



# *Session 26*

## *Criminal Law 7 – Young offenders*

# *Purpose*

The purpose of youth criminal law is to

- Promote accountability, responsibility and consequences for all youth crimes.
- Support long-term solutions to youth crime.
- Reinforce social values.
- Respect national and international human rights child protections
- Protect public safety.

The *Youth Criminal Justice Act, 2002*, explicitly recognizes in the preamble the [UN Convention on the Rights of the Child, 1989](#).

## Aspects

Important emphasis is placed on rehabilitation for young offenders by making nonviolent offenders have access to rehabilitation programs and imposing a period of supervision in the community for youths who serve time in custody

In principle any youth aged between 12 and 17 is subject to youth criminal law; anyone aged 18 or older is considered to be an adult.

Considering that younger children cannot form a criminal intent – let alone understand what charges are held against them, this delimits criminal responsibility:

- Child aged 0-11 has no criminal responsibility.
- Youth aged 12-17 has partial criminal responsibility.

## Aspects (cont.)

Arrest: youths suspected of committing a serious offence can be arrested; the arresting officer or person in authority is required to describe the youth's rights – as described in the Charter, in a clear and understandable language. The youth has the right not to make any statement – this can be held as evidence against him or her, to consult a lawyer, to have a parent or another adult during any questioning

Bail: youths have the right to bail but the terms of release do impose restrictions on youths. If they are at risk of reoffending, youths may be sent to foster homes or placed under house arrest before trial or sentencing.

## Aspects (cont.)

Notification: parents are notified when their child is detained or arrested and must be given opportunities to provide input prior to sentencing. Parents are to be present in all court hearings

8 Trials involving youths have the following features (Gibson et al., 2003: 292):

They are held in either family courts or youth justice courts[1] - unless the case is transferred to an adult court[2].

There is no preliminary hearing.

The judge alone conducts all trials; there are no jury trials.

Trials are public but the identity of the youth can be disclosed under certain conditions.

# *Sentencing*

Youth justice judges have a variety of sentencing options that consider the needs and circumstances of the youth and those of the victim without undermining public safety. To take the latter parameters into account, the judge may consider a pre-sentence report that provides information that includes:

- Interviews with the youth, parents and victim.
- Intentions to change conduct.
- School attendance.
- Legal background.
- Offender's attitude toward the offence.
- On reception of such information, a sentencing hearing is held.

## Sentencing (cont.)

Sentences include:

- Absolute discharge may be given to non-violent first-time offenders if unlikely to reoffend.
- Extrajudicial sanctions designed to help non-violent first-time offenders learn from their mistakes. These may include returning stolen goods, compensating for damages done, community service, counseling, drug and alcohol treatment, and special schools programs.
- Fines up to \$ 1'000 may be given for summary offences that include minor property damages, trespassing, and driving offences.
- Compensation required to be paid to the victim.



## Sentencing (cont.)

Sentences include:

- Personal and community service when the youth cannot pay monetary compensation.
- Custody when a youth is seen as a danger to society and when other types of sentences have failed. Open custody may be ordered for offenders who need structure in their lives; secure custody is designed for offenders of serious crimes.