won't let you in.
- You might spoil a family holiday because you can't get permission to enter the country your family wants to visit.

Records for most criminal offences are sent to the RCMP. The RCMP shares the adult records of Canadians trying to get into some countries with the police and border officials of those countries. Youth records, however, are treated differently than adult records. Youth records are not supposed to be accessible to border officials in other countries, but it is possible that another country could find out about your record, especially if it is an open record. Once another country gets your record, it can keep it in its computer files forever. It is only in Canada that the law says that your youth record has to be closed after a certain period of time. Other countries don't have to obey Canadian laws.

Most countries have laws to keep criminals out. Some countries are strict about this. The United States is one of those countries. The United States is especially strict about drugs. If a border official finds out that you have a record for a drug offence, you will probably not be allowed into the United States even for a visit. There is always a chance that American border officials can get information on a youth record, especially if it is an open record. You can never know when you might be refused entry to the United States if you have a youth record. One time you might cross the border without the border official paying any attention to you. Another time, the official might do a computer check and find your record, but let you in anyway. Each time you try to enter might be the time you won't be allowed in. It's best to consult a criminal lawyer if you plan to travel when you have an open record.





A YOUTH RECORD

- It's **not** worth it.
- Take second to **think** before you act.

